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10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12 JOSHUA WRIGHT, LORETTA STANLEY,
HALEY QUAM, and AIESHA LEWIS, on
13 behalf of themselves and all others similarly
14 situated,

15 Plaintiffs,

16 vs.

17 FRONTIER MANAGEMENT LLC,
FRONTIER SENIOR LIVING, LLC, and GH
18 SENIOR LIVING, LLC dba GREENHAVEN
ESTATES ASSISTED LIVING,

19 Defendants.

Case No. 2:19-cv-01767-JAM-CKD

**STIPULATION AND [PROPOSED] ORDER
FOR PLAINTIFFS TO FILE SECOND
AMENDED COMPLAINT**

Judge: Hon. John A. Mendez

Complaint Filed: September 6, 2019

Trial Date: None

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Attorneys for Defendants FRONTIER
MANAGEMENT LLC, FRONTIER
SENIOR LIVING, LLC and GH SENIOR LIVING, LLC
dba GREENHAVEN ESTATES ASSISTED LIVING

1 Plaintiffs Joshua Wright, Loretta Stanley, Haley Quam, and Aiesha Lewis (“Plaintiffs”) and
2 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
3 dba Greenhaven Estates Assisted Living (collectively, “Defendants”) (Plaintiffs and Defendants
4 are collectively referred to as the “Parties”), by and through their attorneys of record, hereby
5 stipulate as follows:

- 6 1. WHEREAS, on September 16, 2019, Plaintiff Wright filed a complaint pursuant to the Labor
7 Code Private Attorneys General Act of 2004 (“PAGA”) in the California Superior Court of
8 Alameda County, Case No. RG19035167 (“PAGA Action”) against Defendants;
- 9 2. WHEREAS, on September 6, 2019, Plaintiff Wright filed this Action against Defendants in
10 the United States District Court, District of California, asserting claims under the California
11 Labor Code and under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq. Wright, et al.*
12 *v. Frontier Management LLC, et al.*, United States District Court, Eastern District of
13 California, Case No. 2:19-cv-01767-JAM-CKD (“this Action”), *see* ECF 1;
- 14 3. WHEREAS, on July 29, 2020, the Parties participated in a full-day mediation regarding both
15 this Action and the PAGA Action before respected wage and hour mediator David Rotman,
16 but the cases did not settle that day. On August 26, 2020, the Parties participated in a second,
17 half-day mediation before Mr. Rotman, but the cases did not settle that day as well;
- 18 4. WHEREAS, on February 9, 2021, Plaintiff Wright filed a First Amended Class and
19 Collective Action Complaint (“FAC”) to add Plaintiffs Loretta Stanley, Haley Quam, and
20 Aiesha Lewis; to assert FLSA claims on their behalf; and to allege Washington, Oregon, and
21 Illinois state class wage and hour claims on their behalf, ECF 57;
- 22 5. WHEREAS, on March 15, 2021, Defendants filed a motion to dismiss pursuant to Fed. R.
23 Civ. P. 12(b)(6), which this Court granted on June 1, 2021, dismissing the Federal Action
24 with prejudice and without leave to amend, *see* ECF 68, 72-73. On June 17, 2021, Plaintiffs
25 appealed the Court’s order (9th Cir., Case No. 21-16052), *see* ECF 74.
- 26 6. WHEREAS, on April 8, 2021, Defendants filed a motion to strike PAGA allegations in the
27 PAGA Action, which was denied on July 2, 2021 without prejudice. On September 10, 2021,
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1 Defendants filed a petition for writ of mandate for an order directing the superior court to
2 vacate its July 2, 2021 order in the PAGA Action and to rule on Defendants’ motion to strike
3 on its merits (Court of Appeal of the State of California, First Appellate District, Division
4 One, Case No. A163424);

5 7. WHEREAS, on October 5, 2021, the Parties further participated in a full-day mediation
6 before respected wage and hour mediator Steven Serratore. The Parties ultimately accepted
7 the mediator’s proposal to settle both this Action and the PAGA Action on October 6, 2021.

8 8. WHEREAS, following extensive arm’s length negotiations over the next few months, the
9 Parties eventually finalized the long-form settlement agreement, which was executed on June
10 8, 2022 (“Settlement”).

11 9. WHEREAS, pursuant to the Parties’ Settlement, the Parties agreed to dismiss Plaintiffs’
12 appeal without prejudice, to stay Defendants’ appeal and the PAGA Action pending
13 dismissal upon final approval of the Settlement, and to stipulate to amend the First Amended
14 Complaint in this Action to assert the claims alleged in Plaintiff Wright’s PAGA Action for
15 purposes of Settlement and to assert additional claims under the PAGA;

16 10. WHEREAS, on June 22, 2022, in order to seek approval of the settlement and pursuant to
17 the Parties’ stipulation, Plaintiffs’ appeal was voluntarily dismissed without prejudice to re-
18 instate the appeal within 28 days of an order from this Court denying approval of the
19 Settlement (Case No. 21-16052, DktEntry 22);

20 11. WHEREAS, pursuant to the Parties’ Settlement, Plaintiff seeks to file the proposed Second
21 Amended Class and Collective Action Complaint (“SAC”), a true and correct copy of which
22 is attached hereto as **Exhibit 1**. The SAC asserts additional claims for penalties under the
23 California Private Attorneys General Act § 2699 arising from Defendants’ violations of the
24 California Labor Code pursuant to the Settlement, (2) clarifies factual allegations, and (3)
25 revises the Class and Collective member definitions to reflect those settled in this Action.

26 12. WHEREAS, the Parties submit that there is good cause to grant leave to Plaintiffs to file the
27 SAC, as doing so will allow Plaintiffs to aver claims against Defendants that the Parties
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1 included in their mediation efforts and have resolved in the proposed Settlement, which will
2 be submitted for the Court's preliminary approval;

3 13. WHEREAS, pursuant to the Parties' Settlement, the Parties further agreed that in the event
4 the Settlement is ultimately not approved in this Action, Plaintiff Wright may re-file his
5 PAGA complaint in Alameda Superior Court, Defendants be permitted to refile a motion to
6 strike and motion for summary judgment without prejudice in the PAGA Action, and
7 Defendants be permitted to pursue any appeal on the same basis as the currently pending
8 petition for writ of mandate without prejudice the PAGA Action, and the Parties shall be
9 placed in the same position as they were in immediately prior to resolution; and

10 14. WHEREAS, by stipulating to the filing of the SAC, Defendants represent only that
11 amendment of the Complaint at this juncture in the litigation is consistent with applicable
12 law regarding the amendment of pleadings, and explicitly does not concede the validity of
13 any allegations, theories, or claims contained therein, or the validity or legal sufficiency of
14 the proposed classes, their associated class periods, or the alleged statutes of limitations.

15
16 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED:

- 17 1. Plaintiffs should be granted leave to amend to file the proposed SAC;
18 2. Defendants shall have no obligation to file a pleading in response to the SAC; and
19 3. In the event the Court ultimately denies Plaintiffs' motion for final approval of the
20 Settlement, the First Amended Complaint will be deemed the operative complaint.

21
22 Dated: June 30, 2022

23 /s/ Michelle S. Lim
24 Carolyn H. Cottrell
25 Ori Edelstein
26 Michelle S. Lim
27 SCHNEIDER WALLACE
28 COTTRELL KONECKY LLP

Attorneys for Plaintiffs and the Putative
Class and Collective

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Dated: June 30, 2022

/s/ Barbara I. Antonucci
Barbara I. Antonucci
Sarah K. Hamilton
CONSTANGY, BROOKS, SMITH &
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Attorneys for Defendants FRONTIER
MANAGEMENT LLC, FRONTIER SENIOR
LIVING, LLC and GH SENIOR LIVING, LLC dba
GREENHAVEN ESTATES ASSISTED LIVING

[PROPOSED] ORDER

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Plaintiffs Joshua Wright, Loretta Stanley, Haley Quam, and Aiesha Lewis (“Plaintiffs”) and Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC dba Greenhaven Estates Assisted Living (collectively, “Defendants”) (Plaintiffs and Defendants are collectively referred to as the “Parties”), have stipulated that Plaintiffs may file their Second Amended Class and Collective Action Complaint.

Having considered the Parties’ stipulation, and for good cause shown, the Parties’ Stipulation permitting Plaintiffs to file a Second Amended Class and Collective Action Complaint is **GRANTED**. Plaintiffs’ Second Amended Class and Collective Action Complaint, as filed under ECF 79-1, shall be deemed filed as of the date of this Order, and the Defendants shall have no obligation to respond to the Second Amended Class and Collective Action Complaint. In the event the Court ultimately denies Plaintiffs’ motion for final approval of the Settlement, the First Amended Complaint will be deemed the operative complaint.

IT IS SO ORDERED.

Dated: _____

HON. JOHN A. MENDEZ
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court for the United States District Court, Eastern District of California, by using the Court's CM/ECF system on June 30, 2022.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Court's CM/ECF system.

Dated: June 30, 2022

Respectfully submitted,

/s/ Michelle S. Lim

Carolyn H. Cottrell

Ori Edelstein

Michelle S. Lim

SCHNEIDER WALLACE

COTTRELL KONECKY LLP

Attorneys for Plaintiff and the Putative Class
and Collective

SIGNATORY ATTESTATION

The e-filing attorney hereby attests that concurrence in the content of the attached documents and authorization to file the attached documents has been obtained from the other signatory indicated by a conformed signature (/s/) within the attached e-filed documents.

Dated: June 30, 2022

/s/ Michelle S. Lim

EXHIBIT 1

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2 Ori Edelstein (SBN 268145)
3 Michelle S. Lim (SBN 315691)
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10 Attorneys for Plaintiff, the Putative Classes and
11 Collective, and on behalf of the State of
12 California and Aggrieved Employees

13 **UNITED STATES DISTRICT COURT FOR THE**
14 **EASTERN DISTRICT OF CALIFORNIA**

15 JOSHUA WRIGHT, LORETTA STANLEY,
16 HALEY QUAM, and AIESHA LEWIS on behalf
17 of themselves and all others similarly situated,

18 Plaintiffs,

19 vs.

20 FRONTIER MANAGEMENT LLC, FRONTIER
21 SENIOR LIVING, LLC, and GH SENIOR
22 LIVING, LLC dba GREENHAVEN ESTATES
23 ASSISTED LIVING,

24 Defendants.

Case No. 2:19-cv-01767-JAM-CKD

**SECOND AMENDED CLASS AND
COLLECTIVE ACTION COMPLAINT
FOR DAMAGES AND DECLARATORY
RELIEF AND DEMAND FOR JURY
TRIAL**

1 **CLASS AND COLLECTIVE ACTION COMPLAINT**

2 Plaintiffs Joshua Wright, Loretta Stanley, Haley Quam, and Aiesha Lewis (“Plaintiffs”), on
3 behalf of themselves and all others similarly situated, complains, and alleges as follows:

4 **SUBJECT MATTER JURISDICTION AND VENUE**

5 1. This court has federal question jurisdiction over the subject matter of this action
6 pursuant to 28 U.S.C. § 1331 as this case is brought under the laws of the United States, specifically
7 the FLSA, 29 U.S.C. § 201, *et seq.* This Court has supplemental jurisdiction over Plaintiffs’ state-
8 law claims pursuant to 28 U.S.C. § 1367.

9 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391. Defendants
10 employ numerous hourly, non-exempt employees who reside in this district, and a substantial part of
11 the events giving rise to Plaintiffs’ claims occurred within this judicial district. Defendants are
12 subject to personal jurisdiction here. Defendant Frontier Management, according to its website,
13 operates multiple residential memory care and senior living facilities, and employs Class and
14 Collective members, in California, including in this judicial district. Defendant Frontier Senior
15 living, according to its filings with the California Secretary of State, is the corporate entity through
16 which Defendant Frontier Management manages its California operations, including those in this
17 judicial district.

18 **INTRODUCTION**

19 3. Plaintiffs bring this class and collective action against Frontier Management LLC
20 (“Frontier Management”), Frontier Senior Living, LLC (“Frontier Senior Living”), and GH Senior
21 Living, LLC dba Greenhaven Estates Assisted Living (“Greenhaven”) (collectively, “Defendants”)
22 on behalf of themselves and other similarly situated individuals who were employed or worked as
23 hourly, non-exempt employees for Defendants.

24 4. Defendants maintain a longstanding policy and practice of failing to properly
25 compensate non-exempt employees for work performed during meal periods, for work performed
26 while “off-the-clock,” and for missed rest and meal periods. These policies denied Plaintiffs and other
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1 hourly, non-exempt employees payment for all hours worked, including overtime, and deny Plaintiffs
2 and Class members meal and rest periods that comply with California, Washington, Oregon, and
3 Illinois law.

4 5. Defendants violate the FLSA and laws of the states of California, Washington, Oregon,
5 and Illinois, by knowingly and willfully requiring Plaintiffs and Class and Collective members to
6 perform work and/or remain on duty during meal and rest breaks, subjecting them to interruptions
7 during those times. While Defendants require Class and Collective members to clock in and out for
8 meal periods, these employees remain on duty and are continuously subject to interruption during
9 that time.

10 6. Defendants received value from the work performed by Plaintiffs and Class and
11 Collective members during their meal periods and while “off-the-clock” without compensating them
12 for their services. Defendants willfully, deliberately, and voluntarily failed to pay Plaintiffs and Class
13 and Collective members for work performed.

14 7. Defendants’ conduct violated and continues to violate the FLSA because of the
15 mandate that non-exempt employees, such as Plaintiffs and the Collective members, be paid at one
16 and one-half times their regular rate of pay for all hours worked in excess of forty within a single
17 workweek. *See* 29 U.S.C. § 207(a).

18 8. This is a class action against Defendants to challenge their policies and practices of: (1)
19 failing to pay Plaintiffs and Class members minimum wage; (2) failing to pay Plaintiffs and Class
20 members overtime wages; (3) failing to authorize and permit Plaintiff and Class members to take
21 meal and rest breaks to which they are entitled by law; (4) failing to compensate Plaintiffs and Class
22 members for all hours worked; (5) failing to provide Plaintiffs and Class members accurate, itemized
23 wage statements; (6) failing to timely pay Plaintiffs and Class members full wages upon termination
24 or resignation; (7) failing to reimburse Plaintiffs and Class members for necessary business expenses,
25 and engaging in unfair and unlawful business practices.

26 9. Plaintiffs file this action to recover on behalf of themselves and Class and Collective
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1 members all unpaid wages, compensation, penalties, and other damages owed to them under the
2 FLSA and state law individually, as a 29 U.S.C. § 216(b) collective action; as a class action under
3 Federal Rule of Civil Procedure 23; and as a representative action under the Private Attorneys General
4 Act of 2004 (“PAGA”), in order to remedy the sweeping practices which Defendants have integrated
5 into their time tracking and payroll policies and which have deprived Plaintiffs and Class and
6 Collective members of their lawfully-earned wages.

7 10. As a result of violations, Plaintiffs seek compensation, damages, penalties, and interest
8 to the full extent permitted by the FLSA, as well as the wage, hour, labor, and other applicable laws
9 of the States of California, Washington, Oregon, and Illinois, as described herein.

10 11. Plaintiffs also seeks declaratory, equitable, and injunctive relief, including restitution.

11 12. Finally, Plaintiffs seeks reasonable attorneys’ fees and costs under the FLSA and
12 applicable laws of the States of California, Washington, Oregon, and Illinois, as described herein.

13 **PARTIES**

14 13. Plaintiff Joshua Wright is an individual over the age of eighteen, and at all times
15 relevant to this Complaint was a resident of the State of California, County of Sacramento. Mr.
16 Wright was employed as a Medication Technician by Defendants at their Greenhaven facility from
17 April 12, 2018 until March 15, 2019.

18 14. Plaintiff Loretta Stanley is an individual over the age of eighteen, and at all times
19 relevant to this Complaint was a resident of the State of Oregon. Ms. Stanley was employed as a Lead
20 Medical Technician and Caregiver by Defendants at their Monetary Ray Court Happy Valley facility
21 in Portland, Oregon, from December 2018 until September 2019.

22 15. Plaintiff Haley Quam is an individual over the age of eighteen, and at all times relevant
23 to this Complaint was a resident of the State of Washington. Ms. Quam was employed as a Caregiver
24 by Defendants at their facility in Bellingham, Washington from September 2017 until September
25 2018.

26 16. Plaintiff Aiesha Lewis is an individual over the age of eighteen, and at all times relevant
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1 to this Complaint was a resident of the State of Illinois. Ms. Lewis was employed as a Caregiver by
2 Defendants at their facility in Granite City, Illinois from July 2017 to approximately October 2017.

3 17. The Collective is a certified collective action for settlement purposes only pursuant to
4 29 U.S.C. § 216(b), which includes all individuals who have submitted Opt-In Consent Forms in the
5 Federal Action and worked for Defendants as non-exempt, hourly employees between March 13,
6 2017 and March 1, 2022.

7 18. The California Class members are all persons who are employed, have been employed,
8 or alleged in the Action to have been employed by Defendants as a non-exempt employee in the State
9 of California between September 6, 2015 and March 1, 2022.

10 19. The Aggrieved Employees are all persons who are employed, have been employed, or
11 are alleged in the Action to have been employed by Defendants as a non-exempt employee in the
12 State of California at any time between July 7, 2018 and preliminary approval of a settlement in this
13 action.

14 20. The Washington Class members are all persons who are employed, have been
15 employed, or are alleged to have been employed in the Action by Defendants as a non-exempt
16 employee in the state of Washington between July 8, 2017 and March 1, 2022.

17 21. The Oregon Class members are all persons who are employed, have been employed, or
18 are alleged in the Action to have been employed by Defendants as a non-exempt employee in the
19 state of Oregon between July 8, 2014 and March 1, 2022.

20 22. The Illinois Class members are all persons who are employed, have been employed, or
21 are alleged in the Action to have been employed by Defendants as a non-exempt employee in the
22 state of Illinois between July 8, 2017 and March 1, 2022.

23 23. Plaintiffs are informed, believe, and thereon allege that Defendant Frontier
24 Management is an Oregon limited liability corporation that maintains its principal office in Portland,
25 Oregon.

26 24. Plaintiffs are informed, believe, and thereon allege that Defendant Frontier Senior
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1 Living is an Oregon limited liability corporation that maintains its principal office in Portland,
2 Oregon.

3 25. Plaintiffs are informed, believe, and thereon allege that that Defendant Greenhaven is
4 a California limited liability company that maintains its headquarters in Sacramento, California.
5 Defendant Greenhaven is registered to do business in the state of California.

6 26. Plaintiffs are informed, believe, and thereon allege that Defendant Frontier
7 Management owns Frontier Senior Living, that Defendant Frontier Senior Living is a member of
8 Defendant Greenhaven, and that Defendants Frontier Management, Frontier Senior Living, and
9 Greenhaven all share at least one member or manager and all share the same primary place of
10 business.

11 27. Plaintiffs are informed, believe, and thereon allege that at all times mentioned in this
12 Complaint, Defendants were the agents and employees of their co-defendants and in doing the things
13 alleged in this Complaint were acting within the course and scope of such agency and employment.

14 28. Plaintiffs are informed, believe, and thereon allege that Defendants maintain a chain of
15 retirement and assisted living communities throughout the United States (“affiliated communities”),
16 including in California, Washington, Oregon, and Illinois. Plaintiff is informed, believes, and thereon
17 alleges that Defendants employ the hourly, non-exempt employees that work at affiliated
18 communities throughout the United States, including in California, Washington, Oregon, and Illinois.

19 29. Plaintiffs are informed and believe that each and every one of the acts and omissions
20 alleged herein were performed by, and/or attributable to, Defendants Frontier Management, Frontier
21 Senior Living, Greenhaven, and affiliated communities, each acting as agents and/or employees,
22 and/or under the direction and control of each of the other, and that said acts and failures to act were
23 within the course and scope of said agency, employment and/or direction and control.

24 30. Plaintiffs are informed, believes, and thereon allege that Defendant Frontier
25 Management directly controls the operations of its agents, Defendants Frontier Senior Living,
26 Greenhaven, and affiliated communities. Plaintiffs are informed, believe, and thereon allege that
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1 Defendants Frontier Management, Frontier Senior Living, Greenhaven, and affiliated communities
2 jointly exercised control over Plaintiffs and Class and Collective members with respect to their
3 employment.

4 31. As employers of Plaintiffs and the Class and Collective members throughout the
5 relevant time periods, Defendants, and each of them, are solely, jointly, and severally liable for back
6 pay, penalties, and other economic damages owed to Plaintiffs and the Class and Collective members.

7 32. Throughout this Complaint, any reference to “Defendant” or “Defendants” is intended
8 to refer to Defendants Frontier Management, Frontier Senior Living, and Greenhaven jointly.

9 33. Plaintiffs and Class and Collective members were and are employees of Defendants
10 within the meaning of 29 U.S.C. § 203(e).

11 34. At all material times, Defendants have been an enterprise in commerce or in the
12 production of goods for commerce within the meaning of section 3(s)(1) of the FLSA because
13 Defendants have had and continues to have employees engaged in commerce. 29 U.S.C. § 203(s)(1).

14 35. Plaintiffs are informed, believe, and thereon allege that Defendants have had, and
15 continue to have, an annual gross business volume of not less than \$500,000, thereby exceeding the
16 statutory standard. 29 U.S.C. § 203(s)(1)(A)(ii).

17 36. At all material times, Defendants have been an employer within the meaning of the
18 FLSA under 29 U.S.C. § 203(d).

19 37. In addition to Plaintiffs, Defendants have employed numerous other employees who,
20 like Plaintiff, are hourly, non-exempt employees engaged in interstate commerce. Further,
21 Defendants are engaged in interstate commerce since they order supplies across state lines, conduct
22 business deals with merchants across state lines, and process patient credit cards with banks in other
23 states.

24 38. At all material times, Plaintiffs and Collective and Class members were employees who
25 engaged in commerce or in the production of goods for commerce as required by 29 U.S.C. § 207.

26 39. At all material times, Defendants have done business under the laws of California, have
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1 had places of business in California, including in this judicial district, and have employed Class
2 members in this judicial district. Defendants are a “person” as defined in Labor Code § 18 and
3 Business and Professions Code § 17201. At all relevant times, Defendants have been Plaintiffs’
4 “employer” within the meaning of the FLSA, California, Washington, Oregon, and Illinois.

5 **FACTUAL ALLEGATIONS**

6 40. Defendants operate a chain of retirement and assisted living communities throughout
7 the United States and California, including Greenhaven, which is located in Sacramento, California.
8 Defendants employ hundreds of hourly non-exempt workers similarly situated to Plaintiff across
9 these facilities.

10 41. Plaintiff Wright worked at Greenhaven as a Medication Technician from April 12, 2018
11 until March 15, 2019. He was paid at an hourly rate of \$14.50 and regularly worked in excess of
12 eight hours a day and forty hours per week, usually working approximately 44 to 46 hours per week.

13 42. Plaintiff Stanley worked for Defendants in Portland, Oregon as a Lead Medical
14 Technician and Caregiver from approximately December 2018 until September 2019. She was paid
15 at an hourly rate of \$15.00 and regularly worked in excess of eight hours a day and forty hours per
16 week, usually working approximately 43 to 45 hours per week.

17 43. Plaintiff Quam worked for Defendants in Bellingham, Washington as a Caregiver from
18 approximately September 2017 until December 2018. She was paid at an hourly rate of \$12.00 and
19 regularly worked in excess of eight hours a day and forty hours per week, usually working
20 approximately 40 to 60 hours per week.

21 44. Plaintiff Lewis worked for Defendants in Granite City, Illinois as a Caregiver from
22 approximately July 2017 until October 2017. She was paid at an hourly rate of \$10.00 and regularly
23 worked in excess of eight hours a day and forty hours per week, usually working approximately 44
24 to 50 hours per week.

25 45. As a matter of policy, Defendants deny Plaintiffs, Class, and Collective members meal
26 and rest breaks to which they are entitled and, for example, require them to remain on duty during
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1 their scheduled shifts, including during rest breaks and while clocked out for meal periods.
2 Defendants do not compensate these employees for work performed while clocked out for meal
3 periods.

4 46. Defendants require Plaintiffs, Class, and Collective members to carry communication
5 devices, including personal cellphones, radios, and pagers, with them at all times. Defendants require
6 them to carry these devices so that Plaintiffs and Class and Collective members can be reached at all
7 times throughout the day to handle issues concerning their patients and facility personnel.
8 Defendants have a policy and/or practice that Class and Collective members must keep these
9 communication devices, namely walkie-talkies, on during meal and rest breaks, in order to be
10 continuously available. Defendants require these employees to respond to calls during this time,
11 regardless of whether they are taking a meal or rest break. Plaintiffs are informed, believe, and
12 thereon allege that this policy and practice applies to all hourly-paid, non-exempt staff.

13 47. Defendants deny Plaintiffs and Class and Collective members meal and rest periods to
14 which they are statutorily entitled, as well as the overtime premiums resulting from the additional
15 off-the-clock work performed during meal breaks.

16 48. Despite these recurring violations, Defendants do not provide Plaintiffs and Class and
17 Collective members premium pay for missed breaks and meal periods.

18 49. Plaintiffs and Class and Collective members are also regularly required to work off-
19 the-clock, time which Defendants neither record nor compensate them for. For example, Defendants
20 require Class and Collective members to perform a number of duties off the clock, including filling
21 out paperwork, waiting for other employees to relieve them of their posts, or help other employees
22 with a number of tasks, such as transferring residents, after clocking out for the day. These tasks
23 would take Class and Collective members anywhere from ten minutes to 1 hour per shift to complete.
24 Defendants did not compensate Class and Collective members for this time worked.

25 50. Defendants required Plaintiffs and Class and Collective members to work additional
26 time off the clock, which Defendants neither record nor compensate them for. For example,
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1 Defendants require Plaintiff Wright and California Class members to use a timeclock that encounters
2 technical difficulties 2 to 3 times per pay period. These technical difficulties prevent employees from
3 logging their work hours. Defendants do not account for this off-the-clock work when compensating
4 Plaintiff Wright and California Class members, resulting in widespread under-compensation. As a
5 result, Defendants failed to record or compensate each California Class member for approximately
6 8 to 12 hours of off-the-clock work for each pay period. Although Defendants' management staff is
7 aware of the timeclock issues, which Plaintiff Wright reported multiple times, Defendants refuse to
8 remedy this issue. Plaintiff is informed, believes, and thereon alleges that this same timekeeping
9 system is used across Defendants' facilities, including in California.

10 51. As another example, Defendants require Plaintiff Stanley and Illinois Class members
11 to arrive at work ten to fifteen minutes prior to clocking in for their shifts. Defendants neither record
12 nor compensate Plaintiff Stanley and Illinois Class members for this time worked.

13 52. Defendants' common course of wage-and-hour abuse includes routinely failing to
14 maintain true and accurate records of the hours worked by Collective and Class members. For
15 example, Defendants have failed to record hours that Plaintiffs and Collective and Class members
16 worked during missed meal breaks as well as hours worked off the clock.

17 53. Defendants also engage in a policy and/or practice of rounding time worked by
18 Plaintiffs, Class, and Collective members to the detriment of Plaintiffs, Class, and Collective
19 members. Specifically, Defendants typically round down time worked by Plaintiffs, Class, and
20 Collective members to the nearest fifth-minute. Ultimately, this rounding policy and/or practice
21 results in the underpayment of wages to the Plaintiffs, Class, and Collective members.

22 54. The wage statements Defendant provides are not accurate because they do not include,
23 or otherwise incorrectly state, the items required by Labor Code section 226. For example, they do
24 not reflect the actual hours worked by Plaintiffs and Class members. The wage statements do not
25 contain off-the-clock work or time that should be compensable during interruptible meal breaks.
26 Further, the wage statements are inaccurate because they do not include premium pay for missed
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1 breaks, overtime, and work that was performed while the timeclock was out of service.

2 55. Further, Defendants do not provide Class members, including Plaintiffs, with full
3 payment of all wages owed at the end of employment. As these workers are owed for off-the-clock
4 work, unpaid overtime, and premium pay when their employment ends, and these amounts remain
5 unpaid under Defendants' policies and practices, Defendants fail to pay all wages due upon
6 termination. As a consequence, Defendants are subject to waiting time penalties.

7 56. Finally, Defendants do not reimburse or compensate Plaintiffs and Class members for
8 business expenses incurred for Defendants benefit. For example, Plaintiffs and Class members are
9 required to use their personal cell phones, in addition to their radios, in order to stay in constant
10 communication with managers via phone calls and texts, especially once managers are no longer on
11 the premises. Plaintiffs and Class members were also not reimbursed or compensated for the
12 purchasing and maintenance other business expenses such as clothing, footwear, tools, supplies and
13 equipment, such as personal protective equipment. Defendants do not reimburse or compensate
14 Plaintiffs and Class members for these and other business expenses.

15 57. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and
16 Workforce Development Agency ("LWDA") with notice ("PAGA notice") of his intention to file
17 this action on July 1, 2019. Sixty-five calendar days have passed without notice from the LWDA.
18 Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with
19 § 2699.3(a). Further, Plaintiff amended his PAGA notice which is attached hereto as Exhibit A
20 ("amended PAGA notice"). Plaintiff incorporates the facts alleged in the PAGA notice and amended
21 PAGA notice herein.

22 **COLLECTIVE ALLEGATIONS UNDER THE FLSA**

23 58. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
24 herein.

25 59. Plaintiffs bring this Complaint as a collective action pursuant to 29 U.S.C. § 216(b)
26 on behalf of the following collective of individuals:
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1 all individuals who have submitted Opt-In Consent Forms in the Federal
2 Action and worked for Defendants as non-exempt, hourly employees
between March 13, 2017 and March 1, 2022.

3 60. Defendants have not compensated these employees for all hours worked, including
4 minimum wage and overtime compensation for all hours worked over 40 hours per week.

5 61. Plaintiffs' claims for violations of the FLSA may be brought and maintained as an
6 "opt-in" collective action pursuant to Section 216(b) of the FLSA because Plaintiffs' FLSA claims
7 are similar to the claims of the Collective members.

8 62. Plaintiffs are informed, believe, and thereon allege that that Collective members have
9 been denied compensation, including overtime compensation for time worked "off-the-clock," and
10 would therefore likely join this collective action if provided a notice of their rights to do so.

11 63. Plaintiffs and the Collective members are similarly situated. Defendants subjected
12 Collective members, like Plaintiffs, to Defendants' common practices, policies, or plans of refusing
13 to pay overtime for all work performed in clear violation of the FLSA. Other hourly, non-exempt
14 employees work, or have worked, for Defendants but were not paid overtime at the rate of one and
15 one-half times their regular hourly rate when those hours exceeded forty per workweek. Other hourly,
16 non-exempt employees also performed compensable work while "off-the-clock" which, when
17 included with their recorded hours, results in additional overtime hours worked that were not
18 compensated at the rate of one and one-half times their regular hourly in violation of the FLSA.

19 64. Although Defendants permitted and/or required Collective members to work in excess
20 of forty hours per workweek, Defendants have denied them full compensation for their hours worked
21 over forty as a result of meal breaks that were interrupted due to work demands and "off-the-clock"
22 work.

23 65. Collective members perform or have performed the same or similar work as Plaintiffs.

24 66. Collective members regularly work or have worked in excess of forty hours during a
25 workweek.

1 67. Collective members are not exempt from receiving overtime compensation under the
2 FLSA.

3 68. Defendants’ failure to pay overtime compensation as required by the FLSA resulted
4 from generally applicable policies and practices and did not depend on the personal circumstances
5 of FLSA Collective members.

6 69. This action may be properly maintained as a collective action on behalf of the defined
7 Collective because, throughout the relevant time period:

8 a. Defendants maintained common scheduling systems and policies with respect to
9 Plaintiff and Collective members, controlled the scheduling systems and policies
10 implemented throughout their facilities and retained authority to review and revise
11 or approve the schedules assigned to Plaintiffs and Collective members;

12 b. Defendants maintained common timekeeping systems and policies with respect to
13 Plaintiffs and Collective members; and

14 c. Defendants maintained common payroll systems and policies with respect to
15 Plaintiffs and Collective members, controlled the payroll systems and policies
16 applied to Plaintiffs and Collective members, and set the pay rates assigned to
17 Plaintiffs and Collective members.

18 70. Collective members, irrespective of their particular job requirements, are entitled to
19 overtime compensation for hours worked in excess of forty during a workweek.

20 71. Plaintiffs and Collective members’ claims arise from a common nucleus of operative
21 facts; namely, the continued and willful failure of Defendants to comply with their obligation to
22 legally compensate their employees. Liability is based on a systematic course of wrongful conduct
23 by Defendants that caused harm to all Collective members. Defendants had a plan, policy or practice
24 of not recording or paying Plaintiffs and Collective members for interrupted, interruptible, or missed
25 meal and rest breaks, as well as work performed “off-the-clock.” These unpaid hours are typically
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1 worked in excess of 40 hours per week, and therefore the failure to track these hours results in a
2 violation of the FLSA.

3 72. Plaintiffs estimate the Collective, including both current and former employees over
4 the relevant time period, will include upwards of 500 people or more. The precise number of
5 Collective members should be readily available from Defendants' personnel, scheduling, time and
6 payroll records, and from input received from Collective members as part of the notice and "opt-in"
7 process provided by 29 U.S.C. § 216(b). The names and addresses of the Collective members are
8 discoverable from Defendants' records.

9 **RULE 23 CLASS ALLEGATIONS**

10 73. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
11 herein.

12 74. Plaintiff Wright brings this case as a class action on behalf of himself and all others
13 similarly situated pursuant to Federal Rule of Civil Procedure 23. The Class that Plaintiff Wright
14 seeks to represent is defined as follows:

15 all persons who are employed, have been employed, or alleged in the Action
16 to have been employed by Defendants as a non-exempt employee in the
17 State of California between September 6, 2015 and March 1, 2022 (the
"California Class").

18 75. Plaintiff Quam brings this case as a class action on behalf of herself and all others
19 similarly situated pursuant to Federal Rule of Civil Procedure 23. The Class that Plaintiff Quam
20 seeks to represent is defined as follows:

21 all persons who are employed, have been employed, or are alleged to have
22 been employed in the Action by Defendants as a non-exempt employee in
23 the state of Washington between July 8, 2017 and March 1, 2022 (the
"Washington Class").

24 76. Plaintiff Stanley brings this case as a class action on behalf of herself and all others
25 similarly situated pursuant to Federal Rule of Civil Procedure 23. The Class that Plaintiff Stanley
26 seeks to represent is defined as follows:

27 all persons who are employed, have been employed, or are alleged in the

1 Action to have been employed by Defendants as a non-exempt employee in
2 the state of Oregon between July 8, 2014 and March 1, 2022 (the “Oregon
3 Class”).

4 77. Plaintiff Lewis brings this case as a class action on behalf of herself and all others
5 similarly situated pursuant to Federal Rule of Civil Procedure 23. The Class that Plaintiff Lewis
6 seeks to represent is defined as follows:

7 all persons who are employed, have been employed, or are alleged in the
8 Action to have been employed by Defendants as a non-exempt employee in
9 the state of Illinois between July 8, 2017 and March 1, 2022 (the “Illinois
10 Class”).

11 78. This action has been brought and may properly be maintained as a class action under
12 Federal Rule of Civil Procedure 23 because there is a well-defined community of interest in the
13 litigation and the Class is easily ascertainable.

14 a. **Numerosity:** The potential members of the Classes as defined are so numerous
15 that joinder of all the members of the Class is impracticable. Plaintiffs are informed and
16 believes that the number of Class members for each Class exceeds 500. This volume makes
17 bringing the claims of each individual member of the class before this Court impracticable.
18 Likewise, joining each individual members of the Classes as a plaintiff in this action is
19 impracticable. Furthermore, the identities of the Classes will be determined from Defendants’
20 records, as will the compensation paid to each of them. As such, a class action is a reasonable
21 and practical means of resolving these claims. To require individual actions would prejudice
22 the Classes and Defendants.

23 b. **Commonality:** There are questions of law and fact common to Plaintiffs and the
24 Classes that predominate over any questions affecting only individual members of the Classes.
25 These common questions of law and fact include, but are not limited to:

26 i. Whether Defendants fail to compensate putative California, Washington,
27 Oregon, and Illinois Class members for all hours worked in violation of the
28 California Labor Code and Wage Orders, the Washington’s Minimum
29 Wage Act, Revised Code of Washington (“RCW”); the Oregon Revised

1 Statutes (“ORS”); the Oregon Administrative Rules (“OAR”); the Illinois
2 Minimum Wage Law (“IMWL”); and the Illinois’ Wage Payment and
3 Collection Act (“IWPCA”) respectively.

4 ii. Whether Defendants fail to compensate putative California, Washington,
5 Oregon, and Illinois Class members with at least minimum wage for all
6 compensable work time in violation of the California Labor Code, Wage
7 Orders, and Business and Professions Code §§ 17200 et seq., as well as the
8 RCW, ORS, and IMWL respectively.

9 iii. Whether Defendants fail to properly compensate putative California,
10 Washington, Oregon, and Illinois Class members with overtime wages, at
11 either one and one-half times or double the rate of pay, to members of the
12 putative Classes in violation of the California Labor Code and Wage Orders,
13 the RCW, AWA, ORS, OAR, and IMWL respectively.

14 iv. Whether Defendants fail to authorize, permit, make available, and/or
15 provide putative California, Washington, Oregon, and Illinois Class
16 members with compliant meal periods to which they are entitled in violation
17 of the California Labor Code, Wage Orders, as well as the RCW, OAR, and
18 IWPCA respectively.

19 v. Whether Defendants fail to authorize, permit, make available, and/or
20 provide putative California, Washington, Oregon, and Illinois Class
21 members with compliant rest periods to which they are entitled in violation
22 of the California Labor Code and Wage Orders, the RCW, OAR, and
23 IWPCA respectively.

24 vi. Whether Defendants fail to reimburse putative California and Washington
25 Class members for reasonable business expenses that they incur in violation
26 of the California Labor Code and Wage Orders, as well as the RCW
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vii. Whether Defendants fail to provide putative California and Washington Class members with timely, accurate itemized wage statements in violation of the California Labor Code and Wage Orders, as well as the RCW respectively.

viii. Whether Defendants fail to timely pay putative California, Washington, Oregon, and Illinois Class members for all wages owing upon termination of employment in violation of the California Labor Code and Wage Orders, the RCW, ORS, and IWPCA respectively.

ix. Whether Defendant violates Business and Professions Code §§ 17200 et seq., by:

- a) failing to compensate putative Class members for all hours worked, including at minimum wage and as overtime compensation;
- b) failing to pay putative Class members minimum wage for all hours worked;
- c) failing to properly pay overtime compensation, at either one and one-half times or double the regular rate of pay, to putative Class members;
- d) failing to authorize and permit, make available, and/or provide putative Class members with timely meal and rest periods to which they are entitled;
- e) failing to reimburse Class members for reasonable and necessary business expenses;
- f) failing to provide putative Class members with timely, accurate itemized wage; and
- g) failing to timely pay putative Class members for all wages owed

1 upon termination of employment.

2 x. The proper formula for calculating restitution, damages and penalties owed
3 to Plaintiff and the putative Class alleged herein.

4 c. **Typicality:** Plaintiffs' claims are typical of the claims of the Classes. Defendants'
5 common course of conduct in violation of law as alleged herein has caused Plaintiffs and
6 members of the putative Classes to sustain the same or similar injuries and damages. Plaintiffs'
7 claims are thereby representative of and co-extensive with the claims of the Classes.

8 d. **Adequacy of Representation:** Plaintiffs are members of the Classes, do not have
9 any conflicts of interest with other putative Class members and will prosecute the case
10 vigorously on behalf of the Classes. Counsel representing Plaintiffs is competent and
11 experienced in litigating large employment class actions, including misclassification and wage
12 and hour class actions. Plaintiffs will fairly and adequately represent and protect the interests
13 of the members of the putative Classes.

14 e. **Superiority of Class Action:** A class action is superior to other available means
15 for the fair and efficient adjudication of this controversy. Individual joinder of all members of
16 the putative Classes is not practicable, and questions of law and fact common to the Class
17 predominate over any questions affecting only individual members of the Classes. Each
18 member of the putative Classes have been damaged and is entitled to recovery by reason of
19 Defendants' illegal policies and/or practices. Class action treatment will allow those similarly
20 situated persons to litigate their claims in the manner that is most efficient and economical for
21 the parties and the judicial system. The injury suffered by each Class member, while
22 meaningful on an individual basis, is not of such magnitude as to make the prosecution of
23 individual actions against Defendants economically feasible. Individualized litigation
24 increases the delay and expense to all Parties and the Court. By contrast, class action treatment
25 will allow those similarly situated persons to litigate their claims in the manner that is most
26 efficient and economical for the parties and the judicial system.

1 79. In the alternative, the Classes may be certified because the prosecution of separate
2 actions by the individual members of the Classes would create a risk of inconsistent or varying
3 adjudication with respect to individual members of the Classes, and, in turn, would establish
4 incompatible standards of conduct for Defendants.

5 80. Further, Defendants have acted or refused to act on grounds generally applicable to the
6 Classes, thereby making appropriate final injunctive or declaratory relief with respect to the Classes
7 as a whole.

8 81. If each individual member of the Classes were required to file an individual lawsuit,
9 Defendants would necessarily gain an unconscionable advantage because Defendants would be able
10 to exploit and overwhelm the limited resources of each member of the Classes with Defendants’
11 vastly superior financial legal resources.

12 82. Requiring each individual member of the Classes to pursue an individual remedy would
13 also discourage the assertion of lawful claims by the Class members who would be disinclined to
14 pursue these claims against Defendants because of an appreciable and justifiable fear of retaliation
15 and permanent damage to their lives, careers and well-being.

16 **FIRST CAUSE OF ACTION**
17 **Violation of the Fair Labor Standards Act**
18 **Pursuant to 29 U.S.C. §§ 201, et seq.**
19 **(Against All Defendants – on Behalf of the Collective)**

20 83. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
21 herein.

22 84. This claim is brought by Plaintiffs Wright, Stanley, Quam, and Lewis on behalf of the
23 Collective against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH
24 Senior Living, LLC dba Greenhaven Estates Assisted Living.

25 85. The FLSA requires that covered employees receive compensation for all hours worked
26 and overtime compensation of not less than one and one-half times the regular rate of pay for all
27 hours worked in excess of forty hours in a workweek. 29 U.S.C. §§ 206(a)(1), 207(a)(1).

28 86. At all times material herein, Plaintiffs and the Collective are covered employees

1 entitled to the rights, protections, and benefits provided under the FLSA. 29 U.S.C. §§ 203(e) and
2 207(a).

3 87. Defendants are covered employers required to comply with the FLSA's mandates.

4 88. Defendants have violated the FLSA with respect to Plaintiffs and the Collective, by,
5 *inter alia*, failing to compensate Plaintiffs and the Collective for all hours worked and, with respect
6 to such hours, failing to pay the legally mandated overtime premium for such work and/or minimum
7 wage. Defendants have also violated the FLSA by failing to keep required, accurate records of all
8 hours worked by Plaintiffs and the Collective. 29 U.S.C. § 211(c).

9 89. Plaintiffs and the Collective are victims of a uniform and company-wide compensation
10 policy that has been applied to current and former non-exempt, hourly employees of Defendants,
11 working throughout the United States.

12 90. Plaintiffs and the Collective are entitled to damages equal to the mandated pay,
13 including minimum wage, straight time, and overtime premium pay within the three years preceding
14 the filing of the complaint, plus periods of equitable tolling, because Defendants have acted willfully
15 and knew or showed reckless disregard for whether the alleged conduct was prohibited by the FLSA.

16 91. Defendants have acted neither in good faith nor with reasonable grounds to believe
17 that their actions and omissions were not a violation of the FLSA, and as a result thereof, Plaintiffs
18 and the Collective are entitled to recover an award of liquidated damages in an amount equal to the
19 amount of unpaid overtime pay and/or prejudgment interest at the applicable rate. 29 U.S.C. §
20 216(b).

21 92. Pay, including minimum wage, straight time, and overtime compensation, has been
22 unlawfully withheld by Defendants from Plaintiffs and the Collective as a result of the Defendants'
23 violations of the FLSA. Accordingly, Defendants are liable for unpaid wages, together with an
24 amount equal as liquidated damages, attorneys' fees, and costs of this action.

25 93. Wherefore, Plaintiffs and the Collective request relief as hereinafter provided.

26 **SECOND CAUSE OF ACTION**

**Failure to Pay Minimum Wages
Pursuant to California Labor Code § 1194
(Against All Defendants – on Behalf of the California Class)**

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94. Plaintiffs re-allege and incorporates the foregoing paragraphs as though fully set forth herein.

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95. This claim is brought by Plaintiff Wright on behalf of the California Class against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC dba Greenhaven Estates Assisted Living.

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96. Defendants fail to compensate Plaintiff and putative Class members with at least the minimum wage for all hours worked or spent in Defendants' control because Plaintiff and the putative Class members are paid at rates at or just above the applicable California minimum, and when the required premium payments for missed breaks, wages for off-the-clock work, unpaid wages due to Defendants' rounding policies and practices, and overtime wages are factored in, the actual rate of pay often drops below the applicable California minimum.

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97. Defendants have maintained policies and procedures which created a working environment where Plaintiff and Class members are routinely compensated at a rate that is less than the statutory minimum wage.

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98. During the applicable statutory period, Labor Code §§1182.11, 1182.12 and 1197, and the Minimum Wage Order were in full force and effect and required that Defendants' employees receive the minimum wage for all hours worked irrespective of whether nominally paid on a piece rate, or any other bases, at the rate of ten dollars (\$10.00) per hour commencing January 1, 2016.

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99. IWC Wage Order 4-2001(2)(K) defines hours worked as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

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100. Labor Code § 1194(a) provides as follows:

1 Notwithstanding any agreement to work for a lesser wage, any employee
2 receiving less than the legal minimum wage or the legal overtime
3 compensation applicable to the employee is entitled to recover in a civil
4 action the unpaid balance of the full amount of this minimum wage or
overtime compensation, including interest thereon, reasonable attorneys’
fees, and costs of suit.

5 101. Because of Defendants’ policies and practices with regard to compensating Plaintiff
6 and Class members, Defendants have failed to pay minimum wages as required by law. Plaintiff and
7 Class members frequently perform work for which they are compensated below the statutory
8 minimum, as determined by the IWC.

9 102. Labor Code §1194.2 provides that, in any action under § 1194 to recover wages because
10 of the payment of a wage less than minimum wage fixed by an order of the commission, an employee
11 shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid
12 and interest thereon.

13 103. California law further requires that employers pay their employees for all hours worked
14 at the statutory or agreed upon rate. No part of the rate may be used as a credit against a minimum
15 wage obligation.

16 104. By failing to maintain adequate time records as required by Labor Code §1174(d) and
17 IWC Wage Order 4-2001(7), Defendants have made it difficult to calculate the minimum wage
18 compensation due to Plaintiff and Class members.

19 105. As a direct and proximate result of the unlawful acts and/or omissions of Defendants,
20 Plaintiff and Class members have been deprived of minimum wages in an amount to be determined
21 at trial, and are entitled to a recovery of such amount, plus liquidated damages, plus interest thereon,
22 attorneys’ fees, and costs of suit pursuant to Labor Code §§ 1194, 1194.2 and 1197.1.

23 106. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
24 provided.

25 **THIRD CAUSE OF ACTION**
26 **Failure to Pay Overtime Wages**
27 **Pursuant to California Labor Code § 510**
(Against All Defendants – on Behalf of the California Class)

1 107. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
2 herein.

3 108. This claim is brought by Plaintiff Wright on behalf of the California Class against
4 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
5 dba Greenhaven Estates Assisted Living.

6 109. Defendants do not compensate Plaintiff and Class members with appropriate overtime,
7 including time and half and double time, at the regular rate of pay, as required by California law.

8 110. Labor Code § 510(a) provides as follows:

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10 Eight hours of labor constitutes a day's work. Any work in excess of eight
11 hours in one workday and any work in excess of 40 hours in any one
12 workweek and the first eight hours worked on the seventh day of work in
13 any one workweek shall be compensated at the rate of no less than one and
14 one-half times the regular rate of pay for an employee. Any work in excess
15 of 12 hours in one day shall be compensated at the rate of no less than twice
16 the regular rate of pay for an employee. In addition, any work in excess of
17 eight hours on any seventh day of a workweek shall be compensated at the
18 rate of no less than twice the regular rate of pay of an employee.

19 111. The IWC Wage Order 4-2001(3)(A)(1) states:

20 [E]mployees shall not be employed more than eight (8) hours in any
21 workday or more than 40 hours in any workweek unless the employee
22 receives one and one-half (1 ½) times such employee's regular rate of pay
23 for all hours worked over 40 hours in the workweek. Eight (8) hours of
24 labor constitutes a day's work. Employment beyond eight (8) hours in any
25 workday or more than six (6) days in any workweek is permissible provided
26 the employee is compensated for such overtime at not less than:
27 . . . One and one-half (1 ½) times the employee's regular rate of pay for all
28 hours worked in excess of eight (8) hours up to and including 12 hours in
any workday, and for the first eight (8) hours worked on the seventh (7th)
consecutive day of work in a workweek; and . . . Double the employee's
regular rate of pay for all hours worked in excess of 12 hours in any workday
and for all hours worked in excess of eight (8) hours on the seventh (7th)
consecutive day of work in a workweek[.] . . .

 112. Labor Code § 1194(a) provides as follows:

 Notwithstanding any agreement to work for a lesser wage, any employee
receiving less than the legal minimum wage or the legal overtime

1 compensation applicable to the employee is entitled to recover in a civil
2 action the unpaid balance of the full amount of this minimum wage or
3 overtime compensation, including interest thereon, reasonable attorney's
4 fees, and costs of suit.

5 113. Labor Code § 200 defines wages as “all amounts for labor performed by employees of
6 every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
7 commission basis or other method of calculation.” All such wages are subject to California's
8 overtime requirements, including those set forth above.

9 114. Defendants often require Plaintiff and Class members to work in excess of eight hours
10 per day. Defendants do not compensate Plaintiff and Class members at an overtime rate for hours in
11 excess of eight hours each day or in excess of forty in each week, nor does Defendants compensate
12 Plaintiff and Class members at a double time rate for hours in excess of twelve each day or in excess
13 of eight on the seventh consecutive day.

14 115. Plaintiff and Class members have worked overtime hours for Defendants without being
15 paid overtime premiums at the regular rate of pay in violation of the Labor Code, the applicable IWC
16 Wage Order, and other applicable law.

17 116. Defendants have knowingly and willfully refused to properly compensate Plaintiff and
18 the Class for overtime work. As a proximate result of the aforementioned violations, Defendants
19 have damaged Plaintiff and the Class in amounts to be determined according to proof at time of trial,
20 but in an amount in excess of the jurisdictional requirements of this Court.

21 117. Defendants are liable to Plaintiff and the Class alleged herein for the unpaid overtime
22 and civil penalties, with interest thereon. Furthermore, Plaintiff is entitled to an award of attorneys'
23 fees and costs as set forth below.

24 118. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
25 provided.

26 **FOURTH CAUSE OF ACTION**
27 **Failure to Authorize and Permit, Provide and/or Make Available Meal and Rest Periods**
28 **Pursuant to California Labor Code §§ 226.7 and 512**
(Against All Defendants – on Behalf of the California Class)

1 119. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
2 herein.

3 120. This claim is brought by Plaintiff Wright on behalf of the California Class against
4 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
5 dba Greenhaven Estates Assisted Living.

6 121. Defendants denied Plaintiff and California Class Members meal and rest breaks to
7 which they were entitled. For example, Defendants require Plaintiff and Class members to respond
8 to calls at all times during their shifts, even if this means cutting breaks short or not being relieved
9 for breaks at all. Defendants also engage in rounding policies and practices that result in the
10 underpayment.

11 122. Defendants do not pay Plaintiff and Class members one hour of premium pay at the
12 regular rate of pay for the missed meal and rest breaks.

13 123. Labor Code §§ 226.7 and 512 and the applicable Wage Order requires Defendants to
14 authorize and permit meal and rest periods to its employees. Labor Code §§ 226.7 and 512 and the
15 Wage Order prohibit employers from employing an employee for more than five hours without a
16 meal period of not less than thirty minutes, and from employing an employee more than ten hours
17 per day without providing the employee with a second meal period of not less than thirty minutes.
18 Section 226.7 and the applicable Wage Order also require employers to authorize and permit
19 employees to take ten minutes of net rest time per four hours or major fraction thereof of work, and
20 to pay employees their full wages during those rest periods. Unless the employee is relieved of all
21 duty during the thirty-minute meal period and ten-minute rest period, the employee is considered “on
22 duty” and the meal or rest period is counted as time worked under the applicable wage orders.

23 124. Under § 226.7(b) and the applicable Wage Order, an employer who fails to authorize,
24 permit, and/or make available a required meal period must, as compensation, pay the employee one
25 hour of pay at the employee’s regular rate of compensation for each workday that the meal period
26 was not authorized and permitted. Similarly, an employer must pay an employee denied a required
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1 rest period one hour of pay at the employee’s regular rate of compensation for each workday that the
2 rest period was not authorized and permitted and/or not made available.

3 125. Defendants knowingly and willfully refuse to perform their obligations to authorize
4 and permit and/or make available to Plaintiff and the Class the ability to take the off-duty meal and
5 rest periods to which they are entitled. Defendants also fail to pay Plaintiff and the Class one hour
6 of pay at the regular rate for each off-duty meal and/or rest periods that they are denied. Defendants’
7 conduct described herein violates Labor Code §§ 226.7 and 512. Therefore, pursuant to Labor Code
8 § 226.7(b), Plaintiff and the Class are entitled to compensation for the failure to authorize and permit
9 and/or make available meal and rest periods, plus interest, attorneys’ fees, expenses and costs of suit.

10 126. As a proximate result of the aforementioned violations, Plaintiff and the Class have
11 been damaged in an amount according to proof at time of trial.

12 127. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
13 provided.

14 **FIFTH CAUSE OF ACTION**
15 **Failure to Pay for All Hours Worked**
16 **Pursuant to California Labor Code §§ 200, 204, 1194, and 1198**
17 **(Against All Defendants – on Behalf of the California Class)**

18 128. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
19 herein.

20 129. This claim is brought by Plaintiff Wright on behalf of the California Class against
21 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
22 dba Greenhaven Estates Assisted Living.

23 130. Plaintiff alleges that Defendants willfully engaged and continue to engage in a policy
24 and practice of not compensating Plaintiff and putative Class members for all hours worked or spent
25 in Defendants’ control.

26 131. Defendants regularly require Plaintiff and putative Class members to perform
27 uncompensated off-the-clock work. Detailed above, Defendants require Plaintiff and putative Class
28 members to perform work before and after their scheduled shifts, to clock out for meal breaks but

1 then require, suffer, and/or permit them to work through these meal breaks, and otherwise failed to
2 pay for all wages.

3 132. Labor Code § 200 defines wages as “all amounts for labor performed by employees of
4 every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
5 commission basis or method of calculation.”

6 133. Labor Code § 204(a) provides that “[a]ll wages ... earned by any person in any
7 employment are due and payable twice during each calendar month....”

8 134. Labor Code § 1194(a) provides as follows:

9 Notwithstanding any agreement to work for a lesser wage, any employee
10 receiving less than the legal minimum wage or the legal overtime
11 compensation applicable to the employee is entitled to recover in a civil
12 action the unpaid balance of the full amount of this minimum wage or
overtime compensation, including interest thereon, reasonable attorneys’
fees, and costs of suit.

13 135. Labor Code § 1198 makes it unlawful for employers to employ employees under
14 conditions that violate the Wage Order.

15 136. IWC Wage Order 4-2001(2)(K) defines hours worked as “the time during which an
16 employee is subject to the control of an employer, and includes all the time the employee is suffered
17 or permitted to work, whether or not required to do so....”

18 137. In violation of California law, Defendants knowingly and willfully refuse to perform
19 its obligation to provide Plaintiff and putative Class members with compensation for all time worked.
20 Therefore, Defendants committed, and continue to commit, the acts alleged herein knowingly and
21 willfully, and in conscious disregard of Plaintiff’s and putative Class members’ rights. Plaintiff and
22 putative Class members are thus entitled to recover nominal, actual, and compensatory damages,
23 plus interest, attorneys’ fees, expenses and costs of suit.

24 138. As a proximate result of the aforementioned violations, Plaintiff and the putative Class
25 have been damaged in an amount according to proof at time of trial.

26 139. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
27 provided.

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SIXTH CAUSE OF ACTION
Failure to Provide Accurate Itemized Wage Statements
Pursuant to California Labor Code § 226
(Against All Defendants – on Behalf of the California Class)

140. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

141. This claim is brought by Plaintiff Wright on behalf of the California Class against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC dba Greenhaven Estates Assisted Living.

142. Defendants do not provide Plaintiff and Class members with accurate itemized wage statements as required by California law.

143. Labor Code § 226(a) provides:

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

144. The IWC Wage Order also establishes this requirement. (See IWC Wage Order 4-2001(7)).

145. Labor Code § 226(e)(1) provides:

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate

1 penalty of four thousand dollars (\$4,000), and is entitled to an award of
2 costs and reasonable attorney's fees.

3 146. Plaintiff seeks to recover actual damages, costs and attorneys' fees under this section.

4 147. Defendants have failed to provide timely, accurate itemized wage statements to
5 Plaintiff and Class members in accordance with Labor Code § 226(a) and the IWC Wage Order. For
6 example, the wage statements Defendants provide their employees, including Plaintiff and Class
7 members, do not reflect the actual hours worked, actual gross wages earned, or actual net wages
8 earned. The wage statements are simply a record of shifts worked, and the amount earned per shift.

9 148. Defendants are liable to Plaintiff and the Class alleged herein for the amounts described
10 above in addition to the civil penalties set forth below, with interest thereon. Furthermore, Plaintiff
11 is entitled to an award of attorneys' fees and costs as set forth below.

12 149. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
13 provided.

14 **SEVENTH CAUSE OF ACTION**
15 **Waiting Time Penalties**
16 **Pursuant to California Labor Code §§ 201-203**
17 **(Against All Defendants – on Behalf of the California Class)**

18 150. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
19 herein.

20 151. This claim is brought by Plaintiff Wright on behalf of the California Class against
21 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
22 dba Greenhaven Estates Assisted Living.

23 152. Defendants do not provide Class members whose employment with Defendants has
24 ended, including Plaintiff, with their wages due at the time their employment ends as required under
25 California law.

26 153. Labor Code § 201 provides:

27 If an employer discharges an employee, the wages earned and unpaid at the
28 time of discharge are due and payable immediately.

154. Labor Code § 202 provides:

1 If an employee not having a written contract for a definite period quits his
2 or her employment, his or her wages shall become due and payable not later
3 than 72 hours thereafter, unless the employee has given 72 hours previous
4 notice of his or her intention to quit, in which case the employee is entitled
5 to his or her wages at the time of quitting.

6 155. Labor Code § 203 provides, in relevant part:

7 If an employer willfully fails to pay, without abatement or reduction, in
8 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
9 employee who is discharged or who quits, the wages of the employee shall
10 continue as a penalty from the due date thereof at the same rate until paid
11 or until an action therefor is commenced; but the wages shall not continue
12 for more than 30 days.

13 156. Class members have left their employment with Defendants during the statutory period,
14 at which time Defendants owed them unpaid wages, including overtime and double time wages.

15 157. Defendants willfully refuse and continue to refuse to pay former Class members all the
16 wages that are due and owing them, in the form of, *inter alia*, overtime and double time pay and meal
17 and rest period premium pay, upon the end of their employment. As a result of Defendants' actions,
18 Plaintiff and Class members have suffered and continue to suffer substantial losses, including lost
19 earnings, and interest.

20 158. Defendants' willful failure to pay Class members the wages due and owing them
21 constitutes a violation of Labor Code §§ 201-202. As a result, Defendants are liable to Class
22 members for all penalties owing pursuant to Labor Code §§ 201-203.

23 159. In addition, § 203 provides that an employee's wages will continue as a penalty up to
24 thirty days from the time the wages were due. Therefore, Plaintiff and Class members are entitled
25 to penalties pursuant to Labor Code § 203, plus interest.

26 160. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
27 provided.

28 **EIGHTH CAUSE OF ACTION**
Failure to Reimburse for Necessary Business Expenses
Pursuant to California Labor Code § 2802
(Against All Defendants – on Behalf of the California Class)

161. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
herein.

1 162. This claim is brought by Plaintiff Wright on behalf of the California Class against
2 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
3 dba Greenhaven Estates Assisted Living.

4 163. Defendants do not reimburse Plaintiff and Class members for necessary business
5 expenses.

6 164. Labor Code § 2802(a) provides as follows:

7 An employer shall indemnify his or her employee for all necessary
8 expenditures or losses incurred by the employee in direct consequence
9 of the discharge of his or her duties, or of his or her obedience to the
10 directions of the employer, even though unlawful, unless the employee,
11 at the time of obeying the direction, believed them to be lawful.

12 165. Defendants require Plaintiff and Class members to incur numerous work-related
13 expenses, including but not limited to tools and supplies like their personal cell phones to perform
14 their work duties. However, Defendants do not compensate Plaintiff and Class members for the
15 expenses required to perform their work-related tasks.

16 166. For example, Defendants require Plaintiff and Class members to use their personal
17 mobile devices for Defendants' benefit. Defendants does not reimburse Plaintiff or Class members
18 for these expenses that are necessary to perform their daily work assignments.

19 167. Defendants are liable to Plaintiff and Class members for the unreimbursed expenses
20 and civil penalties, with interest thereon. Furthermore, Plaintiff is entitled to an award of attorneys'
21 fees and costs as set forth below.

22 168. As a direct and proximate result of the aforementioned violations, Plaintiff and Class
23 members have been damaged in an amount according to proof at time of trial.

24 169. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
25 provided.

26 **NINTH CAUSE OF ACTION**

27 **Unfair Business Practices**

28 **Pursuant to California Business and Professions Code §§ 17200, *et seq.*
(Against All Defendants – on Behalf of the California Class)**

1 170. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
2 herein.

3 171. This claim is brought by Plaintiff Wright on behalf of the California Class against
4 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
5 dba Greenhaven Estates Assisted Living.

6 172. Business and Professions Code §§17200 *et seq.* prohibits unfair competition in the form
7 of any unlawful, unfair or fraudulent business acts or practices.

8 173. Business and Professions Code § 17204 allows a person injured by the unfair business
9 acts or practices to prosecute a civil action for violation of the UCL.

10 174. Labor Code § 90.5(a) states it is the public policy of California to vigorously enforce
11 minimum labor standards in order to ensure employees are not required to work under substandard
12 and unlawful conditions, and to protect employers who comply with the law from those who attempt
13 to gain competitive advantage at the expense of their workers by failing to comply with minimum
14 labor standards.

15 175. Beginning at an exact date unknown to Plaintiff, but at least since the date four years
16 prior to the filing of this suit, Defendants have committed acts of unfair competition as defined by
17 the Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent business acts
18 and practices described in this Complaint, including, but not limited to:

- 19 a. violations of Labor Code § 1194 and IWC Wage Order pertaining to the payment
20 of wages;
- 21 b. violations of Labor Code § 510 and applicable IWC Wage Orders pertaining to
22 overtime;
- 23 c. violations of Labor Code §§ 1182.11, 1182.12, and 1197 and IWC wage orders
24 pertaining to minimum wage;
- 25 d. violations of Labor Code §§226.7 and 512 and IWC wage orders pertaining to meal
26 and rest breaks;
- 27

1 e. violations of Labor Code § 226 regarding accurate, timely itemized wage
2 statements;

3 f. violations of Labor Code §§ 201-203; and

4 g. violations of Labor Code § 2802.

5 176. The violations of these laws and regulations, as well as of the fundamental California
6 public policies protecting wages and discouraging overtime labor underlying them, serve as unlawful
7 predicate acts and practices for purposes of Business and Professions Code §§17200 *et seq.*

8 177. The acts and practices described above constitute unfair, unlawful and fraudulent
9 business practices, and unfair competition, within the meaning of Business and Professions Code
10 §§17200, *et seq.* Among other things, the acts and practices have taken from Plaintiff and the Class
11 wages rightfully earned by them, while enabling Defendants to gain an unfair competitive advantage
12 over law-abiding employers and competitors.

13 178. Business and Professions Code § 17203 provides that a court may make such orders or
14 judgments as may be necessary to prevent the use or employment by any person of any practice
15 which constitutes unfair competition. Injunctive relief is necessary and appropriate to prevent
16 Defendants from repeating their unlawful, unfair, and fraudulent business acts and practices alleged
17 above.

18 179. As a direct and proximate result of the aforementioned acts and practices, Plaintiff and
19 the Class members have suffered a loss of money and property, in the form of unpaid wages which
20 are due and payable to them.

21 180. Business and Professions Code §17203 provides that the Court may restore to any
22 person in interest any money or property which may have been acquired by means of such unfair
23 competition. Plaintiff and the Class are entitled to restitution pursuant to Business and Professions
24 Code §17203 for all wages and payments unlawfully withheld from employees during the four-year
25 period prior to the filing of this Complaint. Plaintiff's success in this action will enforce important
26 rights affecting the public interest and in that regard Plaintiff sues on behalf of himself as well as
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1 others similarly situated. Plaintiff and Class members seek and are entitled to unpaid wages,
2 declaratory and injunctive relief, and all other equitable remedies owing to them.

3 181. Plaintiff herein takes upon himself enforcement of these laws and lawful claims. There
4 is a financial burden involved in pursuing this action, the action is seeking to vindicate a public right,
5 and it would be against the interests of justice to penalize Plaintiff by forcing them to pay attorneys'
6 fees from the recovery in this action. Attorneys' fees are appropriate pursuant to Code of Civil
7 Procedure §1021.5 and otherwise.

8 182. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
9 provided.

10 **TENTH CAUSE OF ACTION**
11 **Penalties Pursuant to § 2699(a) of the Private Attorneys General Act**
(Against All Defendants – on Behalf of the Aggrieved Employees and State of California)

12 183. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
13 herein. This claim is brought by Plaintiff Wright on behalf of the Aggrieved Employees against
14 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
15 dba Greenhaven Estates Assisted Living.

16 184. California Labor Code § 2699(a) provides:

17 Notwithstanding any other provision of law, any provision of this code
18 that provides for a civil penalty to be assessed and collected by the
19 Labor and Workforce Development Agency or any of its departments,
20 divisions, commissions, boards, agencies or employees, for a violation
of this code, may, as an alternative, be recovered through a civil action
brought by an aggrieved employee on behalf of himself or herself and
other current or former employees.

21 185. California Labor Code § 203 provides, in relevant part:

22 If an employer willfully fails to pay, without abatement or reduction,
23 in accordance with Sections 201, 201.5, 202, and 205.5, any wages of
24 an employee who is discharged or who quits, the wages of the
25 employee shall continue as a penalty from the due date thereof at the
same rate until paid or until an action therefore is commenced; but the
wages shall not continue for more than 30 days.

26 186. California Labor Code § 226(a) provides:

1 Every employer shall, semimonthly or at the time of each payment of
2 wages, furnish each of his or her employees, either as a detachable part
3 of the check, draft, or voucher paying the employee's wages, or
4 separately when wages are paid by personal check or cash, an accurate
5 itemized statement in writing showing (1) gross wages earned, (2) total
6 hours worked by the employee, except for any employee whose
7 compensation is solely based on a salary and who is exempt from
8 payment of overtime under subdivision (a) of Section 515 or any
9 applicable order of the Industrial Welfare Commission, (3) the number
10 of piece-rate units earned and any applicable piece rate if the employee
11 is paid on a piece-rate basis, (4) all deductions, provided that all
12 deductions made on written orders of the employee may be aggregated
13 and shown as one item, (5) net wages earned, (6) the inclusive dates of
14 the period for which the employee is paid, (7) the name of the employee
15 and his or her social security number, (8) the name and address of the
16 legal entity that is the employer, and (9) all applicable hourly rates in
17 effect during the pay period and the corresponding number of hours
18 worked at each hourly rate by the employee. The deductions made
19 from payments of wages shall be recorded in ink or other indelible
20 form, properly dated, showing the month, day, and year, and a copy of
21 the statement or a record of the deductions shall be kept on file by the
22 employer for at least four years at the place of employment or at a
23 central location within the State of California.

15 187. Labor Code § 510(a) provides:

16 Eight hours of labor constitutes a day's work. Any work in excess of eight
17 hours in one workday and any work in excess of 40 hours in any one
18 workweek and the first eight hours worked on the seventh day of work in any
19 one workweek shall be compensated at the rate of no less than one and one-
20 half times the regular rate of pay for an employee. Any work in excess of 12
21 hours in one day shall be compensated at the rate of no less than twice the
22 regular rate of pay for an employee.

21 188. Labor Code §§ 226.7 and 512 and the applicable Wage Order requires Defendants to
22 authorize and permit meal and rest periods to its employees. Labor Code § 512(a) provides:

23 An employer shall not employ an employee for a work period of more than
24 five hours per day without providing the employee with a meal period of not
25 less than 30 minutes, except that if the total work period per day of the
26 employee is no more than six hours, the meal period may be waived by
27 mutual consent of both the employer and employee. An employer shall not
28 employ an employee for a work period of more than 10 hours per day without
providing the employee with a second meal period of not less than 30 minutes,
except that if the total hours worked is no more than 12 hours, the second

1 meal period may be waived by mutual consent of the employer and the
2 employee only if the first meal period was not waived.

3 189. California Labor Code § 558(a) provides:

4 (a) Any employer or other person acting on behalf of an employer who
5 violates, or causes to be violated, a section of this chapter or any
6 provision regulating hours and days of work in any order of the
7 Industrial Welfare Commission shall be subject to a civil penalty as
8 follows:

9 (1) For any initial violation, fifty dollars (\$50) for each underpaid
10 employee for each pay period for which the employee was
11 underpaid in addition to an amount sufficient to recover underpaid
12 wages.

13 (2) For each subsequent violation, one hundred dollars (\$100) for
14 each underpaid employee for each pay period for which the
15 employee was underpaid in addition to an amount sufficient to
16 recover underpaid wages.

17 (3) Wages recovered pursuant to this section shall be paid to the
18 affected employee.

19 190. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and
20 Workforce Development Agency (“LWDA”) with notice (“PAGA notice”) of his intention to file
21 this claim on July 1, 2019. Sixty-five calendar days have passed without notice from the LWDA.
22 Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with
23 § 2699.3(a). Further, Plaintiff amended his PAGA notice which is attached hereto as Exhibit A.

24 191. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure
25 by Defendants, as alleged above, to timely pay all wages owed to Plaintiff and Aggrieved Employees
26 (e.g., unpaid minimum wages, overtime wages, meal and rest period premiums) during and at the
27 end of their employment in compliance with Labor Code §§ 201-202, 204 in the amounts established
28 by Labor Code § 203. Plaintiff seeks such penalties as an alternative to the penalties available under
Labor Code § 203, as prayed for herein.

192. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure
by Defendants, alleged above, to provide Plaintiff and each Aggrieved Employee an accurate,
itemized wage statement in compliance with Labor Code §§ 226(a) and 1174(d) in the amounts
established by Labor Code § 226(e). Plaintiff seeks such penalties as an alternative to the penalties
available under Labor Code § 226(e), as prayed for herein.

1 193. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure
2 by Defendants, alleged above, to provide Plaintiff and each Aggrieved Employee compliant meal
3 and rest periods in compliance with Labor Code §§ 226.7 and 512.

4 194. Plaintiff also seeks civil penalties pursuant to Labor Code §§ 2800 and 2802 for each
5 failure by Defendants, alleged above, to reimburse and indemnify Plaintiff and Aggrieved
6 Employees for all necessary expenditures and losses by Aggrieved Employees in direct consequence
7 of the discharge of their duties.

8 195. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each violation
9 of the following Labor Code sections: §§ 1194 1197, 1197.1 (failure to pay minimum wage); §§
10 510, 1194 (failure to pay overtime wages); § 226.7 and 512 (failure to provide meal and rest periods);
11 §§ 204 and 210 (failure to compensate for all hours worked); § 226 (failure to provide timely and
12 compliant itemized wage statements); §§ 201-203 (failure to pay wages upon termination or
13 discharge); §§ 2800-2802 (failure to reimburse for necessary business expenditures); §§ 551-552
14 (failure to provide 1 day of rest during a 7 day workweek); § 558 (civil penalties for underpayment
15 of wages); 1198 (failure to pay at the regular rate of pay where employee is scheduled to work and
16 does report for work but is not provided work less than half the employee’s usual or scheduled day’s
17 work); 1174(d) (failure to keep complete and accurate wage statements); 2810.5 (failure to provide
18 written notice of pay and other necessary information at time of hire); and violations of IWC Wage
19 Orders including, but not limited to, Wage Orders 4-2001 and 5-2001.

20 196. Plaintiff also seeks civil penalties for all of the violations alleged in Exhibit A.

21 197. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved
22 Employees, and himself as set forth in Labor Code § 2699(g)(i).

23 198. Defendants are liable to Plaintiff, the Aggrieved Employees, and the State of California
24 for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an
25 award of attorneys’ fees and costs as set forth below.

26 199. Wherefore, Plaintiff requests relief as hereinafter provided.

27

ELEVENTH CAUSE OF ACTION

**Penalties Pursuant to § 2699(f) of the Private Attorneys General Act
(Against All Defendants – on Behalf of the Aggrieved Employees and State of California)**

200. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein. This claim is brought by Plaintiff Wright on behalf of the Aggrieved Employees against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC dba Greenhaven Estates Assisted Living.

201. Labor Code § 2699(f) provides:

For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

202. To the extent than any violation alleged herein does not carry penalties under Labor Code § 2699(a), Plaintiff seeks civil penalties pursuant to Labor Code § 2699(f) for Plaintiff and Aggrieved Employees each pay period in which he or she was aggrieved, in the amounts established by Labor Code § 2699(f).

203. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff has provided the LWDA with notice of his intention to file this claim on July 1, 2019. Sixty-five calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

204. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved Employees, and themselves as set forth in Labor Code § 2699(g)(i).

205. Defendants are liable to Plaintiff, the Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

206. Wherefore, Plaintiff requests relief as hereinafter provided.

TWELFTH CAUSE OF ACTION
Failure to Pay Minimum Wage

1 **Pursuant to RCW 49.46.090, RCW 49.12.150**
2 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
3 **of the Washington Class)**

4 207. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
5 herein.

6 208. This claim is brought by Plaintiff Quam on behalf of the Washington Class against
7 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

8 209. As detailed above, Defendants fail to compensate Plaintiff Quam and putative Class
9 members with at least the minimum wage for all hours worked.

10 210. Under RCW 49.46.090, employers must pay employees all wages to which they are
11 entitled under the Washington Minimum Wage Act. If the employer fails to do so, RCW 49.46.090
12 requires that the employer pay the employees the full amount due to such employee, less any amount
13 actually paid to the employee, and for costs and such reasonable attorney’s fees as may be allowed
14 by the court.

15 211. During the applicable statutory period, RCW 49.46.020(1)(a) was in full force and
16 effect and required that Plaintiff and putative Class members receive the minimum wage for all hours
17 worked at the rate of nine dollars thirty-two cents (\$9.32) per hour commencing January 1, 2014, at
18 the rate of nine dollars forty-seven cents (\$9.47) per hour commencing July 1, 2015, at the rate of
19 eleven dollars (\$11.00) per hour commencing January 1, 2017, at a rate of eleven dollars and fifty
20 cents (\$11.50) per hour commencing January 1, 2018, at a rate of twelve dollars (\$12.00) per hour
21 commencing January 1, 2019, and at a rate of thirteen dollars and fifty cents (\$13.50) per hour
22 commencing January 1, 2020.

23 212. Washington Administrative Code (“WAC”) 296-126-002 defines hours worked as “all
24 hours during which the employee is authorized or required by the employer to be on duty on the
25 employer's premises or at a prescribed work place.

26 213. RCW 49.46.090(1) provides, in relevant part:
27 Any employer who pays any employee less than the amounts to which such
28 employee is entitled under or by virtue of this chapter, shall be liable to such
employee affected for the full amount due to such employee under this

1 chapter, less any amount actually paid to such employee by the employer,
2 and for costs and such reasonable attorney's fees as may be allowed by the
3 court.

4 214. RCW 49.12.150 also provides:

5 If any employee shall receive less than the legal minimum wage, except as
6 hereinbefore provided in RCW 49.12.110, said employee shall be entitled
7 to recover in a civil action the full amount of the legal minimum wage as
8 herein provided for, together with costs and attorney's fees to be fixed by
9 the court, notwithstanding any agreement to work for such lesser wage. In
10 such action, however, the employer shall be credited with any wages which
11 have been paid upon account.

12 215. RCW 49.48.030 allows the court to grant reasonable attorney's fees "[i]n any action in
13 which any person is successful in recovering judgment for wages or salary owed" to him or her.

14 216. Because of Defendants' policies and practices with regard to compensating Plaintiff
15 and putative Class members, Defendants have failed to pay minimum wages as required by law.
16 Plaintiff and putative Class members frequently perform work for which they are compensated below
17 the statutory minimum.

18 217. Plaintiff and putative Class members have been deprived of minimum wages in an
19 amount to be proven at trial, and are entitled to a recovery of such amount, plus interest thereon,
20 attorneys' fees, and costs of suit pursuant to RCW 49.46.090 and 49.48.030.

21 218. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter
22 provided.

23 **THIRTEENTH CAUSE OF ACTION**

24 **Failure to Pay Overtime Wages**

25 **Pursuant to WMWA 49.46.130**

26 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
27 of the Washington Class)**

28 219. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
herein.

219. This claim is brought by Plaintiff Quam on behalf of the Washington Class against
Defendants Frontier Management LLC and Frontier Senior Living, LLC.

220. As detailed above, Defendants fail to compensate Plaintiff and putative Class members
with at least the minimum wage for all hours worked.

1 222. Defendants do not compensate Plaintiff and putative Class members with the
2 appropriate overtime rate for work performed in excess of forty hours per week.

3 223. RCW 49.46.130(1) provides that work performed in excess of forty hours in a given
4 week must be compensated at a rate of no less than one and one-half times the regular rate of pay for
5 an employee.

6 224. Wages are defined in the RCW 49.46.010(7) as “compensation due to an employee by
7 reason of employment, payable in legal tender of the United States or checks on banks convertible
8 into cash on demand at full face value, subject to such deductions, charges, or allowances as may be
9 permitted by rules of the director.”

10 225. All such wages are subject to Washington’s overtime requirements, including those set
11 forth above.

12 226. RCW 49.46.090(1) provides, in relevant part:

13 Any employer who pays any employee less than the amounts to which such
14 employee is entitled under or by virtue of this chapter, shall be liable to such
15 employee affected for the full amount due to such employee under this
16 chapter, less any amount actually paid to such employee by the employer,
and for costs and such reasonable attorney's fees as may be allowed by the
court.

17 227. RCW 49.48.030 allows the court to grant reasonable attorney’s fees “[i]n any action in
18 which any person is successful in recovering judgment for wages or salary owed” to him or her.

19 228. Defendants regularly require Plaintiff and putative Class members to work in excess of
20 forty hours per week, but do not compensate them at an overtime rate for all of this work.
21 Furthermore, as detailed above, Defendants routinely require Plaintiff and putative Class members
22 to work, off the clock, which increases the amount of overtime compensation to which they are due,
23 but do not receive.

24 229. Plaintiff and putative Class members have worked overtime hours for Defendants
25 without being paid overtime premiums in violation of the RCW, and other applicable laws of the
26 state of Washington.

27 230. Defendants have knowingly and willfully refused to perform their obligation to
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1 compensate Plaintiff and the putative Class members for all premium wages for overtime work.

2 231. Plaintiff and putative Class members are entitled to recover unpaid overtime under
3 Washington law, and they are also entitled to declaratory relief stating Defendants violated the
4 statute, and continues to violate the statute, as described above.

5 232. Plaintiff further seeks declaratory relief stating Defendants is in violation of RCW
6 49.46.130 for failing to compensate putative Class members for “off-the-clock” work performed for
7 the benefit of Defendants.

8 233. Plaintiff and putative Class members who are within the applicable statute of
9 limitations are entitled to collect the difference between the wages received that were then due and
10 the overtime wages due in an amount to be proven at trial, together with double damages (RCW
11 49.52.070), attorney fees, costs and disbursements (RCW 49.12.150; RCW 49.48.030), civil
12 penalties (RCW 49.12.170), as well as pre- and post-judgment interest at the rate of 12% per annum
13 (RCW 19.52.020).

14 234. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter
15 provided.

16 **FOURTEENTH CAUSE OF ACTION**
17 **Failure to Authorize and Permit and/or Make Available Meal and Rest Breaks**
18 **Pursuant to RCW 49.12.020**
19 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
20 **of the Washington Class)**

21 235. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
22 herein.

23 236. This claim is brought by Plaintiff Quam on behalf of the Washington Class against
24 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

25 237. As detailed above, Defendants fail to compensate Plaintiff and putative Class members
26 with at least the minimum wage for all hours worked.

27 238. RCW 49.12.010 provides:

The welfare of the state of Washington demands that all employees be
protected from conditions of labor which have a pernicious effect on their
health. The state of Washington, therefore, exercising herein its police and

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sovereign power declares that inadequate wages and unsanitary conditions of labor exert such pernicious effect.

239. RCW 49.12.020 provides that “[i]t shall be unlawful to employ any person in any industry or occupation within the state of Washington under conditions of labor detrimental to their health.”

240. Pursuant to RCW 49.12.005(5) and WAC 296-126-002(9), conditions of labor “means and includes the conditions of rest and meal periods” for employees.

241. WAC 296-126-092 provides:

(1) Employees shall be allowed a meal period of at least thirty minutes which commences no less than two hours nor more than five hours from the beginning of the shift. Meal periods shall be on the employer's time when the employee is required by the employer to remain on duty on the premises or at a prescribed work site in the interest of the employer.

(2) No employee shall be required to work more than five consecutive hours without a meal period.

(3) Employees working three or more hours longer than a normal work day shall be allowed at least one thirty-minute meal period prior to or during the overtime period.

(4) Employees shall be allowed a rest period of not less than ten minutes, on the employer's time, for each four hours of working time. Rest periods shall be scheduled as near as possible to the midpoint of the work period. No employee shall be required to work more than three hours without a rest period.

(5) Where the nature of the work allows employees to take intermittent rest periods equivalent to ten minutes for each 4 hours worked, scheduled rest periods are not required.

242. In the present case, Plaintiff and putative Class members are routinely required to work through rest and meal periods. When Plaintiff and putative Class members do receive a meal or rest break, these breaks generally are on duty.

243. By actions alleged above, Defendants have violated WAC 296-126-092. This, in turn, constitutes a violation of RCW 49.12.010 and RCW 49.12.020.

244. Defendants implemented a policy and practice of either failing to provide Plaintiff and putative Class members with the meal and rest breaks to which they were entitled, failing to ensure those breaks were taken, failing to record missed breaks, and failing to pay for missed breaks.

1 245. Because Plaintiff and putative Class members were not provided a meal break, were
2 not relieved of all duties during their meal breaks, and were subject to interruption during their meal
3 breaks, they did not receive continuous meal breaks in accordance with WAC 296-126-092.

4 246. Because Plaintiff and putative Class members have failed to receive the meal and rest
5 breaks to which they were entitled, ICS has violated WAC 296-126-092.

6 247. Because Plaintiff and putative Class members were constantly engaged in work
7 activities during their meal breaks in violation of WAC 296-126-092, Plaintiff and putative Class
8 members should be additionally compensated for thirty (30) minutes each for each meal break
9 missed. *See Pellino v. Brink's Inc.*, 164 Wn. App. 668, 688, 267 P.3d 383 (2011).

10 248. Because Plaintiff and putative Class members were constantly engaged in work
11 activities during their paid rest breaks in violation of WAC 296-126-092, Plaintiff and putative Class
12 members should be additionally compensated for ten (10) minutes each for each rest break missed.
13 *See Washington State Nurses Ass'n v. Sacred Heart Med. Ctr.*, 175 Wn.2d 822, 287 P.3d 516 (2012).

14 249. Plaintiff and putative Class members are entitled to recover wages at one and one-half
15 times their regular hourly rate for all time owed by Defendants for missed rest and meal breaks that,
16 when added to the other hours worked in a week, exceeded 40 hours.

17 250. As a result of these unlawful acts, Plaintiff and the putative Class have been deprived
18 of compensation in amounts to be determined at trial, and Plaintiff and the putative Class are entitled
19 to the recovery of such damages, including interest thereon, civil penalties, and attorneys' fees and
20 costs under RCW 49.48.030 and 49.12.170.

21 251. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter
22 provided.

23 **FIFTEENTH CAUSE OF ACTION**

24 **Unpaid Wages On Termination**

25 **Pursuant to RCW 49.48.010**

26 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
27 **of the Washington Class)**

28 252. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth

1 herein.

2 253. This claim is brought by Plaintiff Quam on behalf of the Washington Class against
3 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

4 254. As detailed above, Defendants fail to compensate Plaintiff and putative Class members
5 with at least the minimum wage for all hours worked.

6 255. RCW 49.48.010 provides that “[w]hen any employee shall cease work for an employer,
7 whether by discharge or by voluntary withdrawal, the wages due him on account of his employment
8 shall be paid to him at the end of the established pay period.”

9 256. By the actions alleged above, Defendants have violated and continues to violate the
10 provisions of RCW 49.48.010.

11 257. Under RCW 49.46.090, employers must pay employees all wages to which they are
12 entitled under the Washington Minimum Wage Act. If the employer fails to do so, RCW 49.46.090
13 requires that the employer pay the employees the full amount of the statutory minimum wage rate
14 less any amount actually paid to the employee.

15 258. By the actions alleged above, Defendants have violated the provisions of RCW
16 49.46.090 and the Washington law by failing to pay any wage whatsoever to Plaintiff and putative
17 Class members when they work off the clock, miss all or part of their breaks, and are deprived of
18 correct overtime compensation.

19 259. As a result of the unlawful acts of Defendants, Plaintiff and the putative Classes have
20 been deprived of regular and overtime compensation in an amount to be determined at trial. Pursuant
21 to RCW 49.46.090 and 49.48.030, Plaintiff and the putative Class are entitled to recover attorneys'
22 fees and costs of suit.

23 260. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter
24 provided.

25 **SIXTEENTH CAUSE OF ACTION**

26 **Willful Refusal to Pay Wages**

27 **Pursuant to RCW 49.52.050**

28 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**

of the Washington Class)

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2 261. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
3 herein.

4 262. This claim is brought by Plaintiff Quam on behalf of the Washington Class against
5 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

6 263. As detailed above, Defendants fail to compensate Plaintiff and putative Class members
7 with at least the minimum wage for all hours worked.

8 264. RCW 49.52.050(2) provides that any employer or agent of any employer who
9 “[w]illfully and with intent to deprive the employee of any party of his wages, shall pay any employee
10 a lower wage than the wage such employer is obligated to pay such employee by any statute,
11 ordinance, or contract” shall be guilty of a misdemeanor.

12 265. RCW 49.52.070 provides that any employer who violates the foregoing statute shall be
13 liable in a civil action for twice the amount of wages withheld, together with costs of suit and
14 reasonable attorney fees.

15 266. An employer’s nonpayment of wages is willful and made with intent “when it is the
16 result of knowing and intentional action and not the result of a bona fide dispute as to the obligation
17 of payment.” *Wingert v. Yellow Freight Sys., Inc.* 146 Wash.2d 841, 849 (2002), quoting *Chelan*
18 *Cnty. Deputy Sheriffs’ Ass’n v. Chelan County*, 109 Wash.2d 282, 300 (1987).

19 267. In the present case, Defendants intentionally fail to pay all wages owed to Plaintiff and
20 putative Class members, including minimum wage and overtime wages, by requiring Plaintiff and
21 putative Class members to work during meal and rest periods. Defendants knew or should have
22 known that their employment policies violate Washington law, and their failure to pay wages owed
23 to Plaintiff and putative Class members was “willful” under RCW 49.52.050(2).

24 268. Because Defendants’ failure to pay wages owed was “willful,” Plaintiff and the putative
25 Class are entitled to exemplary damages under RCW 49.52.070.

26 269. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter
27 provided.

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SEVENTEETH CAUSE OF ACTION

Violations of RCW 49.52.060 and WAC 296-126-028

(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf of the Washington Class)

270. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

271. This claim is brought by Plaintiff Quam on behalf of the Washington Class against Defendants Frontier Management LLC and Frontier Senior Living, LLC.

272. As detailed above, Defendants fail to compensate Plaintiff and putative Class members with at least the minimum wage for all hours worked.

273. Pursuant to RCW 49.52.060 and WAC 296-126-028, an employer may not make deductions from employee’s wages except in limited circumstances.

274. Under Washington law, deductions and rebates must be identified and recorded “openly and clearly in employee payroll records.” WAC 296-126-028(5); *see also* RCW 49.52.060; WAC 296-128-010(9).

275. By the actions alleged above, Defendants have violated RCW 49.52.060 and WAC 296-126-028.

276. As a result of the unlawful acts of Defendants, Plaintiff and the putative Class have been deprived of compensation in amounts to be determined at trial. Pursuant to RCW 49.52.060 and WAC 296-126-028, Plaintiff and the putative Class are entitled to recovery of such damages, including interest thereon, as well as attorneys’ fees under RCW 49.48.030 and costs.

277. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter provided.

EIGHTEENTH CAUSE OF ACTION

Violation of Washington’s Consumer Protection Act

Pursuant to RCW 19.86

(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf of the Washington Class)

278. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

1 279. This claim is brought by Plaintiff Quam on behalf of the Washington Class against
2 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

3 280. As detailed above, Defendants fail to compensate Plaintiff and putative Class members
4 with at least the minimum wage for all hours worked.

5 281. Defendants have engaged in unfair or deceptive acts or practices when they: (i) fail to
6 pay Plaintiffs and putative Class members wages for off-the-clock work; (ii) prevent Plaintiffs and
7 putative Class members from taking rest and meal breaks; (iii) fail to pay Plaintiffs and putative
8 Class members for the periods during which their rest and meal breaks were interrupted; (iv) fail to
9 pay Plaintiffs and putative Class members for overtime worked; (v) violate RCW 49.46.30; (vi)
10 violate WAC 296-126-023; and (vii) violate WAC 296-126-092 and 296-125-0287.

11 282. Defendants' unfair or deceptive acts or practices repeatedly occur in Defendants' trade
12 or business, injured Plaintiff and the putative Class, and impacted the public interest because they
13 injured other persons and had and have the capacity to injure other persons.

14 283. As a direct and proximate cause of Defendants' unfair or deceptive acts or practices,
15 Plaintiff and the putative Class have suffered actual damages, in that Plaintiff and putative Class
16 members are wrongfully denied the payment of wages, are forced to work off the clock, and are
17 prevented from taking rest and meal breaks.

18 284. As a result of Defendants' unfair and deceptive practices, Plaintiff and the putative
19 Class are entitled, pursuant to RCW 19.86.090, to recover treble damages, reasonable attorneys' fees,
20 and costs.

21 285. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter
22 provided.

23 **NINETEENTH CAUSE OF ACTION**
24 **Failure to Pay Minimum Wages**
25 **Pursuant to ORS 653.025 AND OAR 839-020-0030**
26 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
27 **of the Oregon Class)**

28 286. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth

1 herein.

2 287. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
3 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

4 288. As detailed above, Defendants fail to compensate Plaintiff Lewis and putative Class
5 members with at least the minimum wage for all hours worked.

6 289. Pursuant to ORS 653.015, it is “the policy of the State of Oregon to establish minimum
7 wage standards for workers at levels consistent with their health, efficiency and general well-being.”

8 290. During the applicable statutory period, ORS 653.025 was in full force and effect and
9 required that Plaintiff and putative Class members receive the minimum wage for each hour of work
10 time that the employees are gainfully employed at the rate of nine dollars seventy-five cents (\$9.75)
11 per hour commencing June 1, 2016, at the rate of ten dollars twenty-five cents (\$10.25) per hour
12 commencing July 1, 2017, at the rate of ten dollars seventy-five cents (\$10.75) per hour commencing
13 July 1, 2018, at a rate of eleven dollars and twenty-five cents (\$11.25) per hour commencing July 1,
14 2019, and at a rate of twelve dollars (\$12.00) per hour commencing July 1, 2020.

15 291. ORS 653.010 defines work time worked as “both time worked and time of authorized
16 attendance.”

17 292. ORS 653.055(1) provides, in relevant part:

18
19 Any employer who pays an employee less than the wages to which the
20 employee is entitled under ORS 653.010 (Definitions for ORS 653.010 to
21 653.261) to 653.261 (Minimum employment conditions) is liable to the
22 employee affected:

- 23 (a) For the full amount of the wages, less any amount actually paid
24 to the employee by the employer; and
25 (b) For civil penalties provided in ORS 652.150 (Penalty wage for
26 failure to pay wages on termination of employment).

27 293. Pursuant to ORS 12.080, a six-year statute of limitations is applied for liability of
28 unpaid regular wages. *See, e.g., Makaneole v. Solarworld Indus. Am., Inc.*, No. 3:14-CV-1528-PK,
2016 WL 7856433, at *13 (D. Or. Sept. 2, 2016), *report and recommendation adopted*, No. 3:14-
CV-01528-PK, 2017 WL 253983 (D. Or. Jan. 17, 2017) (“As to [plaintiff’s claims] for unpaid regular

1 wages, that claim is subject to a six-year statute of limitations[.]” (citing ORS 12.080(1)).

2 294. ORS 652.150(1) states that, “if an employer willfully fails to pay any wages or
3 compensation of any employee whose employment ceases, as provided in ORS 652.140 . . . , then,
4 as a penalty for the nonpayment, the wages or compensation of the employee shall continue from the
5 due date thereof at the same hourly rate for eight hours per day until paid or until action therefor is
6 commenced. *See* ORS 652.150(1). Penalty wages are not to continue for more than 30 days from the
7 due date. *See* ORS 652.150(1)(a).

8 295. Pursuant to ORS 12.100(2), “the limitations period applicable to claims for penalties
9 arising out of the failure to pay minimum wages is three years.” *Gessele v. Jack in the Box, Inc.*, 427
10 F. Supp. 3d 1276, 1326 (D. Or. 2019) (citing *Russell v. U. S. Bank Nat’l Ass’n*, 246 Or. App. 74, 77,
11 265 P.3d 1, 2 (2011)).

12 296. Defendants’ failure to make payment of Plaintiff’s and putative Class members’ final
13 wages when due was willful and continued for not less than 30 days.

14 297. ORS 653.055(4) allows the court to grant reasonable attorney’s fees “to the prevailing
15 party in any action brought by an employee under this section.”

16 298. Because of Defendants’ policies and practices with regard to compensating Plaintiff
17 and putative Class members, Defendants have failed to pay minimum wages as required by law.
18 Plaintiff and putative Class members frequently perform work for which they are compensated below
19 the statutory minimum.

20 299. Because of Defendants’ failure to make payment of final wages when due, Plaintiff is
21 due statutory penalty wages of not less than one hundred percent, pursuant to ORS 652.150, for the
22 continuation of Plaintiff’s unpaid final wages for not less than 30 days. Likewise, putative Class
23 members who ended their employment but were not fully compensated their total wages due and
24 owing are likewise due statutory penalty wages pursuant to ORS 652.150.

25 300. Because of Defendants’ failure to pay Plaintiff’s and putative Class members’ wages
26 within the time required by law, Plaintiff and putative Class members are entitled to recover costs,
27

1 disbursements, and reasonable attorney fees pursuant to ORS 653.055(4) and ORS 652.200.

2 301. Plaintiff and putative Class members who are within the applicable six-year statute of
3 limitations seek statutory wages pursuant to ORS 653.055; plus costs, disbursements and attorney
4 fees pursuant to ORS 653.055(4) and ORS 652.200; plus pre- and post-judgment interest in the
5 amount of 9% per annum incurred herein under ORS 82.010.

6 302. Plaintiff and putative Class members who are within the applicable three-year statute
7 of limitations also seek civil penalties pursuant to ORS 653.055 and ORS 12.100(2).

8 303. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
9 provided.

10 **TWENTIETH CAUSE OF ACTION**

11 **Failure to Pay Overtime Wages**

12 **Pursuant to ORS 653.261 AND OAR 839-020-0030**

13 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
14 of the Oregon Class)**

15 304. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
16 herein.

17 305. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
18 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

19 306. Pursuant to ORS 653.261, Defendants were required to pay Plaintiff and Oregon Class
20 members one and one-half times their regular rate of pay for all hours worked in excess of forty in a
21 given workweek, when those wages were due, but willfully failed to do so.

22 307. Plaintiff and putative Class members are entitled to recover unpaid overtime under
23 Oregon law, and Plaintiff and putative Class members are also entitled to declaratory relief stating
24 Defendants violated the statute, and continue to violate the statute, by incorporating and continuing
25 to utilize the automatic time deduction policy as described above.

26 308. Plaintiff and putative Class members are further entitled to recover unpaid overtime for
27 time worked “off-the-clock” that went uncompensated. Plaintiff and putative Class members further
28 seek declaratory relief stating Defendants are in violation of ORS 653.261 and OAR 839-020-0030

1 for failing to compensate Plaintiff for “off-the-clock” work performed for the benefit of Defendants.

2 309. Plaintiff and putative Class members who are within the applicable two-year statute of
3 limitations are entitled to collect the difference between wages received then due and the overtime
4 wages due in an amount to be proven at trial, together with attorney fees, costs and disbursements,
5 as well as pre- and post-judgment interest at the rate of 9% per annum. See ORS 652.200; ORS
6 82.010.

7 310. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
8 provided.

9 **TWENTY-FIRST CAUSE OF ACTION**

10 **Unlawful Deductions from Wages**

11 **Pursuant to ORS 652.610**

12 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
13 of the Oregon Class)**

14 311. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
15 herein.

16 312. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
17 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

18 313. Defendants deducted wages from Plaintiff and putative Class members for unidentified
19 deductions, namely for deducting wages in the form of failing to compensate Plaintiff and putative
20 Class members for “off-the-clock” work performed. Said withholdings were unauthorized and in
21 violation of ORS 652.610.

22 314. As a result of Defendants’ wrongful withholdings, Plaintiff and putative Class members
23 are entitled to actual damages or \$200 per violation, whichever is greater, for each violation pursuant
24 to ORS 652.615. Defendants are liable for unpaid wages and liabilities for unlawful deductions from
25 wages for a period of six years from the date the wages were earned. ORS 12.080(1).

26 315. Because of Defendants’ failure to pay Plaintiff’s and putative Class members’ wages
27 within 48 hours after they were due, Plaintiff and putative Class members are entitled to recover
28 costs, disbursements, and reasonable attorney fees pursuant to ORS 652.200.

1 316. Because of Defendants’ wrongful withholding from Plaintiff’s and putative Class
2 members’ wages, Plaintiff and putative Class members are entitled to recover costs, disbursements
3 and a reasonable sum for attorney fees, pursuant to ORS 652.615, plus pre- and post-judgment
4 interest in the amount of 9% per annum incurred herein under ORS 82.010.

5 317. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
6 provided.

7 **TWENTY-SECOND CAUSE OF ACTION**
8 **Failure to Pay All Wages Due Upon Separation of Employment**
9 **Pursuant to ORS 652.140**
10 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
11 **of the Oregon Class)**

12 318. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
13 herein.

14 319. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
15 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

16 320. ORS 652.140 requires that, “[w]hen an employer discharges an employee or when
17 employment is terminated by mutual agreement, all wages earned and unpaid at the time of the
18 discharge or termination become due and payable not later than the end of the first business day after
19 the discharge or termination.” See ORS 652.140(1).

20 321. ORS 652.140 further requires that individuals who provide at least 48 hours’ notice of
21 an intent to quit must immediately be paid all wages earned and unpaid at the time their resignation
22 becomes effective. If the employee quits within less than 48 hours’ notice, the employer must pay
23 all wages earned and unpaid within five days. Plaintiff provided four days’ notice of her intent to
24 leave CVH’s employment.

25 322. ORS 652.150 states that, “if an employer willfully fails to pay any wages or
26 compensation of any employee whose employment ceases, as provided in ORS 652.140 . . . , then,
27 as a penalty for the nonpayment, the wages or compensation of the employee shall continue from the
28 due date thereof at the same hourly rate for eight hours per day until paid or until action therefor is

1 commenced. See ORS 652.150(1). Penalty wages are not to continue for more than 30 days from the
2 due date. See ORS 652.150(1)(a).

3 323. Pursuant to ORS 12.080, a six-year statute of limitations is applied for liability of
4 unpaid regular wages. *See, e.g., Makaneole v. Solarworld Indus. Am., Inc.*, No. 3:14-CV-1528-PK,
5 2016 WL 7856433, at *13 (D. Or. Sept. 2, 2016), *report and recommendation adopted*, No. 3:14-
6 CV-01528-PK, 2017 WL 253983 (D. Or. Jan. 17, 2017) (“As to [plaintiff’s claims] for unpaid regular
7 wages, that claim is subject to a six-year statute of limitations[.]”) (citing ORS 12.080(1)).

8 324. As described above, Defendants enacted a policy that deprived Plaintiff and putative
9 Class members compensation for all hours worked, including automatic time deductions and work
10 duties performed “off-the-clock.” As a result, Defendants failed to pay Plaintiff and putative Class
11 members all wages due and owing after separation from employment in violation of ORS 652.140.

12 325. In failing to pay all wages due upon separation of employment, Defendants acted as a
13 free agent, determined its own actions, was not responsible to, nor coerced by any other person, entity
14 or authority. Defendants knew that Plaintiff and putative Class members had ended and possessed
15 information regarding the hours worked and amount of wages due Plaintiff and putative Class
16 members at the date of termination. Defendants were capable of paying all wages earned and due at
17 termination.

18 326. Defendants’ failure to make payment of Plaintiff’s and putative Class members’ final
19 wages when due was willful and continued for not less than 30 days.

20 327. Because of Defendants’ failure to make payment of final wages when due, Plaintiff is
21 due statutory penalty wages of not less than one hundred percent, pursuant to ORS 652.150, for the
22 continuation of Plaintiff’s unpaid final wages for not less than 30 days. Likewise, putative Class
23 members who ended their employment but were not fully compensated their total wages due and
24 owing are likewise due statutory penalty wages pursuant to ORS 652.150.

25 328. Because of Defendants’ failure to pay Plaintiff’s and putative Class members’ wages
26 within the time required by law, Plaintiff and putative Class members are entitled to recover costs,
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1 disbursements, and reasonable attorney fees pursuant to ORS 652.200.

2 329. Plaintiff and putative Class members seek statutory wages pursuant to ORS 652.150;
3 plus costs, disbursements and attorney fees pursuant to ORS 652.200; plus pre- and post-judgment
4 interest in the amount of 9% per annum incurred herein under ORS 82.010.

5 330. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
6 provided.

7 **TWENTY-THIRD CAUSE OF ACTION**

8 **Meal Break Violations**

9 **Pursuant to OAR 839-020-0050**

10 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
11 **of the Oregon Class)**

12 331. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
13 herein.

14 332. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
15 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

16 333. Pursuant to OAR 839-020-0050, employees who have worked at least six hours are
17 entitled to a meal period of not less than 30 continuous minutes during which the employee is relieved
18 of all duties. See OAR 839-020-0050(2)(a). Except as otherwise provided in the rule, if an employee
19 is not relieved of all duties for 30 continuous minutes during the meal period, the employer must pay
20 the employee for the entire 30-minute meal period. See OAR 839-020-0050(2)(b).

21 334. Defendant implemented a policy that automatically rounds time worked from
22 Plaintiff's and putative Class members' time for each shift worked, to the detriment of Plaintiff and
23 putative Class members.

24 335. Because Plaintiff and putative Class members' meal breaks were subject to
25 interruption, were on duty, were not continuous, and were not relieved of all duties during the break,
26 Defendants' automatic time deduction for meal periods was and is in violation of OAR 839-020-
27 0050, and Plaintiff and putative Class members should be reimbursed for back wages for the entire
28 30 minutes from each work day.

1 336. Plaintiff is entitled to declaratory relief that Defendants’ past and ongoing automatic
2 time deduction policy violated and is in violation of the Oregon meal break requirements.

3 337. Plaintiff and putative Class members are entitled to recover unpaid wages at their
4 regular hourly rate for the minutes that were automatically deducted by Defendants for each work
5 period where that deduction took place. Pursuant to ORS 12.080, a six-year statute of limitations is
6 applied for liability of unpaid regular wages.

7 338. Defendants’ violation of the Oregon meal break rules was willful, as that term is used
8 in ORS 652.150. Defendants’ violation was willful because the automatic time deduction policy was
9 implemented purposefully and was not the product of inadvertence. Defendants had, or reasonably
10 should have had, a level of awareness of their obligation to pay Plaintiff and putative Class members
11 such that Defendants’ failure to pay was “willful.”

12 339. Because of Defendants’ failure to pay Plaintiff’s and putative Class members’ wages
13 within 48 hours after they were due, Plaintiff and putative Class members are entitled to recover
14 costs, disbursements, and reasonable attorney fees pursuant to ORS 652.200.

15 340. Because of Defendants’ wrongful withholding from putative Class members’ wages,
16 putative Class members are entitled to recover costs, disbursements and a reasonable sum for
17 attorney fees, pursuant to ORS 652.615, plus pre- and post-judgment interest in the amount of 9%
18 per annum incurred herein under ORS 82.010.

19 341. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
20 provided.

21 **TWENTY-FOURTH CAUSE OF ACTION**
22 **Declaratory Relief for Rest Period Violations**
23 **Pursuant to OAR 839-020-0050(6)**
24 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
25 **of the Oregon Class)**

26 342. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
27 herein.

28 343. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against

1 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

2 344. Pursuant to OAR 839-020-0050, every employer is required to provide each employee,
3 for each segment of four hours or major pay thereof worked in a work period, a rest period of not
4 less than ten continuous minutes during which the employee is relieved of all duties, without
5 deduction from the employee's pay. OAR 839-020-0050(6)(a).

6 345. Plaintiff and putative Class members generally worked shifts lasting over hours per
7 shift. Accordingly, Plaintiff and putative Class members were entitled to at least two separate rest
8 periods lasting 10 minutes each during which Plaintiff and putative Class members should have been
9 relieved of all duties. As discussed above, Plaintiff and putative Class members are subject to
10 interruption and are consistently denied requisite rest periods.

11 346. Plaintiff and putative Class members are entitled to declaratory relief finding that
12 Defendant is in violation of the rest break requirements provided by Oregon law.

13 347. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
14 provided.

15 **TWENTY-FIFTH CAUSE OF ACTION**

16 **Failure to Pay Minimum Wage**

17 **Pursuant to 820 ILCS § 105/4**

18 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
19 of the Illinois Class)**

20 348. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
21 herein.

22 349. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
23 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

24 350. As detailed above, Defendants fails to compensate Plaintiff and putative Class
25 members with at least the minimum wage for all hours worked.

26 351. During the applicable statutory period, the IMWL, 820 ILCS § 105/4(a)(1), was in full
27 force and effect and required that Plaintiff and putative Class members receive the minimum wage
28 for all hours worked at the rate of eight dollars twenty-five cents (\$8.25) per hour commencing July

1 1, 2010, at the rate of nine dollars twenty-five cents (\$9.25) per hour commencing January 1, 2020,
2 and at the rate of ten dollars (\$10.00) per hour commencing July 1, 2020.

3 352. Plaintiff and putative Class members were directed to work by Defendants and, in fact,
4 did work but were not compensated at least at the Illinois minimum wage rate for all time worked.
5 Pursuant to 820 § ILCS 105/4, Plaintiff and putative Class members are entitled to be compensated
6 at least at the applicable Illinois-mandated minimum wage rate for all time worked.

7 353. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled
8 to recover unpaid minimum wages for three years prior to the filing of this suit, plus punitive damages
9 in the amount of two percent (2%) per month of the amount of underpayments.

10 354. Pursuant to 815 ILCS § 205/2, Plaintiff and the putative Class members are entitled to
11 recover prejudgment interest on minimum wage underpayments.

12 355. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled
13 to recover reasonable attorneys' fees and costs for their IMWL minimum wage claims.

14 356. Because of Defendants' policies and practices with regard to compensating Plaintiff
15 and putative Class members, Defendants have willfully failed to pay minimum wages as required by
16 law. The off-the-clock work—including but not limited to work during meal periods that have been
17 deducted from the nominal hours worked—contributes to the actual hours worked by Plaintiff and
18 putative Class members. Moreover, Defendants regularly require Plaintiff and putative Class
19 members to pay out-of-pocket for work expenses including but not limited to personal cellphone
20 bills, and fail to fully reimburse Plaintiff and putative Class members for these expenses, if at all.
21 When the remuneration received by Plaintiff and putative Class members is reduced by unreimbursed
22 out-of-pocket expenses, and then divided by the actual hours worked, Plaintiff and putative Class
23 members are frequently compensated below the statutory minimum.

24 357. Plaintiff and putative Class members have been deprived of minimum wages in an
25 amount to be proven at trial, and are entitled to a recovery of such amount, plus statutory damages,
26 interest thereon, attorneys' fees, and costs of suit pursuant to 820 ILCS § 105/12(a) and 815 ILCS §
27

1 205/2.

2 358. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
3 provided.

4 **TWENTY-SIXTH CAUSE OF ACTION**

5 **Failure to Pay Overtime Wages**

6 **Pursuant to 820 ILCS § 105/4a**

7 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
8 of the Illinois Class)**

9 359. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
10 herein.

11 360. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
12 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

13 361. Defendants do not compensate Plaintiff and putative Class members with the
14 appropriate overtime rate for work performed in excess of forty hours per week.

15 362. 820 ILCS § 105/4a provides that work performed in excess of forty hours in a given
16 week must be compensated at a rate of no less than one and one-half times the regular rate of pay for
17 an employee.

18 363. 820 ILCS § 115/2 provides as follows:

19 For all employees, other than separated employees, "wages" shall be
20 defined as any compensation owed an employee by an employer pursuant
21 to an employment contract or agreement between the 2 parties, whether the
22 amount is determined on a time, task, piece, or any other basis of
23 calculation.

24 364. All such wages are subject to Illinois' overtime requirements, including those set forth
25 above.

26 365. 820 ILCS § 115/3 provides that "[e]very employer shall be required, at least semi-
27 monthly, to pay every employee all wages earned during the semi-monthly pay period."

28 366. 820 ILCS § 115/4 provides as follows:

All wages earned by any employee during a semi-monthly or bi-weekly pay
period shall be paid to such employee not later than 13 days after the end of
the pay period in which such wages were earned. All wages earned by any

1 employee during a weekly pay period shall be paid not later than 7 days
2 after the end of the weekly pay period in which the wages were earned. All
3 wages paid on a daily basis shall be paid insofar as possible on the same day
4 as the wages were earned, or not later in any event than 24 hours after the
5 day on which the wages were earned. Wages of executive, administrative
and professional employees, as defined in the Federal Fair Labor Standards
Act of 1938, may be paid on or before 21 calendar days after the period
during which they are earned.

6 367. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled
7 to recover unpaid overtime wages for three years prior to the filing of this suit, plus punitive damages
8 in the amount of two percent (2%) per month of the amount of underpayments.

9 368. Pursuant to 815 ILCS § 205/2, Plaintiff and the putative Class members are entitled to
10 recover prejudgment interest on overtime wage underpayments.

11 369. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled
12 to recover reasonable attorneys' fees and costs for their IMWL overtime claims.

13 370. Because of Defendants' policies and practices with regard to compensating Plaintiff
14 and putative Class members, Defendants have willfully failed to pay overtime wages as required by
15 law. The off-the-clock work—including but not limited to work during meal periods that have been
16 deducted from the nominal hours worked—contributes to the actual hours worked by Plaintiff and
17 putative Class members. The actual hours worked exceed the threshold for overtime pay. Moreover,
18 Defendants regularly require Plaintiff and putative Class members to pay out-of-pocket for work
19 expenses including but not limited to personal cellphone bills, and fail to fully reimburse Plaintiff
20 and putative Class members for these expenses, if at all. When the remuneration received by Plaintiff
21 and putative Class members is reduced by unreimbursed out-of-pocket expenses, and then divided
22 by the actual hours worked, Defendants fail to compensate by Plaintiff and putative Class members
23 at the appropriate overtime rate for all of these hours.

24 371. Plaintiff and putative Class members have been deprived of overtime wages in an
25 amount to be proven at trial, and are entitled to a recovery of such amount, plus statutory damages,
26 interest thereon, attorneys' fees, and costs of suit pursuant to 820 ILCS § 105/12(a) and 815 ILCS §
27 205/2.

1 372. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
2 provided.

3 **TWENTY-SEVENTH CAUSE OF ACTION**
4 **Failure to Pay for All Hours Worked**
5 **Pursuant to 820 ILCS §§ 115/3 and 115/4**
6 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
7 **of the Illinois Class)**

8 373. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
9 herein.

10 374. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
11 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

12 375. Defendants willfully engaged in and continues to engage in a policy and practice of not
13 compensating Plaintiff and putative Class members for all hours worked or spent in their control.

14 376. Defendants regularly schedules Plaintiff and the putative Class members to work
15 twelve-hour shifts. However, Defendants intentionally and willfully require Plaintiff and the
16 putative Class members to complete additional work off-the-clock, in excess of twelve hours per
17 day. For example, Defendants automatically deduct thirty minutes for time spent taking meal.
18 However, Plaintiff and putative Class members routinely work through this meal period and are not
19 compensated for that work. As a result, Defendants fail to pay Plaintiff and the putative Class
20 members for all hours worked and fail to track their actual hours worked.

21 377. 820 ILCS § 115/2 provides as follows:

22 For all employees, other than separated employees, "wages" shall be
23 defined as any compensation owed an employee by an employer pursuant
24 to an employment contract or agreement between the 2 parties, whether the
25 amount is determined on a time, task, piece, or any other basis of
26 calculation.

27 378. 820 ILCS § 115/3 provides that “[e]very employer shall be required, at least semi-
28 monthly, to pay every employee all wages earned during the semi-monthly pay period.”

379. 820 ILCS § 115/4 provides as follows:

All wages earned by any employee during a semi-monthly or bi-weekly pay

1 period shall be paid to such employee not later than 13 days after the end of
2 the pay period in which such wages were earned. All wages earned by any
3 employee during a weekly pay period shall be paid not later than 7 days after
4 the end of the weekly pay period in which the wages were earned. All wages
5 paid on a daily basis shall be paid insofar as possible on the same day as the
6 wages were earned, or not later in any event than 24 hours after the day on
7 which the wages were earned. Wages of executive, administrative and
8 professional employees, as defined in the Federal Fair Labor Standards Act
9 of 1938, may be paid on or before 21 calendar days after the period during
10 which they are earned.

11 380. Defendants require Plaintiff and putative Class members to work off-the-clock without
12 compensation. In other words, Plaintiff and putative Class members are forced to perform work for
13 the benefit of Defendants without compensation.

14 381. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled
15 to recover unpaid wages for three years prior to the filing of this suit, plus punitive damages in the
16 amount of two percent (2%) per month of the amount of underpayments.

17 382. Pursuant to 815 ILCS § 205/2, Plaintiff and the putative Class members are entitled to
18 recover prejudgment interest on wage underpayments.

19 383. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled
20 to recover reasonable attorneys' fees and costs for their unpaid wage claims.

21 384. In violation of Illinois law, Defendants knowingly and willfully refuse to perform their
22 obligations to provide Plaintiff and the putative Classes with compensation for all time worked.
23 Defendants regularly fail to track the time they actually worked or to compensate them for hours
24 worked. Therefore, Defendants committed, and continue to commit, the acts alleged herein
25 knowingly and willfully, and in conscious disregard of the Plaintiff and the putative Class members'
26 rights. Plaintiff and the putative Classes are thus entitled to recover nominal, actual, statutory, and
27 compensatory damages, plus interest, attorneys' fees, expenses, and costs of suit, pursuant to 820
28 ILCS § 105/12(a) and 815 ILCS § 205/2.

385. As a proximate result of the aforementioned violations, Plaintiff and the putative
Classes have been damaged in an amount according to proof at time of trial.

386. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter

1 provided.

2 **TWENTY-EIGHTH CAUSE OF ACTION**

3 **Unpaid Wages on Termination**

4 **Pursuant to 820 ILCS § 115/5**

5 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
6 **of the Illinois Class)**

7 387. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
8 herein.

9 388. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
10 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

11 389. Under the IWPCA, 820 ILCS § 115/5, employers must pay employees all wages to
12 which they are entitled under the IMWL at the time of the employee’s separation from employment,
13 if possible, “but in no case later than the next regularly scheduled payday for such employee.”

14 390. Under the IWPCA, 820 ILCS § 115/14, any employee not timely paid final
15 compensation by his or her employer as required by the IWPCA “shall be entitled to recover through
16 a claim filed with the Department of Labor or in a civil action, but not both, the amount of any such
17 underpayments and damages of 2% of the amount of any such underpayments for each month
18 following the date of payment during which such underpayments remain unpaid. In a civil action,
19 such employee shall also recover costs and all reasonable attorney’s fees.”

20 391. Pursuant to 815 ILCS § 205/2, Plaintiff and the putative Class members are entitled to
21 recover prejudgment interest for their final compensation claims.

22 392. Pursuant to 820 ILCS § 820 ILCS 115/14, Plaintiff and the putative Class members are
23 entitled to recover reasonable attorneys’ fees and costs for their final compensation claims.

24 393. By the actions alleged above, Defendants have violated the provisions of the IWPCA,
25 820 ILCS § 115/5 by failing to pay any wage whatsoever to Plaintiff and putative Class members
26 when they work off the clock, miss all or part of their breaks, and are deprived of correct overtime
27 compensation. Moreover, Defendants regularly require Plaintiff and putative Class members to pay
28 out-of-pocket for work expenses including but not limited to personal cellphone bills, and fail to

1 fully reimburse Plaintiff and putative Class members for these expenses, if at all. These amounts
2 remain due upon the separation of employment. Therefore, Defendants committed, and continue to
3 commit, the acts alleged herein knowingly and willfully, and in conscious disregard of the Plaintiff
4 and the putative Class members' rights. Plaintiff and the putative Classes are thus entitled to recover
5 nominal, actual, statutory, and compensatory damages, plus interest, attorneys' fees, expenses, and
6 costs of suit, pursuant to 820 ILCS § 115/14 and 815 ILCS § 205/2.

7 394. As a proximate result of the aforementioned violations, Plaintiff and the putative
8 Classes have been damaged in an amount according to proof at time of trial.

9 395. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
10 provided.

11 **TWENTY-NINTH CAUSE OF ACTION**
12 **Violation of Illinois Consumer Fraud and Deceptive Business Practices Act**
13 **Pursuant to 815 ILCS § 505/1 *et seq.***
14 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
15 **of the Illinois Class)**

16 396. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
17 herein.

18 397. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
19 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

20 398. The Illinois Consumer Fraud and Deceptive Business Practices Act prohibits unfair
21 competition in the form of any unlawful, unfair, or fraudulent business acts or practices.

22 399. 815 ILCS § 505/10a allows a person injured by the unfair business acts or practices to
23 prosecute a civil action for violation of the Illinois Consumer Fraud and Deceptive Business Practices
24 Act.

25 400. 820 ILCS § 105/2 states it is the policy of the IMWL “to establish a minimum wage
26 standard for workers at a level consistent with their health, efficiency and general well-being; to
27 safeguard such minimum wage against the unfair competition of wage and hour standards which do
28 not provide such adequate standards of living; and to sustain purchasing power and increase

1 employment opportunities.”

2 401. 820 ILCS § 105/2 further states:

3 It is against public policy for an employer to pay to his employees an
4 amount less than that fixed by [the IMWL]. Payment of any amount less
5 than herein fixed is an unreasonable and oppressive wage, and less than
6 sufficient to meet the minimum cost of living necessary for health. Any
7 contract, agreement or understanding for or in relation to such unreasonable
8 and oppressive wage for any employment covered by [the IMWL] is void.

9 402. Defendants have committed acts of unfair competition as defined by the Illinois
10 Consumer Fraud and Deceptive Business Practices Act, by engaging in the unlawful, unfair, and
11 fraudulent business acts and practices described in this Complaint, including, but not limited to:

- 12 a. violations of 820 ILCS §§ 105/4, 115/3 and 115/4 pertaining to payment of wages,
13 including minimum wage, for all hours worked;
14 b. violations of 820 ILCS § 105/4a pertaining to overtime;
15 c. violations of 820 ILCS § 140/3 pertaining to meal breaks; and
16 d. violations of 820 ILCS § 115/5 pertaining to unpaid wages upon termination;

17 403. The violations of these laws, as well as of the fundamental Illinois public policies
18 protecting wages, serve as unlawful predicate acts and practices for purposes of 815 ILCS § 505/1 *et*
19 *seq.*

20 404. The acts and practices described above constitute unfair, unlawful, and fraudulent
21 business practices, and unfair competition, within the meaning of 815 ILCS § 505/1 *et seq.* Among
22 other things, the acts and practices have taken from Plaintiff and the putative Class members wages
23 rightfully earned by them, while enabling Defendants to gain an unfair competitive advantage over
24 law-abiding employers and competitors.

25 405. 815 ILCS § 505/10a provides that a court “in its discretion may award actual economic
26 damages or any other relief which the court deems proper,” including injunctive relief where
27 appropriate.

28 406. As a direct and proximate result of the aforementioned acts and practices, Plaintiff and

1 the putative Class members have suffered a loss of money and property, in the form of unpaid wages
2 which are due and payable to them, in an amount according to proof at time of trial.

3 407. Under the Illinois Consumer Fraud and Deceptive Business Practices Act, a plaintiff
4 may recover both compensatory and punitive damages. *See, e.g., Black v. Lovino*, 219 Ill. App. 3d
5 378 (1991); *Check v. Clifford Chrysler Plymouth of Buffalo Grove, Inc.*, 342 Ill. App. 3d 150 (1st
6 Dist. 2003). Plaintiff and putative Class members are entitled to an award pursuant to 815 ILCS §
7 505/10a for all wages and payments unlawfully withheld from employees during the three-year
8 period prior to the filing of the Complaint in this action. Plaintiff's success in this action will enforce
9 important rights affecting the public interest and in that regard Plaintiff sues on behalf of herself as
10 well as others similarly situated. Plaintiff and putative Class members seek and are entitled to unpaid
11 wages, declaratory and injunctive relief, punitive damages, and all other equitable remedies owing
12 to them.

13 408. Plaintiff herein takes upon herself enforcement of these laws and lawful claims. There
14 is a financial burden involved in pursuing this action, the action is seeking to vindicate a public right,
15 and it would be against the interests of justice to penalize Plaintiff by forcing him to pay attorneys'
16 fees from the recovery in this action. Attorneys' fees are appropriate pursuant to 815 ILCS § 505/10a
17 and otherwise.

18 409. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
19 provided.

20 **PRAAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs, on behalf of themselves and the putative Classes and Collective
22 they seeks to represent in this action, request the following relief:

- 23 1. For an order certifying that the First Cause of Action in this Complaint may be
24 maintained as a collective action pursuant to 29 U.S.C. § 216(b) and that prompt notice
25 of this action be issued to potential members of the Collective, apprising them of the
26 pendency of this action, and permitting them to assert their FLSA claims;

- 1 2. For an order equitably tolling the statute of limitations for the potential members of the
2 Collective;
- 3 3. Damages and restitution according to proof at trial for all unpaid wages and other
4 injuries, as provided by the FLSA, California Labor Code, California Business and
5 Professions Code; WMWA, ORS, IMWL, IWPCA, and other laws of the States of
6 California, Washington, Oregon, and Illinois;
- 7 4. For a declaratory judgment that Defendants have violated the FLSA, California Labor
8 Code, ORS, and public policy as alleged herein;
- 9 5. For a declaratory judgment that Defendants have violated California Business and
10 Professions Code §§ 17200 et seq., as a result of the aforementioned violations of the
11 California Labor Code and of California public policy protecting wages;
- 12 6. For a declaratory judgment that Defendants Frontier Management LLC and Frontier
13 Senior Living, LLC have violated the Illinois Consumer Fraud and Deceptive
14 Business Practices Act, 815 ILCS § 505/1 *et seq.*, as a result of the aforementioned
15 violations of the IMWL, IWPCA, and of Illinois public policy protecting wages;
- 16 7. For preliminary, permanent, and mandatory injunctive relief prohibiting Defendants,
17 its officers, agents, and all those acting in concert with them from committing in the
18 future those violations of law herein alleged;
- 19 8. For an equitable accounting to identify, locate, and restore to all current and former
20 employees the wages they are due, with interest thereon;
- 21 9. For an order awarding Plaintiff and the members of the Classes compensatory damages,
22 including lost wages, earnings, liquidated damages, and other employee benefits,
23 restitution, recovery of all money, actual damages, and all other sums of money owed
24 to Plaintiff and members of the Classes, together with interest on these amounts,
25 according to proof;
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- 10. For an order awarding Plaintiff and members of the Classes and Collective civil penalties pursuant to the FLSA, California Labor Code, PAGA, WMWA, ORS, IMWL, IWPCA, and the laws of the States of California, Washington, Oregon, and Illinois, with interest thereon;
- 11. For an award of reasonable attorneys’ fees as provided by the FLSA, California Labor Code, California Code of Civil Procedure § 1021.5, Labor Code § 2699(g)(1), WMWA, ORS, IMWL, IWPCA, and the laws of the States of California, Washington, Oregon, Illinois, and/or other applicable law;
- 12. For all costs of suit;
- 13. For such other and further relief as this Court deems just and proper.

Respectfully submitted,

Date: June 30, 2022

/s/ Carolyn H. Cottrell
Carolyn H. Cottrell
Ori Edelstein
Michelle S. Lim
SCHNEIDER WALLACE
COTTRELL KONECKY LLP

Attorneys for Plaintiff, the Putative Classes and Collective, on behalf of the State of California and Aggrieved Employees

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to a jury.

Respectfully submitted,

Date: June 30, 2022

/s/ Carolyn H. Cottrell
Carolyn H. Cottrell
Ori Edelstein
Michelle S. Lim
SCHNEIDER WALLACE
COTTRELL KONECKY LLP

Attorneys for Plaintiff, the Putative Classes and Collective, and on behalf of the State of California and Aggrieved Employees

EXHIBIT A

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June 24, 2022

ELECTRONICALLY FILED

Attn: PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612

Re: Private Attorneys General Act of 2004 Notice

Employee: Joshua Wright

Employer: Frontier Management LLC; Frontier Senior Living, LLC; GH Senior Living, LLC dba Greenhaven Estates Assisted Living; Paramount Court Senior Living, PC AL MC Care Properties LLC

To Whom It May Concern:

We represent Joshua Wright, a former employee of Frontier Management LLC; Frontier Senior Living, LLC (collectively, “Frontier”); GH Senior Living, LLC dba Greenhaven Estates Assisted Living (“Greenhaven”) (collectively “Defendants”). We filed a Private Attorneys General Act (“PAGA”) complaint against Frontier Management LLC and Greenhaven Estates Senior Living on behalf of Mr. Wright and all other current and former similarly situated, hourly, non-exempt employees in California. On July 1, 2019, we provided notice to the Labor and Workforce Development Agency (“LWDA”) of our client’s intent to bring claims under California Labor Code § 2699(a) and (f).

Frontier owns and manages retirement and assisted living communities throughout California and the United States (“communities”), including Greenhaven, which is located in Sacramento, California. Mr. Wright and other hourly, non-exempt employees were hired to work at Frontier’s California facilities. Mr. Wright worked at Greenhaven as a Medical Technician from April 12, 2018 until March 15, 2019. He was paid at an hourly rate of \$14.50 and regularly worked approximately 44 to 46 hours per week.

On July 1, 2019, we provided notice of Mr. Wright’s intent to file a complaint against Defendants on behalf of Defendants’ current and former non-exempt employees who have been denied minimum wage, proper overtime compensation, compliant meal and rest breaks, premium pay for non-compliant meal and rest breaks, and payment for all hours worked. Mr. Wright will pursue claims on behalf of the California class pursuant to California state laws for Labor Code §§ 1194 (failure to pay minimum wage), §§ 510, 1194 (failure to pay overtime wages), § 226.7 and 512 (failure to provide meal and rest periods); § 204 (failure to compensate for all hours worked); § 226 (failure to provide timely and compliant itemized wage statements); §§ 201-203 (waiting time penalties); § 2802 (failure to reimburse for necessary business expenditures); California Business and Professions Code §§ 17200, *et seq.* (engaging in unfair business practices). Mr. Wright pled causes of action pursuant to California Labor Code § 2699(a) and (f) for civil penalties for violating the various California Labor Code provisions enumerated above, including civil penalties for violation of California Labor Code § 558.¹

¹ California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the

Joshua Wright v. Frontier Management LLC, Greenhaven Estates Senior Living, et al.

Re: Private Attorneys General Act of 2004 Notice

June 24, 2022

Page 2 of 5

We write to further amend the July 1, 2019 letter, to provide notice and clarify the names of the Defendants. These include Frontier Management LLC; Frontier Senior Living, LLC; and GH Senior Living, LLC dba Greenhaven Estates Assisted Living, Paramount Court Senior Living, PC AL MC Care Properties LLC (hereinafter “Defendants”). Through this letter Wright intends and to provide notice to Defendants and all other related or affiliated entities, subsidiaries, parents, predecessors, successors, owners, joint employers and communities, community owners of the allegations herein. We also write to provide notice of Mr. Wright’s intent to amend his complaint to supplement Mr. Wright’s claims already noticed above by providing further detail and citing additional claims: Labor Code §§ 551-552 (failure to provide 1 day of rest during a 7 day workweek); 1197, 1197.1 (failure to pay minimum wage); 1198 (failure to pay at the regular rate of pay where employee is scheduled to work and does report for work but is not provided work less than half the employee’s usual or scheduled day’s work); 1174(d) (failure to keep complete and accurate wage statements); 2800 (failure to reimburse for necessary business expenditures); 2810.5 (failure to provide written notice of pay and other necessary information at time of hire); violations of IWC Wage Orders including, but not limited to, Wage Orders 4-2001 and 5-2001; and failure to pay overtime and premiums at the regular rate of pay.

Defendants did not provide compliant meal and rest periods for Mr. Wright and aggrieved employees. Defendants required Mr. Wright and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods. Mr. Wright and aggrieved employees regularly work through their unpaid meal breaks since they are required to clock out for meal breaks yet remain on-duty and are subject to interruption throughout these “breaks.” Defendants have a policy and/or practice that Mr. Wright and aggrieved employees must keep their personal cellphones, radios, pagers, and walkie-talkies on during meal and rest breaks in order to be continuously on-call. Defendants rounded the meal periods recorded by aggrieved employees, resulting in aggrieved employees receiving short meal periods without being paid the required premium wages. Defendants also required aggrieved employees to stay on work premises during rest periods. This results in meal and rest breaks that are not compliant with California law, because Mr. Wright and other hourly non-exempt employees are not relieved of all duty and their meal and rest breaks were regularly interrupted. Plaintiff and putative class members do not receive premium pay for missed breaks. As a result of these policies, Defendants have denied Mr. Wright and other aggrieved employees the overtime and meal and rest periods to which they are statutorily entitled.

In addition, Mr. Wright and other aggrieved employees worked in excess of eight hours in a day and forty hours in a week and were, therefore, entitled to receive overtime compensation, but they were not paid for all hours worked. Employees are regularly required to work off-the-clock – time which goes unrecorded and uncompensated – including performing work before their scheduled shifts, after their

Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any individual violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.”

Joshua Wright v. Frontier Management LLC, Greenhaven Estates Senior Living, et al.

Re: Private Attorneys General Act of 2004 Notice

June 24, 2022

Page 3 of 5

scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks. For example, Defendants require aggrieved employees to perform a number of duties off the clock, including filling out paperwork, waiting for other employees to relieve them of their posts, or help other employees with a number of tasks, such as transferring residents, after clocking out for the day. Such work included, but was not limited to, waiting in line, responding to work related inquiries, going through COVID-19 protocols, and assisting patients. Defendants rounded the work time recorded by aggrieved employees in a manner that was not fair and neutral on its face and/or that favored Defendants over time, resulting in aggrieved employees being underpaid for their time worked. Defendants also rounded the meal periods recorded by Mr. Wright and aggrieved employees, resulting in short meal periods without the payment of premium wages. These tasks would take aggrieved employees anywhere from ten minutes to 1 hour per shift to complete. On information and belief, Defendants did not compensate aggrieved employees for this time worked and other time worked, including by failing to pay minimum wages and overtime wages to which they were entitled. Also, the regular rate of pay for overtime, doubletime and meal/rest premiums did not include additional remuneration.

Defendants further require Mr. Wright and aggrieved employees to use a timeclock, which encountered technical difficulties 2 to 3 times per pay period. These technical difficulties prevented employees from logging their work hours. This resulted in approximately 8 to 12 hours of off-the-clock work each pay period. Although Defendants' management staff were aware of the timeclock issues, which were reported multiple times by Mr. Wright, it was not remedied during the time that Mr. Wright was employed. On information and belief this timekeeping system is used across Frontier's California facilities.

Further, Defendants do not reimburse or compensate Mr. Wright and aggrieved employees for business expenses incurred for Defendants benefit. For example, Mr. Wright and aggrieved employees are required to use their personal cell phones in order to stay in constant communication with managers via phone calls and texts, especially once managers are no longer on the premises. Defendants do not reimburse or compensate Mr. Wright and aggrieved employees for the purchasing and maintenance of these and other business expenses such as clothing, footwear, tools, supplies and equipment, such as personal protective equipment.

During the relevant time period, the aggrieved employees were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

During the relevant time period, Defendants failed to pay aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which aggrieved employees reported to work and were furnished less

Joshua Wright v. Frontier Management LLC, Greenhaven Estates Senior Living, et al.
Re: Private Attorneys General Act of 2004 Notice
June 24, 2022
Page 4 of 5

than half the usual or scheduled day's work. During the relevant time period, Defendants failed to pay aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which aggrieved employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

Plaintiffs and aggrieved employees experience a number of issues, including (but not limited to) receiving incorrect wage statements which Defendants did not keep in a complete and accurate manner, not timely receiving all pay owed to them (e.g. unpaid minimum wages, overtime wages, meal and rest period premiums) during and at the end of their employment, and compensation below minimum wage for all hours worked. Defendants failed to pay Mr. Wright and aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201, 202, and 204, including earned and unpaid minimum, overtime, and premium wages, as discussed above. Defendants provided Mr. Wright and other aggrieved employees with wage statements that were in violation of California Labor Code section 226(a) and the violations include, but are not limited to, the failure to include the actual and total hours worked, including, for example, time spent working off-the-clock and during meal and rest periods. Compensation for off the clock work, overtime, and premium pay for missed breaks remains outstanding after termination.

In addition, Defendants failed to accurately provide aggrieved employees with the requisite notices in violation of California Labor Code section 2810.5. Defendants failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by aggrieved employees, including earned and unpaid minimum, overtime, and premium wages.

Mr. Wright is represented by Schneider Wallace Cottrell Konecky LLP ("SWCK"), a law firm based in Emeryville, California. SWCK has extensive experience in the successful litigation and resolution of employment and class actions nationwide. A description of the work, mission, and credentials of the firm can be found at www.schneiderwallace.com. Mr. Wright and his counsel are committed to zealously pursuing redress on behalf of the State of California and all other similarly situated employees for the violations and civil penalties set forth above.

Sincerely,

SCHNEIDER WALLACE
COTTRELL KONECKY LLP



CAROLYN H. COTTRELL
Attorney at Law



Joshua Wright v. Frontier Management LLC, Greenhaven Estates Senior Living, et al.

Re: Private Attorneys General Act of 2004 Notice

June 24, 2022

Page 5 of 5

cc via Certified Mail:

Frontier Management LLC
7420 Southwest Bridgeport Road, Suite 105
Portland, Oregon 97224

GH Senior Living, LLC
7420 Bridgeport Road, Suite 105
Portland, Oregon 97224

Frontier Senior Living, LLC
7420 Southwest Bridgeport Road, Suite 105
Portland, Oregon 97224

EXHIBIT 2

1 Carolyn Hunt Cottrell (SBN 166977)
2 Ori Edelstein (SBN 268145)
3 Michelle S. Lim (SBN 315691)
4 SCHNEIDER WALLACE
5 COTTRELL KONECKY LLP
6 2000 Powell Street, Suite 1400
7 Emeryville, California 94608
8 Tel: (415) 421-7100
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10 Attorneys for Plaintiff ~~and~~ the Putative
11 ~~Class~~Classes and Collective, and on behalf of
12 the State of California and Aggrieved
13 Employees

14 **UNITED STATES DISTRICT COURT FOR THE**
15 **EASTERN DISTRICT OF CALIFORNIA**

16 JOSHUA WRIGHT, LORETTA STANLEY,
17 HALEY QUAM, and AIESHA LEWIS on behalf
18 of themselves and all others similarly situated,

19 Plaintiffs,

20 vs.

21 FRONTIER MANAGEMENT LLC, FRONTIER
22 SENIOR LIVING, LLC, and GH SENIOR
23 LIVING, LLC dba GREENHAVEN ESTATES
24 ASSISTED LIVING,

25 Defendants.

Case No. 2:19-cv-01767-JAM-CKD

**~~FIRST~~SECOND AMENDED CLASS AND
COLLECTIVE ACTION COMPLAINT
FOR DAMAGES AND DECLARATORY
RELIEF AND DEMAND FOR JURY
TRIAL**

26 **~~FIRST~~SECOND AMENDED CLASS AND COLLECTIVE ACTION COMPLAINT FOR DAMAGES AND
DECLARATORY RELIEF AND DEMAND FOR JURY TRIAL**

27 *Wright, et al. v. Frontier Management LLC, et al.*, Case No. 2:19-cv-01767-JAM-CKD

CLASS AND COLLECTIVE ACTION COMPLAINT

1
2 Plaintiffs Joshua Wright, Loretta Stanley, Haley Quam, and Aiesha Lewis (“Plaintiffs”), on
3 behalf of themselves and all others similarly situated, complains, and alleges as follows:

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SUBJECT MATTER JURISDICTION AND VENUE

4
5 1. This court has federal question jurisdiction over the subject matter of this action
6 pursuant to 28 U.S.C. § 1331 as this case is brought under the laws of the United States, specifically
7 the FLSA, 29 U.S.C. § 201, *et seq.* This Court has supplemental jurisdiction over Plaintiffs’ state-
8 law claims pursuant to 28 U.S.C. § 1367.

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9 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391. Defendants
10 employ numerous hourly, non-exempt employees who reside in this district, and a substantial part of
11 the events giving rise to Plaintiffs’ claims occurred within this judicial district. Defendants are
12 subject to personal jurisdiction here. Defendant Frontier Management, according to its website,
13 operates multiple residential memory care and senior living facilities, and employs Class and
14 Collective members, in California, including in this judicial district. Defendant Frontier Senior
15 living, according to its filings with the California Secretary of State, is the corporate entity through
16 which Defendant Frontier Management manages its California operations, including those in this
17 judicial district.

INTRODUCTION

18
19 3. Plaintiffs bring this class and collective action ~~on behalf of themselves and other~~
20 ~~similarly situated individuals who have worked for~~ Frontier Management LLC (“Frontier
21 Management”), Frontier Senior Living, LLC (“Frontier Senior Living”), and GH Senior Living, LLC
22 dba Greenhaven Estates Assisted Living (“Greenhaven”) (collectively, “Defendants”) ~~on behalf of~~
23 ~~themselves and other similarly situated individuals who were employed or worked~~ as hourly, non-
24 exempt employees ~~for Defendants~~.

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25 4. Defendants maintain a longstanding policy and practice of failing to properly
26 compensate non-exempt employees for work performed during meal periods, for work performed
27

1 while “off-the-clock,” and for missed rest and meal periods. These policies denied Plaintiffs and other
2 hourly, non-exempt employees payment for all hours worked, including overtime, and deny Plaintiffs
3 and Class members meal and rest periods that comply with California, Washington, Oregon, and
4 Illinois law.

5 5. Defendants violate the FLSA and laws of the states of California, Washington, Oregon,
6 and Illinois, by knowingly and willfully requiring Plaintiffs and Class and Collective members to
7 perform work and/or remain on duty during meal and rest breaks, subjecting them to interruptions
8 during those times. While Defendants require Class and Collective members to clock in and out for
9 meal periods, these employees remain on duty and are continuously subject to interruption during
10 that time.

11 6. Defendants received value from the work performed by Plaintiffs and Class and
12 Collective members during their meal periods and while “off-the-clock” without compensating them
13 for their services. Defendants willfully, deliberately, and voluntarily failed to pay Plaintiffs and Class
14 and Collective members for work performed.

15 7. Defendants’ conduct violated and continues to violate the FLSA because of the
16 mandate that non-exempt employees, such as Plaintiffs and the Collective members, be paid at one
17 and one-half times their regular rate of pay for all hours worked in excess of forty within a single
18 workweek. *See* 29 U.S.C. § 207(a).

19 8. This is a class action against Defendants to challenge their policies and practices of: (1)
20 failing to pay Plaintiffs and Class members minimum wage-; (2) failing to pay Plaintiffs and Class
21 members overtime wages; (3) failing to authorize and permit Plaintiff and Class members to take
22 meal and rest breaks to which they are entitled by law; (4) failing to compensate Plaintiffs and Class
23 members for all hours worked; (5) failing to provide Plaintiffs and Class members accurate, itemized
24 wage statements; (6) failing to timely pay Plaintiffs and Class members full wages upon termination
25 or resignation; (7) failing to reimburse Plaintiffs and Class members for necessary business expenses,
26 and engaging in unfair and unlawful business practices.

1 9. Plaintiffs file this action to recover on behalf of themselves and Class and Collective
2 members all unpaid wages, compensation, penalties, and other damages owed to them under the
3 FLSA and state law individually, as a 29 U.S.C. § 216(b) collective action, ~~and~~; as a class action
4 under Federal Rule of Civil Procedure 23; and as a representative action under the Private Attorneys
5 General Act of 2004 (“PAGA”), in order to remedy the sweeping practices which Defendants have
6 integrated into their time tracking and payroll policies and which have deprived Plaintiffs and Class
7 and Collective members of their lawfully-earned wages.

8 10. As a result of violations, Plaintiffs seek compensation, damages, penalties, and interest
9 to the full extent permitted by the FLSA, as well as the wage, hour, labor, and other applicable laws
10 of the States of California, Washington, Oregon, and Illinois, as described herein.

11 11. Plaintiffs also seeks declaratory, equitable, and injunctive relief, including restitution.

12 12. Finally, Plaintiffs seeks reasonable attorneys’ fees and costs under the FLSA and
13 applicable laws of the States of California, Washington, Oregon, and Illinois, as described herein.

14 **PARTIES**

15 13. Plaintiff Joshua Wright is an individual over the age of eighteen, and at all times
16 relevant to this Complaint was a resident of the State of California, County of Sacramento. Mr.
17 Wright was employed as a Medication Technician by Defendants at their Greenhaven facility from
18 April 12, 2018 until March 15, 2019.

19 14. Plaintiff Loretta Stanley is an individual over the age of eighteen, and at all times
20 relevant to this Complaint was a resident of the State of Oregon. Ms. Stanley was employed as a Lead
21 Medical Technician and Caregiver by Defendants at their Monetary Ray Court Happy Valley facility
22 in Portland, Oregon, from December 2018 until September 2019.

23 15. Plaintiff Haley Quam is an individual over the age of eighteen, and at all times relevant
24 to this Complaint was a resident of the State of Washington. Ms. Quam was employed as a Caregiver
25 by Defendants at their facility in Bellingham, Washington from September 2017 until September
26 2018.

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1 16. Plaintiff Aiesha Lewis is an individual over the age of eighteen, and at all times relevant
2 to this Complaint was a resident of the State of Illinois. Ms. Lewis was employed as a Caregiver by
3 Defendants at their facility in Granite City, Illinois from July 2017 to approximately October 2017.

4 17. The Collective ~~members are people who are or is a certified collective action for~~
5 ~~settlement purposes only pursuant to 29 U.S.C. § 216(b), which includes all individuals~~ who have
6 ~~been employed by submitted Opt-In Consent Forms in the Federal Action and worked for~~ Defendants
7 as ~~hourly, non-exempt, hourly~~ employees ~~in the United States at any time within the three years~~
8 ~~preceding the filing of the Complaint between March 13, 2017 and March 1, 2022.~~

9 18. The California Class members are all ~~people~~persons who are ~~employed, have been~~
10 ~~employed, or who~~alleged in the Action to have been employed by Defendants as ~~hourly, a~~ non-exempt
11 ~~employees~~employee in ~~the State of California within the four years preceding the filing of the~~
12 ~~Complaint between September 6, 2015 and March 1, 2022.~~

13 19. The ~~Washington Class members~~Aggrieved Employees are all ~~people~~persons who are
14 ~~employed, have been employed, or who~~are alleged in the Action to have been employed by
15 Defendants as ~~hourly, a~~ non-exempt ~~employees in Washington within the three years preceding the~~
16 ~~filing~~employee in the State of California at any time between July 7, 2018 and preliminary approval
17 of the Complainta settlement in this action.

18 20. The ~~Oregon Washington~~ Class members are all ~~people~~persons who are ~~or~~
19 ~~who~~employed, have been employed, or are alleged to have been employed in the Action by
20 Defendants as ~~hourly, a~~ non-exempt ~~employees in Oregon within the six years preceding~~employee in
21 the ~~filing~~state of this ComplaintWashington between July 8, 2017 and March 1, 2022.

22 20-21. The Oregon Class members are all persons who are employed, have been employed, or
23 are alleged in the Action to have been employed by Defendants as a non-exempt employee in the
24 state of Oregon between July 8, 2014 and March 1, 2022.

25 21-22. The Illinois Class members are all ~~people~~persons who are ~~employed, have been~~
26 ~~employed, or who~~are alleged in the Action to have been employed by Defendants as ~~hourly, a~~ non-

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1 exempt ~~employees~~employee in the state of Illinois ~~within the three years preceding the filing of the~~
2 ~~Complaint~~between July 8, 2017 and March 1, 2022.

3 22-23. Plaintiffs are informed, believe, and thereon allege that Defendant Frontier
4 Management is an Oregon limited liability corporation that maintains its principal office in Portland,
5 Oregon.

6 23-24. Plaintiffs are informed, believe, and thereon allege that Defendant Frontier Senior
7 Living is an Oregon limited liability corporation that maintains its principal office in Portland,
8 Oregon.

9 24-25. Plaintiffs are informed, believe, and thereon allege that that Defendant Greenhaven is
10 a California limited liability company that maintains its headquarters in Sacramento, California.
11 Defendant Greenhaven is registered to do business in the state of California.

12 25-26. Plaintiffs are informed, believe, and thereon allege that Defendant Frontier
13 Management owns Frontier Senior Living, that Defendant Frontier Senior Living is a member of
14 Defendant Greenhaven, and that Defendants Frontier Management, Frontier Senior Living, and
15 Greenhaven all share at least one member or manager and all share the same primary place of
16 business.

17 26-27. Plaintiffs are informed, believe, and thereon allege that at all times mentioned in this
18 Complaint, Defendants were the agents and employees of their co-defendants and in doing the things
19 alleged in this Complaint were acting within the course and scope of such agency and employment.

20 27-28. Plaintiffs are informed, believe, and thereon allege that Defendants maintain a chain of
21 retirement and assisted living communities throughout the United States; ~~(“affiliated communities”)~~,
22 including in California, Washington, Oregon, and Illinois. Plaintiff is informed, believes, and thereon
23 alleges that Defendants employ the hourly, non-exempt employees that work at affiliated
24 communities throughout the United States, including in California, Washington, Oregon, and Illinois.

25 28-29. Plaintiffs are informed and believe that each and every one of the acts and omissions
26 alleged herein were performed by, and/or attributable to, Defendants Frontier Management, Frontier
27

1 Senior Living, ~~and~~ Greenhaven, and affiliated communities, each acting as agents and/or employees,
2 and/or under the direction and control of each of the other, and that said acts and failures to act were
3 within the course and scope of said agency, employment and/or direction and control.

4 ~~29-30.~~ Plaintiffs are informed, believes, and thereon allege that Defendant Frontier
5 Management directly controls the operations of its agents, Defendants Frontier Senior Living ~~and~~,
6 Greenhaven, and affiliated communities. Plaintiffs are informed, believe, and thereon allege that
7 Defendants Frontier Management, Frontier Senior Living, ~~and~~ Greenhaven, and affiliated
8 communities jointly exercised control over Plaintiffs and Class and Collective members with respect
9 to their employment.

10 ~~30-31.~~ As employers of Plaintiffs and the Class and Collective members throughout the
11 relevant time periods, Defendants, and each of them, are solely, jointly, and severally liable for back
12 pay, penalties, and other economic damages owed to Plaintiffs and the Class and Collective members.

13 ~~31-32.~~ Throughout this Complaint, any reference to “Defendant” or “Defendants” is intended
14 to refer to Defendants Frontier Management, Frontier Senior Living, and Greenhaven jointly.

15 ~~32-33.~~ Plaintiffs and Class and Collective members were and are employees of Defendants
16 within the meaning of 29 U.S.C. § 203(e).

17 ~~33-34.~~ At all material times, Defendants have been an enterprise in commerce or in the
18 production of goods for commerce within the meaning of section 3(s)(1) of the FLSA because
19 Defendants have had and continues to have employees engaged in commerce. 29 U.S.C. § 203(s)(1).

20 ~~34-35.~~ Plaintiffs are informed, believe, and thereon allege that Defendants have had, and
21 continue to have, an annual gross business volume of not less than \$500,000, thereby exceeding the
22 statutory standard. 29 U.S.C. § 203(s)(1)(A)(ii).

23 ~~35-36.~~ At all material times, Defendants have been an employer within the meaning of the
24 FLSA under 29 U.S.C. § 203(d).

25 ~~36-37.~~ In addition to Plaintiffs, Defendants have employed numerous other employees who,
26 like Plaintiff, are hourly, non-exempt employees engaged in interstate commerce. Further,
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1 Defendants are engaged in interstate commerce since they order supplies across state lines, conduct
2 business deals with merchants across state lines, and process patient credit cards with banks in other
3 states.

4 ~~37-38.~~ At all material times, Plaintiffs and Collective and Class members were employees who
5 engaged in commerce or in the production of goods for commerce as required by 29 U.S.C. § 207.

6 ~~38-39.~~ At all material times, Defendants have done business under the laws of California, have
7 had places of business in California, including in this judicial district, and have employed Class
8 members in this judicial district. Defendants are a “person” as defined in Labor Code § 18 and
9 Business and Professions Code § 17201. At all relevant times, Defendants have been Plaintiffs’
10 “employer” within the meaning of the FLSA, California, Washington, Oregon, and Illinois.

11 **RELATION BACK**

12 ~~39. This First Amended Class and Collective Action Complaint relates back to Plaintiff~~
13 ~~Wright’s original Complaint filed on September 6, 2019, with regards to all applicable claims~~
14 ~~herein, as to all Defendants pursuant to Federal Rule of Civil Procedure 15(e).~~

15 **FACTUAL ALLEGATIONS**

16 40. Defendants operate a chain of retirement and assisted living communities throughout
17 the United States and California, including Greenhaven, which is located in Sacramento, California.
18 Defendants employ hundreds of hourly non-exempt workers similarly situated to Plaintiff across
19 these facilities.

20 41. Plaintiff Wright worked at Greenhaven as a Medication Technician from April 12, 2018
21 until March 15, 2019. He was paid at an hourly rate of \$14.50 and regularly worked in excess of
22 eight hours a day and forty hours per week, usually working approximately 44 to 46 hours per week.

23 42. Plaintiff Stanley worked for Defendants in Portland, Oregon as a Lead Medical
24 Technician and Caregiver from approximately December 2018 until September 2019. She was paid
25 at an hourly rate of \$15.00 and regularly worked in excess of eight hours a day and forty hours per
26 week, usually working approximately 43 to 45 hours per week.

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1 43. Plaintiff Quam worked for Defendants in Bellingham, Washington as a Caregiver from
2 approximately September 2017 until December 2018. She was paid at an hourly rate of \$12.00 and
3 regularly worked in excess of eight hours a day and forty hours per week, usually working
4 approximately 40 to 60 hours per week.

5 44. Plaintiff Lewis worked for Defendants in Granite City, Illinois as a Caregiver from
6 approximately July 2017 until October 2017. She was paid at an hourly rate of \$10.00 and regularly
7 worked in excess of eight hours a day and forty hours per week, usually working approximately 44
8 to 50 hours per week.

9 45. As a matter of policy, Defendants ~~required~~ Plaintiffs, Class, and Collective
10 members meal and rest breaks to which they are entitled and, for example, require them to remain
11 on duty during their scheduled shifts, including during rest breaks and while clocked out for meal
12 periods. Defendants do not compensate these employees for work performed while clocked out for
13 meal periods.

14 46. ~~Specifically,~~ Defendants require Plaintiffs, Class, and Collective members to carry
15 communication devices, including personal cellphones, radios, and pagers, with them at all times.
16 Defendants require them to carry these devices so that Plaintiffs and Class and Collective members
17 can be reached at all times throughout the day to handle issues concerning their patients and facility
18 personnel. Defendants have a policy and/or practice that Class and Collective members must keep
19 these communication devices, namely walkie-talkies, on during meal and rest breaks, in order to be
20 continuously available. Defendants require these employees to respond to calls during this time,
21 regardless of whether they are taking a meal or rest break. Plaintiffs are informed, believe, and
22 thereon allege that this policy and practice applies to all hourly-paid, non-exempt staff.

23 47. ~~As a result of these policies,~~ Defendants deny Plaintiffs and Class and Collective
24 members meal and rest periods to which they are statutorily entitled, as well as the overtime
25 premiums resulting from the additional off-the-clock work performed during meal breaks.

26 48. Despite these recurring violations, Defendants do not provide Plaintiffs and Class and
27

1 Collective members premium pay for missed breaks and meal periods.

2 49. Plaintiffs and Class and Collective members are also regularly required to work off-
3 the-clock, time which Defendants neither record nor compensate them for. For example, Defendants
4 require Class and Collective members to perform a number of duties off the clock, including filling
5 out paperwork, waiting for other employees to relieve them of their posts, or help other employees
6 with a number of tasks, such as transferring residents, after clocking out for the day. These tasks
7 would take Class and Collective members anywhere from ten minutes to 1 hour per shift to complete.
8 Defendants did not compensate Class and Collective members for this time worked.

9 50. Defendants required Plaintiffs and Class and Collective members to work additional
10 time off the clock, which Defendants neither record nor compensate them for. For example,
11 Defendants require Plaintiff Wright and California Class members to use a timeclock that encounters
12 technical difficulties 2 to 3 times per pay period. These technical difficulties prevent employees from
13 logging their work hours. Defendants do not account for this off-the-clock work when compensating
14 Plaintiff Wright and California Class members, resulting in widespread under-compensation. As a
15 result, Defendants failed to record or compensate each California Class member for approximately
16 8 to 12 hours of off-the-clock work for each pay period. Although Defendants' management staff is
17 aware of the timeclock issues, which Plaintiff Wright reported multiple times, Defendants refuse to
18 remedy this issue. Plaintiff is informed, believes, and thereon alleges that this same timekeeping
19 system is used across Defendants' facilities, including in California.

20 51. As another example, Defendants require Plaintiff Stanley and Illinois Class members
21 to arrive at work ten to fifteen minutes prior to clocking in for their shifts. Defendants neither record
22 nor compensate Plaintiff Stanley and Illinois Class members for this time worked.

23 52. Defendants' common course of wage-and-hour abuse includes routinely failing to
24 maintain true and accurate records of the hours worked by Collective and Class members. ~~For~~
25 ~~particular~~ For example, Defendants have failed to record hours that Plaintiffs and Collective and Class
26 members worked during missed meal breaks as well as hours worked off the clock.
27

1 53. Defendants also engage in a policy and/or practice of rounding time worked by
2 Plaintiffs, Class, and Collective members to the detriment of Plaintiffs, Class, and Collective
3 members. Specifically, Defendants typically round down time worked by Plaintiffs, Class, and
4 Collective members to the nearest fifth-minute. Ultimately, this rounding policy and/or practice
5 results in the underpayment of wages to the Plaintiffs, Class, and Collective members.

6 54. ~~Defendants' failure to record all hours worked also results in a failure to provide Class~~
7 ~~members, including Plaintiffs, accurate itemized wage statements as required by state and federal~~
8 ~~law.~~The wage statements Defendant provides are not accurate because they do not include, or
9 otherwise incorrectly state, the items required by Labor Code section 226. For example, they do not
10 reflect the actual hours worked by Plaintiffs and Class members. The wage statements do not contain
11 off-the-clock work or time that should be compensable during interruptible meal breaks. Further, the
12 wage statements are inaccurate because they do not include premium pay for missed breaks,
13 overtime, and work that was performed while the timeclock was out of service.

14 55. Further, Defendants do not provide Class members, including Plaintiffs, with full
15 payment of all wages owed at the end of employment. As these workers are owed for off-the-clock
16 work, unpaid overtime, and premium pay when their employment ends, and these amounts remain
17 unpaid under Defendants' policies and practices, Defendants fail to pay all wages due upon
18 termination. As a consequence, Defendants are subject to waiting time penalties.

19 56. Finally, Defendants do not reimburse or compensate Plaintiffs and Class members for
20 business expenses incurred for Defendants benefit. For example, Plaintiffs and Class members are
21 required to use their personal cell phones, in addition to their radios, in order to stay in constant
22 communication with managers via phone calls and texts, especially once managers are no longer on
23 the premises. Plaintiffs and Class members were also not reimbursed or compensated for the
24 purchasing and maintenance other business expenses such as clothing, footwear, tools, supplies and
25 equipment, such as personal protective equipment. Defendants do not reimburse or compensate
26 Plaintiffs and Class members for these and other business expenses.
27

1 57. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and
2 Workforce Development Agency (“LWDA”) with notice (“PAGA notice”) of his intention to file
3 this action on July 1, 2019. Sixty-five calendar days have passed without notice from the LWDA.
4 Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with
5 § 2699.3(a). Further, Plaintiff amended his PAGA notice which is attached hereto as Exhibit A
6 (“amended PAGA notice”). Plaintiff incorporates the facts alleged in the PAGA notice and amended
7 PAGA notice herein.

8 **COLLECTIVE ALLEGATIONS UNDER THE FLSA**

9 57-58. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
10 herein.

11 58-59. Plaintiffs bring this Complaint as a collective action pursuant to 29 U.S.C. § 216(b)
12 on behalf of the following collective of individuals:

13 ~~All current and former hourly, non-exempt employees of Frontier~~
14 ~~Management LLC, Frontier Senior Living, LLC, and GH Senior Living,~~
15 ~~LLC dba Greenhaven Estates Assisted Living, in the United States during~~
16 ~~the time period from September 6, 2016 until the resolution of this action, all~~
17 ~~individuals who have submitted Opt-In Consent Forms in the Federal~~
18 ~~Action and worked for Defendants as non-exempt, hourly employees~~
19 ~~between March 13, 2017 and March 1, 2022.~~

20 59-60. Defendants have not compensated these employees for all hours worked, including
21 minimum wage and overtime compensation for all hours worked over 40 hours per week.

22 60-61. Plaintiffs’ claims for violations of the FLSA may be brought and maintained as an
23 “opt-in” collective action pursuant to Section 216(b) of the FLSA because Plaintiffs’ FLSA claims
24 are similar to the claims of the Collective members.

25 61-62. Plaintiffs are informed, believe, and thereon allege that that Collective members have
26 been denied compensation, including overtime compensation for time worked “off-the-clock,” and
27 would therefore likely join this collective action if provided a notice of their rights to do so.

28 62-63. Plaintiffs and the Collective members are similarly situated. Defendants subjected
Collective members, like Plaintiffs, to Defendants’ common practices, policies, or plans of refusing

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1 to pay overtime for all work performed in clear violation of the FLSA. Other hourly, non-exempt
2 employees work, or have worked, for Defendants but were not paid overtime at the rate of one and
3 one-half times their regular hourly rate when those hours exceeded forty per workweek. Other hourly,
4 non-exempt employees also performed compensable work while “off-the-clock” which, when
5 included with their recorded hours, results in additional overtime hours worked that were not
6 compensated at the rate of one and one-half times their regular hourly in violation of the FLSA.

7 63-64. Although Defendants permitted and/or required Collective members to work in excess
8 of forty hours per workweek, Defendants have denied them full compensation for their hours worked
9 over forty as a result of meal breaks that were interrupted due to work demands and “off-the-clock”
10 work.

11 64-65. Collective members perform or have performed the same or similar work as Plaintiffs.

12 65-66. Collective members regularly work or have worked in excess of forty hours during a
13 workweek.

14 66-67. Collective members are not exempt from receiving overtime compensation under the
15 FLSA.

16 67-68. Defendants’ failure to pay overtime compensation as required by the FLSA resulted
17 from generally applicable policies and practices and did not depend on the personal circumstances
18 of FLSA Collective members.

19 68-69. This action may be properly maintained as a collective action on behalf of the defined
20 Collective because, throughout the relevant time period:

- 21 a. Defendants maintained common scheduling systems and policies with respect to
22 Plaintiff and Collective members, controlled the scheduling systems and policies
23 implemented throughout their facilities and retained authority to review and revise
24 or approve the schedules assigned to Plaintiffs and Collective members;
- 25 b. Defendants maintained common timekeeping systems and policies with respect to
26 Plaintiffs and Collective members; and
27

1 c. Defendants maintained common payroll systems and policies with respect to
2 Plaintiffs and Collective members, controlled the payroll systems and policies
3 applied to Plaintiffs and Collective members, and set the pay rates assigned to
4 Plaintiffs and Collective members.

5 ~~69-70.~~ Collective members, irrespective of their particular job requirements, are entitled to
6 overtime compensation for hours worked in excess of forty during a workweek.

7 ~~70-71.~~ Plaintiffs and Collective members' claims arise from a common nucleus of operative
8 facts; namely, the continued and willful failure of Defendants to comply with their obligation to
9 legally compensate their employees. Liability is based on a systematic course of wrongful conduct
10 by Defendants that caused harm to all Collective members. Defendants had a plan, policy or practice
11 of not recording or paying Plaintiffs and Collective members for interrupted, interruptible, or missed
12 meal and rest breaks, as well as work performed "off-the-clock." These unpaid hours are typically
13 worked in excess of 40 hours per week, and therefore the failure to track these hours results in a
14 violation of the FLSA.

15 ~~71-72.~~ Plaintiffs estimate the Collective, including both current and former employees over
16 the relevant time period, will include upwards of 500 people or more. The precise number of
17 Collective members should be readily available from Defendants' personnel, scheduling, time and
18 payroll records, and from input received from Collective members as part of the notice and "opt-in"
19 process provided by 29 U.S.C. § 216(b). The names and addresses of the Collective members are
20 discoverable from Defendants' records.

21 **RULE 23 CLASS ALLEGATIONS**

22 ~~72-73.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
23 herein.

24 ~~73-74.~~ Plaintiff Wright brings this case as a class action on behalf of himself and all others
25 similarly situated pursuant to Federal Rule of Civil Procedure 23. The Class that Plaintiff Wright
26 seeks to represent is defined as follows:
27

~~All current and former non-exempt employees, all persons who are employed, have been employed, or alleged in the Action to have been employed by Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC dba Greenhaven Estates Assisted Living in Defendants as a non-exempt employee in the State of California during the time period from between September 6, 2015 until the resolution of this action and March 1, 2022 (the "California Class").~~

74-75. Plaintiff Quam brings this case as a class action on behalf of herself and all others similarly situated pursuant to Federal Rule of Civil Procedure 23. The Class that Plaintiff Quam seeks to represent is defined as follows:

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~~All current and former non-exempt employees, all persons who are employed by Frontier Management LLC and Frontier Senior Living, LLC, have been employed, or are alleged to have been employed in Washington during the time period from September 6, 2016 until Action by Defendants as a non-exempt employee in the resolution state of this action Washington between July 8, 2017 and March 1, 2022 (the "Washington Class").~~

75-76. Plaintiff Stanley brings this case as a class action on behalf of herself and all others similarly situated pursuant to Federal Rule of Civil Procedure 23. The Class that Plaintiff Stanley seeks to represent is defined as follows:

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~~All current and former non-exempt employees, all persons who are employed, have been employed, or are alleged in the Action to have been employed by Frontier Management LLC and Frontier Senior Living, LLC in Oregon during the time period from September 6, 2013 until Defendants as a non-exempt employee in the resolution state of this action Oregon between July 8, 2014 and March 1, 2022 (the "Oregon Class").~~

76-77. Plaintiff Lewis brings this case as a class action on behalf of herself and all others similarly situated pursuant to Federal Rule of Civil Procedure 23. The Class that Plaintiff Lewis seeks to represent is defined as follows:

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~~All current and former non-exempt employees, all persons who are employed, have been employed, or are alleged in the Action to have been employed by Frontier Management LLC and Frontier Senior Living, LLC in Defendants as a non-exempt employee in the state of Illinois during the time period from September 6, 2016 until the resolution of this action between July 8, 2017 and March 1, 2022 (the "Illinois Class").~~

77-78. This action has been brought and may properly be maintained as a class action under Federal Rule of Civil Procedure 23 because there is a well-defined community of interest in the litigation and the Class is easily ascertainable.

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1 a. **Numerosity:** The potential members of the Classes as defined are so numerous
2 that joinder of all the members of the Class is impracticable. Plaintiffs are informed and
3 believes that the number of Class members for each Class exceeds 500. This volume makes
4 bringing the claims of each individual member of the class before this Court impracticable.
5 Likewise, joining each individual members of the Classes as a plaintiff in this action is
6 impracticable. Furthermore, the identities of the Classes will be determined from Defendants’
7 records, as will the compensation paid to each of them. As such, a class action is a reasonable
8 and practical means of resolving these claims. To require individual actions would prejudice
9 the Classes and Defendants.

10 b. **Commonality:** There are questions of law and fact common to Plaintiffs and the
11 Classes that predominate over any questions affecting only individual members of the Classes.
12 These common questions of law and fact include, but are not limited to:

- 13 i. Whether Defendants fail to compensate putative California, Washington,
14 Oregon, and Illinois Class members for all hours worked in violation of the
15 California Labor Code and Wage Orders, the Washington’s Minimum
16 Wage Act, Revised Code of Washington (“RCW”); the Oregon Revised
17 Statutes (“ORS”); the Oregon Administrative Rules (“OAR”); the Illinois
18 Minimum Wage Law (“IMWL”); and the Illinois’ Wage Payment and
19 Collection Act (“IWPCA”) respectively.
- 20 ii. Whether Defendants fail to compensate putative California, Washington,
21 Oregon, and Illinois Class members with at least minimum wage for all
22 compensable work time in violation of the California Labor Code, Wage
23 Orders, and Business and Professions Code §§ 17200 et seq., as well as the
24 RCW, ORS, and IMWL respectively.
- 25 iii. Whether Defendants fail to properly compensate putative California,
26 Washington, Oregon, and Illinois Class members with overtime wages, at
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1 either one and one-half times or double the rate of pay, to members of the
2 putative Classes in violation of the California Labor Code and Wage Orders,
3 the RCW, AWA, ORS, OAR, and IMWL respectively.

4 iv. Whether Defendants fail to authorize, permit, make available, and/or
5 provide putative California, Washington, Oregon, and Illinois Class
6 members with compliant meal periods to which they are entitled in violation
7 of the California Labor Code, Wage Orders, as well as the RCW, OAR, and
8 IWPCA respectively.

9 v. Whether Defendants fail to authorize, permit, make available, and/or
10 provide putative California, Washington, Oregon, and Illinois Class
11 members with compliant rest periods to which they are entitled in violation
12 of the California Labor Code and Wage Orders, the RCW, OAR, and
13 IWPCA respectively.

14 vi. Whether Defendants fail to reimburse putative California and Washington
15 Class members for reasonable business expenses that they incur in violation
16 of the California Labor Code and Wage Orders, as well as the RCW
17 respectively.

18 vii. Whether Defendants fail to provide putative California and Washington
19 Class members with timely, accurate itemized wage statements in violation
20 of the California Labor Code and Wage Orders, as well as the RCW
21 respectively.

22 viii. Whether Defendants fail to timely pay putative California, Washington,
23 Oregon, and Illinois Class members for all wages owing upon termination
24 of employment in violation of the California Labor Code and Wage Orders,
25 the RCW, ORS, and IWPCA respectively.

26 ix. Whether Defendant violates Business and Professions Code §§ 17200 et
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1 seq., by:

- 2 a) failing to compensate putative Class members for all hours worked,
3 including at minimum wage and as overtime compensation;
4 b) failing to pay putative Class members minimum wage for all hours
5 worked;
6 c) failing to properly pay overtime compensation, at either one and
7 one-half times or double the regular rate of pay, to putative Class
8 members;
9 d) failing to authorize and permit, make available, and/or provide
10 putative Class members with timely meal and rest periods to which
11 they are entitled;
12 e) failing to reimburse Class members for reasonable and necessary
13 business expenses;
14 f) failing to provide putative Class members with timely, accurate
15 itemized wage; and
16 g) failing to timely pay putative Class members for all wages owed
17 upon termination of employment~~and~~.

18 x. The proper formula for calculating restitution, damages and penalties owed
19 to Plaintiff and the putative Class alleged herein.

20 c. **Typicality:** Plaintiffs' claims are typical of the claims of the Classes. Defendants'
21 common course of conduct in violation of law as alleged herein has caused Plaintiffs and
22 members of the putative Classes to sustain the same or similar injuries and damages. Plaintiffs'
23 claims are thereby representative of and co-extensive with the claims of the Classes.

24 d. **Adequacy of Representation:** Plaintiffs are members of the Classes, do not have
25 any conflicts of interest with other putative Class members and will prosecute the case
26 vigorously on behalf of the Classes. Counsel representing Plaintiffs is competent and
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1 experienced in litigating large employment class actions, including misclassification and wage
2 and hour class actions. Plaintiffs will fairly and adequately represent and protect the interests
3 of the members of the putative Classes.

4 e. **Superiority of Class Action:** A class action is superior to other available means
5 for the fair and efficient adjudication of this controversy. Individual joinder of all members of
6 the putative Classes is not practicable, and questions of law and fact common to the Class
7 predominate over any questions affecting only individual members of the Classes. Each
8 member of the putative Classes have been damaged and is entitled to recovery by reason of
9 Defendants' illegal policies and/or practices. Class action treatment will allow those similarly
10 situated persons to litigate their claims in the manner that is most efficient and economical for
11 the parties and the judicial system. The injury suffered by each Class member, while
12 meaningful on an individual basis, is not of such magnitude as to make the prosecution of
13 individual actions against Defendants economically feasible. Individualized litigation
14 increases the delay and expense to all Parties and the Court. By contrast, class action treatment
15 will allow those similarly situated persons to litigate their claims in the manner that is most
16 efficient and economical for the parties and the judicial system.

17 ~~78-79.~~ In the alternative, the Classes may be certified because the prosecution of separate
18 actions by the individual members of the Classes would create a risk of inconsistent or varying
19 adjudication with respect to individual members of the Classes, and, in turn, would establish
20 incompatible standards of conduct for Defendants.

21 ~~79-80.~~ Further, Defendants have acted or refused to act on grounds generally applicable to the
22 Classes, thereby making appropriate final injunctive or declaratory relief with respect to the Classes
23 as a whole.

24 ~~80-81.~~ If each individual member of the Classes were required to file an individual lawsuit,
25 Defendants would necessarily gain an unconscionable advantage because Defendants would be able
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1 to exploit and overwhelm the limited resources of each member of the Classes with Defendants’
2 vastly superior financial legal resources.

3 81-82. Requiring each individual member of the Classes to pursue an individual remedy would
4 also discourage the assertion of lawful claims by the Class members who would be disinclined to
5 pursue these claims against Defendants because of an appreciable and justifiable fear of retaliation
6 and permanent damage to their lives, careers and well-being.

7 **FIRST CAUSE OF ACTION**
8 **Violation of the Fair Labor Standards Act**
9 **Pursuant to 29 U.S.C. §§ 201, et seq.**
10 **(Against All Defendants – on Behalf of the Collective)**

11 82-83. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
12 herein.

13 83-84. This claim is brought by Plaintiffs Wright, Stanley, Quam, and Lewis on behalf of the
14 Collective against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH
15 Senior Living, LLC dba Greenhaven Estates Assisted Living.

16 84-85. The FLSA requires that covered employees receive compensation for all hours worked
17 and overtime compensation of not less than one and one-half times the regular rate of pay for all
18 hours worked in excess of forty hours in a workweek. 29 U.S.C. §§ 206(a)(1), 207(a)(1).

19 85-86. At all times material herein, Plaintiffs and the Collective are covered employees
20 entitled to the rights, protections, and benefits provided under the FLSA. 29 U.S.C. §§ 203(e) and
21 207(a).

22 86-87. Defendants are covered employers required to comply with the FLSA’s mandates.

23 87-88. Defendants have violated the FLSA with respect to Plaintiffs and the Collective, by,
24 *inter alia*, failing to compensate Plaintiffs and the Collective for all hours worked and, with respect
25 to such hours, failing to pay the legally mandated overtime premium for such work and/or minimum
26 wage. Defendants have also violated the FLSA by failing to keep required, accurate records of all
27 hours worked by Plaintiffs and the Collective. 29 U.S.C. § 211(c).

28 88-89. Plaintiffs and the Collective are victims of a uniform and company-wide compensation

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1 policy that has been applied to current and former non-exempt, hourly employees of Defendants,
2 working throughout the United States.

3 89-90. Plaintiffs and the Collective are entitled to damages equal to the mandated pay,
4 including minimum wage, straight time, and overtime premium pay within the three years preceding
5 the filing of the complaint, plus periods of equitable tolling, because Defendants have acted willfully
6 and knew or showed reckless disregard for whether the alleged conduct was prohibited by the FLSA.

7 90-91. Defendants have acted neither in good faith nor with reasonable grounds to believe
8 that their actions and omissions were not a violation of the FLSA, and as a result thereof, Plaintiffs
9 and the Collective are entitled to recover an award of liquidated damages in an amount equal to the
10 amount of unpaid overtime pay and/or prejudgment interest at the applicable rate. 29 U.S.C. §
11 216(b).

12 91-92. Pay, including minimum wage, straight time, and overtime compensation, has been
13 unlawfully withheld by Defendants from Plaintiffs and the Collective as a result of the Defendants'
14 violations of the FLSA. Accordingly, Defendants are liable for unpaid wages, together with an
15 amount equal as liquidated damages, attorneys' fees, and costs of this action.

16 92-93. Wherefore, Plaintiffs and the Collective request relief as hereinafter provided.

17 **SECOND CAUSE OF ACTION**
18 **Failure to Pay Minimum Wages**
19 **Pursuant to California Labor Code § 1194**
(Against All Defendants – on Behalf of the California Class)

20 93-94. Plaintiffs re-allege and incorporates the foregoing paragraphs as though fully set forth
21 herein.

22 94-95. This claim is brought by Plaintiff Wright on behalf of the California Class against
23 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
24 dba Greenhaven Estates Assisted Living.

25 95-96. Defendants fail to compensate Plaintiff and putative Class members with at least the
26 minimum wage for all hours worked or spent in ~~Defendant's~~ Defendants' control because Plaintiff
27 and the putative Class members are paid at rates at or just above the applicable California minimum,

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1 and when the required premium payments for missed breaks, wages for off-the-clock work, unpaid
2 wages due to Defendants' rounding policies and practices, and overtime wages are factored in, the
3 actual rate of pay often drops below the applicable California minimum.

4 ~~96-97.~~ Defendants have maintained policies and procedures which created a working
5 environment where Plaintiff and Class members are routinely compensated at a rate that is less than
6 the statutory minimum wage.

7 ~~97-98.~~ During the applicable statutory period, Labor Code §§1182.11, 1182.12 and 1197, and
8 the Minimum Wage Order were in full force and effect and required that ~~Defendant's~~ Defendants'
9 employees receive the minimum wage for all hours worked irrespective of whether nominally paid
10 on a piece rate, or any other bases, at the rate of ten dollars (\$10.00) per hour commencing January
11 1, 2016.

12 ~~98-99.~~ IWC Wage Order 4-2001(2)(K) defines hours worked as "the time during which an
13 employee is subject to the control of an employer, and includes all the time the employee is suffered
14 or permitted to work, whether or not required to do so."

15 ~~99-100.~~ Labor Code § 1194(a) provides as follows:

16 Notwithstanding any agreement to work for a lesser wage, any employee
17 receiving less than the legal minimum wage or the legal overtime
18 compensation applicable to the employee is entitled to recover in a civil
19 action the unpaid balance of the full amount of this minimum wage or
overtime compensation, including interest thereon, reasonable attorneys'
fees, and costs of suit.

20 ~~100-101.~~ Because of ~~Defendant's~~ Defendants' policies and practices with regard to
21 compensating Plaintiff and Class members, Defendants have failed to pay minimum wages as
22 required by law. Plaintiff and Class members frequently perform work for which they are
23 compensated below the statutory minimum, as determined by the IWC.

24 ~~101-102.~~ Labor Code §1194.2 provides that, in any action under § 1194 to recover wages
25 because of the payment of a wage less than minimum wage fixed by an order of the commission, an
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1 employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully
2 unpaid and interest thereon.

3 ~~102-103.~~ California law further requires that employers pay their employees for all hours
4 worked at the statutory or agreed upon rate. No part of the rate may be used as a credit against a
5 minimum wage obligation.

6 ~~103-104.~~ By failing to maintain adequate time records as required by Labor Code
7 §1174(d) and IWC Wage Order 4-2001(7), Defendants have made it difficult to calculate the
8 minimum wage compensation due to Plaintiff and Class members.

9 ~~104-105.~~ As a direct and proximate result of the unlawful acts and/or omissions of
10 ~~Defendant~~ Defendants, Plaintiff and Class members have been deprived of minimum wages in an
11 amount to be determined at trial, and are entitled to a recovery of such amount, plus liquidated
12 damages, plus interest thereon, attorneys' fees, and costs of suit pursuant to Labor Code §§ 1194,
13 1194.2 and 1197.1.

14 ~~105-106.~~ Wherefore, Plaintiff and the putative California Class request relief as
15 hereinafter provided.

16 **THIRD CAUSE OF ACTION**
17 **Failure to Pay Overtime Wages**
18 **Pursuant to California Labor Code § 510**
(Against All Defendants – on Behalf of the California Class)

19 ~~106-107.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
20 forth herein.

21 ~~107-108.~~ This claim is brought by Plaintiff Wright on behalf of the California Class
22 against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living,
23 LLC dba Greenhaven Estates Assisted Living.

24 ~~108-109.~~ Defendants do not compensate Plaintiff and Class members with appropriate
25 overtime, including time and half and double time, at the regular rate of pay, as required by California
26 law.

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1 ~~409~~.110. Labor Code § 510(a) provides as follows:

2 Eight hours of labor constitutes a day's work. Any work in excess of eight
3 hours in one workday and any work in excess of 40 hours in any one
4 workweek and the first eight hours worked on the seventh day of work in
5 any one workweek shall be compensated at the rate of no less than one and
6 one-half times the regular rate of pay for an employee. Any work in excess
7 of 12 hours in one day shall be compensated at the rate of no less than twice
8 the regular rate of pay for an employee. In addition, any work in excess of
9 eight hours on any seventh day of a workweek shall be compensated at the
10 rate of no less than twice the regular rate of pay of an employee.

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11 ~~410~~.111. The IWC Wage Order 4-2001(3)(A)(1) states:

12 [E]mployees shall not be employed more than eight (8) hours in any
13 workday or more than 40 hours in any workweek unless the employee
14 receives one and one-half (1 ½) times such employee's regular rate of pay
15 for all hours worked over 40 hours in the workweek. Eight (8) hours of
16 labor constitutes a day's work. Employment beyond eight (8) hours in any
17 workday or more than six (6) days in any workweek is permissible provided
18 the employee is compensated for such overtime at not less than:
19 . . . One and one-half (1 ½) times the employee's regular rate of pay for all
20 hours worked in excess of eight (8) hours up to and including 12 hours in
21 any workday, and for the first eight (8) hours worked on the seventh (7th)
22 consecutive day of work in a workweek; and . . . Double the employee's
23 regular rate of pay for all hours worked in excess of 12 hours in any workday
24 and for all hours worked in excess of eight (8) hours on the seventh (7th)
25 consecutive day of work in a workweek[.] . . .

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26 ~~411~~.112. Labor Code § 1194(a) provides as follows:

27 Notwithstanding any agreement to work for a lesser wage, any employee
28 receiving less than the legal minimum wage or the legal overtime
compensation applicable to the employee is entitled to recover in a civil
action the unpaid balance of the full amount of this minimum wage or
overtime compensation, including interest thereon, reasonable attorney's
fees, and costs of suit.

29 ~~412~~.113. Labor Code § 200 defines wages as "all amounts for labor performed by
30 employees of every description, whether the amount is fixed or ascertained by the standard of time,
31 task, piece, commission basis or other method of calculation." All such wages are subject to
32 California's overtime requirements, including those set forth above.

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1 ~~113.114.~~ Defendants often require Plaintiff and Class members to work in excess of eight
2 hours per day. Defendants do not compensate Plaintiff and Class members at an overtime rate for
3 hours in excess of eight hours each day or in excess of forty in each week, nor does Defendants
4 compensate Plaintiff and Class members at a double time rate for hours in excess of twelve each day
5 or in excess of eight on the seventh consecutive day.

6 ~~114.115.~~ Plaintiff and Class members have worked overtime hours for Defendants
7 without being paid overtime premiums at the regular rate of pay in violation of the Labor Code, the
8 applicable IWC Wage Order, and other applicable law.

9 ~~115.116.~~ Defendants have knowingly and willfully refused to properly compensate
10 Plaintiff and the Class for overtime work. As a proximate result of the aforementioned violations,
11 Defendants have damaged Plaintiff and the Class in amounts to be determined according to proof at
12 time of trial, but in an amount in excess of the jurisdictional requirements of this Court.

13 ~~116.117.~~ Defendants are liable to Plaintiff and the Class alleged herein for the unpaid
14 overtime and civil penalties, with interest thereon. Furthermore, Plaintiff is entitled to an award of
15 attorneys' fees and costs as set forth below.

16 ~~117.118.~~ Wherefore, Plaintiff and the putative California Class request relief as
17 hereinafter provided.

18 **FOURTH CAUSE OF ACTION**
19 **Failure to Authorize and Permit, Provide and/or Make Available Meal and Rest Periods**
20 **Pursuant to California Labor Code §§ 226.7 and 512**
21 **(Against All Defendants – on Behalf of the California Class)**

22 ~~118.119.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
23 forth herein.

24 ~~119.120.~~ This claim is brought by Plaintiff Wright on behalf of the California Class
25 against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living,
26 LLC dba Greenhaven Estates Assisted Living.

27 ~~120.121.~~ Defendants denied Plaintiff and California Class Members meal and rest breaks
28 to which they were entitled. For example, Defendants require Plaintiff and Class members to respond

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1 to calls at all times during their shifts, even if this means cutting breaks short or not being relieved
2 for breaks at all. Defendants also engage in rounding policies and practices that result in the
3 underpayment.

4 ~~121.122.~~ Defendants do not pay Plaintiff and Class members one hour of premium pay
5 at the regular rate of pay for the missed meal and rest breaks.

6 ~~122.123.~~ Labor Code §§ 226.7 and 512 and the applicable Wage Order requires
7 Defendants to authorize and permit meal and rest periods to its employees. Labor Code §§ 226.7
8 and 512 and the Wage Order prohibit employers from employing an employee for more than five
9 hours without a meal period of not less than thirty minutes, and from employing an employee more
10 than ten hours per day without providing the employee with a second meal period of not less than
11 thirty minutes. Section 226.7 and the applicable Wage Order also require employers to authorize
12 and permit employees to take ten minutes of net rest time per four hours or major fraction thereof of
13 work, and to pay employees their full wages during those rest periods. Unless the employee is
14 relieved of all duty during the thirty-minute meal period and ten-minute rest period, the employee is
15 considered “on duty” and the meal or rest period is counted as time worked under the applicable
16 wage orders.

17 ~~123.124.~~ Under § 226.7(b) and the applicable Wage Order, an employer who fails to
18 authorize, permit, and/or make available a required meal period must, as compensation, pay the
19 employee one hour of pay at the employee’s regular rate of compensation for each workday that the
20 meal period was not authorized and permitted. Similarly, an employer must pay an employee denied
21 a required rest period one hour of pay at the employee’s regular rate of compensation for each
22 workday that the rest period was not authorized and permitted and/or not made available.

23 ~~124.125.~~ ~~Despite these requirements,~~ Defendants knowingly and willfully refuse to
24 perform their obligations to authorize and permit and/or make available to Plaintiff and the Class the
25 ability to take the off-duty meal and rest periods to which they are entitled. Defendants also fail to
26 pay Plaintiff and the Class one hour of pay at the regular rate for each off-duty meal and/or rest
27

1 periods that they are denied. Defendants' conduct described herein violates Labor Code §§ 226.7
2 and 512. Therefore, pursuant to Labor Code § 226.7(b), Plaintiff and the Class are entitled to
3 compensation for the failure to authorize and permit and/or make available meal and rest periods,
4 plus interest, attorneys' fees, expenses and costs of suit.

5 ~~125-126.~~ As a proximate result of the aforementioned violations, Plaintiff and the Class
6 have been damaged in an amount according to proof at time of trial.

7 ~~126-127.~~ Wherefore, Plaintiff and the putative California Class request relief as
8 hereinafter provided.

9 **FIFTH CAUSE OF ACTION**
10 **Failure to Pay for All Hours Worked**
11 **Pursuant to California Labor Code §§ 200, 204, 1194, and 1198**
12 **(Against All Defendants – on Behalf of the California Class)**

13 ~~127-128.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
14 forth herein.

15 ~~128-129.~~ This claim is brought by Plaintiff Wright on behalf of the California Class
16 against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living,
17 LLC dba Greenhaven Estates Assisted Living.

18 ~~129-130.~~ Plaintiff alleges that Defendants willfully engaged and continue to engage in a
19 policy and practice of not compensating Plaintiff and putative Class members for all hours worked
20 or spent in Defendants' control.

21 ~~130-131.~~ Defendants regularly require Plaintiff and putative Class members to perform
22 uncompensated off-the-clock work. Detailed above, Defendants require Plaintiff and putative Class
23 members to perform work before and after their scheduled shifts, to clock out for meal breaks but
24 then require, suffer, and/or permit them to work through these meal breaks, and otherwise failed to
25 pay for all wages.

26 ~~131-132.~~ Labor Code § 200 defines wages as "all amounts for labor performed by
27 employees of every description, whether the amount is fixed or ascertained by the standard of time,
28 task, piece, commission basis or method of calculation."

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1 ~~132-133.~~ Labor Code § 204(a) provides that “[a]ll wages ... earned by any person in any
2 employment are due and payable twice during each calendar month....”

3 ~~133-134.~~ Labor Code § 1194(a) provides as follows:

4 Notwithstanding any agreement to work for a lesser wage, any employee
5 receiving less than the legal minimum wage or the legal overtime
6 compensation applicable to the employee is entitled to recover in a civil
7 action the unpaid balance of the full amount of this minimum wage or
overtime compensation, including interest thereon, reasonable attorneys’
fees, and costs of suit.

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8 ~~134-135.~~ Labor Code § 1198 makes it unlawful for employers to employ employees
9 under conditions that violate the Wage Order.

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10 ~~135-136.~~ IWC Wage Order 4-2001(2)(K) defines hours worked as “the time during which
11 an employee is subject to the control of an employer, and includes all the time the employee is
12 suffered or permitted to work, whether or not required to do so....”

13 ~~136-137.~~ In violation of California law, Defendants knowingly and willfully refuse to
14 perform its obligation to provide Plaintiff and putative Class members with compensation for all time
15 worked. Therefore, Defendants committed, and continue to commit, the acts alleged herein
16 knowingly and willfully, and in conscious disregard of Plaintiff’s and putative Class members’
17 rights. Plaintiff and putative Class members are thus entitled to recover nominal, actual, and
18 compensatory damages, plus interest, attorneys’ fees, expenses and costs of suit.

19 ~~137-138.~~ As a proximate result of the aforementioned violations, Plaintiff and the
20 putative Class have been damaged in an amount according to proof at time of trial.

21 ~~138-139.~~ Wherefore, Plaintiff and the putative California Class request relief as
22 hereinafter provided.

23 **SIXTH CAUSE OF ACTION**
24 **Failure to Provide Accurate Itemized Wage Statements**
25 **Pursuant to California Labor Code § 226**
(Against All Defendants – on Behalf of the California Class)

26 ~~139-140.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
27 forth herein.

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1 ~~140.141.~~ This claim is brought by Plaintiff Wright on behalf of the California Class
2 against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living,
3 LLC dba Greenhaven Estates Assisted Living.

4 ~~141.142.~~ Defendants do not provide Plaintiff and Class members with accurate itemized
5 wage statements as required by California law.

6 ~~142.143.~~ Labor Code § 226(a) provides:

7 An employer, semimonthly or at the time of each payment of wages, shall
8 furnish to his or her employee, either as a detachable part of the check, draft,
9 or voucher paying the employee's wages, or separately if wages are paid by
10 personal check or cash, an accurate itemized statement in writing showing
11 (1) gross wages earned, (2) total hours worked by the employee, except as
12 provided in subdivision (j), (3) the number of piece-rate units earned and
13 any applicable piece rate if the employee is paid on a piece-rate basis, (4)
14 all deductions, provided that all deductions made on written orders of the
15 employee may be aggregated and shown as one item, (5) net wages earned,
16 (6) the inclusive dates of the period for which the employee is paid, (7) the
17 name of the employee and only the last four digits of his or her social
18 security number or an employee identification number other than a social
19 security number, (8) the name and address of the legal entity that is the
20 employer and, if the employer is a farm labor contractor, as defined in
21 subdivision (b) of Section 1682, the name and address of the legal entity
22 that secured the services of the employer, and (9) all applicable hourly rates
23 in effect during the pay period and the corresponding number of hours
24 worked at each hourly rate by the employee...

17 ~~143.144.~~ The IWC Wage Order also establishes this requirement. (See IWC Wage Order
18 4-2001(7)).

19 ~~144.145.~~ Labor Code § 226(e)(1) provides:

20 An employee suffering injury as a result of a knowing and intentional failure
21 by an employer to comply with subdivision (a) is entitled to recover the greater
22 of all actual damages or fifty dollars (\$50) for the initial pay period in which a
23 violation occurs and one hundred dollars (\$100) per employee for each violation
24 in a subsequent pay period, not exceeding an aggregate penalty of four
25 thousand dollars (\$4,000), and is entitled to an award of costs and
26 reasonable attorney's fees.

24 ~~145.146.~~ Plaintiff seeks to recover actual damages, costs and attorneys' fees under this
25 section.
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1 ~~146-147.~~ Defendants have failed to provide timely, accurate itemized wage statements to
2 Plaintiff and Class members in accordance with Labor Code § 226(a) and the IWC Wage Order.
3 ~~The~~For example, the wage statements Defendants provide their employees, including Plaintiff and
4 Class members, do not reflect the actual hours worked, actual gross wages earned, or actual net wages
5 earned. The wage statements are simply a record of shifts worked, and the amount earned per shift.

6 ~~147-148.~~ Defendants are liable to Plaintiff and the Class alleged herein for the amounts
7 described above in addition to the civil penalties set forth below, with interest thereon. Furthermore,
8 Plaintiff is entitled to an award of attorneys’ fees and costs as set forth below.

9 ~~148-149.~~ Wherefore, Plaintiff and the putative California Class request relief as
10 hereinafter provided.

11 **SEVENTH CAUSE OF ACTION**
12 **Waiting Time Penalties**
13 **Pursuant to California Labor Code §§ 201-203**
(Against All Defendants – on Behalf of the California Class)

14 ~~149-150.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
15 forth herein.

16 ~~150-151.~~ This claim is brought by Plaintiff Wright on behalf of the California Class
17 against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living,
18 LLC dba Greenhaven Estates Assisted Living.

19 ~~151-152.~~ Defendants do not provide Class members whose employment with Defendants
20 has ended, including Plaintiff, with their wages due at the time their employment ends as required
21 under California law.

22 ~~152-153.~~ Labor Code § 201 provides:

23 If an employer discharges an employee, the wages earned and unpaid at the
24 time of discharge are due and payable immediately.

25 ~~153-154.~~ Labor Code § 202 provides:

26 If an employee not having a written contract for a definite period quits his
27 or her employment, his or her wages shall become due and payable not later
28 than 72 hours thereafter, unless the employee has given 72 hours previous notice
of his or her intention to quit, in which case the employee is entitled to his

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or her wages at the time of quitting.

~~154-155.~~ Labor Code § 203 provides, in relevant part:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

~~155-156.~~ Class members have left their employment with Defendants during the statutory period, at which time Defendants owed them unpaid wages, including overtime and double time wages.

~~156-157.~~ Defendants willfully refuse and continue to refuse to pay former Class members all the wages that are due and owing them, in the form of, *inter alia*, overtime and double time pay and meal and rest period premium pay, upon the end of their employment. As a result of Defendants' actions, Plaintiff and Class members have suffered and continue to suffer substantial losses, including lost earnings, and interest.

~~157-158.~~ Defendants' willful failure to pay Class members the wages due and owing them constitutes a violation of Labor Code §§ 201-202. As a result, Defendants are liable to Class members for all penalties owing pursuant to Labor Code §§ 201-203.

~~158-159.~~ In addition, § 203 provides that an employee's wages will continue as a penalty up to thirty days from the time the wages were due. Therefore, Plaintiff and Class members are entitled to penalties pursuant to Labor Code § 203, plus interest.

~~159-160.~~ Wherefore, Plaintiff and the putative California Class request relief as hereinafter provided.

EIGHTH CAUSE OF ACTION
Failure to Reimburse for Necessary Business Expenses
Pursuant to California Labor Code § 2802
(Against All Defendants – on Behalf of the California Class)

~~160-161.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

~~161-162.~~ This claim is brought by Plaintiff Wright on behalf of the California Class

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1 against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living,
2 LLC dba Greenhaven Estates Assisted Living.

3 ~~162-163.~~ Defendants do not reimburse Plaintiff and Class members for necessary
4 business expenses.

5 ~~163-164.~~ Labor Code § 2802(a) provides as follows:

6 An employer shall indemnify his or her employee for all necessary
7 expenditures or losses incurred by the employee in direct consequence
8 of the discharge of his or her duties, or of his or her obedience to the
9 directions of the employer, even though unlawful, unless the employee,
at the time of obeying the direction, believed them to be lawful.

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10 ~~165.~~ Defendants require Plaintiff and Class members to incur numerous work-related
11 expenses, including but not limited to tools and supplies like their personal cell phones to perform
12 their work duties. However, Defendants do not compensate Plaintiff and Class members for the
13 expenses required to perform their work-related tasks.

14 ~~164-166.~~ For example, Defendants require Plaintiff and Class members to use their
15 personal mobile devices for Defendants' benefit. Defendants does not reimburse Plaintiff or Class
16 members for these expenses that are necessary to perform their daily work assignments.

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17 ~~165-167.~~ Defendants are liable to Plaintiff and Class members for the unreimbursed
18 expenses and civil penalties, with interest thereon. Furthermore, Plaintiff is entitled to an award of
19 attorneys' fees and costs as set forth below.

20 ~~166-168.~~ As a direct and proximate result of the aforementioned violations, Plaintiff and
21 Class members have been damaged in an amount according to proof at time of trial.

22 ~~167-169.~~ Wherefore, Plaintiff and the putative California Class request relief as
23 hereinafter provided.

24 **NINTH CAUSE OF ACTION**
Unfair Business Practices

25 **Pursuant to California Business and Professions Code §§ 17200, et seq.**
(Against All Defendants – on Behalf of the California Class)

26 ~~168-170.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
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1 forth herein.

2 ~~169-171.~~ This claim is brought by Plaintiff Wright on behalf of the California Class
3 against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living,
4 LLC dba Greenhaven Estates Assisted Living.

5 ~~170-172.~~ Business and Professions Code §§17200 *et seq.* prohibits unfair competition in
6 the form of any unlawful, unfair or fraudulent business acts or practices.

7 ~~171-173.~~ Business and Professions Code § 17204 allows a person injured by the unfair
8 business acts or practices to prosecute a civil action for violation of the UCL.

9 ~~172-174.~~ Labor Code § 90.5(a) states it is the public policy of California to vigorously
10 enforce minimum labor standards in order to ensure employees are not required to work under
11 substandard and unlawful conditions, and to protect employers who comply with the law from those
12 who attempt to gain competitive advantage at the expense of their workers by failing to comply with
13 minimum labor standards.

14 ~~173-175.~~ Beginning at an exact date unknown to Plaintiff, but at least since the date four
15 years prior to the filing of this suit, Defendants have committed acts of unfair competition as defined
16 by the Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent business
17 acts and practices described in this Complaint, including, but not limited to:

- 18 a. violations of Labor Code § 1194 and IWC Wage Order pertaining to the payment
19 of wages;
- 20 b. violations of Labor Code § 510 and applicable IWC Wage Orders pertaining to
21 overtime;
- 22 c. violations of Labor Code §§ 1182.11, 1182.12, and 1197 and IWC wage orders
23 pertaining to minimum wage;
- 24 d. violations of Labor Code §§226.7 and 512 and IWC wage orders pertaining to meal
25 and rest breaks;
- 26 e. violations of Labor Code § 226 regarding accurate, timely itemized wage
27

1 statements;~~and~~

2 f. violations of Labor Code §§ 201-203; ~~and~~

3 g. violations of Labor Code § 2802.

4 ~~174-176.~~ The violations of these laws and regulations, as well as of the fundamental
5 California public policies protecting wages and discouraging overtime labor underlying them, serve
6 as unlawful predicate acts and practices for purposes of Business and Professions Code §§17200 *et*
7 *seq.*

8 ~~175-177.~~ The acts and practices described above constitute unfair, unlawful and
9 fraudulent business practices, and unfair competition, within the meaning of Business and
10 Professions Code §§17200, *et seq.* Among other things, the acts and practices have taken from
11 Plaintiff and the Class wages rightfully earned by them, while enabling Defendants to gain an unfair
12 competitive advantage over law-abiding employers and competitors.

13 ~~176-178.~~ Business and Professions Code § 17203 provides that a court may make such
14 orders or judgments as may be necessary to prevent the use or employment by any person of any
15 practice which constitutes unfair competition. Injunctive relief is necessary and appropriate to
16 prevent Defendants from repeating their unlawful, unfair, and fraudulent business acts and practices
17 alleged above.

18 ~~177-179.~~ As a direct and proximate result of the aforementioned acts and practices,
19 Plaintiff and the Class members have suffered a loss of money and property, in the form of unpaid
20 wages which are due and payable to them.

21 ~~178-180.~~ Business and Professions Code §17203 provides that the Court may restore to
22 any person in interest any money or property which may have been acquired by means of such unfair
23 competition. Plaintiff and the Class are entitled to restitution pursuant to Business and Professions
24 Code §17203 for all wages and payments unlawfully withheld from employees during the four-year
25 period prior to the filing of this Complaint. Plaintiff's success in this action will enforce important
26 rights affecting the public interest and in that regard Plaintiff sues on behalf of himself as well as
27

1 others similarly situated. Plaintiff and Class members seek and are entitled to unpaid wages,
2 declaratory and injunctive relief, and all other equitable remedies owing to them.

3 ~~179.181.~~ Plaintiff herein takes upon himself enforcement of these laws and lawful claims.
4 There is a financial burden involved in pursuing this action, the action is seeking to vindicate a public
5 right, and it would be against the interests of justice to penalize Plaintiff by forcing them to pay
6 attorneys' fees from the recovery in this action. Attorneys' fees are appropriate pursuant to Code of
7 Civil Procedure §1021.5 and otherwise.

8 ~~180.182.~~ Wherefore, Plaintiff and the putative California Class request relief as
9 hereinafter provided.

10 **TENTH CAUSE OF ACTION**
11 **Penalties Pursuant to § 2699(a) of the Private Attorneys General Act**
12 **(Against All Defendants – on Behalf of the Aggrieved Employees and State of California)**

13 183. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
14 herein. This claim is brought by Plaintiff Wright on behalf of the Aggrieved Employees against
15 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
16 dba Greenhaven Estates Assisted Living.

17 184. California Labor Code § 2699(a) provides:

18 Notwithstanding any other provision of law, any provision of this code
19 that provides for a civil penalty to be assessed and collected by the
20 Labor and Workforce Development Agency or any of its departments,
21 divisions, commissions, boards, agencies or employees, for a violation
22 of this code, may, as an alternative, be recovered through a civil action
23 brought by an aggrieved employee on behalf of himself or herself and
24 other current or former employees.

25 185. California Labor Code § 203 provides, in relevant part:

26 If an employer willfully fails to pay, without abatement or reduction,
27 in accordance with Sections 201, 201.5, 202, and 205.5, any wages of
28 an employee who is discharged or who quits, the wages of the
employee shall continue as a penalty from the due date thereof at the
same rate until paid or until an action therefore is commenced; but the
wages shall not continue for more than 30 days.

186. California Labor Code § 226(a) provides:

1 Every employer shall, semimonthly or at the time of each payment of
2 wages, furnish each of his or her employees, either as a detachable part
3 of the check, draft, or voucher paying the employee's wages, or
4 separately when wages are paid by personal check or cash, an accurate
5 itemized statement in writing showing (1) gross wages earned, (2) total
6 hours worked by the employee, except for any employee whose
7 compensation is solely based on a salary and who is exempt from
8 payment of overtime under subdivision (a) of Section 515 or any
9 applicable order of the Industrial Welfare Commission, (3) the number
10 of piece-rate units earned and any applicable piece rate if the employee
11 is paid on a piece-rate basis, (4) all deductions, provided that all
12 deductions made on written orders of the employee may be aggregated
13 and shown as one item, (5) net wages earned, (6) the inclusive dates of
14 the period for which the employee is paid, (7) the name of the employee
15 and his or her social security number, (8) the name and address of the
16 legal entity that is the employer, and (9) all applicable hourly rates in
17 effect during the pay period and the corresponding number of hours
18 worked at each hourly rate by the employee. The deductions made
19 from payments of wages shall be recorded in ink or other indelible
20 form, properly dated, showing the month, day, and year, and a copy of
21 the statement or a record of the deductions shall be kept on file by the
22 employer for at least four years at the place of employment or at a
23 central location within the State of California.

14 187. Labor Code § 510(a) provides:

16 Eight hours of labor constitutes a day's work. Any work in excess of eight
17 hours in one workday and any work in excess of 40 hours in any one
18 workweek and the first eight hours worked on the seventh day of work in any
19 one workweek shall be compensated at the rate of no less than one and one-
20 half times the regular rate of pay for an employee. Any work in excess of 12
21 hours in one day shall be compensated at the rate of no less than twice the
22 regular rate of pay for an employee.

21 188. Labor Code §§ 226.7 and 512 and the applicable Wage Order requires Defendants to
22 authorize and permit meal and rest periods to its employees. Labor Code § 512(a) provides:

23 An employer shall not employ an employee for a work period of more than
24 five hours per day without providing the employee with a meal period of not
25 less than 30 minutes, except that if the total work period per day of the
26 employee is no more than six hours, the meal period may be waived by
27 mutual consent of both the employer and employee. An employer shall not
28 employ an employee for a work period of more than 10 hours per day without
providing the employee with a second meal period of not less than 30 minutes,
except that if the total hours worked is no more than 12 hours, the second

1 meal period may be waived by mutual consent of the employer and the
2 employee only if the first meal period was not waived.

3 189. California Labor Code § 558(a) provides:

4 (a) Any employer or other person acting on behalf of an employer who
5 violates, or causes to be violated, a section of this chapter or any
6 provision regulating hours and days of work in any order of the
7 Industrial Welfare Commission shall be subject to a civil penalty as
8 follows:

9 (1) For any initial violation, fifty dollars (\$50) for each underpaid
10 employee for each pay period for which the employee was
11 underpaid in addition to an amount sufficient to recover underpaid
12 wages.

13 (2) For each subsequent violation, one hundred dollars (\$100) for
14 each underpaid employee for each pay period for which the
15 employee was underpaid in addition to an amount sufficient to
16 recover underpaid wages.

17 (3) Wages recovered pursuant to this section shall be paid to the
18 affected employee.

19 190. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and
20 Workforce Development Agency (“LWDA”) with notice (“PAGA notice”) of his intention to file
21 this claim on July 1, 2019. Sixty-five calendar days have passed without notice from the LWDA.
22 Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with
23 § 2699.3(a). Further, Plaintiff amended his PAGA notice which is attached hereto as Exhibit A.

24 191. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure
25 by Defendants, as alleged above, to timely pay all wages owed to Plaintiff and Aggrieved Employees
26 (e.g., unpaid minimum wages, overtime wages, meal and rest period premiums) during and at the
27 end of their employment in compliance with Labor Code §§ 201-202, 204 in the amounts established
28 by Labor Code § 203. Plaintiff seeks such penalties as an alternative to the penalties available under
Labor Code § 203, as prayed for herein.

192. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure
by Defendants, alleged above, to provide Plaintiff and each Aggrieved Employee an accurate,
itemized wage statement in compliance with Labor Code §§ 226(a) and 1174(d) in the amounts
established by Labor Code § 226(e). Plaintiff seeks such penalties as an alternative to the penalties
available under Labor Code § 226(e), as prayed for herein.

1 193. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure
2 by Defendants, alleged above, to provide Plaintiff and each Aggrieved Employee compliant meal
3 and rest periods in compliance with Labor Code §§ 226.7 and 512.

4 194. Plaintiff also seeks civil penalties pursuant to Labor Code §§ 2800 and 2802 for each
5 failure by Defendants, alleged above, to reimburse and indemnify Plaintiff and Aggrieved
6 Employees for all necessary expenditures and losses by Aggrieved Employees in direct consequence
7 of the discharge of their duties.

8 195. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each violation
9 of the following Labor Code sections: §§ 1194, 1197, 1197.1 (failure to pay minimum wage); §§
10 510, 1194 (failure to pay overtime wages); § 226.7 and 512 (failure to provide meal and rest periods);
11 §§ 204 and 210 (failure to compensate for all hours worked); § 226 (failure to provide timely and
12 compliant itemized wage statements); §§ 201-203 (failure to pay wages upon termination or
13 discharge); §§ 2800-2802 (failure to reimburse for necessary business expenditures); §§ 551-552
14 (failure to provide 1 day of rest during a 7 day workweek); § 558 (civil penalties for underpayment
15 of wages); 1198 (failure to pay at the regular rate of pay where employee is scheduled to work and
16 does report for work but is not provided work less than half the employee's usual or scheduled day's
17 work); 1174(d) (failure to keep complete and accurate wage statements); 2810.5 (failure to provide
18 written notice of pay and other necessary information at time of hire); and violations of IWC Wage
19 Orders including, but not limited to, Wage Orders 4-2001 and 5-2001.

20 196. Plaintiff also seeks civil penalties for all of the violations alleged in Exhibit A.

21 197. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved
22 Employees, and himself as set forth in Labor Code § 2699(g)(i).

23 198. Defendants are liable to Plaintiff, the Aggrieved Employees, and the State of California
24 for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an
25 award of attorneys' fees and costs as set forth below.

26 199. Wherefore, Plaintiff requests relief as hereinafter provided.

ELEVENTH CAUSE OF ACTION

**Penalties Pursuant to § 2699(f) of the Private Attorneys General Act
(Against All Defendants – on Behalf of the Aggrieved Employees and State of California)**

200. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein. This claim is brought by Plaintiff Wright on behalf of the Aggrieved Employees against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC dba Greenhaven Estates Assisted Living.

201. Labor Code § 2699(f) provides:

For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

202. To the extent than any violation alleged herein does not carry penalties under Labor Code § 2699(a), Plaintiff seeks civil penalties pursuant to Labor Code § 2699(f) for Plaintiff and Aggrieved Employees each pay period in which he or she was aggrieved, in the amounts established by Labor Code § 2699(f).

203. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff has provided the LWDA with notice of his intention to file this claim on July 1, 2019. Sixty-five calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

204. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved Employees, and themselves as set forth in Labor Code § 2699(g)(i).

205. Defendants are liable to Plaintiff, the Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

206. Wherefore, Plaintiff requests relief as hereinafter provided.

TWELFTH CAUSE OF ACTION
Failure to Pay Minimum Wage

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1 **Pursuant to RCW 49.46.090, RCW 49.12.150**
2 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
3 **of the Washington Class)**

4 ~~181-207.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
5 forth herein.

6 ~~182-208.~~ This claim is brought by Plaintiff Quam on behalf of the Washington Class
7 against Defendants Frontier Management LLC and Frontier Senior Living, LLC.

8 ~~183-209.~~ As detailed above, Defendants fail to compensate Plaintiff Quam and putative
9 Class members with at least the minimum wage for all hours worked.

10 ~~184-210.~~ Under RCW 49.46.090, employers must pay employees all wages to which they
11 are entitled under the Washington Minimum Wage Act. If the employer fails to do so, RCW
12 49.46.090 requires that the employer pay the employees the full amount due to such employee, less
13 any amount actually paid to the employee, and for costs and such reasonable attorney's fees as may
14 be allowed by the court.

15 ~~185-211.~~ During the applicable statutory period, RCW 49.46.020(1)(a) was in full force
16 and effect and required that Plaintiff and putative Class members receive the minimum wage for all
17 hours worked at the rate of nine dollars thirty-two cents (\$9.32) per hour commencing January 1,
18 2014, at the rate of nine dollars forty-seven cents (\$9.47) per hour commencing July 1, 2015, at the
19 rate of eleven dollars (\$11.00) per hour commencing January 1, 2017, at a rate of eleven dollars and
20 fifty cents (\$11.50) per hour commencing January 1, 2018, at a rate of twelve dollars (\$12.00) per
21 hour commencing January 1, 2019, and at a rate of thirteen dollars and fifty cents (\$13.50) per hour
22 commencing January 1, 2020.

23 ~~186-212.~~ Washington Administrative Code (“WAC”) 296-126-002 defines hours worked
24 as “all hours during which the employee is authorized or required by the employer to be on duty on
25 the employer's premises or at a prescribed work place.

26 ~~187-213.~~ RCW 49.46.090(1) provides, in relevant part:

27 Any employer who pays any employee less than the amounts to which such
28 employee is entitled under or by virtue of this chapter, shall be liable to such
employee affected for the full amount due to such employee under this

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1 chapter, less any amount actually paid to such employee by the employer,
2 and for costs and such reasonable attorney's fees as may be allowed by the
3 court.

4 ~~188-214.~~ RCW 49.12.150 also provides:

5 If any employee shall receive less than the legal minimum wage, except as
6 hereinbefore provided in RCW 49.12.110, said employee shall be entitled
7 to recover in a civil action the full amount of the legal minimum wage as
8 herein provided for, together with costs and attorney's fees to be fixed by
9 the court, notwithstanding any agreement to work for such lesser wage. In
10 such action, however, the employer shall be credited with any wages which
11 have been paid upon account.

12 ~~189-215.~~ RCW 49.48.030 allows the court to grant reasonable attorney's fees "[i]n any
13 action in which any person is successful in recovering judgment for wages or salary owed" to him
14 or her.

15 ~~190-216.~~ Because of Defendants' policies and practices with regard to compensating
16 Plaintiff and putative Class members, Defendants have failed to pay minimum wages as required by
17 law. Plaintiff and putative Class members frequently perform work for which they are compensated
18 below the statutory minimum.

19 ~~191-217.~~ Plaintiff and putative Class members have been deprived of minimum wages in
20 an amount to be proven at trial, and are entitled to a recovery of such amount, plus interest thereon,
21 attorneys' fees, and costs of suit pursuant to RCW 49.46.090 and 49.48.030.

22 ~~192-218.~~ Wherefore, Plaintiff and the putative Washington Class request relief as
23 hereinafter provided.

24 **ELEVENTH THIRTEENTH CAUSE OF ACTION**
25 **Failure to Pay Overtime Wages**
26 **Pursuant to WMWA 49.46.130**
27 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
28 **of the Washington Class)**

~~193-219.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
forth herein.

~~194-220.~~ This claim is brought by Plaintiff Quam on behalf of the Washington Class
against Defendants Frontier Management LLC and Frontier Senior Living, LLC.

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1 195-221. As detailed above, Defendants fail to compensate Plaintiff and putative Class
2 members with at least the minimum wage for all hours worked.

3 196-222. Defendants do not compensate Plaintiff and putative Class members with the
4 appropriate overtime rate for work performed in excess of forty hours per week.

5 197-223. RCW 49.46.130(1) provides that work performed in excess of forty hours in a
6 given week must be compensated at a rate of no less than one and one-half times the regular rate of
7 pay for an employee.

8 198-224. Wages are defined in the RCW 49.46.010(7) as “compensation due to an
9 employee by reason of employment, payable in legal tender of the United States or checks on banks
10 convertible into cash on demand at full face value, subject to such deductions, charges, or allowances
11 as may be permitted by rules of the director.”

12 199-225. All such wages are subject to Washington’s overtime requirements, including
13 those set forth above.

14 200-226. RCW 49.46.090(1) provides, in relevant part:

15 Any employer who pays any employee less than the amounts to which such
16 employee is entitled under or by virtue of this chapter, shall be liable to such
17 employee affected for the full amount due to such employee under this
18 chapter, less any amount actually paid to such employee by the employer,
and for costs and such reasonable attorney's fees as may be allowed by the
court.

19 201-227. RCW 49.48.030 allows the court to grant reasonable attorney’s fees “[i]n any
20 action in which any person is successful in recovering judgment for wages or salary owed” to him
21 or her.

22 202-228. Defendants regularly require Plaintiff and putative Class members to work in
23 excess of forty hours per week, but do not compensate them at an overtime rate for all of this work.
24 Furthermore, as detailed above, Defendants routinely require Plaintiff and putative Class members
25 to work, off the clock, which increases the amount of overtime compensation to which they are due,
but do not receive.

26 203-229. Plaintiff and putative Class members have worked overtime hours for
27

1 Defendants without being paid overtime premiums in violation of the RCW, and other applicable
2 laws of the state of Washington.

3 204-230. Defendants have knowingly and willfully refused to perform their obligation to
4 compensate Plaintiff and the putative Class members for all premium wages for overtime work.

5 205-231. Plaintiff and putative Class members are entitled to recover unpaid overtime
6 under Washington law, and they are also entitled to declaratory relief stating Defendants violated the
7 statute, and continues to violate the statute, as described above.

8 206-232. Plaintiff further seeks declaratory relief stating Defendants is in violation of
9 RCW 49.46.130 for failing to compensate putative Class members for “off-the-clock” work
10 performed for the benefit of Defendants.

11 207-233. Plaintiff and putative Class members who are within the applicable statute of
12 limitations are entitled to collect the difference between the wages received that were then due and
13 the overtime wages due in an amount to be proven at trial, together with double damages (RCW
14 49.52.070), attorney fees, costs and disbursements (RCW 49.12.150; RCW 49.48.030), civil
15 penalties (RCW 49.12.170), as well as pre- and post-judgment interest at the rate of 12% per annum
16 (RCW 19.52.020).

17 208-234. Wherefore, Plaintiff and the putative Washington Class request relief as
18 hereinafter provided.

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19 **TWELFTHFOURTEENTH CAUSE OF ACTION**
20 **Failure to Authorize and Permit and/or Make Available Meal and Rest Breaks**
21 **Pursuant to RCW 49.12.020**
22 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
23 **of the Washington Class)**

24 209-235. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
25 forth herein.

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26 210-236. This claim is brought by Plaintiff Quam on behalf of the Washington Class
27 against Defendants Frontier Management LLC and Frontier Senior Living, LLC.

28 211-237. As detailed above, Defendants fail to compensate Plaintiff and putative Class

1 members with at least the minimum wage for all hours worked.

2 ~~242.238.~~ RCW 49.12.010 provides:

3 The welfare of the state of Washington demands that all employees be
4 protected from conditions of labor which have a pernicious effect on their
5 health. The state of Washington, therefore, exercising herein its police and
6 sovereign power declares that inadequate wages and unsanitary conditions
7 of labor exert such pernicious effect.

8 ~~243.239.~~ RCW 49.12.020 provides that “[i]t shall be unlawful to employ any person in
9 any industry or occupation within the state of Washington under conditions of labor detrimental to
10 their health.”

11 ~~244.240.~~ Pursuant to RCW 49.12.005(5) and WAC 296-126-002(9), conditions of labor
12 “means and includes the conditions of rest and meal periods” for employees.

13 ~~245.241.~~ WAC 296-126-092 provides:

14 (1) Employees shall be allowed a meal period of at least thirty minutes
15 which commences no less than two hours nor more than five hours from the
16 beginning of the shift. Meal periods shall be on the employer's time when
17 the employee is required by the employer to remain on duty on the premises
18 or at a prescribed work site in the interest of the employer.

19 (2) No employee shall be required to work more than five consecutive hours
20 without a meal period.

21 (3) Employees working three or more hours longer than a normal work day
22 shall be allowed at least one thirty-minute meal period prior to or during the
23 overtime period.

24 (4) Employees shall be allowed a rest period of not less than ten minutes,
25 on the employer's time, for each four hours of working time. Rest periods
26 shall be scheduled as near as possible to the midpoint of the work period.
27 No employee shall be required to work more than three hours without a rest
28 period.

(5) Where the nature of the work allows employees to take intermittent rest
periods equivalent to ten minutes for each 4 hours worked, scheduled rest
periods are not required.

29 ~~246.242.~~ In the present case, Plaintiff and putative Class members are routinely required
30 to work through rest and meal periods. When Plaintiff and putative Class members do receive a meal
31 or rest break, these breaks generally are on duty.

32 ~~247.243.~~ By actions alleged above, Defendants have violated WAC 296-126-092. This,
33 in turn, constitutes a violation of RCW 49.12.010 and RCW 49.12.020.

1 218-244. Defendants implemented a policy and practice of either failing to provide
2 Plaintiff and putative Class members with the meal and rest breaks to which they were entitled,
3 failing to ensure those breaks were taken, failing to record missed breaks, and failing to pay for
4 missed breaks.

5 219-245. Because Plaintiff and putative Class members were not provided a meal break,
6 were not relieved of all duties during their meal breaks, and were subject to interruption during their
7 meal breaks, they did not receive continuous meal breaks in accordance with WAC 296-126-092.

8 220-246. Because Plaintiff and putative Class members have failed to receive the meal
9 and rest breaks to which they were entitled, ICS has violated WAC 296-126-092.

10 221-247. Because Plaintiff and putative Class members were constantly engaged in work
11 activities during their meal breaks in violation of WAC 296-126-092, Plaintiff and putative Class
12 members should be additionally compensated for thirty (30) minutes each for each meal break
13 missed. *See Pellino v. Brink's Inc.*, 164 Wn. App. 668, 688, 267 P.3d 383 (2011).

14 222-248. Because Plaintiff and putative Class members were constantly engaged in work
15 activities during their paid rest breaks in violation of WAC 296-126-092, Plaintiff and putative Class
16 members should be additionally compensated for ten (10) minutes each for each rest break missed.
17 *See Washington State Nurses Ass'n v. Sacred Heart Med. Ctr.*, 175 Wn.2d 822, 287 P.3d 516 (2012).

18 223-249. Plaintiff and putative Class members are entitled to recover wages at one and
19 one-half times their regular hourly rate for all time owed by Defendants for missed rest and meal
20 breaks that, when added to the other hours worked in a week, exceeded 40 hours.

21 224-250. As a result of these unlawful acts, Plaintiff and the putative Class have been
22 deprived of compensation in amounts to be determined at trial, and Plaintiff and the putative Class
23 are entitled to the recovery of such damages, including interest thereon, civil penalties, and attorneys'
24 fees and costs under RCW 49.48.030 and 49.12.170.

25 225-251. Wherefore, Plaintiff and the putative Washington Class request relief as
26 hereinafter provided.
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~~THIRTEENTH~~**FIFTEENTH CAUSE OF ACTION**

**Unpaid Wages On Termination
Pursuant to RCW 49.48.010**

**(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
of the Washington Class)**

~~226-252.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

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~~227-253.~~ This claim is brought by Plaintiff Quam on behalf of the Washington Class against Defendants Frontier Management LLC and Frontier Senior Living, LLC.

~~228-254.~~ As detailed above, Defendants fail to compensate Plaintiff and putative Class members with at least the minimum wage for all hours worked.

~~229-255.~~ RCW 49.48.010 provides that “[w]hen any employee shall cease work for an employer, whether by discharge or by voluntary withdrawal, the wages due him on account of his employment shall be paid to him at the end of the established pay period.”

~~230-256.~~ By the actions alleged above, Defendants have violated and continues to violate the provisions of RCW 49.48.010.

~~231-257.~~ Under RCW 49.46.090, employers must pay employees all wages to which they are entitled under the Washington Minimum Wage Act. If the employer fails to do so, RCW 49.46.090 requires that the employer pay the employees the full amount of the statutory minimum wage rate less any amount actually paid to the employee.

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~~232-258.~~ By the actions alleged above, Defendants have violated the provisions of RCW 49.46.090 and the Washington law by failing to pay any wage whatsoever to Plaintiff and putative Class members when they work off the clock, miss all or part of their breaks, and are deprived of correct overtime compensation.

~~233-259.~~ As a result of the unlawful acts of Defendants, Plaintiff and the putative Classes have been deprived of regular and overtime compensation in an amount to be determined at trial. Pursuant to RCW 49.46.090 and 49.48.030, Plaintiff and the putative Class are entitled to recover attorneys' fees and costs of suit.

1 234-260. Wherefore, Plaintiff and the putative Washington Class request relief as
2 hereinafter provided.

3 **FOURTEENTHSIXTEENTH CAUSE OF ACTION**

4 **Willful Refusal to Pay Wages**

5 **Pursuant to RCW 49.52.050**

6 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
7 of the Washington Class)**

8 235-261. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
9 forth herein.

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10 236-262. This claim is brought by Plaintiff Quam on behalf of the Washington Class
11 against Defendants Frontier Management LLC and Frontier Senior Living, LLC.

12 237-263. As detailed above, Defendants fail to compensate Plaintiff and putative Class
13 members with at least the minimum wage for all hours worked.

14 238-264. RCW 49.52.050(2) provides that any employer or agent of any employer who
15 “[w]illfully and with intent to deprive the employee of any party of his wages, shall pay any employee
16 a lower wage than the wage such employer is obligated to pay such employee by any statute,
17 ordinance, or contract” shall be guilty of a misdemeanor.

18 239-265. RCW 49.52.070 provides that any employer who violates the foregoing statute
19 shall be liable in a civil action for twice the amount of wages withheld, together with costs of suit
20 and reasonable attorney fees.

21 240-266. An employer’s nonpayment of wages is willful and made with intent “when it
22 is the result of knowing and intentional action and not the result of a bona fide dispute as to the
23 obligation of payment.” *Wingert v. Yellow Freight Sys., Inc.* 146 Wash.2d 841, 849 (2002), quoting
24 *Chelan Cnty. Deputy Sheriffs’ Ass’n v. Chelan County*, 109 Wash.2d 282, 300 (1987).

25 241-267. In the present case, Defendants intentionally fail to pay all wages owed to
26 Plaintiff and putative Class members, including minimum wage and overtime wages, by requiring
27 Plaintiff and putative Class members to work during meal and rest periods. Defendants knew or
28 should have known that their employment policies violate Washington law, and their failure to pay

1 wages owed to Plaintiff and putative Class members was “willful” under RCW 49.52.050(2).

2 ~~242-268.~~ Because Defendants’ failure to pay wages owed was “willful,” Plaintiff and the
3 putative Class are entitled to exemplary damages under RCW 49.52.070.

4 ~~243-269.~~ Wherefore, Plaintiff and the putative Washington Class request relief as
5 hereinafter provided.

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7 **FIFTEENTHSEVENTEETH CAUSE OF ACTION**
8 **Violations of RCW 49.52.060 and WAC 296-126-028**
9 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
10 **of the Washington Class)**

11 ~~244-270.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
12 forth herein.

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13 ~~245-271.~~ This claim is brought by Plaintiff Quam on behalf of the Washington Class
14 against Defendants Frontier Management LLC and Frontier Senior Living, LLC.

15 ~~246-272.~~ As detailed above, Defendants fail to compensate Plaintiff and putative Class
16 members with at least the minimum wage for all hours worked.

17 ~~247-273.~~ Pursuant to RCW 49.52.060 and WAC 296-126-028, an employer may not
18 make deductions from employee’s wages except in limited circumstances.

19 ~~248-274.~~ Under Washington law, deductions and rebates must be identified and recorded
20 “openly and clearly in employee payroll records.” WAC 296-126-028(5); *see also* RCW 49.52.060;
21 WAC 296-128-010(9).

22 ~~249-275.~~ By the actions alleged above, Defendants have violated RCW 49.52.060 and
23 WAC 296-126-028.

24 ~~250-276.~~ As a result of the unlawful acts of Defendants, Plaintiff and the putative Class
25 have been deprived of compensation in amounts to be determined at trial. Pursuant to RCW
26 49.52.060 and WAC 296-126-028, Plaintiff and the putative Class are entitled to recovery of such
27 damages, including interest thereon, as well as attorneys’ fees under RCW 49.48.030 and costs.

28 ~~251-277.~~ Wherefore, Plaintiff and the putative Washington Class request relief as

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1 hereinafter provided.

2 **SIXTEENTHEIGHTEENTH CAUSE OF ACTION**

3 **Violation of Washington's Consumer Protection Act
Pursuant to RCW 19.86**

4 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
of the Washington Class)**

5 252-278. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
6 forth herein.

7 253-279. This claim is brought by Plaintiff Quam on behalf of the Washington Class
8 against Defendants Frontier Management LLC and Frontier Senior Living, LLC.

9 254-280. As detailed above, Defendants fail to compensate Plaintiff and putative Class
10 members with at least the minimum wage for all hours worked.

11 255-281. Defendants have engaged in unfair or deceptive acts or practices when they: (i)
12 fail to pay Plaintiffs and putative Class members wages for off-the-clock work; (ii) prevent Plaintiffs
13 and putative Class members from taking rest and meal breaks; (iii) fail to pay Plaintiffs and putative
14 Class members for the periods during which their rest and meal breaks were interrupted; (iv) fail to
15 pay Plaintiffs and putative Class members for overtime worked; (v) violate RCW 49.46.30; (vi)
16 violate WAC 296-126-023; and (vii) violate WAC 296-126-092 and 296-125-0287.

17 256-282. Defendants' unfair or deceptive acts or practices repeatedly occur in
18 Defendants' trade or business, injured Plaintiff and the putative Class, and impacted the public
19 interest because they injured other persons and had and have the capacity to injure other persons.

20 257-283. As a direct and proximate cause of Defendants' unfair or deceptive acts or
21 practices, Plaintiff and the putative Class have suffered actual damages, in that Plaintiff and putative
22 Class members are wrongfully denied the payment of wages, are forced to work off the clock, and
23 are prevented from taking rest and meal breaks.

24 258-284. As a result of Defendants' unfair and deceptive practices, Plaintiff and the
25 putative Class are entitled, pursuant to RCW 19.86.090, to recover treble damages, reasonable
26 attorneys' fees, and costs.
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1 259-285. Wherefore, Plaintiff and the putative Washington Class request relief as
2 hereinafter provided.

3 **SEVENTEENTHNINETEENTH CAUSE OF ACTION**
4 **Failure to Pay Minimum Wages**
5 **Pursuant to ORS 653.025 AND OAR 839-020-0030**
6 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
7 **of the Oregon Class)**

8 260-286. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
9 forth herein.

10 261-287. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
11 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

12 262-288. As detailed above, Defendants fail to compensate Plaintiff Lewis and putative
13 Class members with at least the minimum wage for all hours worked.

14 263-289. Pursuant to ORS 653.015, it is “the policy of the State of Oregon to establish
15 minimum wage standards for workers at levels consistent with their health, efficiency and general
16 well-being.”

17 264-290. During the applicable statutory period, ORS 653.025 was in full force and effect
18 and required that Plaintiff and putative Class members receive the minimum wage for each hour of
19 work time that the employees are gainfully employed at the rate of nine dollars seventy-five cents
20 (\$9.75) per hour commencing June 1, 2016, at the rate of ten dollars twenty-five cents (\$10.25) per
21 hour commencing July 1, 2017, at the rate of ten dollars seventy-five cents (\$10.75) per hour
22 commencing July 1, 2018, at a rate of eleven dollars and twenty-five cents (\$11.25) per hour
23 commencing July 1, 2019, and at a rate of twelve dollars (\$12.00) per hour commencing July 1,
24 2020.

25 265-291. ORS 653.010 defines work time worked as “both time worked and time of
26 authorized attendance.”

27 266-292. ORS 653.055(1) provides, in relevant part:

28 Any employer who pays an employee less than the wages to which the

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1 employee is entitled under ORS 653.010 (Definitions for ORS 653.010 to
2 653.261) to 653.261 (Minimum employment conditions) is liable to the
employee affected:

3 (a) For the full amount of the wages, less any amount actually paid
to the employee by the employer; and

4 (b) For civil penalties provided in ORS 652.150 (Penalty wage for
failure to pay wages on termination of employment).

5 ~~267-293.~~ Pursuant to ORS 12.080, a six-year statute of limitations is applied for liability
6 of unpaid regular wages. *See, e.g., Makaneole v. Solarworld Indus. Am., Inc.*, No. 3:14-CV-1528-
7 PK, 2016 WL 7856433, at *13 (D. Or. Sept. 2, 2016), *report and recommendation adopted*, No.
8 3:14-CV-01528-PK, 2017 WL 253983 (D. Or. Jan. 17, 2017) (“As to [plaintiff’s claims] for unpaid
9 regular wages, that claim is subject to a six-year statute of limitations[.]”) (citing ORS 12.080(1)).

10 ~~268-294.~~ ORS 652.150(1) states that, “if an employer willfully fails to pay any wages or
11 compensation of any employee whose employment ceases, as provided in ORS 652.140 . . . , then,
12 as a penalty for the nonpayment, the wages or compensation of the employee shall continue from the
13 due date thereof at the same hourly rate for eight hours per day until paid or until action therefor is
14 commenced. *See* ORS 652.150(1). Penalty wages are not to continue for more than 30 days from the
15 due date. *See* ORS 652.150(1)(a).

16 ~~269-295.~~ Pursuant to ORS 12.100(2), “the limitations period applicable to claims for
17 penalties arising out of the failure to pay minimum wages is three years.” *Gessele v. Jack in the Box,*
18 *Inc.*, 427 F. Supp. 3d 1276, 1326 (D. Or. 2019) (citing *Russell v. U. S. Bank Nat’l Ass’n*, 246 Or. App.
19 74, 77, 265 P.3d 1, 2 (2011)).

20 ~~270-296.~~ Defendants’ failure to make payment of Plaintiff’s and putative Class members’
21 final wages when due was willful and continued for not less than 30 days.

22 ~~271-297.~~ ORS 653.055(4) allows the court to grant reasonable attorney’s fees “to the
23 prevailing party in any action brought by an employee under this section.”

24 ~~272-298.~~ Because of Defendants’ policies and practices with regard to compensating
25 Plaintiff and putative Class members, Defendants have failed to pay minimum wages as required by
26 law. Plaintiff and putative Class members frequently perform work for which they are compensated
27

1 below the statutory minimum.

2 ~~273-299.~~ Because of ~~Defendant's~~Defendants' failure to make payment of final wages
3 when due, Plaintiff is due statutory penalty wages of not less than one hundred percent, pursuant to
4 ORS 652.150, for the continuation of Plaintiff's unpaid final wages for not less than 30 days.
5 Likewise, putative Class members who ended their employment but were not fully compensated their
6 total wages due and owing are likewise due statutory penalty wages pursuant to ORS 652.150.

7 ~~274-300.~~ Because of ~~Defendant's~~Defendants' failure to pay Plaintiff's and putative Class
8 members' wages within the time required by law, Plaintiff and putative Class members are entitled
9 to recover costs, disbursements, and reasonable attorney fees pursuant to ORS 653.055(4) and ORS
10 652.200.

11 ~~275-301.~~ Plaintiff and putative Class members who are within the applicable six-year
12 statute of limitations seek statutory wages pursuant to ORS 653.055; plus costs, disbursements and
13 attorney fees pursuant to ORS 653.055(4) and ORS 652.200; plus pre- and post-judgment interest in
14 the amount of 9% per annum incurred herein under ORS 82.010.

15 ~~276-302.~~ Plaintiff and putative Class members who are within the applicable three-year
16 statute of limitations also seek civil penalties pursuant to ORS 653.055 and ORS 12.100(2).

17 ~~277-303.~~ Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
18 provided.

19 **EIGHTEENTHTWENTIETH CAUSE OF ACTION**

20 **Failure to Pay Overtime Wages**

21 **Pursuant to ORS 653.261 AND OAR 839-020-0030**

22 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
23 of the Oregon Class)**

24 ~~278-304.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
25 forth herein.

26 ~~279-305.~~ This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
27 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

28 ~~280-306.~~ Pursuant to ORS 653.261, Defendants were required to pay Plaintiff and

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1 Oregon Class members one and one-half times their regular rate of pay for all hours worked in excess
2 of forty in a given workweek, when those wages were due, but willfully failed to do so.

3 281.307. Plaintiff and putative Class members are entitled to recover unpaid overtime
4 under Oregon law, and Plaintiff and putative Class members are also entitled to declaratory relief
5 stating Defendants violated the statute, and continue to violate the statute, by incorporating and
6 continuing to utilize the automatic time deduction policy as described above.

7 282.308. Plaintiff and putative Class members are further entitled to recover unpaid
8 overtime for time worked “off-the-clock” that went uncompensated. Plaintiff and putative Class
9 members further seek declaratory relief stating Defendants are in violation of ORS 653.261 and OAR
10 839-020-0030 for failing to compensate Plaintiff for “off-the-clock” work performed for the benefit
11 of Defendants.

12 283.309. Plaintiff and putative Class members who are within the applicable two-year
13 statute of limitations are entitled to collect the difference between wages received then due and the
14 overtime wages due in an amount to be proven at trial, together with attorney fees, costs and
15 disbursements, as well as pre- and post-judgment interest at the rate of 9% per annum. See ORS
16 652.200; ORS 82.010.

17 284.310. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
18 provided.

19 **NINETEENTHTWENTY-FIRST CAUSE OF ACTION**

20 **Unlawful Deductions from Wages
Pursuant to ORS 652.610**

21 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
22 of the Oregon Class)**

23 285.311. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
24 forth herein.

25 286.312. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
26 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

27 287.313. Defendants deducted wages from Plaintiff and putative Class members for

1 unidentified deductions, namely for deducting wages in the form of failing to compensate Plaintiff
2 and putative Class members for “off-the-clock” work performed. Said withholdings were
3 unauthorized and in violation of ORS 652.610.

4 ~~288.314.~~ As a result of Defendants’ wrongful withholdings, Plaintiff and putative Class
5 members are entitled to actual damages or \$200 per violation, whichever is greater, for each violation
6 pursuant to ORS 652.615. Defendants are liable for unpaid wages and liabilities for unlawful
7 deductions from wages for a period of six years from the date the wages were earned. ORS 12.080(1).

8 ~~289.315.~~ Because of Defendants’ failure to pay Plaintiff’s and putative Class members’
9 wages within 48 hours after they were due, Plaintiff and putative Class members are entitled to
10 recover costs, disbursements, and reasonable attorney fees pursuant to ORS 652.200.

11 ~~290.316.~~ Because of Defendants’ wrongful withholding from Plaintiff’s and putative
12 Class members’ wages, Plaintiff and putative Class members are entitled to recover costs,
13 disbursements and a reasonable sum for attorney fees, pursuant to ORS 652.615, plus pre- and post-
14 judgment interest in the amount of 9% per annum incurred herein under ORS 82.010.

15 ~~291.317.~~ Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
16 provided.

17 **TWENTY-TWENTY-SECOND CAUSE OF ACTION**
18 **Failure to Pay All Wages Due Upon Separation of Employment**
19 **Pursuant to ORS 652.140**
20 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
21 **of the Oregon Class)**

22 ~~292.318.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
23 forth herein.

24 ~~293.319.~~ This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
25 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

26 ~~294.320.~~ ORS 652.140 requires that, “[w]hen an employer discharges an employee or
27 when employment is terminated by mutual agreement, all wages earned and unpaid at the time of the
28 discharge or termination become due and payable not later than the end of the first business day after

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1 the discharge or termination.” See ORS 652.140(1).

2 ~~295-321.~~ ORS 652.140 further requires that individuals who provide at least 48 hours’
3 notice of an intent to quit must immediately be paid all wages earned and unpaid at the time their
4 resignation becomes effective. If the employee quits within less than 48 hours’ notice, the employer
5 must pay all wages earned and unpaid within five days. Plaintiff provided four days’ notice of her
6 intent to leave CVH’s employment.

7 ~~296-322.~~ ORS 652.150 states that, “if an employer willfully fails to pay any wages or
8 compensation of any employee whose employment ceases, as provided in ORS 652.140 . . . , then,
9 as a penalty for the nonpayment, the wages or compensation of the employee shall continue from the
10 due date thereof at the same hourly rate for eight hours per day until paid or until action therefor is
11 commenced. See ORS 652.150(1). Penalty wages are not to continue for more than 30 days from the
12 due date. See ORS 652.150(1)(a).

13 ~~297-323.~~ Pursuant to ORS 12.080, a six-year statute of limitations is applied for liability
14 of unpaid regular wages. *See, e.g., Makaneole v. Solarworld Indus. Am., Inc.*, No. 3:14-CV-1528-
15 PK, 2016 WL 7856433, at *13 (D. Or. Sept. 2, 2016), *report and recommendation adopted*, No.
16 3:14-CV-01528-PK, 2017 WL 253983 (D. Or. Jan. 17, 2017) (“As to [plaintiff’s claims] for unpaid
17 regular wages, that claim is subject to a six-year statute of limitations[.]”) (citing ORS 12.080(1)).

18 ~~298-324.~~ As described above, Defendants enacted a policy that deprived Plaintiff and
19 putative Class members compensation for all hours worked, including automatic time deductions
20 and work duties performed “off-the-clock.” As a result, Defendants failed to pay Plaintiff and
21 putative Class members all wages due and owing after separation from employment in violation of
22 ORS 652.140.

23 ~~299-325.~~ In failing to pay all wages due upon separation of employment, Defendants
24 acted as a free agent, determined its own actions, was not responsible to, nor coerced by any other
25 person, entity or authority. Defendants knew that Plaintiff and putative Class members had ended
26 and possessed information regarding the hours worked and amount of wages due Plaintiff and
27

1 putative Class members at the date of termination. Defendants were capable of paying all wages
2 earned and due at termination.

3 ~~300-326.~~ Defendants' failure to make payment of Plaintiff's and putative Class members'
4 final wages when due was willful and continued for not less than 30 days.

5 ~~301-327.~~ Because of ~~Defendant's~~ Defendants' failure to make payment of final wages
6 when due, Plaintiff is due statutory penalty wages of not less than one hundred percent, pursuant to
7 ORS 652.150, for the continuation of Plaintiff's unpaid final wages for not less than 30 days.
8 Likewise, putative Class members who ended their employment but were not fully compensated their
9 total wages due and owing are likewise due statutory penalty wages pursuant to ORS 652.150.

10 ~~302-328.~~ Because of ~~Defendant's~~ Defendants' failure to pay Plaintiff's and putative Class
11 members' wages within the time required by law, Plaintiff and putative Class members are entitled
12 to recover costs, disbursements, and reasonable attorney fees pursuant to ORS 652.200.

13 ~~303-329.~~ Plaintiff and putative Class members seek statutory wages pursuant to ORS
14 652.150; plus costs, disbursements and attorney fees pursuant to ORS 652.200; plus pre- and post-
15 judgment interest in the amount of 9% per annum incurred herein under ORS 82.010.

16 ~~304-330.~~ Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
17 provided.

18 **TWENTY-~~FIRST~~THIRD CAUSE OF ACTION**

19 **Meal Break Violations**

20 **Pursuant to OAR 839-020-0050**

21 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
22 **of the Oregon Class)**

23 ~~305-331.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
24 forth herein.

25 ~~306-332.~~ This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
26 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

27 ~~307-333.~~ Pursuant to OAR 839-020-0050, employees who have worked at least six hours
28 are entitled to a meal period of not less than 30 continuous minutes during which the employee is

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1 relieved of all duties. See OAR 839-020-0050(2)(a). Except as otherwise provided in the rule, if an
2 employee is not relieved of all duties for 30 continuous minutes during the meal period, the employer
3 must pay the employee for the entire 30-minute meal period. See OAR 839-020-0050(2)(b).

4 ~~308-334.~~ Defendant implemented a policy that automatically rounds time worked from
5 Plaintiff's and putative Class members' time for each shift worked, to the detriment of Plaintiff and
6 putative Class members.

7 ~~309-335.~~ Because Plaintiff and putative Class members' meal breaks were subject to
8 interruption, were on duty, were not continuous, and were not relieved of all duties during the break,
9 ~~Defendant's/Defendants'~~ automatic time deduction for meal periods was and is in violation of OAR
10 839-020-0050, and Plaintiff and putative Class members should be reimbursed for back wages for
11 the entire 30 minutes from each work day.

12 ~~340-336.~~ Plaintiff is entitled to declaratory relief that ~~Defendant's/Defendants'~~ past and
13 ongoing automatic time deduction policy violated and is in violation of the Oregon meal break
14 requirements.

15 ~~344-337.~~ Plaintiff and putative Class members are entitled to recover unpaid wages at
16 their regular hourly rate for the minutes that were automatically deducted by Defendants for each
17 work period where that deduction took place. Pursuant to ORS 12.080, a six-year statute of
18 limitations is applied for liability of unpaid regular wages.

19 ~~342-338.~~ Defendants' violation of the Oregon meal break rules was willful, as that term
20 is used in ORS 652.150. Defendants' violation was willful because the automatic time deduction
21 policy was implemented purposefully and was not the product of inadvertence. Defendants had, or
22 reasonably should have had, a level of awareness of their obligation to pay Plaintiff and putative
23 Class members such that Defendants' failure to pay was "willful."

24 ~~343-339.~~ Because of Defendants' failure to pay Plaintiff's and putative Class members'
25 wages within 48 hours after they were due, Plaintiff and putative Class members are entitled to
26 recover costs, disbursements, and reasonable attorney fees pursuant to ORS 652.200.
27

1 ~~314.340.~~ Because of ~~Defendant's~~~~Defendants'~~ wrongful withholding from putative Class
2 members' wages, putative Class members are entitled to recover costs, disbursements and a
3 reasonable sum for attorney fees, pursuant to ORS 652.615, plus pre- and post-judgment interest in
4 the amount of 9% per annum incurred herein under ORS 82.010.

5 ~~315.341.~~ Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
6 provided.

7 **TWENTY-~~SECOND~~FOURTH CAUSE OF ACTION**
8 **Declaratory Relief for Rest Period Violations**
9 **Pursuant to OAR 839-020-0050(6)**
10 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
11 **of the Oregon Class)**

12 ~~316.342.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
13 forth herein.

14 ~~317.343.~~ This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
15 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

16 ~~318.344.~~ Pursuant to OAR 839-020-0050, every employer is required to provide each
17 employee, for each segment of four hours or major pay thereof worked in a work period, a rest period
18 of not less than ten continuous minutes during which the employee is relieved of all duties, without
19 deduction from the employee's pay. OAR 839-020-0050(6)(a).

20 ~~319.345.~~ Plaintiff and putative Class members generally worked shifts lasting over hours
21 per shift. Accordingly, Plaintiff and putative Class members were entitled to at least two separate
22 rest periods lasting 10 minutes each during which Plaintiff and putative Class members should have
23 been relieved of all duties. As discussed above, Plaintiff and putative Class members are subject to
24 interruption and are consistently denied requisite rest periods.

25 ~~320.346.~~ Plaintiff and putative Class members are entitled to declaratory relief finding
26 that Defendant is in violation of the rest break requirements provided by Oregon law.

27 ~~321.347.~~ Wherefore, Plaintiff and the putative Oregon Class request relief as
28 hereinafter provided.

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TWENTY-~~THIRD~~FIFTH CAUSE OF ACTION

**Failure to Pay Minimum Wage
Pursuant to 820 ILCS § 105/4**

(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf of the Illinois Class)

322-348. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

323-349. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against Defendants Frontier Management LLC and Frontier Senior Living, LLC.

324-350. As detailed above, Defendants fails to compensate Plaintiff and putative Class members with at least the minimum wage for all hours worked.

325-351. During the applicable statutory period, the IMWL, 820 ILCS § 105/4(a)(1), was in full force and effect and required that Plaintiff and putative Class members receive the minimum wage for all hours worked at the rate of eight dollars twenty-five cents (\$8.25) per hour commencing July 1, 2010, at the rate of nine dollars twenty-five cents (\$9.25) per hour commencing January 1, 2020, and at the rate of ten dollars (\$10.00) per hour commencing July 1, 2020.

326-352. Plaintiff and putative Class members were directed to work by Defendants and, in fact, did work but were not compensated at least at the Illinois minimum wage rate for all time worked. Pursuant to 820 § ILCS 105/4, Plaintiff and putative Class members are entitled to be compensated at least at the applicable Illinois-mandated minimum wage rate for all time worked.

327-353. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled to recover unpaid minimum wages for three years prior to the filing of this suit, plus punitive damages in the amount of two percent (2%) per month of the amount of underpayments.

328-354. Pursuant to 815 ILCS § 205/2, Plaintiff and the putative Class members are entitled to recover prejudgment interest on minimum wage underpayments.

329-355. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled to recover reasonable attorneys' fees and costs for their IMWL minimum wage claims.

330-356. Because of Defendants' policies and practices with regard to compensating

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1 Plaintiff and putative Class members, Defendants have willfully failed to pay minimum wages as
2 required by law. The off-the-clock work—including but not limited to work during meal periods that
3 have been deducted from the nominal hours worked—contributes to the actual hours worked by
4 Plaintiff and putative Class members. Moreover, Defendants regularly require Plaintiff and putative
5 Class members to pay out-of-pocket for work expenses including but not limited to personal
6 cellphone bills, and fail to fully reimburse Plaintiff and putative Class members for these expenses,
7 if at all. When the remuneration received by Plaintiff and putative Class members is reduced by
8 unreimbursed out-of-pocket expenses, and then divided by the actual hours worked, Plaintiff and
9 putative Class members are frequently compensated below the statutory minimum.

10 ~~331.357.~~ Plaintiff and putative Class members have been deprived of minimum wages in
11 an amount to be proven at trial, and are entitled to a recovery of such amount, plus statutory damages,
12 interest thereon, attorneys' fees, and costs of suit pursuant to 820 ILCS § 105/12(a) and 815 ILCS §
13 205/2.

14 ~~332.358.~~ Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
15 provided.

16 **TWENTY-~~FOURTH~~SIXTH CAUSE OF ACTION**
17 **Failure to Pay Overtime Wages**
18 **Pursuant to 820 ILCS § 105/4a**
(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
of the Illinois Class)

19 ~~333.359.~~ Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
20 forth herein.

21 ~~334.360.~~ This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
22 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

23 ~~335.361.~~ Defendants do not compensate Plaintiff and putative Class members with the
24 appropriate overtime rate for work performed in excess of forty hours per week.

25 ~~336.362.~~ 820 ILCS § 105/4a provides that work performed in excess of forty hours in a
26 given week must be compensated at a rate of no less than one and one-half times the regular rate of
27

1 pay for an employee.

2 ~~337-363.~~ 820 ILCS § 115/2 provides as follows:

3 For all employees, other than separated employees, "wages" shall be
4 defined as any compensation owed an employee by an employer pursuant
5 to an employment contract or agreement between the 2 parties, whether the
6 amount is determined on a time, task, piece, or any other basis of
7 calculation.

8 ~~338-364.~~ All such wages are subject to Illinois' overtime requirements, including those
9 set forth above.

10 ~~339-365.~~ 820 ILCS § 115/3 provides that "[e]very employer shall be required, at least
11 semi-monthly, to pay every employee all wages earned during the semi-monthly pay period."

12 ~~340-366.~~ 820 ILCS § 115/4 provides as follows:

13 All wages earned by any employee during a semi-monthly or bi-weekly pay
14 period shall be paid to such employee not later than 13 days after the end of
15 the pay period in which such wages were earned. All wages earned by any
16 employee during a weekly pay period shall be paid not later than 7 days
17 after the end of the weekly pay period in which the wages were earned. All
18 wages paid on a daily basis shall be paid insofar as possible on the same day
19 as the wages were earned, or not later in any event than 24 hours after the
20 day on which the wages were earned. Wages of executive, administrative
21 and professional employees, as defined in the Federal Fair Labor Standards
22 Act of 1938, may be paid on or before 21 calendar days after the period
23 during which they are earned.

24 ~~341-367.~~ Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are
25 entitled to recover unpaid overtime wages for three years prior to the filing of this suit, plus punitive
26 damages in the amount of two percent (2%) per month of the amount of underpayments.

27 ~~342-368.~~ Pursuant to 815 ILCS § 205/2, Plaintiff and the putative Class members are
28 entitled to recover prejudgment interest on overtime wage underpayments.

~~343-369.~~ Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are
entitled to recover reasonable attorneys' fees and costs for their IMWL overtime claims.

~~344-370.~~ Because of Defendants' policies and practices with regard to compensating
Plaintiff and putative Class members, Defendants have willfully failed to pay overtime wages as
required by law. The off-the-clock work—including but not limited to work during meal periods that

1 have been deducted from the nominal hours worked—contributes to the actual hours worked by
2 Plaintiff and putative Class members. The actual hours worked exceed the threshold for overtime
3 pay. Moreover, Defendants regularly require Plaintiff and putative Class members to pay out-of-
4 pocket for work expenses including but not limited to personal cellphone bills, and fail to fully
5 reimburse Plaintiff and putative Class members for these expenses, if at all. When the remuneration
6 received by Plaintiff and putative Class members is reduced by unreimbursed out-of-pocket
7 expenses, and then divided by the actual hours worked, Defendants fail to compensate by Plaintiff
8 and putative Class members at the appropriate overtime rate for all of these hours.

9 345-371. Plaintiff and putative Class members have been deprived of overtime wages in
10 an amount to be proven at trial, and are entitled to a recovery of such amount, plus statutory damages,
11 interest thereon, attorneys' fees, and costs of suit pursuant to 820 ILCS § 105/12(a) and 815 ILCS §
12 205/2.

13 346-372. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
14 provided.

15 **TWENTY-FIFTHSEVENTH CAUSE OF ACTION**
16 **Failure to Pay for All Hours Worked**
17 **Pursuant to 820 ILCS §§ 115/3 and 115/4**
18 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
19 **of the Illinois Class)**

20 347-373. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
21 forth herein.

22 348-374. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
23 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

24 349-375. Defendants willfully engaged in and continues to engage in a policy and
25 practice of not compensating Plaintiff and putative Class members for all hours worked or spent in
26 their control.

27 350-376. Defendants regularly schedules Plaintiff and the putative Class members to
28 work twelve-hour shifts. However, Defendants intentionally and willfully require Plaintiff and the

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1 putative Class members to complete additional work off-the-clock, in excess of twelve hours per
2 day. For example, Defendants automatically deduct thirty minutes for time spent taking meal.
3 However, Plaintiff and putative Class members routinely work through this meal period and are not
4 compensated for that work. As a result, Defendants fail to pay Plaintiff and the putative Class
5 members for all hours worked and fail to track their actual hours worked.

6 ~~351-377.~~ 820 ILCS § 115/2 provides as follows:

7 For all employees, other than separated employees, "wages" shall be
8 defined as any compensation owed an employee by an employer pursuant
9 to an employment contract or agreement between the 2 parties, whether the
10 amount is determined on a time, task, piece, or any other basis of
11 calculation.

12 ~~352-378.~~ 820 ILCS § 115/3 provides that "[e]very employer shall be required, at least
13 semi-monthly, to pay every employee all wages earned during the semi-monthly pay period."

14 ~~353-379.~~ 820 ILCS § 115/4 provides as follows:

15 All wages earned by any employee during a semi-monthly or bi-weekly pay
16 period shall be paid to such employee not later than 13 days after the end of
17 the pay period in which such wages were earned. All wages earned by any
18 employee during a weekly pay period shall be paid not later than 7 days after
19 the end of the weekly pay period in which the wages were earned. All wages
20 paid on a daily basis shall be paid insofar as possible on the same day as the
21 wages were earned, or not later in any event than 24 hours after the day on
22 which the wages were earned. Wages of executive, administrative and
23 professional employees, as defined in the Federal Fair Labor Standards Act
24 of 1938, may be paid on or before 21 calendar days after the period during
25 which they are earned.

26 ~~354-380.~~ Defendants require Plaintiff and putative Class members to work off-the-clock
27 without compensation. In other words, Plaintiff and putative Class members are forced to perform
28 work for the benefit of Defendants without compensation.

~~355-381.~~ Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are
entitled to recover unpaid wages for three years prior to the filing of this suit, plus punitive damages
in the amount of two percent (2%) per month of the amount of underpayments.

~~356-382.~~ Pursuant to 815 ILCS § 205/2, Plaintiff and the putative Class members are
entitled to recover prejudgment interest on wage underpayments.

1 357-383. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are
2 entitled to recover reasonable attorneys' fees and costs for their unpaid wage claims.

3 358-384. In violation of Illinois law, Defendants knowingly and willfully refuse to
4 perform their obligations to provide Plaintiff and the putative Classes with compensation for all time
5 worked. Defendants regularly fail to track the time they actually worked or to compensate them for
6 hours worked. Therefore, Defendants committed, and continue to commit, the acts alleged herein
7 knowingly and willfully, and in conscious disregard of the Plaintiff and the putative Class members'
8 rights. Plaintiff and the putative Classes are thus entitled to recover nominal, actual, statutory, and
9 compensatory damages, plus interest, attorneys' fees, expenses, and costs of suit, pursuant to 820
10 ILCS § 105/12(a) and 815 ILCS § 205/2.

11 359-385. As a proximate result of the aforementioned violations, Plaintiff and the
12 putative Classes have been damaged in an amount according to proof at time of trial.

13 360-386. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
14 provided.

15 **TWENTY-SIXTEENTH CAUSE OF ACTION**
16 **Unpaid Wages on Termination**
17 **Pursuant to 820 ILCS § 115/5**
(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
18 **of the Illinois Class)**

19 361-387. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
20 forth herein.

21 362-388. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
22 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

23 363-389. Under the IWPCA, 820 ILCS § 115/5, employers must pay employees all wages
24 to which they are entitled under the IMWL at the time of the employee's separation from
25 employment, if possible, "but in no case later than the next regularly scheduled payday for such
26 employee."

27 364-390. Under the IWPCA, 820 ILCS § 115/14, any employee not timely paid final

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1 compensation by his or her employer as required by the IWPCA “shall be entitled to recover through
2 a claim filed with the Department of Labor or in a civil action, but not both, the amount of any such
3 underpayments and damages of 2% of the amount of any such underpayments for each month
4 following the date of payment during which such underpayments remain unpaid. In a civil action,
5 such employee shall also recover costs and all reasonable attorney’s fees.”

6 ~~365.391.~~ Pursuant to 815 ILCS § 205/2, Plaintiff and the putative Class members are
7 entitled to recover prejudgment interest for their final compensation claims.

8 ~~366.392.~~ Pursuant to 820 ILCS § 820 ILCS 115/14, Plaintiff and the putative Class
9 members are entitled to recover reasonable attorneys’ fees and costs for their final compensation
10 claims.

11 ~~367.393.~~ By the actions alleged above, Defendants have violated the provisions of the
12 IWPCA, 820 ILCS § 115/5 by failing to pay any wage whatsoever to Plaintiff and putative Class
13 members when they work off the clock, miss all or part of their breaks, and are deprived of correct
14 overtime compensation. Moreover, Defendants regularly require Plaintiff and putative Class
15 members to pay out-of-pocket for work expenses including but not limited to personal cellphone
16 bills, and fail to fully reimburse Plaintiff and putative Class members for these expenses, if at all.
17 These amounts remain due upon the separation of employment. Therefore, Defendants committed,
18 and continue to commit, the acts alleged herein knowingly and willfully, and in conscious disregard
19 of the Plaintiff and the putative Class members’ rights. Plaintiff and the putative Classes are thus
20 entitled to recover nominal, actual, statutory, and compensatory damages, plus interest, attorneys’
21 fees, expenses, and costs of suit, pursuant to 820 ILCS § 115/14 and 815 ILCS § 205/2.

22 ~~368.394.~~ As a proximate result of the aforementioned violations, Plaintiff and the
23 putative Classes have been damaged in an amount according to proof at time of trial.

24 ~~369.395.~~ Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
25 provided.

26 **TWENTY-SEVENTHNINTH CAUSE OF ACTION**
27 **Violation of Illinois Consumer Fraud and Deceptive Business Practices Act**

1 **Pursuant to 815 ILCS § 505/1 et seq.**
2 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
3 **of the Illinois Class)**

3 370-396. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set
4 forth herein.

5 371-397. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
6 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

7 372-398. The Illinois Consumer Fraud and Deceptive Business Practices Act prohibits
8 unfair competition in the form of any unlawful, unfair, or fraudulent business acts or practices.

9 373-399. 815 ILCS § 505/10a allows a person injured by the unfair business acts or
10 practices to prosecute a civil action for violation of the Illinois Consumer Fraud and Deceptive
11 Business Practices Act.

12 374-400. 820 ILCS § 105/2 states it is the policy of the IMWL “to establish a minimum
13 wage standard for workers at a level consistent with their health, efficiency and general well-being;
14 to safeguard such minimum wage against the unfair competition of wage and hour standards which
15 do not provide such adequate standards of living; and to sustain purchasing power and increase
16 employment opportunities.”

17 375-401. 820 ILCS § 105/2 further states:

18 It is against public policy for an employer to pay to his employees an
19 amount less than that fixed by [the IMWL]. Payment of any amount less
20 than herein fixed is an unreasonable and oppressive wage, and less than
21 sufficient to meet the minimum cost of living necessary for health. Any
22 contract, agreement or understanding for or in relation to such unreasonable
23 and oppressive wage for any employment covered by [the IMWL] is void.

22 376-402. Defendants have committed acts of unfair competition as defined by the Illinois
23 Consumer Fraud and Deceptive Business Practices Act, by engaging in the unlawful, unfair, and
24 fraudulent business acts and practices described in this Complaint, including, but not limited to:

- 25 a. violations of 820 ILCS §§ 105/4, 115/3 and 115/4 pertaining to payment of wages,
26 including minimum wage, for all hours worked;
27 b. violations of 820 ILCS § 105/4a pertaining to overtime;

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1 c. violations of 820 ILCS § 140/3 pertaining to meal breaks; and

2 d. violations of 820 ILCS § 115/5 pertaining to unpaid wages upon termination;

3 ~~377-403.~~ The violations of these laws, as well as of the fundamental Illinois public
4 policies protecting wages, serve as unlawful predicate acts and practices for purposes of 815 ILCS §
5 505/1 *et seq.*

6 ~~378-404.~~ The acts and practices described above constitute unfair, unlawful, and
7 fraudulent business practices, and unfair competition, within the meaning of 815 ILCS § 505/1 *et*
8 *seq.* Among other things, the acts and practices have taken from Plaintiff and the putative Class
9 members wages rightfully earned by them, while enabling Defendants to gain an unfair competitive
10 advantage over law-abiding employers and competitors.

11 ~~379-405.~~ 815 ILCS § 505/10a provides that a court “in its discretion may award actual
12 economic damages or any other relief which the court deems proper,” including injunctive relief
13 where appropriate.

14 ~~380-406.~~ As a direct and proximate result of the aforementioned acts and practices,
15 Plaintiff and the putative Class members have suffered a loss of money and property, in the form of
16 unpaid wages which are due and payable to them, in an amount according to proof at time of trial.

17 ~~381-407.~~ Under the Illinois Consumer Fraud and Deceptive Business Practices Act, a
18 plaintiff may recover both compensatory and punitive damages. *See, e.g., Black v. Lovino*, 219 Ill.
19 App. 3d 378 (1991); *Check v. Clifford Chrysler Plymouth of Buffalo Grove, Inc.*, 342 Ill. App. 3d
20 150 (1st Dist. 2003). Plaintiff and putative Class members are entitled to an award pursuant to 815
21 ILCS § 505/10a for all wages and payments unlawfully withheld from employees during the three-
22 year period prior to the filing of the Complaint in this action. Plaintiff’s success in this action will
23 enforce important rights affecting the public interest and in that regard Plaintiff sues on behalf of
24 herself as well as others similarly situated. Plaintiff and putative Class members seek and are entitled
25 to unpaid wages, declaratory and injunctive relief, punitive damages, and all other equitable remedies
26 owing to them.

1 382-408. Plaintiff herein takes upon herself enforcement of these laws and lawful claims.
2 There is a financial burden involved in pursuing this action, the action is seeking to vindicate a public
3 right, and it would be against the interests of justice to penalize Plaintiff by forcing him to pay
4 attorneys' fees from the recovery in this action. Attorneys' fees are appropriate pursuant to 815 ILCS
5 § 505/10a and otherwise.

6 383-409. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
7 provided.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiffs, on behalf of themselves and the putative Classes and Collective
10 they seeks to represent in this action, request the following relief:

- 11 1. For an order certifying that the First Cause of Action in this Complaint may be
12 maintained as a collective action pursuant to 29 U.S.C. § 216(b) and that prompt notice
13 of this action be issued to potential members of the Collective, apprising them of the
14 pendency of this action, and permitting them to assert their FLSA claims;
- 15 2. For an order equitably tolling the statute of limitations for the potential members of the
16 Collective;
- 17 3. Damages and restitution according to proof at trial for all unpaid wages and other
18 injuries, as provided by the FLSA, California Labor Code, California Business and
19 Professions Code; WMWA, ORS, IMWL, IWPCA, and other laws of the States of
20 California, Washington, Oregon, and Illinois;
- 21 4. For a declaratory judgment that Defendants have violated the FLSA, California Labor
22 Code, ORS, and public policy as alleged herein;
- 23 5. For a declaratory judgment that Defendants have violated California Business and
24 Professions Code §§ 17200 et seq., as a result of the aforementioned violations of the
25 California Labor Code and of California public policy protecting wages;
- 26 6. For a declaratory judgment that Defendants Frontier Management LLC and Frontier
27

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1 Senior Living, LLC have violated the Illinois Consumer Fraud and Deceptive
2 Business Practices Act, 815 ILCS § 505/1 *et seq.*, as a result of the aforementioned
3 violations of the IMWL, IWPCA, and of Illinois public policy protecting wages;

- 4 7. For preliminary, permanent, and mandatory injunctive relief prohibiting Defendants,
5 its officers, agents, and all those acting in concert with them from committing in the
6 future those violations of law herein alleged;
- 7 8. For an equitable accounting to identify, locate, and restore to all current and former
8 employees the wages they are due, with interest thereon;
- 9 9. For an order awarding Plaintiff and the members of the Classes compensatory damages,
10 including lost wages, earnings, liquidated damages, and other employee benefits,
11 restitution, recovery of all money, actual damages, and all other sums of money owed
12 to Plaintiff and members of the Classes, together with interest on these amounts,
13 according to proof;
- 14 10. For an order awarding Plaintiff and members of the Classes and Collective civil
15 penalties pursuant to the FLSA, California Labor Code, PAGA, WMLA, ORS,
16 IMWL, IWPCA, and the laws of the States of California, Washington, Oregon, and
17 Illinois, with interest thereon;
- 18 11. For an award of reasonable attorneys' fees as provided by the FLSA, California Labor
19 Code, California Code of Civil Procedure § 1021.5, Labor Code § 2699(g)(1), WMLA,
20 ORS, IMWL, IWPCA, and the laws of the States of California, Washington, Oregon,
21 Illinois, and/or other applicable law;
- 22 12. For all costs of suit;
- 23 13. For such other and further relief as this Court deems just and proper.

24
25 Respectfully submitted,
26
27

1 Date: June 30, 2022

2 _____
3 /s/ Carolyn H. Cottrell

4 Carolyn H. Cottrell
Ori Edelstein

5 Michelle S. Lim
6 SCHNEIDER WALLACE
COTTRELL KONECKY LLP

7 Attorneys for Plaintiff ~~and~~, the Putative ~~Class~~Classes
8 and Collective, on behalf of the State of California and
9 Aggrieved Employees

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to a jury.

Respectfully submitted,

Date: June 30, 2022

/s/ Carolyn H. Cottrell
Carolyn H. Cottrell
Ori Edelstein
Michelle S. Lim
SCHNEIDER WALLACE
COTTRELL KONECKY LLP

Attorneys for Plaintiff ~~and~~ the Putative ~~Class~~Classes
and Collective, and on behalf of the State of California
and Aggrieved Employees

EXHIBIT A

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8 Attorneys for Plaintiffs and the Putative
Class and Collective

9 *[Additional counsel on next page]*

10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12 JOSHUA WRIGHT, LORETTA STANLEY,
HALEY QUAM, and AIESHA LEWIS, on
13 behalf of themselves and all others similarly
situated,

14 Plaintiffs,

15 vs.

16 FRONTIER MANAGEMENT LLC,
17 FRONTIER SENIOR LIVING, LLC, and GH
SENIOR LIVING, LLC dba GREENHAVEN
18 ESTATES ASSISTED LIVING,

19 Defendants.

Case No. 2:19-cv-01767-JAM-CKD

**STIPULATION AND ORDER FOR
PLAINTIFFS TO FILE SECOND
AMENDED COMPLAINT**

Judge: Hon. John A. Mendez

Complaint Filed: September 6, 2019

Trial Date: None

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MANAGEMENT LLC, FRONTIER
SENIOR LIVING, LLC and GH SENIOR LIVING, LLC
dba GREENHAVEN ESTATES ASSISTED LIVING

1 Plaintiffs Joshua Wright, Loretta Stanley, Haley Quam, and Aiesha Lewis (“Plaintiffs”) and
2 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
3 dba Greenhaven Estates Assisted Living (collectively, “Defendants”) (Plaintiffs and Defendants
4 are collectively referred to as the “Parties”), by and through their attorneys of record, hereby
5 stipulate as follows:

- 6 1. WHEREAS, on September 16, 2019, Plaintiff Wright filed a complaint pursuant to the Labor
7 Code Private Attorneys General Act of 2004 (“PAGA”) in the California Superior Court of
8 Alameda County, Case No. RG19035167 (“PAGA Action”) against Defendants;
- 9 2. WHEREAS, on September 6, 2019, Plaintiff Wright filed this Action against Defendants in
10 the United States District Court, District of California, asserting claims under the California
11 Labor Code and under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq. Wright, et al.*
12 *v. Frontier Management LLC, et al.*, United States District Court, Eastern District of
13 California, Case No. 2:19-cv-01767-JAM-CKD (“this Action”), *see* ECF 1;
- 14 3. WHEREAS, on July 29, 2020, the Parties participated in a full-day mediation regarding both
15 this Action and the PAGA Action before respected wage and hour mediator David Rotman,
16 but the cases did not settle that day. On August 26, 2020, the Parties participated in a second,
17 half-day mediation before Mr. Rotman, but the cases did not settle that day as well;
- 18 4. WHEREAS, on February 9, 2021, Plaintiff Wright filed a First Amended Class and
19 Collective Action Complaint (“FAC”) to add Plaintiffs Loretta Stanley, Haley Quam, and
20 Aiesha Lewis; to assert FLSA claims on their behalf; and to allege Washington, Oregon, and
21 Illinois state class wage and hour claims on their behalf, ECF 57;
- 22 5. WHEREAS, on March 15, 2021, Defendants filed a motion to dismiss pursuant to Fed. R.
23 Civ. P. 12(b)(6), which this Court granted on June 1, 2021, dismissing the Federal Action
24 with prejudice and without leave to amend, *see* ECF 68, 72-73. On June 17, 2021, Plaintiffs
25 appealed the Court’s order (9th Cir., Case No. 21-16052), *see* ECF 74.
- 26 6. WHEREAS, on April 8, 2021, Defendants filed a motion to strike PAGA allegations in the
27 PAGA Action, which was denied on July 2, 2021 without prejudice. On September 10, 2021,
28

1 Defendants filed a petition for writ of mandate for an order directing the superior court to
2 vacate its July 2, 2021 order in the PAGA Action and to rule on Defendants’ motion to strike
3 on its merits (Court of Appeal of the State of California, First Appellate District, Division
4 One, Case No. A163424);

5 7. WHEREAS, on October 5, 2021, the Parties further participated in a full-day mediation
6 before respected wage and hour mediator Steven Serratore. The Parties ultimately accepted
7 the mediator’s proposal to settle both this Action and the PAGA Action on October 6, 2021.

8 8. WHEREAS, following extensive arm’s length negotiations over the next few months, the
9 Parties eventually finalized the long-form settlement agreement, which was executed on June
10 8, 2022 (“Settlement”).

11 9. WHEREAS, pursuant to the Parties’ Settlement, the Parties agreed to dismiss Plaintiffs’
12 appeal without prejudice, to stay Defendants’ appeal and the PAGA Action pending
13 dismissal upon final approval of the Settlement, and to stipulate to amend the First Amended
14 Complaint in this Action to assert the claims alleged in Plaintiff Wright’s PAGA Action for
15 purposes of Settlement and to assert additional claims under the PAGA;

16 10. WHEREAS, on June 22, 2022, in order to seek approval of the settlement and pursuant to
17 the Parties’ stipulation, Plaintiffs’ appeal was voluntarily dismissed without prejudice to re-
18 instate the appeal within 28 days of an order from this Court denying approval of the
19 Settlement (Case No. 21-16052, DktEntry 22);

20 11. WHEREAS, pursuant to the Parties’ Settlement, Plaintiff seeks to file the proposed Second
21 Amended Class and Collective Action Complaint (“SAC”), a true and correct copy of which
22 is attached hereto as **Exhibit 1**. The SAC asserts additional claims for penalties under the
23 California Private Attorneys General Act § 2699 arising from Defendants’ violations of the
24 California Labor Code pursuant to the Settlement, (2) clarifies factual allegations, and (3)
25 revises the Class and Collective member definitions to reflect those settled in this Action.

26 12. WHEREAS, the Parties submit that there is good cause to grant leave to Plaintiffs to file the
27 SAC, as doing so will allow Plaintiffs to aver claims against Defendants that the Parties
28

1 included in their mediation efforts and have resolved in the proposed Settlement, which will
2 be submitted for the Court's preliminary approval;

3 13. WHEREAS, pursuant to the Parties' Settlement, the Parties further agreed that in the event
4 the Settlement is ultimately not approved in this Action, Plaintiff Wright may re-file his
5 PAGA complaint in Alameda Superior Court, Defendants be permitted to refile a motion to
6 strike and motion for summary judgment without prejudice in the PAGA Action, and
7 Defendants be permitted to pursue any appeal on the same basis as the currently pending
8 petition for writ of mandate without prejudice the PAGA Action, and the Parties shall be
9 placed in the same position as they were in immediately prior to resolution; and

10 14. WHEREAS, by stipulating to the filing of the SAC, Defendants represent only that
11 amendment of the Complaint at this juncture in the litigation is consistent with applicable
12 law regarding the amendment of pleadings, and explicitly does not concede the validity of
13 any allegations, theories, or claims contained therein, or the validity or legal sufficiency of
14 the proposed classes, their associated class periods, or the alleged statutes of limitations.

15
16 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED:

- 17 1. Plaintiffs should be granted leave to amend to file the proposed SAC;
18 2. Defendants shall have no obligation to file a pleading in response to the SAC; and
19 3. In the event the Court ultimately denies Plaintiffs' motion for final approval of the
20 Settlement, the First Amended Complaint will be deemed the operative complaint.

21
22 Dated: July 6, 2022

23 /s/ Michelle S. Lim
24 Carolyn H. Cottrell
25 Ori Edelstein
26 Michelle S. Lim
27 SCHNEIDER WALLACE
28 COTTRELL KONECKY LLP

Attorneys for Plaintiffs and the Putative
Class and Collective

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Dated: July 6, 2022

/s/ Barbara I. Antonucci
Barbara I. Antonucci
Sarah K. Hamilton
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Attorneys for Defendants FRONTIER
MANAGEMENT LLC, FRONTIER SENIOR
LIVING, LLC and GH SENIOR LIVING, LLC dba
GREENHAVEN ESTATES ASSISTED LIVING

ORDER

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Plaintiffs Joshua Wright, Loretta Stanley, Haley Quam, and Aiesha Lewis (“Plaintiffs”) and Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC dba Greenhaven Estates Assisted Living (collectively, “Defendants”) (Plaintiffs and Defendants are collectively referred to as the “Parties”), have stipulated that Plaintiffs may file their Second Amended Class and Collective Action Complaint.

Having considered the Parties’ stipulation, and for good cause shown, the Parties’ Stipulation permitting Plaintiffs to file a Second Amended Class and Collective Action Complaint is **GRANTED**. Plaintiffs’ Second Amended Class and Collective Action Complaint, as filed under ECF 79-1, shall be deemed filed as of the date of this Order, and the Defendants shall have no obligation to respond to the Second Amended Class and Collective Action Complaint. In the event the Court ultimately denies Plaintiffs’ motion for final approval of the Settlement, the First Amended Complaint will be deemed the operative complaint.

IT IS SO ORDERED.

Dated: July 5, 2022

/s/ John A. Mendez

THE HONORABLE JOHN A. MENDEZ
UNITED STATES DISTRICT COURT JUDGE

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Ori Edelstein (SBN 268145)
2 Michelle S. Lim (SBN 315691)
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7 *Attorneys for Plaintiffs and the Putative*
8 *Classes and Collective*

9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11 JOSHUA WRIGHT, LORETTA STANLEY,
12 HALEY QUAM, and AIESHA LEWIS, on
behalf of themselves and all others similarly
13 situated,

14 Plaintiffs,

15 vs.

16 FRONTIER MANAGEMENT LLC,
FRONTIER SENIOR LIVING, LLC, and GH
17 SENIOR LIVING, LLC dba GREENHAVEN
ESTATES ASSISTED LIVING,

18 Defendants.
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21

Case No.: 2:19-cv-01767-JAM-CKD

Hon. John A. Mendez
Courtroom 6

**STIPULATION AND [PROPOSED]
ORDER EXTENDING PAGE LIMIT FOR
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND COLLECTIVE ACTION
SETTLEMENT**

Date: September 13, 2022

Time: 1:30 p.m.

Ctrm.: 6, 14th Floor

Filed: September 6, 2019

Trial Date: None

1 Plaintiffs in these consolidated and related actions, Joshua Wright, Loretta Stanley, Haley
2 Quam, and Aiesha Lewis (“Plaintiffs”), and Defendants Frontier Management LLC, Frontier Senior
3 Living, LLC, and GH Senior Living, LLC dba Greenhaven Estates Assisted Living (“Defendants”),
4 through their respective counsel of record, hereby stipulate and agree as follows:

5 **WHEREAS**, Plaintiffs filed this putative Class and Collective action on September 6, 2019,
6 which was amended on February 9, 2021, and which alleges claims on behalf California, Oregon,
7 Washington, and Illinois classes, as well as federal claims under the Fair Labor Standards Act, see
8 ECF 1, 57;

9 **WHEREAS**, on September 16, 2019, Plaintiff Wright filed a complaint pursuant to the
10 Labor Code Private Attorneys General Act of 2004 (“PAGA”) in the California Superior Court of
11 Alameda County, Case No. RG19035167 (“PAGA Action”) against Defendants;

12 **WHEREAS**, Plaintiffs and Defendants have reached a proposed Class Action Settlement
13 Agreement and Release (“Settlement”), following mediation sessions with mediators David Rotman
14 and Steve Serratore, that globally resolves the claims in all of the actions;

15 **WHEREAS**, pursuant to the Settlement and the Court’s stipulated order, Plaintiffs filed a
16 Second Amended Class and Collective Action Complaint that was deemed filed on July 5, 2022,
17 which included additional claims on behalf of the State of California under the Private Attorneys
18 General Act (“PAGA”) asserted in the PAGA Action, *see* ECF 79-1, 82;

19 **WHEREAS**, Plaintiffs are prepared to file their Motion for Preliminary Approval by July
20 18, 2022, to be heard on or before September 13, 2022, at the Court’s earliest convenience;

21 **WHEREAS**, pursuant to the Court’s Order Re Filing Requirements for Cases Assigned to
22 Judge Mendez, a motion and accompanying memorandum of points and authorities may not exceed
23 15 pages, *see* ECF 3-2;

24 **WHEREAS**, Plaintiffs require more than 15 pages, and up to 30 pages, for their Motion for
25 Preliminary Approval due to the complex nature of the Settlement, which involves multiple Rule 23
26 class claims, FLSA and PAGA claims, the resolution of two separate actions, and due to the
27 extensive amount of factual description, procedural history, and legal analysis that must be
28 presented;

[PROPOSED] ORDER

1
2 Upon review of the Parties' Stipulation and [Proposed] Order Extending Page Limit for
3 Plaintiffs' Motion for Preliminary Approval of Class and Collective Action Settlement, and good
4 cause appearing therefor, the Court hereby grants the Parties' request and extends the page limit for
5 Plaintiffs' Motion for Preliminary Approval to 30 pages.

6
7 **IT IS SO ORDERED.**

8
9 Dated: _____

10 HON. JOHN A. MENDEZ
11 United States District Judge,
12 Eastern District of California
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court for the United States District Court, Eastern District of California, by using the Court's CM/ECF system on July 15, 2022.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Court's CM/ECF system.

Dated: July 15, 2022

/s/ Michelle S. Lim

Michelle S. Lim

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7 *Attorneys for Plaintiffs and the Putative*
 8 *Classes and Collective*

9 **UNITED STATES DISTRICT COURT**
 10 **EASTERN DISTRICT OF CALIFORNIA**

11 JOSHUA WRIGHT, LORETTA STANLEY,
 12 HALEY QUAM, and AIESHA LEWIS, on
 behalf of themselves and all others similarly
 13 situated,

14 Plaintiffs,

15 vs.

16 FRONTIER MANAGEMENT LLC,
 FRONTIER SENIOR LIVING, LLC, and GH
 17 SENIOR LIVING, LLC dba GREENHAVEN
 ESTATES ASSISTED LIVING,

18 Defendants.
 19

Case No.: 2:19-cv-01767-JAM-CKD

Hon. John A. Mendez
 Courtroom 6

**STIPULATION AND ORDER EXTENDING
 PAGE LIMIT FOR PLAINTIFFS’
 MOTION FOR PRELIMINARY
 APPROVAL OF CLASS AND
 COLLECTIVE ACTION SETTLEMENT**

Date: September 13, 2022

Time: 1:30 p.m.

Ctrm.: 6, 14th Floor

Filed: September 6, 2019

Trial Date: None

1 Plaintiffs in these consolidated and related actions, Joshua Wright, Loretta Stanley, Haley
2 Quam, and Aiesha Lewis (“Plaintiffs”), and Defendants Frontier Management LLC, Frontier Senior
3 Living, LLC, and GH Senior Living, LLC dba Greenhaven Estates Assisted Living (“Defendants”),
4 through their respective counsel of record, hereby stipulate and agree as follows:

5 **WHEREAS**, Plaintiffs filed this putative Class and Collective action on September 6, 2019,
6 which was amended on February 9, 2021, and which alleges claims on behalf California, Oregon,
7 Washington, and Illinois classes, as well as federal claims under the Fair Labor Standards Act, see
8 ECF 1, 57;

9 **WHEREAS**, on September 16, 2019, Plaintiff Wright filed a complaint pursuant to the
10 Labor Code Private Attorneys General Act of 2004 (“PAGA”) in the California Superior Court of
11 Alameda County, Case No. RG19035167 (“PAGA Action”) against Defendants;

12 **WHEREAS**, Plaintiffs and Defendants have reached a proposed Class Action Settlement
13 Agreement and Release (“Settlement”), following mediation sessions with mediators David Rotman
14 and Steve Serratore, that globally resolves the claims in all of the actions;

15 **WHEREAS**, pursuant to the Settlement and the Court’s stipulated order, Plaintiffs filed a
16 Second Amended Class and Collective Action Complaint that was deemed filed on July 5, 2022,
17 which included additional claims on behalf of the State of California under the Private Attorneys
18 General Act (“PAGA”) asserted in the PAGA Action, *see* ECF 79-1, 82;

19 **WHEREAS**, Plaintiffs are prepared to file their Motion for Preliminary Approval by July
20 18, 2022, to be heard on or before September 13, 2022, at the Court’s earliest convenience;

21 **WHEREAS**, pursuant to the Court’s Order Re Filing Requirements for Cases Assigned to
22 Judge Mendez, a motion and accompanying memorandum of points and authorities may not exceed
23 15 pages, *see* ECF 3-2;

24 **WHEREAS**, Plaintiffs require more than 15 pages, and up to 30 pages, for their Motion for
25 Preliminary Approval due to the complex nature of the Settlement, which involves multiple Rule 23
26 class claims, FLSA and PAGA claims, the resolution of two separate actions, and due to the
27 extensive amount of factual description, procedural history, and legal analysis that must be
28 presented;

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ORDER

Upon review of the Parties’ Stipulation and Order Extending Page Limit for Plaintiffs’ Motion for Preliminary Approval of Class and Collective Action Settlement, and good cause appearing therefor, the Court hereby grants the Parties’ request and extends the page limit for Plaintiffs’ Motion for Preliminary Approval to 30 pages.

IT IS SO ORDERED.

Date: July 15, 2022

/s/ John A. Mendez

THE HONORABLE JOHN A. MENDEZ
SENIOR UNITED STATES DISTRICT COURT JUDGE

1 Carolyn H. Cottrell (SBN 166977)
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13 *Attorneys for Plaintiffs, and the Putative*
14 *Classes and Collective*

15 **UNITED STATES DISTRICT COURT**
16 **EASTERN DISTRICT OF CALIFORNIA**

17 JOSHUA WRIGHT, LORETTA STANLEY,
18 HALEY QUAM, and AIESHA LEWIS, on
19 behalf of themselves and all others similarly
20 situated,

21 Plaintiffs,

22 vs.

23 FRONTIER MANAGEMENT LLC,
24 FRONTIER SENIOR LIVING, LLC, and GH
25 SENIOR LIVING, LLC dba GREENHAVEN
26 ESTATES ASSISTED LIVING,

27 Defendants.

Case No.: 2:19-cv-01767-JAM-CKD

Hon. John A. Mendez

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND
COLLECTIVE ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Date: September 13, 2022

Time: 1:30 p.m.

Ctrm.: 6, 14th Floor

Filed: September 6, 2019

Trial Date: None

1 **TO THE HONORABLE COURT, ALL PARTIES, AND ATTORNEYS OF RECORD:**

2 **NOTICE IS HEREBY GIVEN** that on September 13, 2022, at 1:30 p.m., before Judge
3 John A. Mendez of the United States District Court, Eastern District of California, Plaintiffs Joshua
4 Wright, Loretta Stanley, Haley Quam, and Aiesha Lewis (“Plaintiffs”) move the Court for
5 preliminary approval of the Class Action Settlement Agreement and Release (the “Settlement
6 Agreement” or the “Settlement,” attached as **Exhibit 1** to the accompanying Declaration of Carolyn
7 Hunt Cottrell) as to the California Class, the Oregon Class, the Washington Class, and the Illinois
8 Class, and approval of the Settlement as to the Collective. The Settlement globally resolves all of
9 the claims in these actions on a class and collective basis. In particular, Plaintiffs move for orders:

10 (1) Granting preliminary approval of the Settlement Agreement as to the California,
11 Oregon, Washington, and Illinois Classes (“State Classes”);

12 (2) Granting approval of the Settlement Agreement as to the Collective;

13 (3) Conditionally certifying the State Classes for settlement purposes;

14 (4) Approving the proposed schedule and procedure for completing the final approval
15 process for the Settlement as to the State Classes, including setting the Final Approval Hearing;

16 (5) Preliminarily appointing and approving Schneider Wallace Cottrell Konecky LLP as
17 Counsel for the State Classes and for the Collective;

18 (6) Preliminarily approving Class Counsel’s request for attorneys’ fees and costs;

19 (7) Preliminarily appointing and approving Plaintiffs Wright, Stanley, Quam, and Lewis
20 as Class Representatives for the California, Oregon, Washington, and Illinois State Classes,
21 respectively;

22 (8) Appointing and approving the Plaintiffs Wright, Stanley, Quam, and Lewis as the
23 Collective Representatives for the Collective for purposes of the Settlement;

24 (9) Preliminarily appointing and approving SSI Settlement Services Inc. (“SSI”) as the
25 Settlement Administrator for the State Classes and the Collective;

26 (10) Approving the Notice of Class Action Settlement (“Class Notice”) and Notice of
27 Collective Action Settlement (“Collective Notice”) as it pertains to the State Classes and to the
28 Collective, respectively (attached as **Exhibits C and D** to the Settlement Agreement); and

1 (11) Authorizing the Settlement Administrator to mail and email the Class Notice to the
 2 State Classes and the Collective Notice to the Collective;

3 (12) Approving the proposed schedule for completing the settlement process as to the
 4 State Classes and Collective:

5	Deadline for Defendants to pay the Gross Settlement Amount in the QSF	Within 30 calendar days after Final Approval Order
6	Deadline for Defendants to provide SSI with the Class List	Within 30 calendar days after the Court's preliminary approval of the Settlement
7	Deadline for SSI to mail the Notice of Settlement to Class Members	Within 10 business days after SSI receives the Class List
8	Deadline for State Class Members to postmark requests to opt-out or file objections to the Settlement ("Notice Deadline")	60 days after Notice of Settlement are initially mailed
9	Deadline for SSI to provide all counsel with a report showing (i) the names of Settlement Class Members; (ii) the Individual Settlement Payments owed to each Settlement Class Members; (iii) the final number of Settlement Class Members who have submitted objections or valid letters requesting exclusion from the Settlement; (iv) the estimated average and median recoveries per State Class Member; (v) the largest and smallest estimated recoveries to State Class Members; and (vi) the number of undeliverable Notices of Settlement.	Within 10 business days after the Notice Deadline
10	Deadline for filing of Final Approval Motion	As soon as practicable
11	Final Approval Hearing	No earlier than 30 days after the Notice Deadline
12	Effective Date	The latest of the following dates: (i) if there are one or more objections to the settlement that are not subsequently withdrawn, then the date after the expiration of time for filing a notice of appeal of the Court's Final Approval Order, assuming no appeal or request for review has been filed; (ii) if there is a timely objection and appeal by one or more objectors, then the date after such appeal or appeals are terminated (including any requests for rehearing) resulting in the final judicial approval of the Settlement; or (iii) if there are no timely objections to the settlement, or if one or more objections were filed but subsequently withdrawn before the date of Final Approval, then the first business day after the Court's order granting Final Approval of the Settlement is entered
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1	Deadline for SSI to calculate the employer share of taxes and provide Defendants with the total amount of Defendants' Payroll Taxes	Within 5 business days after final Settlement Award calculations are approved
2		
3	Deadline for SSI to make payments under the Settlement to Participating Individuals, the LWDA, Class Representatives, Plaintiffs' counsel, and itself	Within 30 days after the Effective Date or as soon as reasonably practicable
4		
5	Check-cashing deadline	180 days after issuance
6	Deadline for SSI to provide written certification of completion of administration of the Settlement to counsel for all Parties and the Court	Within 10 business days after the check cashing period
7		
8	Deadline for SSI to tender uncashed check funds to cy pres recipient Legal Aid at Work or redistribute such uncashed funds to Participating Individuals who cashed their Settlement Award checks	As soon as practicable after check-cashing deadline
9		
10		
11	Deadline for Plaintiffs to file a Post-Distribution Accounting	Within 21 days after the distribution of any uncashed funds

12 (13) Setting a final approval and fairness hearing.

13 Plaintiffs bring this Motion pursuant to Fed. R. Civ. P. 23(e) and long-established precedent
 14 requiring Court approval for Fair Labor Standards Act settlements.¹ The Motion is based on this
 15 notice, the following Memorandum of Points and Authorities, the Declaration of Carolyn Hunt
 16 Cottrell, and all other records, pleadings, and papers on file in the consolidated and related actions
 17 and such other evidence or argument as may be presented to the Court at the hearing on this Motion.
 18 Plaintiffs also submit a Proposed Order Granting Preliminary Approval of Class and Collective
 19 Action Settlement with their moving papers.
 20

21 Date: July 21, 2022

Respectfully Submitted,

22 /s/ Carolyn H. Cottrell
 23 Carolyn H. Cottrell
 24 Ori Edelstein
 25 Michelle S. Lim
SCHNEIDER WALLACE
COTTRELL KONECKY LLP
 26 2000 Powell Street, Suite 1400

27 ¹ See, e.g., *Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1352-53 (11th Cir. 1982);
 28 *Dunn v. Teachers Ins. & Annuity Ass'n of Am.*, No. 13-CV-05456-HSG, 2016 WL 153266, at *3
 (N.D. Cal. Jan. 13, 2016); *Otey v. CrowdFlower, Inc.*, No. 12-CV-05524-JST, 2015 WL 6091741,
 at *4 (N.D. Cal. Oct. 16, 2015).

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TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
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18
19
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I. INTRODUCTION 1

II. BACKGROUND 1

 A. Procedural Background. 1

 1. This Action and the Subsequent Appeal. 1

 2. The Companion State Action and the Subsequent Appeal..... 2

 3. The Operative Complaint Filed Pursuant to the Parties’ Settlement..... 3

 4. Discovery..... 3

 5. The Parties’ Settlement Efforts. 4

 B. Factual Background..... 5

III. TERMS OF THE SETTLEMENT 6

 A. Basic Terms of the Settlement..... 6

 B. Class and Collective Definitions. 7

 C. Allocation and Awards. 8

 D. Scope of Release..... 9

 E. Settlement Administration..... 10

IV. THE COURT SHOULD GRANT PRELIMINARY APPROVAL OF THE SETTLEMENT AS TO THE STATE LAW CLASSES AND APPROVAL OF THE SETTLEMENT AS TO THE COLLECTIVE 10

 A. The Court Should Grant Preliminary Approval of the Settlement as to the Classes..... 10

 B. The State Classes Meet the Requirements for Class Certification. 11

 1. The State Classes Are Numerous and Ascertainable. 12

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2. Plaintiffs’ Claims Raise Common Issues of Fact or Law..... 12

3. Plaintiffs’ Claims are Typical of the Claims of the Respective State Classes. 13

4. Plaintiffs and Class Counsel Will Adequately Represent the State Classes. 13

5. The Rule 23(b)(3) Requirements for Class Certification are also Met..... 13

C. Plaintiffs and the Collective Members are Similarly Situated. 15

D. The Settlement Should Be Preliminarily Approved as to the State Classes
and Approved as to the Collective Because It Is Fair, Reasonable, and Adequate. 16

1. The Terms of the Settlement are Fair, Reasonable, and Adequate, and Were
Reached Only After Months of Negotiations at Arm’s Length. 17

2. The Parties Agreed to a Fair and Equitable Distribution of the Settlement
Proceeds Tailored to the Respective Claims of the Classes and Collective..... 19

3. The Extensive Discovery in this Action Enabled the Parties to Make
Informed Decisions Regarding Settlement..... 20

4. Litigating the Action Not Only Would Delay Recovery, but Would be
Expensive, Time Consuming, and Involve Substantial Risk. 21

5. The Settlement is the Product of Informed, Non-collusive, and Arm’s Length
Negotiations Between Experienced Counsel..... 24

6. The Class Representative Enhancement Payments are Reasonable and
the Class Representatives Have Adequately Represented the Classes..... 25

7. The Requested Attorneys’ Fees and Costs are Reasonable and Plaintiffs’
Counsel Have Adequately Represented the Classes. 26

E. The Proposed Notices of Settlement and Claims Process Are Reasonable..... 28

V. CONCLUSION 30

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4 2018 U.S. Dist. LEXIS 20460, 2018 WL 746393 (E.D. Cal. 2018)..... 17

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6 163 Cal.App.4th 1157 (2008) 24

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8 521 U.S. 591 (1997)..... 14

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10 Case No. 2:18-cv-00378-JAM-KJN (Dkt. No. 24, Mar. 24, 2020; Dkt. No. 32, July 14, 2020)

11 (Mendez, J.)..... 17

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13 No. EDCV 08-0025-VAP OPX, 2010 WL 1946784 (C.D. Cal. May 11, 2010)..... 24

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17 No. 3:13-cv-01802-SI, 2016 U.S. Dist. LEXIS 52092 (D. Or. Apr. 19, 2016) 12

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19 Nos. C 05-4526 MHP, C 06-7924 MHP, 2011 WL 672645 (N. D. Cal. Feb.16, 2011) 26

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27 Stanislaus Superior Court, Case No. CV-22-000990..... 3

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475 F.Supp. 630 (D Or 1979) 21

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2012 U.S. Dist. LEXIS 169057, 2012 WL 5941801 (E.D. Cal. 2012)..... 17

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198 F.R.D. 461 (E.D. Pa. 2000)..... 12, 13

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2012 U.S. Dist. LEXIS 160052, 2012 WL 5364575 (E.D. Cal. 2012)..... 17

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2018 WL 4388425 (E.D. Cal. Sept. 13, 2018)..... 17

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2020 U.S. Dist. LEXIS 168923 (E.D. Cal. Sep. 15, 2020)..... 25

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150 F.3d 1011 (9th Cir. 1998)..... passim

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280 F.R.D. 388 (N.D. Ill. 2011)..... 22

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706 F.2d 1144 (11th Cir. 1983)..... 20

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1 **I. INTRODUCTION**

2 After nearly three years of intensive litigation, including formal discovery, extensive motion
3 practice, amendments to the complaint, conditional certification, multiple mediations and exhaustive
4 pre-mediation discovery and outreach, appellate filings, and extensive arm’s-length negotiations
5 between counsel, the Parties have reached a global settlement of this class and collective action (the
6 “Action”). Plaintiffs now seek preliminary approval of the Settlement as to the California, Oregon,
7 Washington, and Illinois Classes and approval of the Settlement as to the Collective.²

8 The Action is based on Defendants’³ alleged violations of federal and state wage and hour laws,
9 resulting in the underpayment of wages and the failure to provide compliant meal and rest periods to
10 thousands of Defendants’ current and former non-exempt employees providing care at assisted senior
11 living facilities throughout the United States, including in California, Oregon, Washington, and
12 Illinois.⁴

13 The Parties have resolved the claims of approximately 20,662 similarly situated non-exempt
14 employees, for a total non-reversionary settlement of \$9,500,000. With this proposed Settlement, the
15 Parties are resolving numerous wage and hour claims unlikely to have been prosecuted as individual
16 actions. The Settlement provides an excellent benefit to the Classes and Collective and an efficient
17 outcome in the face of expanding litigation. The Settlement is fair, reasonable, and adequate in all
18 respects, and Plaintiffs respectfully request that the Court grant the requested approval.

19 **II. BACKGROUND**

20 **A. Procedural Background.**

21 **1. This Action and the Subsequent Appeal.**

22 On September 6, 2019, Plaintiff Wright filed a Class and Collective Action alleging violations
23 of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.* and under California law on behalf
24 of a putative California Class. ECF 1.

25
26 ² The Class Action Settlement Agreement and Release (“Settlement”) is attached as **Exhibit 1** to the
27 accompanying Declaration of Carolyn Hunt Cottrell in Support of Plaintiff’s Motion for Preliminary
28 Approval of Class and Collective Action Settlement (“Cottrell Decl.”).

³ “Defendants” refers to Defendants Frontier Management LLC; Frontier Senior Living, LLC; and GH
Senior Living, LLC d/b/a Greenhaven Estates Living.

⁴ For purposes of brevity, Class and Collective Members are collectively referred to as “Caregivers.”

1 On March 13, 2020, the Parties stipulated to conditional certification of the Collective and to
2 facilitate nationwide notice pursuant to 29 U.S.C. 216(b), on behalf of a nationwide collective of non-
3 exempt employees of Defendants, which was granted on March 17, 2020. ECF 13, 15. A total of 953
4 individuals filed FLSA opt-in consent forms. *See*, ECF 67.

5 On February 8, 2021, the Court granted Plaintiff leave to amend the complaint to add Loretta
6 Stanley, Haley Quam, and Aiesha Lewis as named plaintiffs, include additional state law class claims,
7 and clarify preexisting allegations. *See* ECF 45, 56. The FAC, filed February 9, 2021, alleges that
8 Defendants violated the FLSA and California, Oregon, Washington, and Illinois wage and hour laws
9 by failing to pay non-exempt employees their earned wages, failing to provide legally compliant meal
10 and rest periods, and failing to reimburse for work-related expenditures. ECF 57.

11 Defendants filed a motion to dismiss the Action pursuant to Fed. R. Civ. P. 12(b)(6) on March
12 15, 2021, arguing that the FAC (1) failed to plead sufficient facts to state plausible claims for meal and
13 rest period violations, (2) failed to plead sufficient facts to support Plaintiffs' claims for unpaid wages,
14 (3) fails to plead a claim for reimbursement of business expenses, and (4) fails to plead derivative claims
15 because the primary claims fail. ECF 68. The Court granted Defendants' motion with prejudice and
16 without leave to amend. *See* ECF 72-73. Plaintiffs appealed the Court's order on June 17, 2021 (Case
17 No. 21-16052).⁵ *See* ECF 74.

18 **2. The Companion State Action and the Subsequent Appeal.**

19 After providing the California Labor and Workforce Development Agency ("LWDA) with the
20 requisite notice, Plaintiff Wright filed a separate complaint pursuant to the California Labor Code
21 Private Attorneys General Act of 2004 ("PAGA") in the California Superior Court of Alameda County
22 ("State Action") against Defendants (Case No. RG19035167), on September 16, 2019. *See* ECF 79;
23 Declaration of Carolyn H. Cottrell in Support of Plaintiffs' Mot. for Preliminary Approval of Class and
24 Collective Action Settlement ("Cottrell Decl."), ¶ 8.

25 On April 8, 2021, Defendants filed a motion for summary judgment or, in the alternative,
26 summary adjudication arguing, *inter alia*, that Plaintiff failed to exhaust his administrative remedies

27 ⁵ The Ninth Circuit dismissed the appeal without prejudice for settlement purposes pursuant to the
28 Parties' stipulation on June 22, 2022, following the execution of the Settlement. *See* ECF 78; *see also*
Case No. 21-16052, DktEntry 22; Settlement., ¶ 17.

1 under the PAGA. *Id.*, ¶ 9. Following full briefing, the superior court denied Defendants’ motion without
2 prejudice, and ordered Plaintiff Wright to file a first amended complaint to more clearly plead separate
3 causes of action against Defendants. *Id.* Plaintiff Wright filed the first amended complaint in the State
4 Action on July 14, 2021. *Id.*

5 Defendants also filed a motion to strike Plaintiff’s PAGA claims under the theory that Plaintiff’s
6 PAGA claims would be unmanageable at trial on April 8, 2021. *See Id.*, ¶ 10. On July 2, 2021, the
7 superior court denied Defendants’ motion to strike without prejudice. *Id.*

8 On September 10, 2021, Defendants filed a petition for writ of mandate for an order directing
9 the superior court to vacate its July 2, 2021 order and to rule on Defendants’ motion to strike on the
10 merits. *Id.*, ¶ 11. On September 15, 2021, the California Court of Appeal notified the parties that it was
11 considering issuing a peremptory writ in the first instance. *Id.* The petition for writ of mandate is
12 currently pending before the Court of Appeal of the State of California, First Appellate District,
13 Division One (Case No. A163424). *Id.*

14 **3. The Operative Complaint Filed Pursuant to the Parties’ Settlement.**

15 For purposes of the Settlement, the Parties agreed to stay the State Action pending approval of
16 the Settlement, and to stipulate to amend the FAC in this Action to include the PAGA claims asserted
17 in the State Action and to cite additional theories of liability under the PAGA.⁶ Settlement, ¶¶ 16-19.
18 On June 30, 2022, the Parties filed the stipulation to amend the FAC, which was subsequently granted,
19 and the Second Amended Class and Collective Action Complaint (“Complaint”) was deemed filed on
20 July 5, 2022. ECF 79, 79-1, 82.

21 **4. Discovery.**

22 On December 2, 2020, Plaintiffs propounded written discovery requests, including 72 requests
23 for production of documents and 12 special interrogatories to each Defendant. Cottrell Decl., ¶¶ 14, 16.

24 ⁶ Pursuant to the Settlement, the Parties agreed the Settlement is conditioned on the dismissal with
25 prejudice of Defendants and the Releasees from the lawsuit entitled *Emily Gracey v. Frontier*
26 *Management, LLC, et al.*, Stanislaus Superior Court, Case No. CV-22-000990 (the “Gracey Action”).
27 Settlement, ¶¶ 19, 25, 34.a. The Second Amended Class and Collective Action Complaint filed in this
28 action incorporates the PAGA claims Gracey asserted in her complaint and pursuant to her December
29, 2021 letter to the LWDA. Following extensive meet and confer between Ms. Gracey’s counsel,
Defendants’ counsel, and Plaintiffs, Ms. Gracey agreed to dismiss with prejudice Defendants and the
Releasees from the *Gracey* Action and agreed to a general release of claims in exchange for her
incorporation into the Settlement. Cottrell Decl., ¶ 15.

1 Plaintiffs propounded an additional 69 requests for production of documents and 19 special
2 interrogatories in the State Action in December 2020. *Id.*, ¶¶ 15-18. Ultimately, through the formal and
3 informal discovery process in advance of mediation, Defendants produced over 3,000 documents in
4 this Action, including their general policies throughout each state, job descriptions, personnel records,
5 written complaints, as well as tens of thousands of pages of Excel data sheets showing samplings of
6 time and payroll records representing 25% of the Classes and the Collective. *Id.*, ¶ 20. Defendants also
7 provided class-wide figures, including the total number of Caregivers and associated workweeks and
8 pay periods, hourly rates, and additional data points, ahead the mediation, to enable Plaintiffs' counsel
9 to evaluate damages on a Class and Collective basis. *Id.*

10 Plaintiffs additionally completed extensive outreach with Caregivers, including nearly 300 in-
11 depth interviews, which covered topics including dates and locations of work, hours of work, pre-shift
12 and post-shift off-the-clock work, meal and rest breaks, and reimbursement of work-related expenses.
13 *Id.*, ¶ 19. Numerous Caregivers that completed interviews also provided additional documents to
14 Plaintiff's counsel. *Id.* Through this process, Plaintiffs garnered substantial factual background
15 regarding the alleged violations, which Plaintiffs' counsel utilized to build their case and to assess
16 Defendants' potential exposure in this action. *Id.*

17 Plaintiffs' counsel completed an exhaustive review of the documents, and used the information
18 and data from Defendants and from the Caregiver to prepare for mediation. *Id.*, ¶ 20.

19 **5. The Parties' Settlement Efforts.**

20 On July 29, 2020, the Parties participated in a full-day private mediation before respected wage
21 and hour mediator, David Rotman. *Id.*, ¶ 21. The case did not settle that day. *Id.* On August 26, 2020,
22 the Parties participated in a second, half-day mediation before Mr. Rotman, but again the cases did not
23 settle. *Id.*

24 On October 5, 2021, the Parties further participated in a full-day mediation before respected
25 wage and hour mediator Steven Serratore. *Id.* ¶¶ 22. The case did not settle that day; however, the
26 Parties accepted a mediator's proposal to settle both this Action and the PAGA Action the next day on
27 October 6, 2021. *Id.*, ¶¶ 22-23.

28

1 The Parties extensively met and conferred over the detailed terms of the settlement over the next
2 couple of months of intensive, arm’s-length negotiations, and eventually executed the finalized long-
3 form settlement agreement on June 8, 2022. *Id.*, ¶ 24.

4 **B. Factual Background.**

5 Defendants maintain a chain of assisted senior living communities throughout the United States,
6 including California, Washington, Oregon, and Illinois. Complaint, ¶ 28. To operate these
7 communities, Frontier employs thousands of Caregivers who are classified as non-exempt employees.
8 *See Id.*, ¶¶ 28, 40. These Caregivers are tasked with a variety of overlapping duties, including attending
9 to residents’ daily needs, communicating with residents’ families, providing medication to residents,
10 transferring residents, changing residents’ bedding, doing laundry, serving food to residents, filling out
11 paperwork, cleaning the facility, and attending mandatory meetings. Cottrell Decl., ¶ 25.

12 Caregivers are usually scheduled to work eight-hour shifts, five to six days a week, and are
13 regularly required to work in excess of forty hours per week. *Id.*; Complaint, ¶¶ 41-44, 228. Plaintiffs
14 allege that the Caregivers experience significant amounts of unpaid, pre- and post-shift off-the-clock
15 work, including: work performed during meal periods, filling out paperwork, waiting for other
16 employees to relieve them of their posts, or help other employees with a number of tasks, such as
17 transferring residents, and arrive to work ten to fifteen minutes prior to clocking in. *Id.*, ¶¶ 45, 49-52.
18 Caregivers are subject to further off-the-clock work prior to and following their scheduled shifts due to
19 Defendants’ unlawful rounding practices to round down time worked by Caregivers to the nearest fifth-
20 minute in favor of Defendants, resulting in further underpayment of wages. *Id.*, ¶ 53.

21 Plaintiffs further allege that the Caregivers cannot take timely, full, off-duty meal and rest
22 periods, as they are required to carry and respond to communication devices, including radios, pagers,
23 company-issued cellphones, and personal cellphones, with them at all times, so that they could be
24 reached while on break pursuant to Defendants’ policies and practices. *Id.*, ¶¶ 45-48. Moreover,
25 Plaintiffs allege that the Caregivers are not reimbursed or compensated for the purchasing and
26 maintenance other business expenses such as clothing, footwear, tools, supplies and equipment, such
27 as personal protective equipment. *Id.*, ¶ 56.

28 As a result of these alleged violations, Plaintiffs allege that Defendants systematically violate the

1 Fair Labor Standards Act, as well as California, Oregon, Washington, and Illinois labor laws. *See*
2 *generally*, Complaint. Plaintiffs allege that throughout the relevant time period, Defendants eschewed
3 their obligations to Plaintiffs and Caregivers by allegedly: (1) not paying Class and Collective Members
4 proper minimum and overtime wages for work performed off-the-clock on a daily basis; (2) failing to
5 provide Class Members with a reasonable opportunity to take meal and rest periods, and failing to
6 compensate Class Members when such meal and rest periods are not taken; (3) failing to reimburse
7 Class Members for necessarily-incurred expenses; and (4) failing to issue Class Members accurate,
8 itemized wage statements. *Id.*

9 Defendants have at all times denied, and continue to deny, all of these allegations, including any
10 liability for alleged failure to pay overtime compensation or any alleged wage payment, wage and hour
11 or similar violation. Settlement, ¶¶ 1, 6, 12, 13, 18. Defendants further deny that Plaintiffs' allegations
12 are appropriate for class/collective and/or representative treatment for any purpose other than for
13 settlement purposes. *Id.*, ¶ 15.

14 **III. TERMS OF THE SETTLEMENT**

15 **A. Basic Terms of the Settlement.**

16 Defendants have agreed to pay a non-reversionary Gross Settlement Amount of \$9,500,000 to
17 settle all aspects of this Action and the State Action. Settlement, ¶ 2.r. Defendants will pay \$9,500,000
18 into an interest-bearing Qualified Settlement Fund (“QSF”) thirty (30) days following final approval of
19 the Settlement. *Id.*, ¶¶ 2.r, 33, 41. Pursuant to the Settlement, Defendants may not access any portion
20 of the Gross Settlement Amount once it has been deposited into the QSF. *Id.* Once the Court issues an
21 order granting final approval of the Settlement, the Settlement Administrator will distribute all funds
22 from the Qualified Settlement Fund; and if final approval is denied, then the Gross Settlement Amount
23 will be returned to the Defendants. *Id.*, ¶¶ 33, 41, 52.

24 The Net Settlement Amount, which is the amount available to pay settlement awards to the Class
25 Members, is defined as the Gross Settlement Amount less: the payments to the LWDA and to the
26 aggrieved employees for their share of PAGA penalties (\$95,000.00)⁷; any enhancement payments
27

28 ⁷ The Settlement Administrator shall pay 75%, or \$71,250, of this amount to the LWDA, and 25%, or \$23,750, the “Net PAGA Amount,” to the Aggrieved Employees. *Id.*

1 awarded to the Class Representatives (up to \$10,000.00 for Plaintiff Wright and up to \$5,000 each for
2 Plaintiffs Stanley, Quam, and Lewis, and up to \$5,000 to Emily Gracey); the Settlement
3 Administrator’s costs (estimated to be \$149,400); and any attorneys’ fees and costs awarded to
4 Plaintiff’s counsel (fees of up to 35% of the Gross Settlement Amount, plus costs not to exceed
5 \$110,000). *Id.*, ¶¶ 2.e, 2.m, 2.t, 2.u, 2.dd, 2.ff, 34.c. Plaintiffs, however, will move for attorneys’ fees
6 of a maximum of one-third of the Gross Settlement Amount (i.e., \$3,166,663.50) during final approval.
7 Cottrell Decl., ¶ 28. The Net Settlement Amount to Participating Individuals, plus the Net PAGA
8 Amount allocated to the aggrieved employees, is currently estimated to be \$5,973,086.50. *Id.*, ¶ 27.

9 **B. Class and Collective Definitions.**

10 An individual who is eligible to share in the proposed Settlement is called a Settlement Class
11 Member, which means he or she belongs to either of the following:

- 12 • The **California Class** means all persons who are employed, have been employed, or alleged
13 in the Action to have been employed by Defendants as a non-exempt employee in the State
of California between September 6, 2015 and March 1, 2022. Settlement, ¶ 2.c.
- 14 • The **Oregon Class** means all persons who are employed, have been employed, or alleged in
15 the Action to have been employed by Defendants as a non-exempt employee in the State of
Oregon between July 8, 2014 and March 1, 2022. *Id.*, ¶ 2.w.
- 16 • The **Washington Class** means all persons who are employed, have been employed, or
17 alleged in the Action to have been employed by Defendants as a non-exempt employee in
the State of Washington between July 8, 2017 and March 1, 2022. *Id.*, ¶ 2.kk.
- 18 • The **Illinois Class** means all persons who are employed, have been employed, or alleged in
19 the Action to have been employed by Defendants as a non-exempt employee in the State of
Illinois between July 8, 2017 and March 1, 2022. *Id.*, ¶ 2.s.
- 20 • The **Collective or Opt-In Plaintiffs** includes all individuals who have submitted Opt-In
21 Consent Forms in this Action and worked for Defendants as non-exempt, hourly employees
between March 13, 2017 and March 1, 2022. *Id.*, ¶ 2.g.
- 22 • The **Aggrieved Employees** includes all individuals who are employed, have been employed,
23 or alleged in the Action to have been employed by Defendants as a non-exempt employee in
the State of California at any time between July 7, 2018 and Preliminary Approval. *Id.* ¶ 2.b.

24 *Id.*, ¶ 2.hh. Individuals belonging to the California, Oregon, Washington, and/or Illinois Classes are
25 referred to as “State Class Members.” *Id.* ¶ 2.hh.

1 **C. Allocation and Awards.**

2 Participating Individuals⁸ will each receive a settlement award check without the need to submit
3 a claim form.⁹ See Settlement, ¶¶ 33-34, 36-38. Each Participating Individual’s settlement share will
4 be determined based on the total number of weeks that the respective Participating Individual was
5 employed by Defendants during the applicable limitations period(s). *Id.*, ¶ 38. Participating Individuals
6 who also worked for Defendants at any time from July 7, 2018 in California through the date of
7 Preliminary Approval will also receive a *pro rata* portion of the Net PAGA Amount, based on the
8 number of workweeks they were employed by Defendants during the PAGA period. *Id.*, ¶ 38.b.

9 Each workweek will be equal to one settlement share, but to reflect the increased value of state
10 law claims and differing average rates of pay by state, workweeks during which work was performed
11 in California, Oregon, Washington, and Illinois will be weighted more heavily. *Id.*, ¶ 38.a.iii.
12 Specifically, each workweek during which work was performed in: California will be equal to 5
13 settlement shares; in Oregon or Washington will be equal to 3 settlement shares; and in Illinois will be
14 equal to 2 settlement shares. *Id.*

15 The total number of settlement shares (as weighted) for all Participating Individuals will be
16 added together and the Net Settlement Amount will be divided by that total to reach a per share dollar
17 figure. Settlement, ¶ 38.a.iv. The resulting per share dollar figure will then be multiplied by each
18 Participating Individual’s number of settlement shares (as weighted) to determine his or her Individual
19 Settlement Payment. *Id.* The Class and Collective Notices will provide the estimated Individual
20 Settlement Payment and number of Workweeks for each Settlement Class Member, assuming full
21 participation in the Settlement. *Id.*, Exs. C, D. The Collective Notice will also notify potential
22 Collective Members that they have previously “opted-in” to this Action and that their FLSA claims will
23

24 ⁸ “Participating Individuals” refer to State Class Members who do not validly request for exclusion for
25 the Settlement, all Opt-In Plaintiffs, all State Class Members who cash or deposit their Settlement
26 Award checks, and all Aggrieved Employees. *Id.* ¶ 2.y.

27 ⁹ Class Members are not required to submit an Opt-In Form to receive payment under the Settlement
28 for their work in California, Oregon, Washington, or Illinois during the relevant time periods. However,
only Opt-In Plaintiffs will be credited for work in other states, as the damages for work in those states
are attributable to FLSA claims only. Class Members may opt out of the Rule 23 component of the
Settlement, but those who are Opt-In Plaintiffs may not opt out of the FLSA component of the
Settlement. Settlement, ¶¶ 23.g, 23.h.

1 be released pursuant to the Settlement regardless of whether they cash their Settlement Award checks.
2 *Id.*, Ex. D. Settlement Award and eligibility determinations will be based on employee workweek
3 information that Defendants will provide to the Settlement Administrator; however, Settlement Class
4 Members will be able to dispute their workweeks by submitting evidence that they worked more
5 workweeks than shown by Defendants' records. *Id.*, ¶¶ 27, 40, Exs. C, D.

6 Any funds from checks that are returned as undeliverable or are not negotiated within 180
7 calendar days after issuance will either: (a) if less than \$95,000.00, revert to the Parties' agreed-upon
8 *cy pres* beneficiary, Legal Aid at Work, or (b); if \$95,000.00 or greater, be redistributed to the
9 Participating Individuals who negotiated their checks on a *pro rata* basis. *Id.*, ¶ 46; Cottrell Decl., ¶ 30.

10 **D. Scope of Release.**

11 The releases contemplated by the proposed Settlement are dependent upon whether the
12 Participating Individual is an Opt-In Plaintiff, aggrieved employee, and/or a State Class Member, and
13 are tethered to the factual allegations in the pleadings. Settlement, ¶ 23.

- 14 • **Opt-In Plaintiffs** will release any and all claims under the FLSA that were or could have
15 been pled arising out of the factual predicates and/or allegations pled of any complaints in
16 this Action, between March 13, 2017 and March 1, 2022, as well as any state law minimum
17 wage and overtime wage claims to the extent they overlap with the FLSA time period
18 between March 13, 2017 and March 1, 2022. *Id.*, ¶ 23.a.
- 19 • **California Class Members** will release any and all claims under California law, that were
20 or could have been pled arising out of the factual predicates and/or allegations pled in the
21 complaints and PAGA letters in this Action, between September 6, 2015 and March 1, 2022.
22 *Id.*, ¶ 23.b.
- 23 • **Oregon Class Members** will release any and all claims under Oregon law, that were or could
24 have been pled arising out of the factual predicates and/or allegations pled in the complaints
25 in this Action, between July 8, 2014 and March 1, 2022. *Id.*, ¶ 23.d.
- 26 • **Washington Class Members** will release any and all claims under Washington law, that
27 were or could have been pled arising out of the factual predicates and/or allegations pled in
28 the complaints in this Action, between July 8, 2017 and March 1, 2022. *Id.*, ¶ 23.c.
- **Illinois Class Members** will release any and all claims under Illinois law, that were or could
have been pled arising out of the factual predicates and/or allegations pled in the complaints
in this Action, between July 8, 2017 and March 1, 2022. *Id.*, ¶ 23.e.
- **Released PAGA Claims**: Under the Settlement, Plaintiff Wright further releases the claims
and rights to recover civil penalties against the Releasees on behalf of the LWDA and

1 Aggrieved Employees for any Labor Code or Wage Order violation alleged or could have
2 been alleged in the complaints and PAGA letters filed in this Action, through the date of
3 preliminary approval of the Settlement. *Id.*, ¶ 23.f. Aggrieved Employees may not opt out or
4 otherwise exclude themselves from this release. *Id.*

5 As to State Class Members who are not Opt-In Plaintiffs, those who cash, deposit, or otherwise
6 negotiate their Settlement Award checks will also release any and all claims under the FLSA arising
7 from or related to their work in California, Washington, Oregon, and/or Illinois between March 13,
8 2017 and March 1, 2022. *Id.*, ¶ 23.g. If such a State Class Member does not cash, deposit, or negotiate
9 his or her check, he or she will not release any claims under the FLSA, *Id.* ¶ 23.h.

10 The Class and Collective Representatives – Plaintiffs Wright, Stanley, Quam, and Lewis – and
11 Emily Gracey also agree to a general release. *Id.*, ¶ 25.

12 **E. Settlement Administration.**

13 The Parties have agreed to use SSI Settlement Services, Inc. (“SSI”) to administer the Settlement,
14 for total fees and costs currently estimated at \$149,400. *Id.*, ¶¶ 2.ee, 2.ff. SSI will distribute the Notice
15 of Settlement via mail and email, calculate individual settlement payments, calculate all applicable
16 payroll taxes, withholdings and deductions, and prepare and issue all disbursements to Class Members,
17 the LWDA, the Class Representatives and Emily Gracey, Plaintiffs’ counsel, and applicable state, and
18 federal tax authorities. *Id.*, ¶¶ 26.c-j, 33, 38. SSI is also responsible for the timely preparation and filing
19 of all tax returns and reporting, and will make timely and accurate payment of any and all necessary
20 taxes and withholdings. *Ibid.* SSI will establish a settlement website that will allow Class Members to
21 view the Class and Collective Notices (in generic form), the Settlement Agreement, and all papers filed
22 by Class Counsel to obtain preliminary and final approval of the Settlement. *Id.*, ¶ 26.c. SSI will also
23 establish a toll-free call center for telephone inquiries from Class Members. *Id.*

24 **IV. THE COURT SHOULD GRANT PRELIMINARY APPROVAL OF THE** 25 **SETTLEMENT AS TO THE STATE LAW CLASSES AND APPROVAL OF THE** 26 **SETTLEMENT AS TO THE COLLECTIVE**

27 **A. The Court Should Grant Preliminary Approval of the Settlement as to the Classes.**

28 A certified class action may only be settled with Court approval. *See* Fed. R. Civ. P. 23(e).
Approval of a class action settlement requires three steps: (1) preliminary approval of the proposed

1 settlement upon written motion; (2) dissemination of notice of the settlement to all class members; and
2 (3) a final settlement approval hearing at which objecting class members may be heard, and at which
3 evidence and argument concerning the fairness, adequacy, and reasonableness of the settlement is
4 presented. Manual for Complex Litigation, *Judicial Role in Reviewing a Proposed Class Action*
5 *Settlement*, § 21.61 (4th ed. 2004). The decision to approve or reject a proposed settlement is committed
6 to the sound discretion of the court. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998).

7 Rule 23 requires that all class action settlements satisfy two primary prerequisites before a court
8 may grant certification for purposes of preliminary approval: (1) that the settlement class meets the
9 requirements for class certification if it has not yet been certified; and (2) that the settlement is fair,
10 reasonable, and adequate. Fed. R. Civ. P. 23 (a), (e)(2); *Hanlon*, 150 F.3d at 1020. As discussed below,
11 this class action settlement satisfies the requirements of Rule 23(a) and (b), and it is fair, reasonable,
12 and adequate in accordance with Rule 23(e)(2). Accordingly, the Court should preliminarily approve
13 the Settlement as to the Classes.

14 **B. The State Classes Meet the Requirements for Class Certification.**

15 A class may be certified under Rule 23 if (1) the class is so numerous that joinder of all members
16 individually is “impracticable”; (2) questions of law or fact are common to the class; (3) the claims or
17 defenses of the class representative are typical of the claims or defenses of the class; and (4) the person
18 representing the class is able to fairly and adequately protect the interests of all members of the class.
19 Fed. R. Civ. P. 23(a). Furthermore, Rule 23(b)(3) provides that a class action seeking monetary relief
20 may only be maintained if “the court finds that the questions of law or fact common to class members
21 predominate over any questions affecting only individual members, and that a class action is superior
22 to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P.
23 23(b)(3). Applying this standard, numerous cases similar to this case have certified classes of
24 employees who have suffered wage and hour violations under the wage and hour laws of these states.¹⁰

25
26 ¹⁰ *See, e.g., Caudle v. Sprint/United Mgmt. Co.*, No. C 17-06874 WHA, 2018 WL 6618280, at *7 (N.D.
27 Cal. Dec. 18, 2018) (certifying California Rule 23 class in a case asserting policy-driven wage
28 violations); *Kirkpatrick v. Ironwood Commc’ns, Inc.*, No. C05-1428JLR, 2006 WL 2381797, at *14
(W.D. Wash. Aug. 16, 2006) (certifying Washington Rule 23 class in a case involving off-the-clock,
overtime, and meal break violations under Washington law); *Chastain v. Cam*, No. 3:13-cv-01802-SI,

1 Likewise, the State Classes meet all of these requirements.

2 **1. The State Classes Are Numerous and Ascertainable.**

3 The numerosity prerequisite demands that a class be large enough that joinder of all members
4 would be impracticable. Fed. R. Civ. P. 23(a)(1). While there is no exact numerical cut-off, courts have
5 routinely found numerosity satisfied with classes of at least forty members. *See, e.g., Ikonen v. Hartz*
6 *Mountain Corp.*, 122 F.R.D. 258, 262 (S.D. Cal. 1988); *Romero v. Producers Dairy Foods, Inc.*, 235
7 F.R.D. 474, 485 (E.D. Cal. 2006). There are approximately 20,266 members of the combined State
8 Classes, each State Class exceeding well over 1,000 members each, thereby rendering the classes so
9 large as to make joinder impracticable. Cottrell Decl., ¶ 31. The State Class Members may also be
10 readily identified from Defendants’ payroll records. *Id.*

11 **2. Plaintiffs’ Claims Raise Common Issues of Fact or Law.**

12 The commonality requirement of Rule 23(a)(2) “is met if there is at least one common question
13 or law or fact.” *Fry v. Hayt, Hayt & Landau*, 198 F.R.D. 461, 467 (E.D. Pa. 2000). Plaintiffs “need not
14 show that every question in the case, or even a preponderance of questions, is capable of classwide
15 resolution.” *Wang v. Chinese Daily News, Inc.*, 737 F.3d 538, 544 (9th Cir. 2013). “[E]ven a single
16 common question” can satisfy the commonality requirement of Rule 23(a)(2). *Id.*

17 Common questions of law and fact predominate here, satisfying Rule 23(a)(2) and (b)(3), as
18 alleged in the Complaint. Defendants have uniform policies applicable to all State Class Members.
19 Specifically, Plaintiffs allege that State Class Members all perform the same job duty to provide care
20 and support to Defendants’ residents pursuant to Defendants’ standards and requirements. Cottrell
21 Decl., ¶ 32. Plaintiffs allege that the wage and hour violations are in large measure borne of Defendants’
22 standardized policies, practices, and procedures, creating pervasive issues of fact and law that are
23 amenable to resolution on a class-wide basis. *Id.* In particular, Plaintiffs allege that State Class Members
24 are subject to the same: hiring and training process; timekeeping and rounding, payroll, and
25 compensation policies and systems; meal and rest period policies and practices; and reimbursement

26 2016 U.S. Dist. LEXIS 52092, at *29 (D. Or. Apr. 19, 2016) (certifying Oregon Rule 23 class and
27 denying FLSA decertification in a case asserting off-the-clock and unpaid meal breaks); *Smith v.*
28 *Family Video Movie Club, Inc.*, 311 F.R.D. 469, 483 (N.D. Ill. 2015) (certifying Illinois Rule 23 class
in a case asserting overtime pay rates failed to include commission payments and off-the-clock for
delivering bank deposits).

1 policies. Plaintiffs’ other derivative claims will rise or fall with the primary claims. *Id.* Because these
2 questions can be resolved at the same juncture, Plaintiffs contend the commonality requirement is
3 satisfied for the Classes.

4 **3. Plaintiffs’ Claims are Typical of the Claims of the Respective State Classes.**

5 “Rule 23(a)(3) requires that the claims of the named parties be typical of the claims of the
6 members of the class.” *Fry, supra*, 198 F.R.D. at 468. “Under the rule’s permissive standards, a
7 representative’s claims are ‘typical’ if they are reasonably coextensive with those of absent class
8 members; they need not be substantially identical.” *Hanlon, supra*, 150 F.3d at 1020. Here, Plaintiffs’
9 claims are typical of those of all other State Class Members. They were subject to the alleged illegal
10 policies and practices that form the basis of the claims asserted in this case. Interviews with State Class
11 Members and review of timekeeping and payroll data confirm to Plaintiffs that the employees
12 throughout the United States were subjected to the same alleged illegal policies and practices to which
13 Plaintiff was subjected. Cottrell Decl., ¶ 33. Thus, the typicality requirement is also satisfied.

14 **4. Plaintiffs and Class Counsel Will Adequately Represent the State Classes.**

15 To meet the adequacy of representation requirement in Rule 23(a)(4), Plaintiffs must show “(1)
16 that the putative named plaintiff has the ability and the incentive to represent the claims of the class
17 vigorously; (2) that he or she has obtained adequate counsel, and (3) that there is no conflict between
18 the individual’s claims and those asserted on behalf of the class.” *Fry, supra*, 198 F.R.D. at 469.
19 Plaintiffs’ claims are in line with the claims of the Class, and Plaintiffs’ claims are not antagonistic to
20 the claims of State Class Members. Plaintiffs have prosecuted this case with the interests of the State
21 Class Members in mind. Moreover, Class Counsel has extensive experience in class action and
22 employment litigation, including wage and hour class actions, and do not have any conflict with the
23 classes. Cottrell Decl., ¶¶ 5-7, 34.

24 **5. The Rule 23(b)(3) Requirements for Class Certification are also Met.**

25 Under Rule 23(b)(3), Plaintiffs must demonstrate that common questions “predominate over any
26 questions affecting only individual members” and that a class action is “superior to other available
27 methods for fairly and efficiently adjudicating the controversy.” “The predominance analysis under
28 Rule 23(b)(3) ... ‘tests whether proposed classes are sufficiently cohesive to warrant adjudication by

1 representation.” *Wang, supra*, 737 F.3d at 545.

2 Here, the common questions raised in this action predominate over any individualized questions
3 concerning the State Classes. The Class is entirely cohesive because resolution of Plaintiffs’ claims
4 hinge on the uniform policies and practices of Defendants, rather than the treatment the State Class
5 Members experienced on an individual level. Cottrell Decl., ¶ 35. As a result, the resolution of these
6 alleged class claims would be achieved through the use of common forms of proof, such as Defendants’
7 uniform policies, and would not require inquiries specific to individual class members. *Id.*

8 Further, the class action mechanism is a superior method of adjudication compared to a multitude
9 of individual suits. *Id.*, ¶ 36. To determine whether the class approach is superior, courts are to consider:
10 (a) the class members’ interests in individually controlling the prosecution or defense of separate
11 actions; (b) the extent and nature of any litigation concerning the controversy already begun by or
12 against class members; (c) the desirability or undesirability of concentrating the litigation of the claims
13 in the particular forum; and (d) the likely difficulties in managing a class action. Fed. R. Civ. P.
14 23(b)(3)(A)-(D).

15 Here, the State Class Members do not have a strong interest in controlling their individual claims.
16 The action involves thousands of workers with very similar, but relatively small, claims for monetary
17 injury. Cottrell Decl., ¶ 36. If the State Class Members proceeded on their claims as individuals, their
18 many individual suits would require duplicative discovery and duplicative litigation, and each Class
19 Member would have to personally participate in the litigation effort to an extent that would never be
20 required in a class proceeding. *Id.* Thus, the class action mechanism would efficiently resolve numerous
21 substantially identical claims at the same time while avoiding a waste of judicial resources and
22 eliminating the possibility of conflicting decisions from repetitious litigation and arbitrations. *Id.*, ¶ 37.

23 The issues raised by the present case are much better handled collectively by way of a settlement.
24 Manageability is not a concern in the settlement context. *Amchem Prod., Inc. v. Windsor*, 521 U.S.
25 591, 593 (1997). The Settlement presented by the Parties provides finality, ensures that workers receive
26 redress for their relatively modest claims, and avoids clogging the legal system with numerous cases.
27 Accordingly, class treatment is efficient and warranted, and the Court should conditionally certify the
28 California Class for settlement purposes.

1 **C. Plaintiffs and the Collective Members are Similarly Situated.**

2 While in the FLSA context, court approval is required for settlements, the Ninth Circuit has not
3 established the criteria that a district court must consider in determining whether an FLSA settlement
4 warrants approval. *See, e.g., Dunn v. Teachers Ins. & Annuity Ass'n of Am.*, No. 13-CV-05456-HSG,
5 2016 WL 153266, at *3 (N.D. Cal. Jan. 13, 2016). Most courts in this Circuit, however, first consider
6 whether the named plaintiffs are “similarly situated” to the putative collective members within the
7 meaning of 29 U.S.C. § 216(b), and then evaluate the settlement under the standard established by the
8 Eleventh Circuit in *Lynn’s Food Stores, Inc. v. United States*, 679 F.2d 1350, 1355 (11th Cir. 1982),
9 which requires the settlement to constitute “a fair and reasonable resolution of a bona fide dispute over
10 FLSA provisions.” *Otey v. CrowdFlower, Inc.*, No. 12-CV-05524-JST, 2015 WL 6091741, at *4 (N.D.
11 Cal. Oct. 16, 2015). “If a settlement in an employee FLSA suit does reflect a reasonable compromise
12 over issues...that are actually in dispute,” the district court may “approve the settlement in order to
13 promote the policy of encouraging settlement of litigation.” *Lynn’s Food Stores*, 679 F.2d at 1354;
14 *Otey*, 2015 WL 6091741, at *4.

15 This Court has already granted conditional certification of the FLSA collective, and Plaintiffs
16 are confident that they have satisfied their burden of making substantial allegations and a modest factual
17 showing Collective Members were subject to a common practice or policy that violated the FLSA. ECF
18 15. Because Defendants maintain various common policies and practices as to what work they
19 compensate and what work they do not compensate, and apply these policies and practices to the
20 Collective Members, there are no individual defenses available to Defendants. Cottrell Decl., ¶ 38.

21 During the course of the litigation, 953 Collective Members filed opt-in forms to join the
22 Collective, and approximately 396 of those Collective Members did not work in the states of California,
23 Oregon, Washington, and Illinois. *See* ECF 67; Cottrell Decl., ¶ 39. Defendants have not moved for
24 decertification of the FLSA claim and have stipulated as part of the Settlement that the Collective
25 Members are similarly situated to Plaintiff for purposes of settlement. *Id.*, ¶ 40; Settlement, ¶ 15. The
26 Court should find that Plaintiffs and the Collective Members are similarly situated for purposes of
27 preliminary settlement approval.

28

1 **D. The Settlement Should Be Preliminarily Approved as to the State Classes and**
2 **Approved as to the Collective Because It Is Fair, Reasonable, and Adequate.**

3 In deciding whether to approve a proposed class or collective settlement, the Court must find
4 that the proposed settlement is “fair, reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2); *Officers for*
5 *Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir. 1982); *Otey*, 2015 WL 6091741, at *4.
6 Before making such a finding, the Court must consider whether (1) class representative and counsel
7 have adequately represented the class; (2) the proposal was negotiated at arm’s length; (3) the relief
8 provided for the class is adequate in light of the costs, risks, and delay of trial and appeal; the
9 effectiveness of any proposed method of distributing relief to the class, including the method of
10 processing class-member claims; the terms of any proposed award of attorney’s fees, including timing
11 of payment; and any agreement made in connection with the proposal; and (4) the proposal treats class
12 members equitably relative to each other. Fed. R. Civ. P. 23(e)(2); *see also In re Bluetooth Headset*
13 *Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011) (quoted source omitted) (enumerating additional
14 non-exhaustive factors that are to be considered for purposes of granting final approval of a class
15 settlement). “While Rule 23(e) does not mandate that courts consider these same factors for purposes
16 of determining whether preliminary approval is warranted, doing so often proves useful given the role
17 these factors play in final approval determinations.” *Lusk v. Five Guys Enters. LLC*, No. 1:17-cv-00762-
18 AWI-EPG, 2022 U.S. Dist. LEXIS 12812, at *6 (E.D. Cal. Jan. 22, 2022).

19 Included in this analysis are considerations of: (1) the strength of the plaintiff’s case; (2) the risk,
20 expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action
21 status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed
22 and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a
23 governmental participant; and (8) the reaction of the class members to the proposed settlement.
24 *Churchill Village, LLC. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004) (citing *Hanlon*, 150 F.3d at
25 1026). Importantly, courts apply a presumption of fairness “if the settlement is recommended by class
26 counsel after arm’s-length bargaining.” *Wren v. RGIS Inventory Specialists*, No. C-06-05778 JCS, 2011
27 WL 1230826, at *6 (N.D. Cal. Apr. 1, 2011). There is also “a strong judicial policy that favors
28 settlements, particularly where complex class action litigation is concerned.” *In re Syncor ERISA Litig.*,

1 516 F.3d 1095, 1101 (9th Cir. 2008). In light of these factors, the proposed settlement is fair, reasonable,
2 and adequate.

3 **1. The Terms of the Settlement are Fair, Reasonable, and Adequate, and Were**
4 **Reached Only After Months of Negotiations at Arm’s Length.**

5 In evaluating the fairness of a proposed settlement, courts compare the settlement amount with
6 the estimated maximum damages recoverable in a successful litigation. *In re Mego Fin. Corp. Sec.*
7 *Litig.*, 213 F.3d 454, 459 (9th Cir.2000). Courts routinely approve settlements that provide a fraction
8 of the maximum potential recovery. *See, e.g., Officers for Justice, supra*, 688 F.2d at 623.¹¹ Here, the
9 negotiated non-reversionary Gross Settlement Amount of \$9,500,000 represents approximately 43% of
10 the \$22.2 million total that Plaintiffs calculated for unliquidated, core claims for unpaid wages, meal
11 and rest breaks, and expense reimbursements. Cottrell Decl., ¶ 45. When adding derivative claims and
12 potential penalties, the \$9,500,000 million settlement amount represents approximately 14% of
13 Defendants’ total potential exposure of \$69.1 million. *Id.*, ¶ 46.¹² These calculations are exclusive of

14 ¹¹ *See, e.g., Andrews v. Prestige Care, Inc.*, Case No. 2:18-cv-00378-JAM-KJN (Dkt. No. 24, Mar. 24,
15 2020; Dkt. No. 32, July 14, 2020) (Mendez, J.) (preliminarily and finally approving settlement
16 representing 17.54% to 69.74% of the realistic and maximum total damage calculations); *Viceral v.*
17 *Mistras Grp., Inc.*, Case No. 15-cv-2198-EMC, 2016 WL 5907869, at *7 (N.D. Cal. Oct. 11, 2016)
18 (approving wage and hour settlement which represented 8.1% of the total verdict value); *Stovall-*
19 *Gusman v. W.W. Granger, Inc.*, 2015 WL 3776765, at *4 (N.D. Cal. June 17, 2015) (“10% gross and
20 7.3% net figures are ‘within the range of reasonableness’”); *Ma v. Covidien Holding, Inc.*, 2014 WL
21 360196, at *4-5 (C.D. Cal. Jan. 31, 2014) (9.1% of “the total value of the action” is within the range of
22 reasonableness).

23 ¹² The Net PAGA Amount of \$95,000 represents 1% of the gross settlement amount, well within the
24 PAGA settlements previously approved in this district and other California district courts. *See Cottrell*
25 *Decl.*, ¶ 47; *see, e.g., Ahmed v. Beverly Health & Rehab. Servs., Inc.*, 2018 U.S. Dist. LEXIS 20460,
26 2018 WL 746393, at *10 (E.D. Cal. 2018) (approving PAGA settlement of \$4,500, or 1% of the total
27 settlement); *Schiller v. David’s Bridal, Inc.*, 2012 U.S. Dist. LEXIS 80776, at *35-36 (E.D. Cal. 2012)
28 (approving PAGA settlement of \$7,500 or 0.14% of the total settlement); *Franco v. Ruiz Food Prods.,*
Inc., 2012 U.S. Dist. LEXIS 169057, 2012 WL 5941801 at *14 (E.D. Cal. 2012) (approving PAGA
settlement of \$10,000, or 0.4% of total settlement); *Garcia v. Gordon Trucking*, 2012 U.S. Dist. LEXIS
160052, 2012 WL 5364575 at *3 (E.D. Cal. 2012) (approving PAGA settlement of \$10,000 or 0.27%
of the total settlement). Indeed, the LWDA has stated it “is not aware of any existing case law
establishing a specific benchmark for PAGA settlements, either on their own terms or in relation to the
recovery on other claims in the action.” *Ramirez v. Benito Valley Farms, LLC*, No. 16-CV-04708-LHK,
2017 U.S. Dist. LEXIS 137272, 2017 WL 3670794, at *3 (N.D. Cal. Aug. 25, 2017) (quoting from the
LWDA response in *O’Connor v. Uber Technologies Inc.*, 201 F.Supp.3d 1110 (N.D. Cal. 2016)). The
reasoning for this approach is multifaceted; however, one of the major concerns regarding PAGA
settlements is that PAGA penalties may be reduced at a court’s discretion. *See Gonzales v. CoreCivic*
of Tennessee, LLC, 2018 WL 4388425, at *6-9 (E.D. Cal. Sept. 13, 2018) (“A trial court’s discretion
to reduce PAGA penalties might be a reason to ultimately discount the value of PAGA claims, perhaps
even significantly, in reaching a settlement. However, before the court could exercise that discretion it
would have to know the actual estimated values of the PAGA claims.”).

1 attorneys' fees and costs.

2 Plaintiffs' counsel based their exposure analysis and settlement negotiations on formal and
3 informal discovery (including payroll and timekeeping data), and nearly 300 interviews with
4 Caregivers. *Id.*, ¶ 42. Plaintiffs' counsel obtained average rates of pay for Caregivers, which were then
5 used in conjunction with amounts of unpaid time to determine estimated damages for off-the-clock and
6 overtime violations. *Id.* Based on interview analysis and cross-checked with Defendants' data,
7 Plaintiffs applied a high-end damage assumption of 30 minutes of off-the-clock time per day, along
8 with each Caregivers missing 79.3% of their meal periods (accounting for paid meal premium
9 payments) and 86% of their rest periods, and an average of \$50 out-of-pocket expenses per Caregiver.
10 *Id.*, ¶¶ 43-44.

11 Using these assumptions and further assuming that Plaintiff and the Caregivers would certify
12 all of their claims and prevail at trial, Plaintiffs' counsel calculated the total potential substantive
13 exposure if Plaintiffs fully prevailed on all of their claims at approximately \$22.2 million and the total
14 exposure (including liquidated damages, derivative claims, and stacked civil penalties) of \$69.1
15 million. *Id.*, ¶ 44.

16 These figures are based on Plaintiffs' assessment of a best-case-scenario. To obtain such a result
17 at trial, Plaintiffs would have to, at the minimum: (1) win on appeal before the Ninth Circuit and the
18 California Court of Appeal; (2) certify all claims and withstand any decertification motions; (3) prevail
19 on the merits on all claims; (4) prove that Defendants acted knowingly or in bad faith; and (5) prove
20 that all Caregivers experienced the violations at the levels described above for every shift. *Id.*, ¶ 48.

21 The Gross Settlement Amount is a negotiated amount that resulted only after months of
22 substantial arm's-length negotiations, multiple mediation sessions, and significant investigation and
23 analysis by Plaintiffs' counsel. Cottrell Decl., ¶¶ 19-24, 42, 54. Plaintiffs and their counsel considered
24 the significant risks of continued litigation when considering the proposed Settlement. *Id.*, ¶¶ 49, 51.
25 These risks were front and center, particularly given the nature of the off-the-clock work, that the
26 Caregivers work in numerous and varying locations often owned by various third-party entities, which
27 could invariably complicate certification efforts and proving the claims on the merits. *Id.* In contrast,
28 the Settlement will result in immediate and certain payment to Caregivers of meaningful amounts. *Id.*,

1 ¶ 50.

2 The average recovery is approximately \$1,474 per California Class Member, \$884 per Oregon
 3 and Washington Class Member, \$589 per Illinois Class Member, and \$151 per FLSA-only Collective
 4 Member.¹³ *Id.* This amount provides significant compensation to the Participating Individuals, and the
 5 Settlement provides an excellent recovery well within the reasonable standard when considering the
 6 difficulty and risks presented by expanding and uncertain litigation. *Id.* The final settlement amount
 7 takes into account the substantial risks inherent in any class action wage-and hour case, as well as the
 8 procedural posture of the Actions and the specific defenses asserted by Defendants, many of which are
 9 unique to this case. *See Officers for Justice, supra*, 688 F.2d at 623. In light of all of the risks, the
 10 settlement amount is fair, reasonable, and adequate.

11 **2. The Parties Agreed to a Fair and Equitable Distribution of the Settlement**
 12 **Proceeds Tailored to the Respective Claims of the Classes and Collective.**

13 In an effort to ensure fairness, the Parties agreed to allocate the settlement proceeds amongst
 14 Class and Collective Members in a manner that recognizes that amount of time that the particular
 15 individual was employed by Defendants in the applicable limitations period. The allocation method,
 16 which is based on the number of workweeks, will ensure that longer-tenured workers receive a greater
 17 recovery. Moreover, the allocation tracks the differences in substantive law and penalty claims by
 18 weighting the Workweek shares more heavily for work performed in California, Oregon, Washington,
 19 and Illinois. Cottrell Decl., ¶ 52.¹⁴ The allocation was made based on Class Counsel's assessment to
 20 ensure that employees are compensated accordingly and in the most equitable manner. *Id.* To the extent
 21 that any Class Member is *both* an Opt-In Plaintiff and a member of a State Class, these workers will

22 ¹³ The averages provided here assume all Class and Collective Members participate in the Settlement
 23 and that each member worked identical lengths of employment, and incorporate workweek weightings
 24 that reflect the increased value of state law claims and differing average rates of pay by state, described
 25 below. Cottrell Decl., ¶ 50, n.2.

26 ¹⁴ District courts in this circuit have granted final approval of hybrid FLSA/Rule 23 wage and hour
 27 settlement that incorporated greater workweek weighting for state law claims and lower workweek
 28 weighting for FLSA-only Workweeks. *See Villafan v. Broadpectrum Downstream Servs.*, No. 18-cv-
 06741-LB, 2020 U.S. Dist. LEXIS 218152, at *6 (N.D. Cal. Nov. 20, 2020); *Jones, et al. v. CertifiedSafety, et al.*, 3:2017-cv-02229, ECF 232 (N.D. Cal. June 1, 2020); *Soto, et al. v. O.C. Commc'ns, Inc., et al.*, Case No. 3:17-cv-00251-VC, ECF 299 at 10:11-14, 305 (N.D. Cal. Oct. 23, 2019); *see also Loeza v. JP Morgan Chase Bank*, No. 13-cv-0095-L (BGS), 2015 U.S. Dist. LEXIS 196647, at *15 (S.D. Cal. Aug. 18, 2015) (granting preliminary approval where workweeks are weighted for different subclasses based on the chance of recovery of each class's claims).

1 only receive a recovery based on their workweeks as a State Class Member for their work in their
2 respective state. *Id.*, ¶ 53. Such workers will not receive a “double recovery.” *Id.*

3 A class action settlement need not benefit all class members equally. *Holmes v. Continental Can*
4 *Co.*, 706 F.2d 1144, 1148 (11th Cir. 1983); *cf. Reyes v. CVS Pharmacy, Inc.*, No. 1:14-cv-00964-MJS,
5 2016 U.S. Dist. LEXIS 17180, at *19-20 (E.D. Cal. Feb. 10, 2016) (noting equal distribution of
6 settlement to class members may be appropriate where plaintiffs face difficulties prosecuting their
7 individual claims). Rather, although disparities in the treatment of class and collective members may
8 raise an inference of unfairness and/or inadequate representation, this inference can be rebutted by
9 showing that the unequal allocations are based on legitimate considerations. *Holmes, supra*, 706 F.2d
10 at 1148. Plaintiffs provide rational and legitimate bases for the allocation method here, and the Parties
11 submit that it should be approved by the Court.

12 **3. The Extensive Discovery in this Action Enabled the Parties to Make Informed**
13 **Decisions Regarding Settlement.**

14 The amount of discovery completed prior to reaching a settlement is important because it bears
15 on whether the Parties and the Court have sufficient information before them to assess the merits of the
16 claims. *See, e.g., Lewis v. Starbucks Corp.*, No. 2:07-cv-00490-MCE-DAD, 2008 WL 4196690, at *6
17 (E.D. Cal. Sept. 11, 2008). Informal discovery may also assist parties with “form[ing] a clear view of
18 the strengths and weaknesses of their cases.” *Monterrubio v. Best Buy Stores, L.P.*, 291 F.R.D. 443,
19 454 (E.D. Cal. 2013).

20 The Parties engaged in extensive formal and informal discovery, including thousands of pages
21 of documents, and hundreds of class interviews that enabled Plaintiffs to assess the claims and potential
22 defenses in this action. Cottrell Decl., ¶ 54. Plaintiffs were able to assess the legal and factual issues
23 that would arise if the cases proceeded to trial(s). *Id.* In addition, in reaching this Settlement, Plaintiffs’
24 counsel relied on their substantial litigation experience in similar wage and hour class and collective
25 actions. *Id.* Plaintiffs’ counsel’s liability and damages evaluation was premised on a careful and
26 extensive analysis of the effects of Defendants’ compensation policies and practices on Class Members’
27 pay. *Id.* Ultimately, facilitated by mediators David Rotman and Steve Serratore, the Parties used this
28 information and discovery to fairly resolve the litigation. *See Id.*

1 **4. Litigating the Action Not Only Would Delay Recovery, but Would be Expensive,**
2 **Time Consuming, and Involve Substantial Risk.**

3 The monetary value of the proposed Settlement represents a fair compromise given the risks and
4 uncertainties posed by continued litigation. *Id.*, ¶ 55. If this Action were to go to trial(s) and through
5 appeals as class, representative, and collective actions (which Defendants would vigorously oppose if
6 this Settlement Agreement were not approved), Plaintiffs’ Counsel estimates that fees and costs would
7 well exceed \$7,000,000.00. *Id.*

8 Litigating the class, representative, and collective action claims would require substantial
9 additional preparation and discovery. *Id.*, ¶ 56. Plaintiffs Wright, Stanley, Quam, and Lewis would
10 need to successfully win on appeal in the Ninth Circuit. *Id.* Following that, Plaintiffs would need to
11 complete fact and expert discovery. This would include: (1) written discovery to Collective Members;
12 (2) depositions of the Collective Members and Defendants’ 30(b)(6) witnesses, managers, and
13 executives; (3) third party discovery to the various facilities where Caregivers worked, and (4) expert
14 discovery. Finally, Plaintiff would need to prepare for trial, which would require the presentation of
15 percipient and expert witnesses, as well as the consideration, preparation, and presentation of
16 voluminous documentary evidence and the preparation and analysis of expert reports. *Id.*

17 Even if Plaintiffs successfully overcame these procedural obstacles, recovery of the damages and
18 penalties previously referenced would also require complete success and certification of all of
19 Plaintiffs’ claims, a questionable feat in light of developments in wage and hour and class and collective
20 action law as well as the legal and factual grounds that Defendants have asserted to defend this action.
21 *Id.*, ¶ 57. Off-the-clock claims are difficult to certify for class treatment, given that the nature, cause,
22 and amount of the off-the-clock work may vary based on the individualized circumstances of the
23 worker.¹⁵ While Plaintiffs are confident that they would establish that common policies and practices

24
25 ¹⁵ See, e.g., *In re AutoZone, Inc., Wage & Hour Emp’t Practices Litig.*, 289 F.R.D. 526, 539 (N.D. Cal.
26 2012), *aff’d*, No. 17-17533, 2019 WL 4898684 (9th Cir. Oct. 4, 2019); *Kilbourne v. Coca-Cola Co.*,
27 No. 14CV984-MMA BGS, 2015 WL 5117080, at *14 (S.D. Cal. July 29, 2015); *York v. Starbucks*
28 *Corp.*, No. CV 08-07919 GAF PJWX, 2011 WL 8199987, at *30 (C.D. Cal. Nov. 23, 2011); *Forrester*
 v. Roth’s I. G. A. Foodliner, Inc., 475 F.Supp. 630, 634 (D Or 1979) (employees maybe estopped from
 “off-the-clock” claims when they have deliberately underreported their hours and/or routinely signed
 payroll records, certifying them to be true and accurate); *Hawkins v. Securitas Sec. Servs. USA, Inc.*,

1 give rise to the off-the-clock work for Caregivers, Plaintiffs acknowledged that the work was performed
2 by hourly employees holding various job titles at dozens of different locations around the country,
3 which were often owner and/or operated by numerous different companies. *Id.* With differing facilities'
4 policies and practices, physical layouts, and the nature of the work varying by location, Plaintiffs
5 recognized that obtaining class certification would present a significant obstacle, with the risk that the
6 Caregivers could only pursue individual actions in the event that certification was denied. *Id.*
7 Certification of off-the-clock work claims is complicated by the lack of documentary evidence and
8 reliance on employee testimony, and Plaintiffs would likely face motions for decertification as the case
9 progressed. *Id.*

10 Plaintiffs also recognized similar obstacles may hinder class certification and proving their
11 claims on the merits of Plaintiffs' class claims regarding Caregivers' meal and rest breaks. *Id.*, ¶ 58. At
12 the core of Plaintiffs' meal and rest break claims is Defendants' common policy and practice of
13 requiring Caregivers to carry communication devices and respond to work related calls during their
14 breaks, rendering such breaks on-duty. *Id.* Although California, Oregon, and Washington, share similar
15 meal and rest break policies against "on-duty" breaks, courts in Oregon and Washington lack the
16 abundance of case law existing in California regarding whether being required to carry and respond to
17 communication devices would suffice to show breaks were on duty in Oregon in Washington. *Id.*
18 Defendants were poised to submit evidence and deposition testimony as to their defense, that
19 communication devices were only provided to certain Caregivers, and among such Caregivers, only
20 Caregivers who were assigned to be on-call. *Id.* In the event Defendants' evidence proved to be true,
21 Plaintiffs' meal and rest break claims could have potentially failed at the class certification stage.
22 Further, given that the substantive damages are largely driven by the alleged off-the-clock work and
23 meal and rest breaks, and that the derivative and penalty claims are tethered to off-the-clock claims,
24 Plaintiffs recognized that their potential failure to obtain class certification on the off-the-clock work
25 and meal rest breaks could potentially result in the death knell of their derivative claims. *Id.*

26 Plaintiffs would also encounter difficulties in proving Defendants' liability on the merits for

27 280 F.R.D. 388, 392 (N.D. Ill. 2011) (certifying Illinois Rule 23 subclass asserting off-the-clock work
28 performed during training and orientation but denying certification of subclass asserting off-the-clock
work performed pre- and post- shift).

1 various other reasons. *Id.*, ¶ 59. For example, Section 260 of the FLSA reads in relevant part that, in
2 any civil action regarding unpaid compensation, “if the employer shows to the satisfaction of the court
3 that the act or omission giving rise to such action was in good faith and that he had reasonable grounds
4 for believing that his act or omission was not a violation of the [FLSA], the court may, in its sound
5 discretion, award no liquidated damages or award any amount thereof.” 29 U.S.C. 260. Defendants
6 would no doubt be prepared to submit evidence showing that it had acted in good faith and on
7 reasonable grounds that its actions were not in violation of the FLSA, and whether this Court agrees
8 with Defendants would be a risk that Plaintiffs would necessarily undertake had litigation continued.

9 The path to an award of additional damages and penalties at trial for overlapping FLSA and state
10 law claims was equally uncertain. Plaintiffs’ recovery analysis above assumes Oregon, Washington,
11 and Illinois class members could receive both liquidated damages under the FLSA, but also civil
12 penalties or liquidated damages under applicable case law (e.g., double penalties under Oregon law,
13 treble damages under Washington law, 2% punitive damages under Illinois law) for the same
14 underlying overtime and minimum wage claims. Cottrell Decl., ¶ 60. Although Plaintiffs are confident
15 they would be able to succeed in arguing for these penalties and liquidated damages, Defendants would
16 surely vehemently oppose such an approach. *Id.*

17 As to Plaintiff Wright’s PAGA claims, Plaintiff Wright would first need to overcome similar
18 procedural hurdles, including successfully defending against Defendants’ petition for writ of mandate
19 and completing substantial amounts of written discovery and depositions. *See Id.*, ¶¶ 56, 61. Plaintiffs’
20 exposure analysis assumes stacking; however, there is a significant chance that the Court would decline
21 to stack on derivative violations for an employer that maintains comprehensive, facially compliant
22 policies and training.¹⁶ *Id.*, ¶ 62.

23 Plaintiffs would further likely need to move for and defend against motions for summary

24 ⁶ *Smith v. Lux Retail N. Am., Inc.*, No. C 13-01579 WHA, 2013 U.S. Dist. LEXIS 83562, at *9 (N.D.
25 Cal. June 13, 2013) (“For the single mistake of failing to include commissions in the overtime base,
26 plaintiff has asserted five (count them, five) separate labor code violations that could lead to statutory
27 penalties. One is a penalty for failure to pay overtime at the appropriate rate []. Another is for denying
28 employees minimum wage and overtime []. But is it plausible that we would really pile one penalty on
another for a single substantive wrong?”). Even without stacking derivative violations, a given
employee may present multiple PAGA violations (e.g., for meal and rest violations, off-the-clock work,
and failure to reimburse) for a particular pay period. There is a chance that the Court would decline to
assess multiple violations per pay period per employee.

1 judgment or adjudication, and would have been further required to take their claims to trial. *Id.*, ¶ 63.
2 Trials are inherently risky for all parties. Although Plaintiffs believes that they could have been
3 successful in proving these claims, and that Defendants’ evidence would not have been as persuasive,
4 a trial on the off-the-clock claims and meal and rest periods would have carried a high degree of risk.¹⁷

5 In contrast to litigating this suit, resolving this case by means of the Settlement will yield a
6 prompt, certain, and very substantial recovery for the Class Members. Such a result will benefit the
7 Parties and the court system. It will bring finality to over two years of arduous litigation and will
8 foreclose the possibility of expanding litigation.

9 **5. The Settlement is the Product of Informed, Non-collusive, and Arm’s Length**
10 **Negotiations Between Experienced Counsel.**

11 Courts routinely presume a settlement is fair where it is reached through arm’s-length bargaining.
12 *See Hanlon, supra*, 150 F.3d at 1027; *Wren, supra*, 2011 WL 1230826, at *14. Furthermore, where
13 counsel are well-qualified to represent the proposed class and collective in a settlement based on their
14 extensive class and collective action experience and familiarity with the strengths and weaknesses of
15 the action, courts find this factor to support a finding of fairness. *Wren*, at *10; *Carter v. Anderson*
16 *Merchandisers, LP*, No. EDCV 08-0025-VAP OPX, 2010 WL 1946784, at *8 (C.D. Cal. May 11,
17 2010) (“Counsel’s opinion is accorded considerable weight.”).

18 Here, the settlement was a product of non-collusive, arm’s-length negotiations. Cottrell Decl., ¶
19 65. The Parties participated in three separate mediation sessions before David Rotman and Steve
20 Serratore, both of whom are skilled mediators with many years of experience mediating employment
21 matters. *Id.* The Parties then spent several months negotiating the long form settlement agreement over
22 numerous drafts, with several rounds of meet and confer and correspondence related to the terms and
23

24 ¹⁷ For example, on the California derivative claims, Defendants would argue that no penalties for
25 waiting-time violations can be awarded unless the failure to pay wages is “willful,” an element that
26 Plaintiffs acknowledge given Defendants’ policies and enforcement would have been difficult to prove.
27 *See* Cal. Lab. Code § 203; 8 C.C.R. 13520 (“[a] willful failure to pay wages within the meaning of
28 Labor Code section 203 occurs when an employer intentionally fails to pay wages to an employee when
those wages were due.”); *Smith v. Rae Venter Law Group*, 29 Cal.4th 345, 354 n.2 (2002) (holding that
a good faith dispute that any wages are due will preclude an award of waiting time penalties).
Defendants would also have argued that an employer’s failure to pay wages is not willful unless it
reached the standard of “gross negligence or recklessness.” *See Amaral v. Cintas*, 163 Cal.App.4th
1157, 1201 (2008).

1 details of the Settlement. *Id.* Plaintiffs are represented by experienced and respected litigators of
 2 representative wage and hour actions, and these attorneys feel strongly that the proposed Settlement
 3 achieves an excellent result for the Class Members. *Id.*, ¶ 5-7, 66.

4 **6. The Class Representative Enhancement Payments are Reasonable and the Class**
 5 **Representatives Have Adequately Represented the Classes.**

6 Named plaintiffs in class action litigation are eligible for reasonable service awards. *See Staton*
 7 *v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003).¹⁸ The enhancement payments of up to \$10,000 for
 8 Plaintiff Wright and \$5,000 each for Plaintiffs Stanley, Quam, and Lewis, as well as to Emily Gracey,
 9 are intended to compensate them for broader releases and for the critical roles they played in this case,
 10 and the time, effort, and risks – including risks to future employment – they undertook in helping secure
 11 the result obtained on behalf of the Caregivers. Cottrell Decl., ¶ 67. Plaintiffs’ proposed enhancement
 12 payments total \$30,000, representing only 0.32% of the gross settlement amount, *Id.*, ¶ 68, well within
 13 payments approved in similar cases.¹⁹ In agreeing to serve as Class and Collective representatives,
 14 Plaintiffs formally agreed to accept the responsibilities of representing the interests of all Class
 15 Members. *Id.*, ¶ 69. Ms. Gracey, in dismissing the *Gracey* action against the Defendants, also helped
 16 secure the Settlement. *Id.*, ¶ 70. Moreover, Plaintiffs and Ms. Gracey agreed to a general release, unlike
 17 other Class Members. *Id.*, ¶ 71. Defendants do not oppose the requested payments to the Plaintiffs and
 18 to Ms. Gracey as reasonable service awards. *Id.*, ¶ 72; Settlement, ¶¶ 34.a. The service awards are fair

19
 20 ¹⁸ “Courts routinely approve incentive awards to compensate named plaintiffs for the services they
 21 provided and the risks they incurred during the course of the class action litigation.” *Van Vranken v.*
 22 *Atl. Richfield Co.*, 901 F.Supp. 294, 300 (N.D. Cal. 1995) (named plaintiff received \$50,000 for work
 23 in class action).

24 ¹⁹ *See, e.g., Greer v. Dick’s Sporting Goods, Inc.*, No. 2:15-CV-01063-KJM-CKD, 2020 U.S. Dist.
 25 LEXIS 168923, at *15 (E.D. Cal. Sep. 15, 2020) (approving \$10,000 service award representing .003
 26 percent of gross settlement amount in wage and hour settlement where class members were estimated
 27 to receive \$155 on average); *Wise v. Ulta Salon, Cosmetics & Fragrance, Inc.*, No. 1:17-cv-00853-
 28 DAD-EPG, 2019 U.S. Dist. LEXIS 142331, at *32 (E.D. Cal. Aug. 21, 2019) (approving \$10,000
 service awards each to two class representatives, which amounted to 0.6 percent of the overall
 settlement amount of \$3,400,000); *Soto*, Case No. 3:17-cv-00251-VC, ECF 304 (N.D. Cal. Oct. 23,
 2019) (approving \$15,000 and \$10,000 service awards in recent hybrid FLSA/Rule 23 settlement);
Guilbaud v. Sprint/United Management Co., Inc., No. 3:13-cv-04357-VC, Dkt. No. 181 (N.D. Cal. Apr.
 15, 2016) (approving \$10,000 service award for each class representative in FLSA and California state
 law representative wage and hour action); *Spann v. J.C. Penney Corp.*, 211 F.Supp.3d 1244, 1265 (C.D.
 Cal. 2016) (awarding service award of \$10,000, approximately 100 times average the award and less
 than 0.25 percent of gross settlement). *See also, e.g., Mousai v. E-Loan, Inc.*, No. C 06-01993 SI (N.D.
 Cal. May 30, 2007) (approving service award of \$20,000).

1 and reasonable, and should be approved.

2 **7. The Requested Attorneys’ Fees and Costs are Reasonable and Plaintiffs’**
3 **Counsel Have Adequately Represented the Classes.**

4 In their fee motion to be submitted with the final approval papers, Plaintiffs’ Counsel will request
5 up to a maximum of \$3,166,663.50 in fees, representing one-third of the Gross Settlement Amount,
6 plus reimbursement of costs up \$110,000. Cottrell Decl., ¶ 73. The requested fees will represent less
7 than the 35% maximum provided for by the Settlement. Settlement, ¶ 2.m. Plaintiffs’ counsel will
8 provide their lodestar information with their fee motion, which will demonstrate the reasonableness of
9 Plaintiffs’ Counsel’s rates. *See* Cottrell Decl., ¶¶ 74, 77; *see, e.g., Vizcaino v. Microsoft Corp.*, 290 F.3d
10 1043, 1050-51 (9th Cir. 2002) (“Calculation of the lodestar, which measures the lawyers’ investment
11 of time in the litigation, provides a check on the reasonableness of the percentage award”).

12 The typical range of acceptable attorneys’ fees in the Ninth Circuit is 20% to 33 1/3% of the total
13 settlement value, with 25% considered the benchmark.²⁰ However, the exact percentage varies
14 depending on the facts of the case, and in “most common fund cases, the award exceeds that
15 benchmark.” *Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D. 482 at 491 (E.D. Cal. 2010) (citation
16 omitted); *In re Activision Sec. Litig.*, 723 F.Supp. 1373, 1377-78 (N.D. Cal. 1989) (“nearly all common
17 fund awards range around 30%”). In California, federal and state courts customarily approve payments
18 of attorneys’ fees amounting to one-third of the common fund in comparable wage and hour class
19 actions.²¹

20 Here, given the excellent results achieved, the effort expended litigating the Action, including
21 the difficulties attendant to litigating this case, such an upward adjustment is warranted. There was no

22
23 ²⁰ *Vasquez v. Coast Valley Roofing*, 266 F.R.D. 482, 491-492 (E.D. Cal. 2010) (citing *Powers v. Eichen*,
24 229 F.3d 1249, 1256 (9th Cir. 2000)); *Hanlon, supra*, 150 F.3d at 1029; *Staton, supra*, 327 F.3d at 952;
25 *see also, Chu v. Wells Fargo Investments, LLC*, Nos. C 05–4526 MHP, C 06–7924 MHP, 2011 WL
26 672645, at *4 (N. D. Cal. Feb.16, 2011) percentage-of-the-fund method is appropriate where—as
27 here—the amount of the settlement is fixed without any reversionary payment to the defendant).

28 ²¹ *See, e.g., Jones, et al.*, Case No. 3:17-cv-02229-EMC, ECF 232 (N.D. Cal. June 1, 2020) (approving
attorneys’ fees of one-third of the gross settlement in recent hybrid FLSA/Rule 23 settlement); *Soto*,
Case No. 3:17-cv-00251-VC, ECF 304 (N.D. Cal. Oct. 23, 2019) (approving attorneys’ fees of one-
third of the gross settlement in recent hybrid FLSA/Rule 23 settlement); *Regino Primitivo Gomez, et*
al. v. H&R Gunlund Ranches, Inc., No. CV F 10–1163 LJO MJS, 2011 WL 5884224 (E.D. Cal. 2011)
(approving attorneys’ fees award equal to 45% of the settlement fund); *Wren*, 2011 WL 1230826
(approving attorneys’ fee award of just under 42% of common fund).

1 guarantee of compensation or reimbursement. Cottrell Decl., ¶ 75. Rather, counsel undertook all the
2 risks of this litigation on a completely contingent fee basis. *Id.* These risks were front and center. *Id.*
3 Defendants’ vigorous and skillful defense further confronted Plaintiffs’ counsel with the prospect of
4 recovering nothing or close to nothing for their commitment to and investment in the case. *Id.*
5 Nevertheless, Plaintiffs and their counsel committed themselves to developing and pressing Plaintiffs’
6 legal claims to enforce the employees’ rights and maximize the class and collective recovery. *Id.* During
7 the litigation, counsel had to turn away other less risky cases to remain sufficiently resourced for this
8 one. *Id.* The challenges that Plaintiffs’ Counsel had to confront and the risks they had to fully absorb
9 on behalf of the Caregivers here are precisely the reasons for multipliers in contingency fee cases.²²

10 Attorneys who litigate on a wholly or partially contingent basis expect to receive significantly
11 higher effective hourly rates in cases where compensation is contingent on success, particularly in hard-
12 fought cases where, like in the case at bar, the result is uncertain. *Id.*, ¶ 76. This does not result in any
13 windfall or undue bonus. In the legal marketplace, a lawyer who assumes a significant financial risk on
14 behalf of a client rightfully expects that his or her compensation will be significantly greater than if no
15 risk was involved (*i.e.*, if the client paid the bill on a monthly basis), and that the greater the risk, the
16 greater the “enhancement.” Adjusting court-awarded fees upward in contingent fee cases to reflect the
17 risk of recovering no compensation whatsoever for hundreds of hours of labor simply makes those fee
18 awards consistent with the legal marketplace, and in so doing, helps to ensure that meritorious cases
19 will be brought to enforce important public interest policies and that clients who have meritorious
20 claims will be better able to obtain qualified counsel.

21 For these reasons, Plaintiffs’ counsel respectfully submits that a one-third recovery for fees is
22 reasonable and appropriate. *Id.*, ¶ 79. Class Counsel also requests reimbursement for their litigation
23 costs. *Id.*, ¶ 78. Class Counsel’s efforts resulted in an excellent settlement, and the fee and costs award
24 should be preliminarily approved as fair and reasonable.

25
26 ²² See, e.g., *Noyes v. Kelly Servs., Inc.*, 2:02-CV-2685-GEB-CMK, 2008 WL 3154681 (E.D. Cal. Aug.
27 4, 2008); Posner, *Economic Analysis of the Law*, 534, 567 (4th ed. 1992) (“A contingent fee must be
28 higher than a fee for the same legal services paid as they are performed... because the risk of default
(the loss of the case, which cancels the debt of the client to the lawyer is much higher than that of
conventional loans”).

1 **E. The Proposed Notices of Settlement and Claims Process Are Reasonable.**

2 The Court must ensure that Class Members receive the best notice practicable under the
3 circumstances of the case. *See Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 811-12 (1985); *Eisen v.*
4 *Carlisle & Jacquelin*, 417 U.S. 156, 174-75 (1974). Procedural due process does not guarantee any
5 particular procedure but rather requires only notice reasonably calculated “to apprise interested parties
6 of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v.*
7 *Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); *Silber v. Mabon*, 18 F.3d 1449, 1454 (9th
8 Cir. 1994). A settlement notice “is satisfactory if it ‘generally describes the terms of the settlement in
9 sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be
10 heard.’” *Churchill Village LLC, supra*, 361 F.3d at 575.

11 The Notices of Settlement, attached as **Exhibit C** and **D** to the Settlement Agreement (together,
12 “Notices”), and manner of distribution negotiated and agreed upon by the Parties are “the best notice
13 practicable.” Fed. R. Civ. P. 23(c)(2)(B). All Class Members have been identified and the Notices will
14 be mailed directly to each Class Member and emailed to those for whom Defendants have an email
15 address. Settlement, ¶ 26.f. The proposed Notices are clear and straightforward, and provide
16 information on the nature of the action and the proposed Class and Collective, the terms and provisions
17 of the Settlement, and the monetary awards that the Settlement will provide Class Members. *See* Exs.
18 C-D. In addition, the Parties will provide a settlement website that provides a generic form of the
19 Notices, the Settlement Agreement, and other case related documents and contact information. *Id.*

20 The proposed class Notice fulfills the requirement of neutrality in class notices. *See* Conte,
21 Newberg on Class Actions, § 8.39 (3rd Ed. 1992). It summarizes the proceedings necessary to provide
22 context for the Settlement Agreement and summarize the terms and conditions of the Settlement,
23 including an explanation of how the settlement amount will be allocated between the Named Plaintiffs,
24 Class Counsel, the Settlement Administrator (SSI), and the Class or Collective Members, as applicable,
25 in an informative, coherent and easy-to-understand manner, all in compliance with the Manual for
26 Complex Litigation’s recommendation that “the notice contain a clear, accurate description of the terms
27 of the settlement.” Manual for Complex Litigation, Settlement Notice, § 21.312 (4th ed. 2004); *see* Exs.
28 C-D.

1 The proposed class Notice clearly explains the procedures and deadlines for requesting exclusion
2 from the Settlement, objecting to the Settlement, the consequences of taking or foregoing the various
3 options available to Class Members, and the date, time and place of the Final Approval Hearing. Exs.
4 C and D. Pursuant to Rule 23(h), the proposed Notices also set forth the amount of attorneys' fees and
5 costs sought by Plaintiffs, as well as an explanation of the procedure by which Class Counsel will apply
6 for them. *Id.* The Notices clearly state that the Settlement does not constitute an admission of liability
7 by Defendants. *Id.* It makes clear that the final settlement approval decision has yet to be made. *Id.*
8 Accordingly, the Notices comply with the standards of fairness, completeness, and neutrality required
9 of a settlement class notice disseminated under authority of the Court. *See Conte, Newberg on Class*
10 *Actions*, §§ 8.21 and 8.39 (3rd Ed. 1992); *Manual for Complex Litigation, Certification Notice*, §
11 21.311; *Settlement Notice*, § 21.312 (4th ed. 2004).

12 Furthermore, reasonable steps will be taken to ensure that all Class Members receive the Notices.
13 Before mailing, Defendants will provide to the SSI a database that contains the names, last known
14 addresses, last known email addresses (if any), and social security numbers of each Class Member,
15 along with the applicable number(s) of workweeks for calculating the respective settlement shares.
16 Settlement, ¶¶ 2.f, 26.d. The Notices will be sent by United States Mail, and also via email to the
17 maximum extent possible. *Id.*, ¶ 26.f. SSI will make reasonable efforts to update the contact information
18 in the database using public and private skip tracing methods. *Id.*, ¶ 26.e. Within 10 days of receipt of
19 the Class List from Defendants, SSI will mail the Notices to each Class Member. *Id.*, 26.f.

20 With respect to Notices returned as undeliverable, SSI will re-mail any Notices returned to SSI
21 with a forwarding address following receipt of the returned mail. *Id.*, ¶ 26.g. If any Notice is returned
22 to SSI without a forwarding address, SSI will undertake reasonable efforts to search for the correct
23 address, including skip tracing, and will promptly re-mail the Notice to any newly found address. *Id.*

24 State Class Members will have 60 days from the mailing of the Notices to opt-out or object to
25 the Settlement. *Id.*, ¶ 2.v, 28, 29. Any State Class Member who does not submit a timely request to
26 exclude themselves from the Settlement will be deemed a Participating Individual whose rights and
27 claims are determined by any order the Court enters granting final approval, and any judgment the
28 Court ultimately enters in the case. *Id.*, ¶ 29. Administration of the Settlement will follow upon the

1 Court's issuance of final approval of the Settlement. *Id.*, ¶ 33-34. SSI will provide Class Counsel and
2 Defendants' Counsel with a report of all Settlement payments within 10 business days after the Notice
3 Deadline (the opt-out and objection deadline). Settlement, ¶ 26.h; *see also Id.*, ¶ 26.j.

4 Because the proposed Notices clearly and concisely describe the terms of the Settlement and the
5 awards and obligations for Class Members who participate, and because the Notices will be
6 disseminated in a way calculated to provide notice to as many Class Members as possible, the Notices
7 should be preliminarily approved.

8 **V. CONCLUSION**

9 For the foregoing reasons, Plaintiffs respectfully request that this Court grant preliminary
10 approval of the Settlement Agreement as to the State Classes and approval of the Settlement Agreement
11 as to the Collective, in accordance with the schedule set forth herein, and to set a final approval and
12 fairness hearing.

13 Date: July 21, 2022

Respectfully Submitted,

15 */s/ Carolyn H. Cottrell*

16 Carolyn H. Cottrell

17 Ori Edelstein

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21 *Attorneys for Plaintiffs, and the Putative Classes*
22 *and Collective*

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document(s) with the Clerk of the Court for the United States District Court, Eastern District of California, by using the Court’s CM/ECF system on July 21, 2022.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Court’s CM/ECF system.

/s/ Carolyn H. Cottrell
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9
10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12 JOSHUA WRIGHT, LORETTA STANLEY,
13 HALEY QUAM, and AIESHA LEWIS, on
behalf of themselves and all others similarly
14 situated,

15 Plaintiffs,

16 vs.

17 FRONTIER MANAGEMENT LLC,
FRONTIER SENIOR LIVING, LLC, and GH
18 SENIOR LIVING, LLC dba GREENHAVEN
ESTATES ASSISTED LIVING,

19 Defendants.

Case No.: 2:19-cv-01767-JAM-CKD

Hon. John A. Mendez

DECLARATION OF CAROLYN HUNT
COTTRELL IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND COLLECTIVE ACTION
SETTLEMENT

Date: September 13, 2022

Time: 1:30 p.m.

Ctrm.: 6, 14th Floor

Filed: September 6, 2019

Trial Date: None

DECLARATION OF CAROLYN HUNT COTTRELL

I, Carolyn Hunt Cottrell, hereby declare as follows:

1. I am an attorney at law duly licensed and in good standing to practice law in the courts of California (No. 166977) and am admitted to practice law before this Court, the United States District Court Eastern District of California.

2. I am a partner at the law firm of Schneider Wallace Cottrell Konecky LLP (“SWCK”). SWCK specializes in class, collective, and PAGA litigation in state and federal court.

3. I am lead counsel of record for Plaintiffs Joshua Wright, Loretta Stanley, Haley Quam, and Aiesha Lewis on behalf of themselves and all others similarly situated (“Plaintiffs”), in the above-captioned case. I submit this declaration in support of Plaintiffs’ Motion for Preliminary Approval of Class and Collective Action Settlement. I am familiar with the file, the documents, and the history related to these cases. The following statements are based on my personal knowledge and review of the files. If called to do so, I could and would testify competently thereto.

4. A true and correct copy of the fully-executed Class Action Settlement Agreement and Release (the “Settlement Agreement” or the “Settlement”) is attached hereto as **Exhibit 1**. The Class Notice of Settlement (“Class Notice”) and Collective Notice of Settlement (“Collective Notice”) is attached to the Settlement as **Exhibit C** and **Exhibit D**, respectively.

QUALIFICATIONS, EXPERIENCE, AND EXPERTISE

5. SWCK is regarded as one of the leading private plaintiff’s firms in wage and hour class actions and employment class actions. In November 2012, the Recorder listed the firm as one of the “top 10 go-to plaintiffs’ employment firms in Northern California.” The partners and attorneys have litigated major wage and hour class actions, have won several prestigious awards, and sit on important boards and committees in the legal community. SWCK was founded by Todd Schneider in 1993, and I have been a member of the firm since 1995.

6. SWCK has acted or is acting as class counsel in numerous cases. A partial list of cases which have been certified and/or settled as class actions includes: *Hazel v. Himage Solutions, Inc.* (Case No. RG20068159) (Alameda County Superior Court, November 2, 2021) (final approval of a California class action settlement for failure to pay for all hours worked, failure

1 to pay minimum and overtime wages, failure to provide meal and rest breaks, failure to reimburse
2 necessary business expenditures, waiting time penalties, and failure to provide itemized wage
3 statements); *Pine Manor Investors, LLC v. FPI Management, Inc.* (Case No. 34-2018-00237315)
4 (Sacramento County Superior Court, October 20, 2021) (final approval of a California class action
5 settlement in action that alleged improper billing for workers compensation charges by an apartment
6 complex management company); *Etcheverry v. Franciscan Health System, et al.* (Case No. 3:19-
7 cv-05261-RJB-MAT) (Western District of Washington, October 19, 2021) (final approval of hybrid
8 Fair Labor Standards Act and Washington class action); *Jean-Pierre, et al. v. J&L Cable TV*
9 *Services, Inc.* (Case No. 1:18-cv-11499-MLW) (District of Massachusetts, August 31, 2021) (final
10 approval of hybrid Fair Labor Standards Act and Massachusetts, New Hampshire, Maine, and
11 Pennsylvania class action); *Amaraut, et al. v. Sprint/United Management Co.* (Case No. 19-cv-411-
12 WQH-AHG) (Southern District of California, August 5, 2021) (final approval of hybrid Fair Labor
13 Standards Act and California Labor Code Rule 23 action); *Diaz, et al. v. TAK Communications CA,*
14 *Inc., et al.* (Case No. RG20064706) (Alameda Superior Court, July 27, 2021) (final approval of
15 hybrid Fair Labor Standards Act and California Labor Code class action); *Villafan v.*
16 *Broadspectrum Downstream Services, Inc., et al.* (Case No. 3:18-cv-06741-LB) (Northern District
17 of California, April 8, 2021) (final approval of hybrid Fair Labor Standards Act and California law
18 class action settlement for failure to pay for all hours worked, failure to provide meal and rest
19 breaks, unreimbursed business expenses, waiting time penalties, and failure to provide itemized
20 wage statements); *Jones, et al. v. CertifiedSafety, Inc., et al.* (lead Case No. 3:17-cv-02229-EMC)
21 (Northern District of California, June 1, 2020) (final approval of hybrid Fair Labor Standards Act
22 and California, Washington, Illinois, Minnesota, Alaska, and Ohio class action settlement for
23 failure to pay for all hours worked, failure to provide meal and rest breaks, unreimbursed business
24 expenses, waiting time penalties, and failure to provide itemized wage statements); *El Pollo Loco*
25 *Wage and Hour Cases* (Case No. JCCP 4957) (Orange County Superior Court, January 31, 2020)
26 (final approval of a class action settlement for failure to pay for all hours worked, failure to provide
27 meal and rest breaks, unreimbursed business expenses, waiting time penalties, and failure to provide
28 itemized wage statements, under California law); *Soto, et al. v. O.C. Communications, Inc., et al.*

1 (Case No. 3:17-cv-00251-VC) (Northern District of California, Oct. 23, 2019) (final approval of a
2 hybrid Fair Labor Standards Act and California and Washington law Rule 23 action with joint
3 employer allegations); *Manni v. Eugene N. Gordon, Inc. d/b/a La-Z-Boy Furniture Galleries* (Case
4 No. 34-2017-00223592) (Sacramento Superior Court) (final approval of a class action settlement
5 for failure to pay for all hours worked, failure to pay minimum and overtime wages, failure to
6 provide meal and rest breaks, waiting time penalties, and failure to provide itemized wage
7 statements, under California law); *Van Liew v. North Star Emergency Services, Inc., et al.* (Case
8 No. RG17876878) (Alameda County Superior Court) (final approval of a class action settlement
9 for failure to pay for all hours worked, failure to pay minimum and overtime wages, failure to
10 provide meal and rest breaks, failure to reimburse for necessary business expenditures, waiting time
11 penalties, and failure to provide itemized wage statements, under federal law); *Asalati v. Intel Corp.*
12 (Case No. 16cv302615) (Santa Clara Superior Court) (final approval of a class and collective action
13 settlement for failure to pay for all hours worked, failure to pay overtime, failure to provide meal
14 and rest breaks, failure to reimburse for necessary business expenditures, failure to adhere to
15 California record keeping requirements, waiting time penalties, and failure to provide itemized
16 wage statements, under federal and California law); *Harmon, et al. v. Diamond Wireless, LLC,*
17 (Case No. 34-2012-00118898) (Sacramento Superior Court) (final approval of a class action
18 settlement for failure to pay wages free and clear, failure to pay overtime and minimum wages,
19 failure to provide meal and rest breaks, failure to pay full wages when due, failure to adhere to
20 California record keeping requirements, and failure to provide adequate seating, under California
21 law); *Aguilar v. Hall AG Enterprises, Inc., et al.,* (Case No. BCV-16-10994-DRL) (Kern County
22 Superior Court) (final approval of a class action settlement for failure to provide meal and rest
23 periods, failure to compensate for all hours worked, failure to pay minimum and overtime wages,
24 waiting time penalties, failure to provide itemized wage statements, and failure to pay undiscounted
25 wages, under California law); *Viceral and Krueger v. Mistras Group, Inc.,* (Case No. 3:15-cv-
26 02198-EMC) (Chen, J.) (Northern District of California) (final approval of a class and collective
27 action settlement for failure to compensate for all hours worked, including overtime, under federal
28 and California law); *Jeter-Polk, et al. v. Casual Male Store, LLC, et al.,* (Case No. 5:14-CV-00891)

1 (Central District of California) (final approval of a class action settlement for failure to provide
2 meal and rest periods, failure to compensate for all hours worked, failure to pay overtime wages,
3 unpaid wages and waiting time penalties, and failure to provide itemized wage statements); *Meza,*
4 *et al. v. S.S. Skikos, Inc., et al.*, (Case No. 15-cv-01889-TEH) (Northern District of California) (final
5 approval of class and collective action settlement for failure to compensate for all hours worked,
6 including overtime, under federal and California law, failure to provide meal and rest breaks, failure
7 to reimburse for necessary business uniforms, failure to pay full wages upon termination to, and
8 failure to provide accurate itemized wage statements); *Holmes, et al v. Xpress Global Systems, Inc.*,
9 (Case No. 34-2015-00180822) (Sacramento Superior Court) (final approval of a class action
10 settlement for failure to provide meal and rest breaks and failure to provide accurate itemized wage
11 statements); *Guilbaud, et al. v. Sprint Nextel Corp. et al.*, (Case No. 3:13-cv-04357-VC) (Northern
12 District of California) (final approval of a class and collective action settlement for failure to
13 compensate for all hours worked, including overtime, failure to provide meal and rest breaks, failure
14 to reimburse for necessary business uniforms, failure to pay full wages upon termination to, and
15 failure to provide accurate itemized wage statements); *Molina, et al. v. Railworks Track Systems,*
16 *Inc.*, (Case No. BCV-15-10135) (Kern County Superior Court) (final approval of a class action
17 settlement for failure to provide meal and rest breaks, unpaid wages, unpaid overtime, off-the-
18 clocker work, failure to pay full wages upon termination to, and failure to provide accurate itemized
19 wage statements); *Allen, et al. v. County of Monterey, et al.*, (Case No. 5:13-cv-01659) (Northern
20 District of California) (settlement between FLSA Plaintiffs and Defendant to provide relief to
21 affected employees); among many others.

22 7. Nearly my entire legal career has been devoted to advocating for the rights of
23 individuals who have been subjected to illegal pay policies, discrimination, harassment and
24 retaliation and representing employees in wage and hour and discrimination class actions. I have
25 litigated hundreds of wage and hour, employment discrimination and civil-rights actions, and I
26 manage many of the firm's current cases in these areas. I am a member of the State Bar of
27 California, and have had memberships with Public Justice, the National Employment Lawyers
28 Association, the California Employment Lawyers Association, and the Consumer Attorneys of

1 California. I served on the Board of Directors for the San Francisco Trial Lawyers Association and
2 co-chaired its Women’s Caucus. I was named one of the “Top Women Litigators for 2010” by the
3 Daily Journal. In 2012, I was nominated for Woman Trial Lawyer of the Year by the Consumer
4 Attorneys of California. I have been selected as a Super Lawyer every year since 2014. I earned my
5 Bachelor’s degree from the University of California, and I am a graduate of the University of the
6 Pacific, McGeorge School of Law.

7 **CASE SUMMARY AND PROCEDURAL HISTORY**

8 **The Companion State Action and Subsequent Appeal**

9 8. On July 1, 2019, Plaintiff Wright submitted a California Labor Code Private
10 Attorneys General Act of 2004 (“PAGA”) notice to the California Labor and Workforce
11 Development Agency (“LWDA”). Once the 65-day exhaustion period passed pursuant to the PAGA
12 without response from the LWDA, on September 16, 2019, Plaintiff Wright filed a separate
13 complaint pursuant to the PAGA in the California Superior Court of Alameda County (“State
14 Action”) against Defendants (Case No. RG19035167).

15 9. On April 8, 2021, Defendants filed a motion for summary judgment or, in the
16 alternative, summary adjudication arguing, *inter alia*, that Plaintiff failed to exhaust his
17 administrative remedies under the PAGA. Following full briefing, the superior court denied
18 Defendants’ request without prejudice, and ordered Plaintiff Wright to file a first amended
19 complaint to more clearly plead separate causes of action against Defendants for each alleged
20 violation of a Labor Code provision or industrial wage order. Plaintiff Wright filed the first
21 amended complaint in the State Action on July 14, 2021.

22 10. Defendants also filed a motion to strike Plaintiffs’ PAGA claims under the theory
23 that Plaintiff’s PAGA claims would be unmanageable at trial on April 8, 2021. On July 2, 2021,
24 following full briefing and oral argument, the superior court denied Defendants’ motion to strike
25 without prejudice, finding the motion was untimely under Cal. Civ. Proc. Section 435, Defendants’
26 assertion that it has inherent authority the PAGA allegations was without merit, and that Plaintiff’s
27 causes of action could not be stricken because they include Plaintiff’s individual claims.

28

1 11. On September 10, 2021, Defendants filed a petition for writ of mandate for an order
2 directing the superior court to vacate its July 2, 2021 order and to rule on Defendants’ motion to
3 strike on the merits. Defendants’ petition was based on the partially-published appellate ruling in
4 *Wesson v. Staples the Office Superstore, LLC*, 68 Cal. App. 5th 746 (2021), wherein the appellate
5 court concluded that trial courts have inherent authority to ensure that PAGA claims will be
6 manageable at trial, and to strike such claims if they are unmanageable. On September 15, 2021,
7 the California Court of Appeal notified the parties that it was considering issuing a peremptory writ
8 in the first instance. That petition for writ of mandate is currently pending before the Court of
9 Appeal of the State of California, First Appellate District, Division One (Case No. A163424). On
10 June 3, 2022, the Court of Appeal ordered the Parties to file a joint status report regarding the status
11 of the settlement and urged the parties to dismiss the writ, stipulate to vacate the order on the motion
12 to strike, subject to refiling, as well as a stay of the State Action pending this Court’s ruling on final
13 approval of the settlement.

14 **The Operative Complaint Filed Pursuant to the Parties’ Settlement**

15 12. For purposes of the Settlement, the Parties agreed to stay the State Action pending
16 approval of the Settlement, and to stipulate to amend the FAC in this Action to include the PAGA
17 claims asserted in the State Action and to cite additional theories of liability under the PAGA, which
18 was subsequently deemed filed July 5, 2022.

19 13. Pursuant to the Settlement, the Parties agreed the Settlement is conditioned on the
20 dismissal with prejudice of Defendants and the Releasees from the lawsuit entitled *Emily Gracey*
21 *v. Frontier Management, LLC, et al.*, Stanislaus Superior Court, Case No. CV-22-000990 (the
22 “Gracey Action”). The Complaint incorporates Gracey’s asserted PAGA claims pursuant to her
23 complaint and pursuant to her December 29, 2021 letter to the LWDA. Following extensive meet
24 and confer between Ms. Gracey’s counsel, Defendants’ counsel, and Plaintiffs, Ms. Gracey agreed
25 to dismiss with prejudice Defendants and the Releasees from the *Gracey* Action and a general
26 release in exchange for her incorporation into the Settlement.

27
28

Discovery Practice

1
2 14. On December 2, 2020, Plaintiffs propounded written discovery requests, including
3 72 requests for production of documents and 12 special interrogatories to each Defendant. Plaintiffs
4 also served twenty-three third-party subpoena duces tecum to various Communities in December
5 2020 to February 2021.

6 15. Plaintiffs propounded an additional 69 requests for production of documents and 19
7 special interrogatories in the State Action, as well as 5 third-party subpoena duces tecum to
8 Communities, in December 2020.

9 16. Numerous, lengthy meet and confer efforts between the Parties, including meet and
10 confer calls that took hours at a time, followed in both actions.

11 17. Plaintiff Wright further filed a motion to compel discovery responses in the State
12 Action on May 13, 2021, then renewed that motion on October 18, 2021, following additional meet
13 and confer transcribed by court reporters pursuant to court order.

14 18. In the State Action, Plaintiff Wright further additionally responded and objected to
15 88 requests for production of documents and 35 special interrogatories.

16 19. Plaintiffs additionally completed extensive outreach with Caregivers, including
17 nearly 300 in-depth interviews, which covered topics including dates and locations of work, hours
18 of work, pre-shift and post-shift off-the-clock work, meal and rest breaks, and reimbursement of
19 work-related expenses. Numerous Caregivers that completed interviews also provided additional
20 documents to Plaintiff's counsel. Through this process, Plaintiffs garnered substantial factual
21 background regarding the alleged violations, which Plaintiffs' counsel utilized to build their case
22 and to assess Defendants' potential exposure in this action.

23 20. Ultimately, through the formal and informal discovery process in advance of
24 mediation, Defendants produced over 3,000 documents in this Action, including their general
25 policies throughout each state, job descriptions, personnel records, written complaints, as well as
26 tens of thousands of pages of Excel data sheets showing samplings of time and payroll records
27 representing 25% of the Classes and the Collective. Defendants also provided class-wide figures,
28 including the total number of Caregivers and associated workweeks and pay periods, hourly rates,

1 and additional data points, ahead the mediation, to enable Plaintiffs' counsel to evaluate damages
2 on a Class and Collective basis. Plaintiffs' counsel completed an exhaustive review of these
3 documents, and used the information and data from them to prepare for mediation.

4 **Mediation and Settlement Efforts**

5 21. On July 29, 2020, the Parties participated in a full-day, remotely held private
6 mediation before respected wage and hour mediator, David Rotman. The case did not settle that
7 day, and the Parties agreed to attend a second, half-day mediation before the same mediator. On
8 August 26, 2020, the Parties participated in a second, half-day mediation before Mr. Rotman, but
9 the cases did not settle that day either.

10 22. On October 5, 2021, the Parties further participated in a full-day mediation before
11 respected wage and hour mediator Steven Serratore. The case did not settle that day; however, the
12 Parties accepted a mediator's proposal to settle both this Action and the PAGA Action on October
13 6, 2021.

14 23. Throughout the mediation process, the Parties engaged in serious and arm's-length
15 negotiations, culminating in the mediator's proposal.

16 24. Following acceptance of the mediator's proposal, the Parties extensively met and
17 conferred over the detailed terms of the settlement over the next couple of months of intensive,
18 arm's-length negotiations, and eventually executed the finalized long-form settlement agreement
19 on June 8, 2022.

20 **FACTUAL BACKGROUND**

21 25. Caregivers are usually scheduled to work eight-hour shifts, five to six days a week,
22 and are regularly required to work in excess of forty hours per week. These Caregivers are tasked
23 with a variety of overlapping duties, including attending to residents' daily needs, communicating
24 with residents' families, providing medication to residents, transferring residents, changing
25 residents' bedding, doing laundry, serving food to residents, filling out paperwork, cleaning the
26 facility, and attending mandatory meetings. Indeed, Caregivers often juggle multiple job titles at
27 any time, even though their actual job duties are subject to minimal variation.

28

TERMS OF THE SETTLEMENT

26. Defendants have agreed to pay a non-reversionary Gross Settlement Amount of \$9,500,000 to settle all aspects of this Action and the State Action. Settlement, ¶ 2.r.

27. The Net Settlement Amount, which is the amount available to pay settlement awards to the Class Members, is defined as the Gross Settlement Amount less: the payments to the LWDA and to the aggrieved employees for their share of PAGA penalties (\$95,000.00)¹; any enhancement payments awarded to the Class Representatives (up to \$10,000.00 for Plaintiff Wright and up to \$5,000 each for Plaintiffs Stanley, Quam, and Lewis, and up to \$5,000 to Emily Gracey); the Settlement Administrator’s costs (estimated to be \$149,400); and any attorneys’ fees and costs awarded to Plaintiff’s counsel (fees of up to 35% of the Gross Settlement Amount, plus costs not to exceed \$110,000). *Id.*, ¶¶ 2.e, 2.m, 2.t, 2.u, 2.dd, 2.ff, 34.c. The Net Settlement Amount to Participating Individuals, plus the Net PAGA Amount allocated to the aggrieved employees, is currently estimated to be \$5,973,086.50, excluding any interest gained on the Gross Settlement Amount.

28. Plaintiffs, however, will move for attorneys’ fees of a maximum of one-third of the Gross Settlement Amount (i.e., \$3,166,663.50) during final approval.

29. Any funds from checks that are returned as undeliverable or are not negotiated within 180 calendar days after issuance will either: (a) if less than \$95,000.00, revert to the Parties’ agreed-upon *cy pres* beneficiary, Legal Aid at Work, or (b); if \$95,000.00 or greater, be redistributed to the Participating Individuals who negotiated their checks on a *pro rata* basis.

30. The Parties have proposed the Legal Aid at Work, which assists low-income, working families exercise and advance their workplace rights, as the *cy pres* recipient, subject to the Court’s approval. Plaintiffs and their counsel do not have any financial, business, or personal relationships with the Legal Aid at Work, to the best of my knowledge.

¹ The Parties agreed to allocate \$95,000 of the Gross Settlement Amount to the settlement of the PAGA claims, which the Parties believe in good faith is a fair and reasonable apportionment. Settlement, ¶ 34.c. The Settlement Administrator shall pay 75%, or \$71,250, of this amount to the LWDA, and 25%, or \$23,750, the “Net PAGA Amount,” to the Aggrieved Employees. *Id.*

PRELIMINARY APPROVAL OF THE SETTLEMENT AS TO THE STATE CLASSES
AND APPROVAL OF THE SETTLEMENT AS TO THE COLLECTIVE

Certification

31. There are approximately 20,266 members of the combined State Classes, with each State Class exceeding well over 1,000 members, thereby rendering the classes so large as to make joinder impracticable. The State Class Members may be readily identified from Defendants' payroll records.

32. Defendants have uniform policies applicable to all Caregivers. Specifically, Plaintiffs allege that Caregivers all perform essentially the same job duty to provide care and support to Defendants' residents pursuant to Defendants' standards and requirements. Plaintiffs allege that the wage and hour violations are in large measure borne of Defendants' standardized policies, practices, and procedures, creating pervasive issues of fact and law that are amenable to resolution on a class-wide basis. In particular, Plaintiffs allege that Caregivers are subject to the same: hiring and training process; timekeeping and rounding, payroll, and compensation policies and systems; meal and rest period policies and practices; and reimbursement policies. Plaintiffs' other derivative claims will rise or fall with the primary claims. Because these questions can be resolved at the same juncture, Plaintiffs contend the commonality requirement is satisfied for the Class.

33. Plaintiffs' claims are typical of those of all other Class Members. They were subject to the alleged illegal policies and practices that form the basis of the claims asserted in this case. Interviews with Class Members and review of timekeeping and payroll data confirm to Plaintiffs that the employees throughout the United States were subjected to the same alleged illegal policies and practices to which Plaintiff was subjected.

34. Plaintiffs' claims are in line with the claims of the Class, and Plaintiffs' claims are not antagonistic to the claims of Class Members. Plaintiffs have prosecuted this case with the interests of the Class Members in mind. Moreover, Class Counsel has extensive experience in class action and employment litigation, including wage and hour class actions, and do not have any conflict with the classes.

35. Plaintiffs contend the common questions raised in this action predominate over any

1 individualized questions concerning the State Classes. The Class is entirely cohesive because
2 resolution of Plaintiffs' claims hinge on the uniform policies and practices of Defendants, rather
3 than the treatment the Class Members experienced on an individual level. As a result, the resolution
4 of these alleged class claims would be achieved through the use of common forms of proof, such
5 as Defendants' uniform policies, and would not require inquiries specific to individual class
6 members.

7 36. Further, Plaintiffs contend the class action mechanism is a superior method of
8 adjudication compared to a multitude of individual suits. The action involves thousands of workers
9 with very similar, but relatively small, claims for monetary injury. If the Class Members proceeded
10 on their claims as individuals, their many individual suits would require duplicative discovery and
11 duplicative litigation, and each Class Member would have to personally participate in the litigation
12 effort to an extent that would never be required in a class proceeding. Thus, the class action
13 mechanism would efficiently resolve numerous substantially identical claims at the same time while
14 avoiding a waste of judicial resources and eliminating the possibility of conflicting decisions from
15 repetitious litigation and arbitrations.

16 37. The issues raised by the present case are much better handled collectively by way of
17 a settlement. The Settlement presented by the Parties provides finality, ensures that workers receive
18 redress for their relatively modest claims, and avoids clogging the legal system with numerous
19 cases. Accordingly, Plaintiffs contend class treatment is efficient and warranted, and the Court
20 should conditionally certify the State Classes for settlement purposes.

21 38. In the FLSA context, Defendants maintain various common policies and practices as
22 to what work they compensate and what work they do not compensate, and apply these policies and
23 practices to the Caregivers, Plaintiffs contends that there are no individual defenses available to
24 Defendants.

25 39. During the course of the litigation, 953 Caregivers filed opt-in forms to join the
26 Collective, and approximately 396 of those Caregivers did not work in the states of California,
27 Oregon, Washington, and Illinois. *See* ECF 67.

28 40. Defendants have not moved for decertification of the FLSA claim, and have

1 stipulated as part of the Settlement that the Collective Members are similarly situated to Plaintiff
2 for purposes of settlement.

3 **The Proposed Settlement Is Fair, Reasonable, and Adequate**

4 41. A review of the Settlement Agreement reveals the fairness, reasonableness, and
5 adequacy of its terms.

6 42. The Gross Settlement Amount is a negotiated amount that resulted only after months
7 of substantial arm's-length negotiations, multiple mediation sessions, and significant investigation
8 and analysis by Plaintiffs' counsel. Plaintiffs' counsel based their damages analysis and settlement
9 negotiations on formal and informal discovery (including the payroll and timekeeping data), and
10 nearly 300 interviews with Caregivers. Plaintiffs' counsel obtained average rates of pay for
11 Caregivers, which were then used in conjunction with amounts of unpaid time to determine
12 estimated damages for off-the-clock and overtime violations.

13 43. Based on interview analysis and cross-checked with Defendants' data, Plaintiffs
14 applied a high-end damage assumption of 30 minutes of off-the-clock time per day, along with each
15 Caregivers missing 79.3% of their meal periods (accounting for paid meal premium payments) and
16 86% of their rest periods, and an average of \$50 out-of-pocket expenses per Caregiver. These
17 figures are based on Plaintiffs' assessment of a best-case-scenario. To have obtained such a result
18 at trial(s), Plaintiffs would have had to prove that each Class Member worked off-the-clock for 30
19 minutes in each workday and that Defendants acted knowingly or in bad faith. These figures would
20 of course be disputed and hotly contested.

21 44. Using these assumptions and further assuming that Plaintiff and the Caregivers would
22 certify all of their claims and prevail at trial, Plaintiffs' counsel calculated the total potential
23 substantive exposure if Plaintiffs fully prevailed on all of their claims at approximately \$22.2
24 million and the total exposure (including liquidated damages, derivative claims, and stacked civil
25 penalties) of \$69.1 million.

26 45. The negotiated non-reversionary Gross Settlement Amount of \$9,500,000 represents
27 approximately 43% of the \$22.2 million total that Plaintiffs calculated for unliquidated, core claims
28 for unpaid wages, meal and rest breaks, and expense reimbursements.

1 46. When adding derivative claims and potential penalties, the \$9,500,000 million
2 settlement amount represents approximately 14% of Defendants' total potential exposure of \$69.1
3 million.

4 47. The Net PAGA Amount of \$95,000 represents 1% of the gross settlement amount,
5 well within the settlements previously approved in this and other courts in California.

6 48. These figures are based on Plaintiffs' assessment of a best-case-scenario and does not
7 account for any interest gained on the initial funding of the settlement. To have obtained such a
8 result at trial, Plaintiffs would have to, at the minimum: (1) win on appeal before the Ninth Circuit
9 and the California Court of Appeal; (2) certify all claims and withstand any decertification motions;
10 (3) prevail on the merits on all claims; (4) prove that Defendants acted knowingly or in bad faith;
11 and (5) prove that all Caregivers experienced the violations at the levels described above for every
12 shift.

13 49. Plaintiffs and their counsel considered the significant risks of continued litigation,
14 described hereinafter, when considering the proposed Settlement. These risks were front and center,
15 particularly given the nature of the off-the-clock work, that the Caregivers work in numerous and
16 varying locations often owned by various third-party entities, which could invariably complicate
17 certification efforts and proving the claims on the merits.

18 50. In contrast, the Settlement will result in immediate and certain payment to Caregivers
19 of meaningful amounts. The average recovery is approximately \$1,474 per California Class
20 Member, \$884 per Oregon and Washington Class Member, \$589 per Illinois Class Member, and
21 \$151 per FLSA-only Collective Member.² This amount provides significant compensation to the
22 Caregivers, and the Settlement provides an excellent recovery well within the reasonable standard
23 when considering the difficulty and risks presented by expanding and uncertain litigation.

24 51. The final settlement amount takes into account the substantial risks inherent in any
25 class action wage-and hour case, as well as the procedural posture of the Actions and the specific
26

27 ² The averages provided here do not incorporate any interest gained on the Gross Settlement Amount,
28 assume all Class and Collective Members participate in the Settlement and that each member worked
identical lengths of employment, and incorporate workweek weightings that reflect the increased
value of state law claims and differing average rates of pay by state, described *infra*.

1 defenses asserted by Defendants, many of which are unique to this case.

2 52. Moreover, in an effort to ensure fairness, the Parties have agreed to allocate the
3 settlement proceeds amongst Class and Collective Members in a manner that recognizes that
4 amount of time that the particular Caregiver worked for Defendants in the applicable limitations
5 period. The allocation method, which is based on the number of workweeks, will ensure that longer-
6 tenured workers receive a greater recovery. Moreover, the allocation tracks the differences in
7 substantive law and penalty claims by weighting the Workweek shares more heavily for work
8 performed in California, Oregon, Washington, and Illinois. Plaintiffs performed an in-depth
9 analysis of Workweek weightings and the underlying state law provisions to develop the
10 weightings. The allocation was made based on Class Counsel’s assessment to ensure that employees
11 are compensated accordingly and in the most equitable manner.

12 53. To the extent that any Class Member is *both* a FLSA Opt-In Plaintiff and a member
13 of a Rule 23 Class, these workers will only receive a recovery based on their workweeks as a Rule
14 23 Class Member for their work in California. Such workers will not receive a “double recovery.”

15 54. The Parties engaged in extensive formal and informal discovery, including multiple
16 depositions, and class interviews that have enabled Plaintiffs to assess the claims and potential
17 defenses in this action. Plaintiffs were able to accurately assess the legal and factual issues that
18 would arise if the cases proceeded to trial(s). In addition, in reaching this Settlement, Plaintiffs’
19 counsel relied on their substantial litigation experience in similar wage and hour class and collective
20 actions. Plaintiffs’ counsel’s liability and damages evaluation was premised on a careful and
21 extensive analysis of the effects of Defendants’ compensation policies and practices on Class
22 Members’ pay. Ultimately, facilitated by mediators David Rotman and Steve Serratore, the
23 Plaintiffs used this information and discovery to fairly resolve the litigation.

24 55. The monetary value of the proposed Settlement represents a fair compromise given
25 the risks and uncertainties posed by continued litigation. If this Action were to go to trial(s) and
26 through appeals as class, representative, and collective actions (which Defendants would vigorously
27 oppose if this Settlement Agreement were not approved), Plaintiffs’ Counsel estimates that fees and
28 costs would well exceed \$7,000,000.00.

1 56. Litigating the class and collective action claims would require substantial additional
2 preparation and discovery. Plaintiffs Wright, Stanley, Quam, and Lewis would need to successfully
3 win on appeal in the Ninth Circuit. Following that, Plaintiffs would need to complete fact and expert
4 discovery. This would include: (1) written discovery to Collective Members; (2) depositions of the
5 Collective Members and Defendants' 30(b)(6) witnesses, managers, and executives; (3) third party
6 discovery to the various facilities where Caregivers worked, and (4) expert discovery. Finally,
7 Plaintiff would need to prepare for trial, which would require the presentation of percipient and
8 expert witnesses, as well as the consideration, preparation, and presentation of voluminous
9 documentary evidence and the preparation and analysis of expert reports.

10 57. Even if Plaintiffs successfully overcame these procedural obstacles, recovery of the
11 damages and penalties previously referenced would also require complete success and certification
12 of all of Plaintiffs' claims, a questionable feat in light of developments in wage and hour and class
13 and collective action law as well as the legal and factual grounds that Defendants have asserted to
14 defend this action. While Plaintiffs are confident that they would establish that common policies
15 and practices give rise to the off-the-clock work for Caregivers, Plaintiffs acknowledged that the
16 work was performed by hourly employees holding various job titles at dozens of different locations
17 around the country, which were often owner and/or operated by numerous different companies.
18 With differing facilities' policies and practices, physical layouts, and the nature of the work varying
19 by location, Plaintiffs recognized that obtaining class certification would present a significant
20 obstacle, with the risk that the Caregivers could only pursue individual actions in the event that
21 certification was denied. Certification of off-the-clock work claims is complicated by the lack of
22 documentary evidence and reliance on employee testimony, and Plaintiffs would likely face
23 motions for decertification as the case progressed.

24 58. Plaintiffs also recognized similar obstacles may hinder class certification and proving
25 their claims on the merits of Plaintiffs' class claims regarding Caregivers' meal and rest breaks. At
26 the core of Plaintiffs' meal and rest break claims is Defendants' common policy and practice of
27 requiring Caregivers to carry communication devices and respond to work related calls during their
28 breaks, rendering such breaks on-duty. Although California, Oregon, and Washington, share similar

1 meal and rest break policies against “on-duty” breaks, courts in Oregon and Washington lack the
2 abundance of case law existing in California regarding whether being required to carry and respond
3 to communication devices would suffice to show breaks were on duty in Oregon in Washington.
4 Defendants were poised to submit evidence and deposition testimony as to their defense, that
5 communication devices were only provided to certain Caregivers, and among such Caregivers, only
6 Caregivers who were assigned to be on-call. In the event Defendants’ evidence proved to be true,
7 Plaintiffs’ meal and rest break claims could have potentially failed at the class certification stage.
8 Further, given that the substantive damages are largely driven by the alleged off-the-clock work
9 and meal and rest breaks, and that the derivative and penalty claims are tethered to off-the-clock
10 claims, Plaintiffs recognized that their potential failure to obtain class certification on the off-the-
11 clock work and meal rest breaks could potentially result in the death knell of their derivative claims.

12 59. Plaintiffs would also encounter difficulties in proving Defendants’ liability on the
13 merits for various other reasons. For example, Defendants would no doubt be prepared to submit
14 evidence showing that it had acted in good faith and on reasonable grounds that its actions were not
15 in violation of the FLSA, and whether this Court agrees with Defendants would be a risk that
16 Plaintiffs would necessarily undertake had litigation continued.

17 60. The path to an award of additional damages and penalties at trial for overlapping
18 FLSA and state law claims was equally uncertain. Plaintiffs’ recovery analysis above assumes
19 Oregon, Washington, and Illinois class members could receive both liquidated damages under the
20 FLSA, but also civil penalties or liquidated damages under applicable case law (e.g., double
21 penalties under Oregon law, treble damages under Washington law, 2% punitive damages under
22 Illinois law) for the same underlying overtime and minimum wage claims. Although Plaintiffs are
23 confident they would be able to succeed in arguing for these penalties and liquidated damages,
24 Defendants would surely vehemently oppose such an approach.

25 61. As to Plaintiff Wright’s PAGA claims, Plaintiff Wright would first need to
26 successfully defend against Defendants’ petition for writ of mandate.

27 62. Plaintiff recognizes that there is also a significant chance that the Court would limit
28 penalties by declining to stack penalties (assess penalties for derivative violations for a particular

1 pay period for a particular employee). Plaintiffs' exposure analysis assumes stacking; however,
2 there is a significant chance that the Court would decline to stack on derivative violations for an
3 employer that maintains comprehensive, facially compliant policies and training.

4 63. Plaintiffs would further likely need to move for and defend against motions for
5 summary judgment or adjudication, and would have been further required to take their claims to
6 trial. Trials are inherently risky for all parties. Although Plaintiffs believes that they could have
7 been successful in proving these claims, and that Defendants' evidence would not have been as
8 persuasive, a trial on the off-the-clock claims and meal and rest periods would have carried a high
9 degree of risk.

10 64. In contrast to litigating, resolving this case by means of the Settlement will yield a
11 prompt, certain, and very substantial recovery for the Class Members. Such a result will benefit the
12 Parties and the court system. In light of all of the risks, the proposed settlement is fair, reasonable,
13 and adequate under both Rule 23 and the FLSA approval standards.

14 65. Here, the settlement was a product of non-collusive, arm's-length negotiations. The
15 Parties participated in multiple mediations before David Rotman and Steve Serratore, who are
16 skilled mediators with many years of experience mediating employment matters. The Parties then
17 spent several months negotiating the long form settlement agreement, with several rounds of meet
18 and confer and correspondence related to the terms and details of the Settlement.

19 66. Plaintiffs are represented by experienced and respected litigators of representative
20 wage and hour actions. I feel strongly that the proposed Settlement achieves an excellent result for
21 the Class Members.

22 **SERVICE AWARDS**

23 67. The enhancement payments of up to \$10,000 for Plaintiff Wright and \$5,000 each for
24 Plaintiffs Stanley, Quam, and Lewis, as well as to Emily Gracey, are intended to compensate them
25 for broader releases and for the critical roles they played in this case, and the time, effort, and risks
26 they undertook in helping secure the result obtained on behalf of the Caregivers.

27 68. Plaintiffs' proposed enhancement payments total \$30,000, representing only 0.32%
28 of the gross settlement amount.

1 result in any windfall or undue bonus. In the legal marketplace, a lawyer who assumes a significant
2 financial risk on behalf of a client rightfully expects that his or her compensation will be
3 significantly greater than if no risk was involved (*i.e.*, if the client paid the bill on a monthly basis),
4 and that the greater the risk, the greater the “enhancement.” Adjusting court-awarded fees upward
5 in contingent fee cases to reflect the risk of recovering no compensation whatsoever for hundreds
6 of hours of labor simply makes those fee awards consistent with the legal marketplace, and in so
7 doing, helps to ensure that meritorious cases will be brought to enforce important public interest
8 policies and that clients who have meritorious claims will be better able to obtain qualified counsel.

9 77. The lodestar amount will increase with preparation of the final approval papers,
10 preparation and attendance at remaining hearings, correspondence and communications with Class
11 Members, and settlement administration and oversight.

12 78. Class Counsel also requests reimbursement for their litigation costs.

13 79. Class Counsel’s efforts resulted in an excellent settlement. The fee and costs award
14 should be preliminarily approved as fair and reasonable.

15
16 I declare under penalty of perjury under the laws of the United States that the foregoing is
17 true and correct and is based on my own personal knowledge.

18 Executed this 21st day of July, 2022, in San Rafael, California.

19
20 /s/ Carolyn Hunt Cottrell
21 Carolyn Hunt Cottrell

EXHIBIT 1

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

1. This Class Action Settlement Agreement and Release (the “Settlement Agreement,” “Settlement” or “Agreement”) is entered into between Plaintiffs Joshua Wright, Loretta Stanley, Haley Quam, and Aiesha Lewis (“Named Plaintiffs”), individually and on behalf of all other similarly-situated persons, and Defendants Frontier Management LLC; Frontier Senior Living, LLC; and GH Senior Living, LLC d/b/a Greenhaven Estates Living (“Defendants”), subject to the approval of the Court. Plaintiffs and Defendants are collectively referred to as the “Parties.”

DEFINITIONS

2. The following terms used in this Settlement Agreement shall have the meanings ascribed to them below:

- a. “Action” means the Federal Action and the PAGA Action.
- b. “Aggrieved Employees” means all persons who are employed, have been employed, or are alleged in the Action to have been employed by Defendants as a non-exempt employee in the State of California at any time between July 7, 2018 and Preliminary Approval.
- c. The “California Class” or “Members of the California Class” means all persons who are employed, have been employed, or alleged in the Action to have been employed by Defendants as a non-exempt employee in the State of California between September 6, 2015 and March 1, 2022.
- d. “Class Counsel” means Schneider Wallace Cottrell Konecky LLP.
- e. “Class Counsel’s Costs” refers to the amount of reasonable litigation expenses Class Counsel incurred in connection with this Action, which shall not exceed One Hundred Ten Thousand Dollars (\$110,000.00), including their pre-filing investigation, their filing of the Action and all related litigation activities, and all post-Settlement compliance procedures.
- f. “Class List” means an electronic database containing a list of Settlement Class Members that Defendants will compile from their records. The Class List shall include: each Settlement Class Members’ (1) full name; (2) last known address; (3) last known email address (if any); (4) last known telephone number (if any); (5) Social Security number or tax ID number. The Class List shall also include: (6) the total number of workweeks that each Settlement Class Member worked in the state of California between September 6, 2015 and Preliminary Approval; (7) the total number of workweeks that each Settlement Class Member worked in the state of Washington between July 8, 2017 and Preliminary Approval; (8) the total number of workweeks that each Settlement Class Member worked in the state of Oregon between July 8, 2014 and Preliminary Approval; (9) the total number of workweeks that each Settlement Class Member worked in the state of Illinois between July 8, 2017 and Preliminary Approval; (10) and the total number of workweeks that each Collective Member worked in the United States of America, excluding the states California, Washington, Oregon, and Illinois,

between and including March 12, 2017 and Preliminary Approval. The Class List will also include an indication of whether the Settlement Class Member is also an Opt-In Plaintiff. The total number of workweeks may be determined by reference to weeks worked as reflected in pay records or dates of employment.

g. The “Collective” or “Collective Members” or “Opt-in Plaintiffs” means a certified collective action for settlement purposes only pursuant to 29 U.S.C. § 216(b), which includes all individuals who have submitted Opt-In Consent Forms in the Federal Action and worked for Defendants as non-exempt, hourly employees between March 13, 2017 and March 1, 2022.

h. “Court” means the Eastern District of California, where the Federal Action was filed, and where the Parties mutually agree to seek approval of this Settlement.

i. “Defendants” means Frontier Management LLC; Frontier Senior Living, LLC; and GH Senior Living, LLC d/b/a Greenhaven Estates Living.

j. “Defendants’ Counsel” means Constangy, Brooks, Smith & Prophete LLP.

k. “Effective Date” means (i) if there is an objection(s) to the settlement that is not subsequently withdrawn, then the date upon the expiration of time for appeal of the Court’s Final Approval Order; or (ii) if there is a timely objection(s) and appeal by an objector(s), then after such appeal(s) is dismissed or the Court’s Final Approval Order is affirmed on appeal; or (iii) if there are no timely objections to the settlement, or if any objections which were filed are withdrawn before the date of final approval, then the first business day after the Court’s order granting Final Approval of the Settlement.

l. “Federal Action” means the action *Wright, et al. v. Frontier Management LLC, et al.*, United States District Court, Eastern District of California, Case No. 2:19-cv-01767-JAM-CKD.

m. “Fee Award” means the award of attorneys’ fees that the Court authorizes to be paid to Class Counsel for the services they rendered to Named Plaintiffs, Collective Members, and the Settlement Class in the Action. Class Counsel will not seek more than thirty-five percent (35%) of the Gross Settlement Amount as their Fee Award.

n. “Final” shall mean, with respect to a judgment or order, that the judgment or order is final and appealable and either (a) no appeal, motion, or petition to review or intervene has been taken with respect to the judgment or order as of the date on which all times to appeal, move, or petition to review or intervene therefrom have expired, or (b) if an appeal, motion or petition to intervene or other review proceeding of the judgment or order has been commenced, such appeal, motion or petition to intervene or other review is finally concluded and no longer is subject to review by any court, whether by appeal, petitions for rehearing or re-argument, petitions for rehearing *en banc*, petitions for writ of certiorari or otherwise, and such appeal or other review has been finally resolved in such manner that affirms the judgment or order in its entirety. Notwithstanding the foregoing, any proceeding, order, or appeal pertaining solely to the

award of attorneys' fees, attorneys' costs, or any Service Award shall not by itself in any way delay or preclude the judgment from becoming a final judgment or the Settlement from becoming "Effective."

o. "Final Approval" or "Final Approval Order" means the Court's Final Approval Order approving the Settlement and entering judgment.

p. "Final Approval Hearing" means the hearing to be held by the Court to consider the Final Approval of the Settlement.

q. "FLSA Releasees" means Defendants and their present and former parent companies, subsidiaries, related or affiliated companies or entities, communities and/or community real estate owners affiliated or related to Defendants (as listed in Exhibit A), and any of their shareholders, affiliates, and owners, members, joint employers, representatives, officers, directors, employees, agents, attorneys, insurers, predecessors, successors and assigns, as well as any individual or entity that could be liable for any of the Released Claims, and Defendants' Counsel. The FLSA Releasees do not include the entities ISL Employees, Inc. and Integrated Senior Living, LLC.

r. "Gross Settlement Amount" means the maximum non-reversionary total amount that Defendants shall pay in connection with this Settlement, including any interest earned on such funds, in exchange for the release of the Participating Individuals' Released Claims. The Gross Settlement Amount is the gross sum of Nine Million Five Hundred Thousand Dollars (\$9,500,000.00). The Gross Settlement Amount includes: (a) all Settlement Awards to Participating Individuals; (b) civil penalties under the Private Attorneys' General Act of 2004 ("PAGA"); (c) Class Representative Enhancement Payments; (d) Attorneys' Fees and Costs to Class Counsel, and (e) Settlement Administration Costs to the Settlement Administrator. Except for the Defendants' employers' portion of payroll taxes on Settlement Awards to Participating Individuals ("Defendants' Payroll Taxes"), the Parties agree that Defendants will have no obligation to pay any amount in connection with this Settlement Agreement apart from the Gross Settlement Amount and Defendants' Payroll Taxes. There will be no reversion.

s. The "Illinois Class" or "Members of the Illinois Class" means all persons who are employed, have been employed, or are alleged in the Action to have been employed by Defendants as a non-exempt employee in the state of Illinois between July 8, 2017 and March 1, 2022.

t. "Net PAGA Amount" means the Twenty-Five Percent (25%) of the amount of civil penalties under the PAGA, or Twenty-Three Thousand Seven Hundred Fifty Dollars (\$23,750.00).

u. "Net Settlement Amount" means the Gross Settlement Amount less: (i) Service Awards; (ii) Fee Award; (iii) Class Counsels' Costs; (iv) Settlement Administrator Costs; (v) the payment to Labor and Workforce Development Agency ("LWDA") for its share of PAGA penalties; (vi) and the Net PAGA Amount. The Parties acknowledge that all of these amounts are subject to the Court's approval.

v. “Notice Deadline” means the date sixty (60) days after the Settlement Notice is initially mailed to the Settlement Class. State Class Members shall have until the Notice Deadline to object to, or opt-out of the Settlement.

w. The “Oregon Class” or “Members of the Oregon Class” means all persons who are employed, have been employed, or are alleged in the Action to have been employed by Defendants as a non-exempt employee in the state of Oregon between July 8, 2014 and March 1, 2022.

x. “PAGA Action” means the action, *Wright, et al. v. Frontier Management LLC, et al.*, Superior Court of California, County of Alameda, Case Number RG19035167, including any and all related letters to the Labor Workforce Development Agency (“LWDA”) including any amended letters necessary to effectuate the Release.

y. “Participating Individuals” means (a) any State Class Members who do not submit a valid letter requesting to be excluded from the Settlement, consistent with the terms set forth in this Settlement Agreement, (b) all Opt-In Plaintiffs (c) all State Class Members who cash or deposit their Settlement Award checks, and (c) all Aggrieved Employees. All Participating Individuals will be bound by all terms and conditions of the Settlement Agreement, including the release of the applicable Released Claims.

z. “Parties” means the parties to this Agreement: Plaintiffs Joshua Wright, Loretta Stanley, Haley Quam, and Aiesha Lewis; and Defendants Frontier Management LLC; Frontier Senior Living, LLC; and GH Senior Living, LLC d/b/a Greenhaven Estates Living.

aa. “Preliminary Approval” or “Preliminary Approval Order” means the Court’s Preliminary Approval Order preliminarily approving the terms and conditions of this Agreement.

bb. “Releasees” or “Released Parties” means Defendants and their present and former parent companies, subsidiaries, related or affiliated companies or entities, communities and/or community real estate owners affiliated or related to Defendants (as listed in Exhibit B), and any of their shareholders, affiliates, and owners, members, joint employers, representatives, officers, directors, employees, agents, attorneys, insurers, predecessors, successors and assigns, as well as any individual or entity that could be liable for any of the Released Claims, and Defendants’ Counsel. The Releasees do not include the entities ISL Employees, Inc. and Integrated Senior Living, LLC.

cc. Released Claims means Participating Individuals’ Released Claims (as set forth in Paragraph 23) and Named Plaintiffs Released Claims (as set forth in Paragraph 25).

dd. “Service Award” means the payment to Named Plaintiff Joshua Wright, Named Plaintiff Loretta Stanley, Named Plaintiff Haley Quam, Named Plaintiff Aiesha Lewis, and Emily Gracey for their efforts in bringing and prosecuting their cases against the Defendants. The Service Award will not exceed the following amounts: Ten Thousand Dollars (\$10,000.00) for Plaintiff Joshua Wright, Five Thousand Dollars (\$5,000.00) for Plaintiff Loretta Stanley,

Five Thousand Dollars (\$5,000.00) for Haley Quam, Five Thousand Dollars (\$5,000.00) for Aiesha Lewis, and Five Thousand Dollars (\$5,000.00) for Emily Gracey.

ee. “Settlement Administrator” means SSI Settlement Services, Inc., the third-party class action settlement administrator that will handle the administration of this Settlement, subject to approval by the Court.

ff. “Settlement Administrator Costs” refer to the costs the Settlement Administrator will incur to distribute the Settlement Notice and Settlement Awards, which are estimated to be One Hundred Forty-Nine Thousand Four Hundred Dollars (\$149,400.00).

gg. “Settlement Award” means the payment that each Settlement Class Member shall be entitled to receive pursuant to the terms of this Agreement.

hh. “Settlement Class Members” means all Members of the California Class, all Members of the Washington Class, all Members of the Oregon Class, all Members of the Illinois Class, all Collective Members, all Aggrieved Employees, and the Named Plaintiffs.

ii. “Settlement Notice” means the Notice of Class Action Settlement to be issued to State Class Members, including Aggrieved Employees and the Named Plaintiffs, and Notice of Collective Action Settlement to be issued to the Collective Members who are not also State Class Members, substantially in the forms as Exhibits C and D attached hereto, respectively, or as approved by the Court.

jj. “State Class Members” means all Members of the California Class, all Members of the Washington Class, all Members of the Oregon Class, all Members of the Illinois Class, including the Named Plaintiffs.

kk. The “Washington Class” or “Members of the Washington Class” means all persons who are employed, have been employed, or are alleged to have been employed in the Action by Defendants as a non-exempt employee in the state of Washington between July 8, 2017 and March 1, 2022.

RECITALS

1. On September 6, 2019, Plaintiff Joshua Wright filed an initial class and collective action asserting claims under the California Labor Code and under the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq. (“FLSA”). *Wright, et al. v. Frontier Management LLC, et al*, United States District Court, Eastern District of California, Case No. 2:19-cv-01767-JAM-CKD. Specifically, the Federal Action asserted claims for: (1) failure to pay minimum and overtime wages in violation of the FLSA; (2) failure to pay for all hours worked in violation of Labor Code sections 201, 202, 204, and 221-223; (3) failure to pay minimum wage and liquidated damages in violation of Labor Code sections 1182.11, 1182.12, 1194, 1197, and 1197.1; (3) failure to pay overtime wages in violation of Labor Code section 510; (4) failure to provide meal and rest breaks in violation of Labor Code sections 226.7 and 512; (5) failure to provide accurate itemized wage statements in violation of Labor Code section 226; (6) failure to timely pay final wages and waiting time penalties in violation of Labor Code sections 201, 202 and 203; (7) violation of the

California Unfair Competition Law; and (8) failure to reimburse business expenses. Defendants filed their Answer on December 2, 2019, denying Plaintiff's allegations.

2. Plaintiff Joshua Wright filed a First Amended Complaint in the Federal Action on February 9, 2021, which added Plaintiffs Loretta Stanley, Haley Quam, and Aiesha Lewis; asserted FLSA claims on their behalf; and alleged Washington, Oregon, and Illinois state class wage and hour claims on their behalf.

3. Defendants filed a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) on March 15, 2021. The district court granted Defendants' motion on June 1, 2021, dismissing the Federal Action with prejudice and without leave to amend. Plaintiffs appealed the district court's order on June 17, 2021. The appeal is currently pending before the United States Court of Appeals for the Ninth Circuit, Case No. 21-16052.

4. Prior to dismissal of the Federal Action, a total of 953 individuals filed FLSA opt-in consent forms in the Federal Action.

5. Plaintiff Joshua Wright filed a separate action against Defendants on September 16, 2019, in the Superior Court of California, County of Alameda, to assert additional claims for penalties under California Private Attorneys General Act ("PAGA") § 2699 arising from Defendants' violations of the Cal. Lab. Code. *Wright, et al. v. Frontier Management LLC, et al.*, Superior Court of California, County of Alameda, Case Number RG19035167. Defendants filed their Answer on January 17, 2020, denying Plaintiff's allegations.

6. On April 8, 2021, Defendants filed a motion to strike PAGA allegations in the complaint under the theory that the allegation would be unmanageable. That same day, Defendants filed a motion for summary judgment arguing, inter alia, that Plaintiff failed to exhaust his administrative remedies under the PAGA. On July 2, 2021, the superior court denied Defendants' motion to strike and motion for summary judgment without prejudice, and ordered Plaintiff Joshua Wright to file a first amended complaint to more clearly plead separate causes of action against Defendants for each alleged violation of a Labor Code provision or industrial wage order. Plaintiff Joshua Wright filed a First Amended Complaint in the PAGA Action on July 14, 2021.

7. On September 10, 2021, Defendants filed a petition for writ of mandate for an order directing the superior court to vacate its July 2, 2021 order and to rule on Defendants' motion to strike on its merits. The petition for writ of mandate is currently pending before the Court of Appeal of the State of California, First Appellate District, Division One, Case No. A163424.

8. Through the federal and California state actions, Plaintiffs alleges that Defendants violated the Fair Labor Standards Act, and the wage and hour laws of California, Washington, Oregon, and Illinois by failing to pay non-exempt, hourly employees earned wages and failing to provide legally compliant meal and rest periods. On this basis, Plaintiffs brought claims against Defendants for unpaid minimum wages and overtime wages, failure to pay all hours worked, failure to provide meal and rest periods, inaccurate wage statements, failure to maintain pay records, failure to pay final wages, waiting time penalties, failure to reimburse expenses, unlawful deductions, unfair competition, consumer protection, and civil penalties under the PAGA.

9. On July 29, 2020, the Parties participated in a full-day mediation before respected wage and hour mediator David Rotman. The case did not settle that day. The Parties agreed to attend a second, half-day mediation which was held on August 26, 2020, before the same mediator, but the case did not settle that day.

10. On October 5, 2021, the Parties further participated in a full-day mediation before respected wage and hour mediator Steven Serratore. The case did not settle that day. The Parties agreed to the mediator's proposal, which included terms of the settlement, on October 6, 2021. The Parties thereafter negotiated the specific terms of this Settlement and have agreed to settle all pending litigation as provided in this Agreement.

11. Class Counsel has made a thorough and independent investigation of the facts and law relating to the allegations in the PAGA Action and Federal Action. In agreeing to this Settlement Agreement, Named Plaintiffs have considered: (a) the facts developed during pre-mediation, informal discovery and the Parties' mediation process and the law applicable thereto; (b) the attendant risks of continued litigation and the uncertainty of the outcome of the claims alleged against Defendants; and (c) the desirability of consummating this Settlement according to the terms of this Settlement Agreement. Named Plaintiffs have concluded that the terms of this Settlement are fair, reasonable and adequate, and that it is in the best interests of Named Plaintiffs, the Opt-In Plaintiffs, State Class Members who cash or deposit their Settlement Award checks, Aggrieved Employees and the Settlement Class (as defined above) to settle their claims against Defendants pursuant to the terms set forth herein.

12. Defendants deny all claims as to liability, damages, penalties, interest, fees, and all other forms of relief, as well as deny the allegations asserted in the PAGA Action and in the Federal Action. Defendants have agreed to resolve the PAGA Action and the Federal Action via this Settlement, but to the extent this Settlement Agreement is deemed void or the Effective Date does not occur, Defendants do not waive, but rather expressly reserve, all rights to challenge all such claims and allegations in the PAGA Action and in the Federal Action upon all procedural, merits, and factual grounds, including, without limitation, the ability to challenge class, collective and/or representative action treatment on any grounds, as well as asserting any and all other privileges and potential defenses. This Settlement Agreement shall not be construed as an admission by Defendants or any of the Releasees and FLSA Releasees (as defined above) of any fault, liability or wrongdoing, which Defendants expressly deny.

13. To the extent this Settlement Agreement is deemed void or the Effective Date does not occur, the Named Plaintiffs and Class Counsel (as defined above) agree that Defendants retain and reserve these rights stated in the preceding sentence, and to the extent this Settlement Agreement is deemed void or the Effective Date does not occur, the Named Plaintiffs and Class Counsel agree not to argue or present any argument, and hereby waive any argument, that based on this Settlement Agreement, Defendants cannot contest class certification, collective or representative action treatment on any grounds whatsoever or assert any and all other privileges or potential defenses if the PAGA Action or the Federal Action were to proceed.

14. The Parties recognize that Court approval of this Settlement is required to effectuate the Settlement, and that the Settlement will not become operative until the Court grants final approval of it and the Settlement Effective Date occurs.

15. The Parties stipulate and agree that, for settlement purposes only, the requisites for establishing collective action certification under the FLSA pursuant to 29 U.S.C. § 216(b), and class certification pursuant to Federal Rule of Civil Procedure 23 are met. Should this Settlement not become Final, such stipulation to certification shall become null and void and shall have no bearing on, and shall not be admissible in connection with, the issue of whether or not collective or class certification would be appropriate in a non-settlement context, or whether the PAGA Action can proceed on a representative basis. Defendants deny that class and/or collective action treatment is appropriate in the litigation context or for trial or that the PAGA Action is appropriate to proceed in the litigation context or for trial.

16. The Parties stipulate and agree that for settlement purposes only, the Parties shall file a stipulation in the PAGA Action and Defendants' petition for writ of mandate before the California Court of Appeal (Case No. A163424) for a stay pending approval of this Settlement and following approval of this Settlement, a dismissal without prejudice of the PAGA Action. In the event that the stipulated request for the stay is not granted by the respective courts, the Parties stipulate and agree that for settlement purposes only, the Parties shall meet and confer regarding a process for approval that is acceptable to and maintains both parties in the same position as prior to the settlement. In the event the Settlement is not approved, the Parties agree that Plaintiff Wright may re-file his PAGA complaint in Alameda Superior Court, Defendants be permitted to refile a motion to strike and motion for summary judgment without prejudice, and Defendants be permitted to pursue any appeal on the same basis as the currently pending petition for writ of mandate without prejudice, and the Parties shall be placed in the same position as they were in immediately prior to resolution. These agreements will be effectuated through stipulations to be filed with the state court and/or appellate court as appropriate.

17. The Parties stipulate and agree that for settlement purposes only, the Parties shall seek to stay Plaintiffs' appeal of the Federal Action before the Ninth Circuit. In the event the Settlement is not approved, the Parties agree that both Parties may request that the stay in the Ninth Circuit be lifted and the Parties shall be placed in the same position as they were in immediately prior to dismissal without prejudice of the appeal of the Federal Action before the Ninth Circuit.

18. The Parties stipulate and agree that for settlement purposes only, to the filing of a Complaint in the Federal Action ("Operative Complaint") that consolidates the claims, legal allegations, and factual allegations pled in the PAGA Action and the Federal Action, to assert the same federal, California, Washington, Oregon, and Illinois state law claims for the violations of federal and California, Washington, Oregon, and Illinois labor laws asserted in the Complaint filed in the Federal Action, Dkt. No. 57, and in the PAGA Action, and as necessary to otherwise effectuate the Release in this Settlement Agreement promptly after execution of this Settlement Agreement. The Operative Complaint will be attached hereto as Exhibit E. The Parties stipulate and agree that for settlement purposes only, Defendants consent to the filing of the Complaint and to personal and subject matter jurisdiction in the Court. The Parties further stipulate and agree that Plaintiff shall file an amended PAGA letter ("Amended PAGA Letter") to the LWDA consistent

with this Agreement to effectuate this Agreement and/or Releases in Paragraph 23. The Amended PAGA letter will be attached hereto as Exhibit F. The settlement is expressly conditioned upon the approval by both Parties of the Operative Complaint and Amended PAGA Letter.

19. This Settlement is conditioned on the dismissal with prejudice of Defendants and Releasees from the lawsuit entitled *Emily Gracey v. Frontier Management, LLC, et al.*, Stanislaus Superior Court, Case No. CV-22-000990 (the “Gracey Action”). If the Court in this Action does not approve this Settlement or Defendants and the Releasees are not dismissed with prejudice from the Gracey Action, the Parties shall meet and confer to make reasonable efforts to obtain approval of this Settlement and secure the dismissal with prejudice of the claims against Defendants and the Releasees in the Gracey Action and as alleged in the letter dated December 29, 2021 from Emily Gracey’s counsel to the Labor Workforce Development Agency, Case No. LWDA-CM-860102-21 (the “Gracey Letter”). Defendants shall not be required under any circumstances to increase or pay more than the Gross Settlement Fund in this Action. If the Parties cannot obtain judicial approval of this Settlement and secure dismissal with prejudice of the claims against Defendants and the Releasees in the Gracey Action and the Gracey Letter, this Agreement shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or used in this Action or any other legal proceeding.

20. In the event the Settlement is not approved, the Parties agree that the Parties shall be placed in the same position as they were in immediately prior to execution of this Settlement Agreement. Defendants agree that no statute of limitations on any claim would run against Plaintiffs or any Settlement Class Member from and including October 6, 2021, until and including the date the Court issues an order denying final approval of the Settlement (except those claims that are already barred by any applicable statute of limitations).

21. In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, IT IS HEREBY AGREED, by and between the undersigned, subject to the final approval of the Court and the other conditions set forth herein, that Named Plaintiffs’ and the Participating Individuals’ claims as described herein against Defendants shall be settled, compromised and dismissed, on the merits and with prejudice, and that the Named Plaintiffs’ and Participating Individuals’ Released Claims shall be finally and fully compromised, settled and dismissed as to the Defendants, Releasees, and FLSA Releasees in the manner and upon the terms and conditions set forth below.

RELEASES

22. In exchange for the consideration set forth in this Settlement Agreement, Named Plaintiffs and Participating Individuals agree to release all claims against the Releasees and FLSA Releasees as set forth herein as applicable.

23. **Participating Individuals’ Released Claims.** Upon Final Approval of the Settlement Agreement and payment of amounts set forth herein, and except as to such rights or claims as may be created by this Settlement Agreement, Named Plaintiffs (including Plaintiff Joshua Wright on behalf of the LWDA and the Aggrieved Employees), and all Participating Individuals shall and hereby do release and discharge all Releasees, finally, forever and with

prejudice, from any and all claims alleged, or that could have been alleged based on the facts alleged in the Action, and the claims as follows:

- a. Released FLSA Claims: Opt-In Plaintiffs shall release all Releasees and FLSA Releasees from the following rights or claims: any and all claims under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.* (“FLSA”) that were pled or could have been pled based on or arising out of the factual predicates and/or allegations of any Complaints in the Action, including but not limited to the Operative Complaint, between March 13, 2017 and March 1, 2022, as well as any state law minimum wage and overtime wage claims to the extent they overlap with the FLSA time period (between March 13, 2017 and March 1, 2022). The Parties intend and agree that the Final Approval Order and the Judgment entered as a result of this Settlement shall have *res judicata* and preclusive effect to the fullest extent allowed by law.
- b. Released California Class Claims: The California Class Members who do not timely and validly request exclusion from the Settlement shall release the Releasees from any and all claims under California law, including all claims that were pled or could have been pled based on or arising out of the factual predicates and/or allegations of any Complaints or PAGA Letters in the Action, including but not limited to the Operative Complaint and Amended PAGA Letter. This includes claims for: the purported payment or nonpayment of compensation (including, but not limited to, wages, minimum wage, straight time, overtime, and/or premium pay), meal or rest period premiums or penalties; failure to pay for all hours worked; failure to provide compliant meal and rest periods, failure to reimburse business expenses, failure to provide timely and compliant wage statements, improper recordkeeping, unfair business practices; including related premiums, statutory penalties; waiting time penalties, civil penalties including, but not limited to, claims under PAGA; liquidated damages; interest; punitive damages; costs; attorneys’ fees; injunctive relief; declaratory relief; or accounting, whether such causes of action are in tort, contract, or pursuant to a statutory remedy; between September 6, 2015 and March 1, 2022
- c. Released Washington Class Claims: The Washington Class Members who do not timely and validly request exclusion from the Settlement shall release the Releasees from any and all claims under Washington law, including all claims that were pled or could have been pled based on or arising out of the factual predicates and/or allegations of any Complaints in the Action, including but not limited to the Operative Complaint: the purported payment or nonpayment of compensation (including, but not limited to, wages, minimum wage, straight time, overtime, and/or premium pay), meal or rest period premiums or penalties, reimbursement of business expenses, improper wage statements, improper recordkeeping, unfair business practices, including related premiums, statutory penalties, civil penalties, liquidated damages, interest, punitive damages, costs, attorneys’ fees, injunctive relief, declaratory relief, or accounting, whether such causes of action are in tort,

contract, or pursuant to a statutory remedy, between July 8, 2017 and March 1, 2022.

- d. Released Oregon Class Claims: The Oregon Class Members who do not timely and validly request exclusion from the Settlement shall release the Releasees from any and all claims under Oregon law, including all claims that were pled or could have been pled based on or arising out of the same factual predicates and/or allegations of any Complaints in the Action, including but not limited to the Operative Complaint: the purported payment or nonpayment of compensation (including, but not limited to, wages, minimum wage, straight time, overtime, and/or premium pay), meal or rest period premiums or penalties, reimbursement of business expenses, improper wage statements, improper recordkeeping, unfair business practices, including related premiums, statutory penalties, civil penalties, liquidated damages, interest, punitive damages, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting, whether such causes of action are in tort, contract, or pursuant to a statutory remedy, between July 8, 2014 and March 1, 2022.
- e. Released Illinois Class Claims: The Illinois Class Members who do not timely and validly request exclusion from the Settlement shall release the Releasees from any and all claims under Illinois law, including all claims that were pled or could have been pled based on or arising out of the same factual predicates and/or allegations of any Complaints in the Action, including but not limited to the Operative Complaint: the purported payment or nonpayment of compensation (including, but not limited to, wages, minimum wage, straight time, overtime, and/or premium pay), meal or rest period premiums or penalties, reimbursement of business expenses, improper wage statements, improper recordkeeping, unfair business practices, including related premiums, statutory penalties, civil penalties, liquidated damages, interest, punitive damages, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting, whether such causes of action are in tort, contract, or pursuant to a statutory remedy, between July 8, 2017 and March 1, 2022.
- f. Released PAGA Claims: Plaintiff Wright fully releases the claims and rights to recover civil penalties against the Releasees on behalf of the LWDA and Aggrieved Employees, to recover civil penalties, costs, expenses, attorneys' fees, or interest against the Releasees on behalf of Aggrieved Employees and LWDA for any Labor Code or Wage Order violation alleged or could have been alleged in any Complaints or PAGA Letters, including but not limited to the Operative Complaint and Amended PAGA Letter, in the Action, including violations of the following: (1) (failure to pay minimum wage), (2) (failure to pay overtime wages), (3) (failure to provide meal and rest periods and/or premiums); (4) (failure to compensate for all hours worked); (5) (failure to provide and maintain records and to provide timely and compliant itemized wage statements); (6) (waiting time penalties); and (7) (failure to reimburse for necessary business expenditures) through Preliminary Approval. The Parties agree that there shall be no right for any Aggrieved Employee to opt out or otherwise exclude himself or herself from the release of PAGA claims. The Parties intend and agree that the Final Approval Order and the

Judgment entered as a result of this Settlement shall have *res judicata* and preclusive effect to the fullest extent allowed by law.

- g. State Class Members who are not Opt-In Plaintiffs and who cash, deposit, or otherwise negotiate their Settlement Award checks shall also release any and all claims against the Releasees and the FLSA Releasees under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*, arising from or related to their work for Defendants in the States of California, Washington, Oregon, and/or Illinois between March 13, 2017 and March 1, 2022.
- h. State Class Members who are not Opt-In Plaintiffs and who do not cash or deposit their Settlement Award checks, shall not release any claims against the Released Parties under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*

24. **Release Language on Settlement Checks.** The Settlement Administrator shall include the following release language on the back of each Settlement Award check, or to the extent the following release language does not fit on the back of each Settlement Award check, the Settlement Administrator shall include the following release language attached to each Settlement Award check, as appropriate for Named Plaintiffs, Collective Members, other State Class Members who do not opt-out of the Settlement, and Aggrieved Employees:

- (a) For Collective Members Who Are Not State Class Members: “As explained in the previously provided Notice, this check is your settlement payment in connection with the court-approved collective action Settlement in *Wright, et al. v. Frontier Management LLC, et al.*, United States District Court, Eastern District of California, Case No. 2:19-cv-01767-JAM-CKD. By you having consented to join the Collective Action, and the court having approved the Settlement, you have released Frontier Management LLC; Frontier Senior Living, LLC; GH Senior Living, LLC; and other FLSA Releasees of all claims under the Fair Labor Standards Act, as well as any state law minimum wage and overtime wage claims to the extent they overlap with the FLSA time period (between March 13, 2017 and March 1, 2022.”
- (b) For Named Plaintiffs and Other State Class Members Who Are Also Collective Members: “As explained in the previously provided Notice, this check is your settlement payment in connection with the court-approved class action Settlement in *Wright, et al. v. Frontier Management LLC, et al.*, United States District Court, Eastern District of California, Case No. 2:19-cv-01767-JAM-CKD. By not opting out of the Settlement, and having consented to join the Collective Action, you have released Frontier Management LLC; Frontier Senior Living, LLC; GH Senior Living, LLC; and other Releasees and FLSA Releasees of all Settlement Class Members’ Released Claims as defined in the Settlement Agreement, including claims under the Fair Labor Standards Act and applicable state law.”

- (c) For Other State Class Members Who Are Not Collective Members: “As explained in the previously provided Notice, this check is your settlement payment in connection with the court-approved class action Settlement in *Wright, et al. v. Frontier Management LLC, et al.*, United States District Court, Eastern District of California, Case No. 2:19-cv-01767-JAM-CKD. By not opting out of the Settlement, you have released Frontier Management LLC; Frontier Senior Living, LLC; GH Senior Living, LLC; and other Releasees of all Settlement Class Members’ Released Claims as defined in the Settlement Agreement, except for claims under the Fair Labor Standards Act (“FLSA”). By signing and cashing your check, you consent to join the Collective Action and affirm your release of FLSA claims against Releasees.”
- (d) For Aggrieved Employees Who Are Not State Class Members and Who Are Not Collective Members: “As explained in the previously provided Notice, this check is your settlement payment in connection with the court-approved Settlement in *Wright, et al. v. Frontier Management LLC, et al.*, United States District Court, Eastern District of California, Case No. 2:19-cv-01767-JAM-CKD. You are receiving this check as an Aggrieved Employee as defined in the Settlement Agreement, for claims under the Private Attorneys General Act.”

25. **Named Plaintiffs’ Released Claims.** Named Plaintiffs’ Released Claims means a general release of any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against the Releasees and FLSA Releasees, of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law or contract, whether known or unknown, and whether anticipated or unanticipated, including all unknown claims covered by California Civil Code section 1542 that could be or are asserted based upon any theory or facts whatsoever, arising at any time up to and including the date of the execution of this Settlement Agreement, for any type of relief, including, without limitation, claims for minimum, straight time, or overtime wages, meal breaks, rest breaks, premium pay, business expenses, other damages, penalties (including, but not limited to, waiting time penalties), liquidated damages, punitive damages, interest, attorneys’ fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief. The Named Plaintiffs’ Released Claims include, but are not limited to, the Participating Individuals’ Released Claims, as well as any other claims under any provision of federal, state, or local law, including the FLSA, and California, Washington, Oregon, and Illinois wage and hour laws. Upon Final Approval, Named Plaintiffs and Emily Gracey shall be deemed to have fully, finally, and forever released Releasees and FLSA Releasees from all Named Plaintiffs’ Released Claims through the date of Preliminary Approval. Furthermore, upon Final Approval, Named Plaintiffs and Emily Gracey shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they may otherwise have had relating to the Named Plaintiffs’ Released Claims pursuant to Section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

CERTIFICATION, NOTICE, AND SETTLEMENT IMPLEMENTATION

26. The Parties agree to the following procedures for obtaining Preliminary Approval of the Settlement, certifying the Settlement Class, and notifying the Settlement Class of this Settlement:

- a. **Complaint.** The Parties stipulate and agree that for settlement purposes only, the Parties consent to the filing of a Complaint that consolidates the claims, legal allegations, and factual allegations pled in the PAGA Action and the Federal Action, and as otherwise necessary to effectuate the Release in this Settlement Agreement, and to personal and subject matter jurisdiction in the Court. Named Plaintiffs shall file the Complaint in the Court before the filing of the Unopposed Motion for Preliminary Approval of Settlement Agreement discussed in Paragraph 26.b and shall take any other necessary steps to effectuate the releases in this Settlement Agreement.
- b. **Request for Class Certification and Preliminary Approval Order.** Named Plaintiffs shall file an Unopposed Motion for Preliminary Approval of Settlement Agreement, requesting that the Court certify the Settlement Class pursuant to 29 U.S.C. § 216(b) and Federal Rule of Civil Procedure 23 for the sole purpose of settlement; preliminarily approve the Settlement Agreement and its terms; approve the proposed form of the Settlement Notice and find that the proposed method of disseminating the Settlement Notice meets the requirements of due process and is the best notice practicable under the circumstances; set a date for Named Plaintiffs' motion for Final Approval of the Settlement, and approval of the requested Service Awards, Fee Award, Class Counsel's Costs, and Settlement Administrator's Costs; and set a date for the Final Approval Hearing. Class Counsel shall provide Defendants' Counsel a copy of a draft Unopposed Motion for Preliminary Approval of Settlement Agreement at least two (2) days in advance of filing it with the Court.
- c. **Notice.** The Settlement Administrator shall be responsible for preparing, printing, mailing, and emailing the Settlement Notice to all Settlement Class Members. The Settlement Administrator will also create a website for the Settlement, which will allow Settlement Class Members to view the Class Notice (in generic form), this Settlement Agreement, and all papers filed by Class Counsel to obtain preliminary and final approval of the Settlement Agreement. Additionally, the Settlement website will provide contact information for Class Counsel and the Settlement Administrator. The

Settlement Administrator will provide Class Counsel and Defendants' counsel with a preview of the proposed website. Class Counsel and Defendants' counsel must approve the website before it goes live and also must approve any modifications to the website. The Settlement Administrator shall also create a toll-free telephone number to field telephone inquiries from Settlement Class Members during the notice and settlement administration periods. The Settlement Administrator will be directed to take the website and call center down after the 180-day check cashing period for Settlement Award Checks.

- d. Within thirty (30) calendar days after the Court's Preliminary Approval of the Settlement, Defendants shall provide to the Settlement Administrator and Class Counsel the Class List. Class Counsel agree that they shall use the information contained in the Class List only for the purpose of assisting with the administration of the Settlement, including fielding questions from Settlement Class Members. Class Counsel shall provide the Settlement Administrator with updated addresses or contact information for Opt-In Plaintiffs in their possession.
- e. In order to provide the best notice practicable, prior to mailing the Settlement Notice, the Settlement Administrator will take reasonable efforts to identify current addresses via public and proprietary systems.
- f. Within ten (10) business days after receiving the contact information for the Settlement Class Members, the Settlement Administrator shall mail and email (if email addresses are available) the agreed-upon and Court-approved Settlement Notice to Settlement Class Members. The Settlement Administrator shall provide notice to Class Counsel and Defendants' Counsel that the Settlement Notice has been mailed.
- g. Any Settlement Notice returned to the Settlement Administrator with a forwarding address shall be re-mailed within three (3) business days following receipt of the returned mail. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Settlement Class Member involved, and shall re-mail the Notice of Settlement. For Opt-In Plaintiffs only, the Settlement Administrator shall also promptly work with Class Counsel to obtain forwarding addresses. Class Counsel shall use their best efforts to locate forwarding addresses for Opt-In Plaintiffs whose Notices of Settlement are returned as non-delivered. Under no circumstances shall such re-mailing extend the Notice Deadline.
- h. Within ten (10) business days after the Notice Deadline, the Settlement Administrator shall provide Defendants' Counsel and Class Counsel, respectively, a report showing: (i) a list of Participating Individuals and

Opt-In Plaintiffs by unique identifier; (ii) the Settlement Awards owed to each of the Participating Individuals and Opt-In Plaintiffs; (iii) the final number of State Class Members who have submitted objections or valid letters requesting exclusion from the Settlement; (iv) the number of undeliverable Notices of Settlement; (v) the estimated average and median recovery per State Class Member who have not submitted valid letters requesting exclusion from the Settlement (including estimated amounts by State Class Members belonging to California, Washington, Oregon, and Illinois Classes); (vi) the estimated average and median recovery per Opt-In Plaintiff; (vii) the largest and smallest estimated amounts to be paid to State Class Members who have not submitted valid letters requesting exclusion from the Settlement (including estimated amounts by State Class Members belonging to California, Washington, Oregon, and Illinois Classes); and (viii) the largest and smallest estimated amounts to be paid to Opt-In Plaintiffs.

- i. Defendants will not take any adverse action against any current or former employee on the grounds that he/she is eligible to participate and/or does participate in the Settlement. Defendants will not discourage participation in this Settlement Agreement or encourage objections or opt-outs.
- j. Upon completion of administration of the Settlement, the Settlement Administrator shall provide written certification of such completion to counsel for all Parties and the Court. This written certification shall include the total number of Participating Individuals; the average and median recovery per Participating Individual; the largest and smallest amounts paid to Participating Individuals; and the number and value of checks not cashed. Within ten (10) business days after the conclusion of the 180-day check cashing period below, the Settlement Administrator shall provide Defendants' Counsel and Class Counsel, respectively, a report regarding the total amount of any funds that remain from checks that are returned as undeliverable or are not negotiated.

27. **Disputes Regarding Workweeks.** To the extent that any Settlement Class Member disputes the number of workweeks that the Settlement Class Member worked, as shown in his or her Settlement Notice, such Settlement Class Members may produce evidence to the Settlement Administrator establishing the dates they contend to have worked for Defendants. Weeks "worked" for purposes of this settlement will be determined by using workweeks reflected in pay records or by using dates of employment. The deadline for Settlement Class Members to submit disputes pursuant to this paragraph is the Notice Deadline (disputes must be postmarked by the Notice Deadline). Unless the Settlement Class Member presents convincing evidence proving he or she worked more workweeks than shown by Defendants' records, his/her Settlement Award will be determined based on Defendants' records. The Settlement Administrator shall notify counsel for the Parties of any disputes it receives. Defendants shall review its records and provide further information to the Settlement Administrator, as necessary. The Settlement Administrator shall provide a recommendation to counsel for the Parties. Counsel for the Parties shall then meet

and confer in an effort to resolve the dispute. If the dispute cannot be resolved by the Parties, it shall be presented to the Court for a resolution. The Settlement Administrator will notify the disputing Settlement Class Member of the decision.

28. **Objections.** The Settlement Notice shall provide that State Class Members who wish to object to the Settlement must, on or before the Notice Deadline, file with the court a written statement objecting to the Settlement. Such objection shall not be valid unless it includes the information specified in the Settlement Notice. The statement must be signed personally by the objector, and must include the objector's name, address, telephone number, email address (if applicable), the factual and legal grounds for the objection, and whether the objector intends to appear at the Final Approval Hearing. The Settlement Notice shall advise State Class Members that objections shall only be considered if the State Class Member has not opted out of the Settlement. No State Class Member shall be entitled to be heard at the Final Approval Hearing (whether individually or through counsel), unless written notice of the State Class Member's intention to appear at the Final Approval Hearing has been filed with the Court and served upon Class Counsel and Defendants' Counsel on or before the Notice Deadline and the State Class Member has not opted out of the Settlement. The postmark date of mailing to Class Counsel and Defendants' Counsel shall be the exclusive means for determining that an objection is timely mailed to counsel. If postmark dates differ, the later of the two postmark dates will control. Absent good cause found by the court, persons who fail to make timely written objections in the manner specified above shall be deemed to have waived any objections and oppositions to the Settlement's fairness, reasonableness and adequacy, and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. However, the requirement that the State Class Member submit a written objection may be excused by the Court upon a showing of good cause. None of the Parties, their counsel, nor any person on their behalf, shall seek to solicit or otherwise encourage anyone to object to the settlement, or appeal from any order of the Court that is consistent with the terms of this Settlement.

29. **Requests for Exclusion.** The Settlement Notice shall provide that State Class Members, other than Named Plaintiffs, who wish to exclude themselves from the Settlement ("opt out") must mail to the Settlement Administrator a written statement indicating that they do not wish to participate or be bound by the Settlement. The written request for exclusion must contain the State Class Member's full name, address, telephone number, email address (if applicable), and last four digits of their social security number, and must be signed individually by the State Class Member. No opt-out request may be made on behalf of a group. Such written statement must be postmarked by the Notice Deadline. None of the Parties, their counsel, nor any person on their behalf, shall seek to solicit or otherwise encourage anyone to exclude themselves from the settlement. Aggrieved Employees are bound by and cannot exclude themselves from the PAGA component of the Settlement even if they request exclusion.

30. **Cure Period.** In the event any request for exclusion is timely submitted but does not contain sufficient information to be valid, the Settlement Administrator shall provide the State Class Member, within seven (7) calendar days, a letter requesting the information that was not provided and giving the State Class Member fourteen (14) days from the mailing of such cure letter to respond. Any invalid submission that is not timely cured will be considered a nullity.

31. **Final Approval Hearing.** Class Counsel will be responsible for drafting the Unopposed Motion for Final Approval of Settlement Agreement, and approval of the requested Service Awards, Fee Award, Class Counsel's Costs, and Settlement Administrator's Costs to be heard at the Final Approval Hearing. Class Counsel shall provide Defendants' Counsel a copy of a draft Unopposed Motion for Final Approval of Settlement Agreement at least five (5) days in advance of filing it with the Court. Named Plaintiffs shall request that the Court schedule the Final Approval Hearing no earlier than thirty (30) days after the Notice Deadline to determine final approval of the settlement and to enter a Final Approval Order:

- a. certifying this Action and Settlement Class as an FLSA collective action under 29 U.S.C. § 216(b) and as a class action under Federal Rule of Civil Procedure 23 for purposes of settlement only;
- b. finding dissemination of the Settlement Notice was accomplished as directed and met the requirements of due process;
- c. approving the Settlement as final and its terms as a fair, reasonable and adequate;
- d. approving the payment of the Service Awards to Named Plaintiff Joshua Wright, Named Plaintiff Loretta Stanley, Named Plaintiff Haley Quam, Named Plaintiff Aiesha Lewis, and Emily Gracey;
- e. approving Class Counsel's application for an award of attorneys' fees and reimbursement of out-of-pocket litigation costs and expenses;
- f. directing that the Settlement funds be distributed in accordance with the terms of this Settlement Agreement;
- g. directing that the Action be dismissed finally, fully, forever and with prejudice and in full and final discharge of any and all Participating Individuals' Released Claims, Named Plaintiff Released Claims and the PAGA Released Claims of the LWDA;
- h. directing that a Final Judgment be entered; and
- i. retaining continuing jurisdiction over this Action for purposes only of overseeing all settlement administration matters.

32. **Post Judgment Report.** At the conclusion of the 180-day check cashing period set forth below and following receipt of the Settlement Administrator's report showing the total funds that were actually paid to Participating Individuals, Plaintiff's Counsel shall submit a post-

judgment report to the Court of regarding any funds that remain from checks that are returned as undeliverable or are not negotiated.

SETTLEMENT FUNDS AND AWARD CALCULATION

33. **Funding of Settlement.** The Settlement Administrator will administer this Settlement. Within thirty (30) days of Final Approval of the Settlement, Defendants shall pay the Settlement Administrator into the Settlement Administrator's designated account. Defendants shall not have access to the Gross Settlement Amount, or to any earned interest, once those funds are deposited into the Settlement Administrator's designated account. Any interest gained on the Gross Settlement Amount in the Settlement Administrator's designated account shall be deemed part of the Gross Settlement Amount. The Gross Settlement Amount is fully non-reversionary. All disbursements shall be made from the Gross Settlement Amount.

34. **Payments.** Subject to the Court's Final Approval Order and the occurrence of the Effective Date, the following amounts shall be paid by the Settlement Administrator from the Gross Settlement Amount:

- a. **Service Awards to Named Plaintiffs.** Subject to the Court's approval, Plaintiff Joshua Wright shall receive Ten Thousand Dollars (\$10,000.00), Plaintiff Loretta Stanley shall receive Five Thousand Dollars (\$5,000.00), Plaintiff Haley Quam shall receive Five Thousand Dollars (\$5,000.00), and Plaintiff Aiesha Lewis shall receive Five Thousand Dollars (\$5,000.00), for their efforts in bringing and prosecuting this matter. Subject to the Court's approval, Emily Gracey shall receive up to Five Thousand Dollars (\$5,000.00) for her efforts in bringing and prosecuting the Gracey matter. The Settlement Administrator shall issue an IRS Form 1099 for these payments. These payments shall be made within (30) days after the Effective Date or as soon as reasonably practicable. If the Court approves Service Award in amounts less than what Named Plaintiffs and Emily Gracey request, the reduction in the Service Award shall not be a basis for nullification of this Settlement. Nor shall a reduction in the Service Award in any way delay or preclude the judgment from becoming a final judgment or the Settlement from becoming Effective. The Named Plaintiffs and Emily Gracey assume full responsibility for paying all taxes, if any, due as a result of the Service Awards.
- b. **Fee Awards and Costs.**
 - i. Subject to the Court's approval, Class Counsel shall receive the Fee Award, which will compensate Class Counsel for all work performed in the Action as of the date of this Settlement Agreement as well as all of the work remaining to be performed, including but not limited to documenting the Settlement, securing Court approval of the Settlement, making sure that the Settlement is fairly administered and implemented, and obtaining final dismissal of the

Action. In addition, Class Counsel shall, subject to Court approval, receive reimbursement of Class Counsels' Costs. These payments of attorneys' fees and costs shall be made within thirty (30) days after the Effective Date or as soon as reasonably practicable.

- ii. The approved Fee Award and Class Counsels' Costs, even if less than what Class Counsel requests, shall constitute full satisfaction of Defendants' obligations to pay amounts to any person, attorney or law firm for attorneys' fees or costs in this Action on behalf of Named Plaintiff and/or any other Settlement Class Member, and shall relieve Defendants from any other claims or liability to any other attorney or law firm for any attorneys' fees or costs to which any of them may claim to be entitled on behalf of Named Plaintiff or any other Settlement Class Member. If the Court approves a Fee Award and/or Class Counsels' Costs Award in an amount less than what Class Counsel request, the reduction in the Fee Award and/or Class Counsels' Costs Award shall not be a basis for nullification of this Settlement. Nor shall a reduction in the Fee Award and/or Class Counsels' Costs Award in any way delay or preclude the judgment from becoming a Final or the Settlement from becoming effective.
- iii. An IRS Form 1099 shall be provided to Class Counsel for the payments made to Class Counsel. Class Counsel shall be solely and legally responsible to pay any and all applicable taxes on the payment made to them.

c. **Labor and Workforce Development Agency Payment.** Subject to Court approval, the Parties agree that the amount of Ninety-Five Thousand Dollars (\$95,000.00) from the Gross Settlement Amount will be paid in settlement of all individual and representative claims brought in the Action by or on behalf of Plaintiffs and aggrieved parties under the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, et seq., "PAGA"). Pursuant to PAGA, Seventy-Five Percent (75%), or Seventy-One Thousand Two Hundred and Fifty Dollars (\$71,250.00), of this sum will be paid to the Labor and Workforce Development Agency ("LWDA") and Twenty-Five Percent (25%), or Twenty-Three Thousand Seven Hundred and Fifty Dollars (\$23,750.00), will be allocated to the Net PAGA Amount. The payment to the LWDA shall be made by the Settlement Administrator within thirty (30) days after the Effective Date or as soon as reasonably practicable.

d. **Settlement Administration Costs.** Settlement Administration costs shall be paid from the Gross Settlement Amount. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts

to control and minimize the costs incurred in the administration of the Settlement.

- e. **Settlement Awards to Eligible Class Members.** Settlement Awards shall be made to Participating Individuals as set forth below.

35. **No Claim Based Upon Distributions or Payments in Accordance with this Settlement Agreement.** No person shall have any claim against Defendants, Class Counsel, or Defendants' Counsel based on distributions or payments made in accordance with this Settlement Agreement.

CALCULATION AND DISTRIBUTION OF SETTLEMENT AWARDS

36. **Settlement Award Eligibility.** All Participating Individuals shall be paid a Settlement Award from the Net Settlement Amount. All Aggrieved Employees shall be paid a Settlement Award from the Net PAGA Amount.

37. Any State Class Member who fails to submit a timely request to exclude themselves from the Settlement by following the procedure set forth in the Settlement Notice shall automatically be deemed a Participating Individual whose rights and claims with respect to the issues raised in the Action are determined by any order the Court enters granting final approval, and any judgment the Court ultimately enters in the Action. Any such Settlement Class Member's rights to pursue any Released Claims (as defined in this Settlement Agreement) will be extinguished.

38. **Settlement Award Calculations.** The Settlement Administrator shall be responsible for determining the amount of the Settlement Award to be paid to each Participating Individuals based on the below formulas:

- a. Participating Individuals shall receive a *pro rata* portion of the Net Settlement Amount as follows:
 - i. When calculating the individual Settlement Awards to Settlement Class Members following Final Approval (for purposes of preparing Individual Settlement Payment checks), the Settlement Administrator will not include State Class Members who validly request exclusion from the Settlement but will assume that all Opt-In Plaintiffs cash their Settlement Award checks.
 - ii. For each week during which the Participating Individual performed work for Defendants as alleged in the Complaint he or she shall be eligible to receive a *pro rata* portion of the Net Settlement Amount based on the number of workweeks the Participating Individual worked at any time in:

(1) California (between September 6, 2015 and March 1, 2022);

- (2) Washington (between July 8, 2017 and March 1, 2022);
 - (3) Oregon (between July 8, 2014 and March 1, 2022);
 - (4) Illinois (between July 8, 2017 and March 1, 2022); and
 - (5) the United States, excluding the states California, Washington, Oregon, and Illinois (between and including March 12, 2017 and March 1, 2022).
- iii. Each workweek during which work was performed in the United States will be equal to one (1) settlement share. To reflect the varying value of the state law claims, workweeks during which work was performed in California will be equal to five (5) settlement shares, workweeks during which work was performed in Washington will be equal to three (3) settlement shares, workweeks during which work was performed in Oregon will be equal to three (3) settlement shares, and workweeks during which work was performed in Illinois will be equal to two (2) settlement shares.
 - iv. The total number of settlement shares for all Participating Individuals will be added together and the resulting sum will be divided into the Net Settlement Amount to reach a per share dollar figure. That figure will then be multiplied by each Participating Individual's number of settlement shares to determine the Participating Individual's *pro rata* portion of the Net Settlement Amount.
- b. Aggrieved Employees under the PAGA shall also receive an equal portion of the Net PAGA Amount as follows:
 - i. For any Participating Individual who worked for either Frontier Management LLC; Frontier Senior Living, LLC; or GH Senior Living, LLC at any time in California between July 7, 2018 and the date of Preliminary Approval of the Settlement, he or she shall be eligible to receive a *pro rata* portion of the Net PAGA Amount based on his or her workweeks employed by Defendants in California during the time period between July 7, 2018 and the date of Preliminary Approval of the Settlement. The resulting Net PAGA Amount per Participating Individual, if any, will be added to the Participating Individual's share of the Net Settlement Amount, to determine the Participating Individual's Settlement Award.

39. In addition to other information contained on the Settlement Notice, the Settlement Notice shall state the estimated minimum payment the class member is expected to receive assuming full participation of all Settlement Class Members.

40. All Settlement Award determinations shall be based on the weeks worked or dates of employment, as reflected by Defendants' timekeeping, payroll, and/or other records. If the Parties determine, based upon further review of available data, that a person previously identified as being a Settlement Class Member is not a Settlement Class Member, or an individual who was not previously identified as a Settlement Class Member is in fact a Settlement Class Member but was not so included, the Settlement Administrator shall promptly make such addition or deletion as appropriate.

41. **Settlement Award Allocations.** Any portion of each Settlement Award that is provided from the Net PAGA Amount shall be allocated as penalties. For the remainder of each Settlement Award, twenty-five percent (25%) of each Settlement Award shall be allocated as wages, seventy-five percent (75%) of each Settlement Award shall be allocated as penalties and interest. Settlement Awards will be paid out to Participating Individuals subject to reduction for all employee's share of withholdings and taxes associated with the wage-portion of the Settlement Awards, for which Participating Individuals shall be issued an IRS Form W-2 for the portions of the Settlement Awards that are allocated to wages, if any. Participating Individuals will also be issued an IRS Form 1099 for the portions of the Settlement Awards that are allocated to penalties and interest. Defendants shall pay the employer's share of all required FICA and FUTA taxes on the wage portions of the Settlement Awards. The Settlement Administrator shall calculate the employer share of taxes and provide Defendants with the total employer tax contributions within five (5) business days after the final Settlement Award calculations are approved. Defendants shall deposit the calculated employer tax contributions into the Settlement Administrator's designated account within seven (7) business days after the Settlement Administrator provides Defendants with the amount of the total employer tax contributions due. Amounts withheld will be remitted by the Settlement Administrator from the Qualified Settlement Fund to the appropriate governmental authorities. Defendants shall cooperate with the Settlement Administrator to provide payroll tax information as necessary to accomplish the income and employment tax withholding on the wage portion of each Settlement Award, and the Form 1099 reporting for the non-wage portion of each Settlement Award.

42. Class Counsel and Defendants' Counsel do not intend this Settlement Agreement to constitute legal advice relating to the tax liability of any Settlement Class Member. To the extent that this Settlement Agreement, or any of its attachments, is interpreted to contain or constitute advice regarding any federal, state or local tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any tax liability or penalties.

43. The Settlement Administrator shall provide Class Counsel and Defendants' Counsel with a final report of all Settlement Awards, at least ten (10) business days before the Settlement Awards to Participating Individuals are mailed.

44. The Settlement Administrator shall mail all Settlement Awards to Participating Individuals within thirty (30) days after the Effective Date or as soon as reasonably practicable. The Settlement Administrator shall then provide written certification of mailing to Class Counsel and Defendants' Counsel.

45. All Settlement Award checks shall remain valid and negotiable for one hundred eighty (180) days from the date of their issuance and may thereafter automatically be canceled if not cashed within that time, at which time the right to recover any Settlement Award will be deemed void and of no further force and effect. With ninety (90) days remaining, a reminder letter (Exhibit G herein) will be sent via U.S. mail and email to those who have not yet cashed their settlement check, and during the last sixty (60) days of the check cashing period, a call will be placed to those that have still not cashed their check to remind them to do so. At the conclusion of the 180 day check cashing deadline, Participating Individuals who have not cashed their Settlement Award checks shall nevertheless be deemed to have finally and forever released the Named Plaintiff's Released Claims or Participating Individuals' Released Claims, as applicable, except that the Participating Individuals shall not release any FLSA claims against Defendants.

46. **Remaining Monies.** If at the conclusion of the 180-day check cashing period set forth above, any funds remain from checks that are returned as undeliverable or are not negotiated, those monies shall be distributed as follows, subject to the Court's approval:

- a. If the total residual amount is less than \$95,000, then the amount will revert to *cy pres*. The *cy pres* recipient shall be proposed by the parties and approved by the Court. The Parties propose Legal Aid at Work which provides legal services assisting low-income, working families and promotes better understanding of the conditions, policies, and institutions that affect the well-being of workers and their families and communities. The Settlement Administrator shall distribute any *cy pres* payment.
- b. If the total residual amount is \$95,000 or greater, a second distribution will occur to those Participating Individuals who cashed their Settlement Award check. The second distribution will occur on a *pro rata* basis as provided for in Paragraph 38. In the event of a redistribution of uncashed check funds to Participating Individuals who cashed their Settlement Award check, the additional settlement administration costs related to the redistribution will be deducted from the total amount of uncashed checks prior to the redistribution. If a check to a Participating Individual is returned to the Settlement Administrator as undeliverable during the second distribution, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace search and, if another address is identified, shall mail the check to the newly identified address. If none is found, then said check shall revert to the *cy pres* recipient. If there are uncashed check funds remaining from redistribution as described in this Paragraph, then the amount will revert to *cy pres*.
- c. Within twenty-one (21) days after the distribution of any remaining monies to Participating Individuals who cashed their Settlement Award check or to the *cy pres* recipient, Plaintiffs will file a Post-Distribution Accounting. The Post-Distribution Accounting will set forth the total settlement fund, the total number of Settlement Class Members, the total number of Settlement Class Members to whom notice was sent and not returned as undeliverable,

the number and percentage of opt-outs, the number and percentage of objections, the average and median recovery per Participating Individual, the largest and smallest amounts paid to Participating Individuals, the method(s) of notice and the method(s) of payment to Participating Individuals, the number and value of checks not cashed, the amounts distributed to the *cy pres* recipient (if applicable), the administrative costs, the attorneys' fees and costs, the attorneys' fees in terms of percentage of the settlement fund, and the multiplier, if any.

MISCELLANEOUS

47. **Class Action Fairness Act.** Defendants shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement not later than ten (10) days after a proposed settlement of a class action is filed in court, pursuant to the Class Action Fairness Act (CAFA), 28 U.S.C. § 1715.

48. **Submissions to the LWDA.** At the same time as they submit this Class Action Settlement Agreement to the Court for Preliminary Approval, Class Counsel shall submit a copy of this Agreement to the LWDA, as required by California Labor Code § 2699(l)(2). Within ten (10) days following the Effective Date, Class Counsel shall submit a copy of the Final Approval Order and Judgment entered by the Court to the LWDA, as required by California Labor Code § 2699(l)(3).

49. **Confidentiality.** The Plaintiffs and their Counsel agree to keep the facts and terms of this Settlement confidential until approval of the Settlement is sought from the Court to the extent permitted by law. Thereafter, the Plaintiffs and their Counsel agree that they will not issue a press release or hold any press conferences or initiate contact with a member of the press, including on social media, about this case and/or the fact, amount or terms of the Settlement to the extent permitted by law. If the Plaintiffs are contacted by the press about the Settlement, they will respond only that the case has been resolved. Nothing in this paragraph shall prevent Class Counsel from communicating with the Settlement Class Members, the LWDA, or the court in which the Action is pending, as may be required to carry out the terms of this Settlement and/or fulfill their ethical responsibilities under the Settlement and to their respective clients. Nothing in this provision is intended to violate applicable state law and this provision will be interpreted in accordance with applicable state law.

50. **No Admission of Liability.** Defendants expressly deny all of the allegations in the Actions. Defendants expressly deny that they have violated the FLSA, the PAGA, California wage and hour laws, Washington wage and hour laws, Oregon wage and hour laws, Illinois wage and hour laws, or any other provision of federal or state law with respect to any of their employees. This Settlement Agreement and all related documents are not and shall not be construed as an admission by Defendants or any of the Releasees of any fault or liability or wrongdoing. If this Settlement Agreement does not become final, this Settlement Agreement, or the circumstances leading to this Settlement Agreement, may not be used as an admission by Defendants or any wrongdoing or evidence of any wrongdoing by Defendants.

51. **Defendants' Legal Fees.** Defendants' legal fees and expenses in this Action shall be borne by Defendants.

52. **Nullification of the Settlement Agreement.** In the event: (a) the Court does not preliminarily or finally approve the Settlement as provided herein; or (b) the Settlement does not become Final for any other reason; or (c) the Effective Date does not occur, the Parties agree to engage in follow up negotiations with the intent of resolving the Court's concerns that precluded approval, and if feasible, to resubmit the settlement for approval within thirty (30) days. If the Settlement is not approved as resubmitted or if the Parties are not able to reach another agreement, then either Party may void this Agreement; at that point, the Parties agree that each shall return to their respective positions on the day before this Agreement and that this Agreement shall not be used in evidence or argument in any other aspect of their litigation. If a court issues a final judgment denying approval of the Settlement, or the Settlement is not finally approved, then within ten (10) business days after that final judgment all funds deposited into the Settlement Administrator's designated fund will be transferred back to Defendants in accordance with Defendants' instructions.

53. **Reduced Service Awards, Fee Award, or Class Counsels' Costs Not a Basis for Voiding Settlement.** If the Court approves Service Awards, a Fee Award, and/or Class Counsels' Costs Award in amounts less than what Named Plaintiffs and/or Class Counsel request, the Parties agree that the reduction in the Service Award(s), Fee Awards, and/or Class Counsels' Costs Award will not be a basis for nullification of this Settlement. Nor will a reduction in the Service Awards, Fee Award, or Class Counsels' Cost Award in any way delay or preclude the judgment from becoming Final or the Settlement from becoming effective. Any amount resulting from the reduction in the Service Award(s), Fee Awards, and/or Class Counsels' Costs Award shall be included in the Net Settlement Amount.

54. **Inadmissibility of Settlement Agreement.** Except for purposes of settling this Action, or enforcing its terms (including that claims were settled and released), resolving an alleged breach, or for resolution of other tax or legal issues arising from a payment under this Settlement Agreement, neither this Agreement, nor its terms, nor any document, statement, proceeding or conduct related to this Agreement, nor any reports or accounts thereof, shall be construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to the Parties, including, without limitation, evidence of a presumption, concession, indication or admission by any of the Parties of any liability, fault, wrongdoing, omission, concession or damage.

55. **Computation of Time.** For purposes of this Agreement, if the prescribed time period in which to complete any required or permitted action expires on a Saturday, Sunday, or legal holiday (as defined by Federal Rule of Civil Procedure 6), such time period shall be continued to the following business day. The term "days" shall mean calendar days unless otherwise noted.

56. **Interim Stay of Proceedings.** The Parties agree to hold in abeyance all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement. Further, without further order of the Court, the Parties hereto may agree in writing to reasonable extensions of time to carry out any of the provisions of the Settlement.

57. **Amendment or Modification.** This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors in interest. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

58. **Entire Settlement Agreement.** This Agreement with exhibits constitutes the entire Agreement among the Parties, and no oral or written representations, warranties or inducements have been made to any Party concerning this Agreement other than the representations, warranties, and covenants contained and memorialized in such documents. All prior or contemporaneous negotiations, memoranda, agreements, understandings, and representations, whether written or oral, are expressly superseded hereby and are of no further force and effect. Each of the Parties acknowledges that they have not relied on any promise, representation or warranty, express or implied, not contained in this Agreement. No rights hereunder may be waived except in writing.

59. **Authorization to Enter into Settlement Agreement.** The Parties warrant and represent that they are authorized to enter into this Agreement and to take all appropriate action required or permitted to be taken by 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 Parties and their counsel shall cooperate with each other and use their best efforts to effect the implementation of the Agreement. In the event that the Parties are unable to reach resolution on the form or content of any document needed to implement this Agreement, or on any supplemental provisions or actions that may become necessary to effectuate the terms of this Agreement, the Parties shall seek the assistance of the mediator, Steven Serratore, to resolve such disagreement.

60. **Binding on Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of Named Plaintiffs, Defendants, the Participating Individuals and their heirs, beneficiaries, executors, administrators, successors, transferees, successors, assigns, or any corporation or any entity with which any party may merge, consolidate or reorganize. The Parties hereto represent, covenant and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

61. **Counterparts.** This Agreement may be executed in one or more counterparts, including by facsimile or email. All executed counterparts and each of them shall be deemed to be one and the same instrument. All executed copies of this Agreement, and photocopies thereof (including facsimile and/or emailed copies of the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original.

62. **No Signature Required by Settlement Class Members.** Only the Named Plaintiffs will be required to execute this Settlement Agreement. The Settlement Notice will advise all Settlement Class Members of the binding nature of the release and such shall have the same force and effect as if this Settlement Agreement were executed by each Participating Individual.

63. **Cooperation and Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement; hence the drafting of this Agreement shall not be construed against

any of the Parties. The Parties agree that the terms and conditions of this Agreement were negotiated at arm’s length and in good faith by the Parties, and reflect a settlement that was reached voluntarily based upon adequate information and sufficient discovery and after consultation with experienced legal counsel.

64. **Governing Law.** All terms of this Settlement Agreement and the exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

65. **Jurisdiction of the Court.** The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Settlement and all orders and judgments entered in connection therewith, and the Parties and their Counsel submit to the jurisdiction of the Court for this purpose.

IN WITNESS WHEREOF, the Parties and their Counsel have executed this Settlement Agreement as follows:

PLAINTIFF:  Date: 06 / 01 / 2022, 2022
Joshua Wright

PLAINTIFF:  Date: 06 / 01 / 2022, 2022
Loretta Stanley

PLAINTIFF:  Date: 06 / 07 / 2022, 2022
Haley Quam

PLAINTIFF: _____ Date: _____, 2022
Aiesha Lewis

_____ Date: _____, 2022
Emily Gracey

APPROVED AS TO FORM BY CLASS COUNSEL:

_____ Date: _____, 2022
Carolyn Hunt Cottrell
Ori Edelstein
Michelle S. Lim
SCHNEIDER WALLACE

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Joshua Wright

PLAINTIFF: _____ Date: _____, 2022
Loretta Stanley

PLAINTIFF: _____ Date: _____, 2022
Haley Quam

PLAINTIFF:  _____ Date: 06 / 05 / 2022, 2022
Aiesha Lewis

_____ Date: _____, 2022
Emily Gracey

APPROVED AS TO FORM BY CLASS COUNSEL:

 _____ Date: June 7, 2022
Carolyn Hunt Cottrell
Ori Edelstein
Michelle S. Lim
SCHNEIDER WALLACE

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Joshua Wright

PLAINTIFF: _____ Date: _____, 2022
Loretta Stanley

PLAINTIFF: _____ Date: _____, 2022
Haley Quam

PLAINTIFF: _____ Date: _____, 2022
Aiesha Lewis


Electronically Signed 2022-06-03 22:15:09 UTC - 76.228.26.192

Nintex AssureSign® 9d70e62-36fa-4533-b1e4-aea90153b06f
Date: 06-03-2022, 2022
Emily Gracey

APPROVED AS TO FORM BY CLASS COUNSEL:

_____ Date: _____, 2022
Carolyn Hunt Cottrell
Ori Edelstein
Michelle S. Lim
SCHNEIDER WALLACE

COTTRELL KONECKY LLP
2000 Powell Street, Suite 1400
Emeryville, California 94608

DEFENDANT:  Date: 06/07, 2022
On behalf of Frontier Management LLC

DEFENDANT:  Date: 06/07, 2022
On behalf of Frontier Senior Living, LLC

DEFENDANT:  Date: 06/07, 2022
On behalf of GH Senior Living, LLC

APPROVED AS TO FORM BY DEFENDANTS' COUNSEL:

 Date: 06/08, 2022
Barbara I. Antonucci
Sarah K. Hamilton
CONSTANGY, BROOKS, SMITH & PROPHETE LLP
601 Montgomery Street, Suite 350
San Francisco, CA 94111

EXHIBIT A (FLSA RELEASEES)

Frontier Management LLC; Frontier Senior Living LLC; Frontier FC LLC; Frontier Exchange Landlord Group LLC; FCGR Holdings, LLC; Frontier Management Holdings, LLC; Ahwatukee MC Care Properties LLC; Arlington AL MC Care Properties LLC; Austin MC Care Properties LLC; Bay Pointe LLC; Bee Cave MC Care Properties LLC; Bellingham Memory Care LLC; Bend Memory Care LLC; Brookfield MC Care Properties LLC; Burlington Care Properties LLC; Callahan ALF LLC; Callahan MC LLC; Carpinteria AL MC Care Properties LLC; Catalina Springs Memory Care LLC; Cedar Park MC Care Properties LLC; Clarksville AL MC Care Properties LLC; Clear Lake AL MC Care Properties LLC; Conroe MC Care Properties LLC; Courtyard Fountains Care Properties LLC; Cypresswood MC Care Properties LLC; Diamond View Care Properties LLC; Edmonds Landing LLC; El Dorado Care Properties LLC; Everett Memory Care LLC; EPC Landlord Group LLC; Fairfield Care Properties LLC; Fayetteville AL MC Care Properties LLC; FM Aspen MC LLC; FM Aspen RET LLC; FM Cedar Village LLC; FM Clearwater Springs LLC; FM Gilman LLC; FM Grande LLC; FM Lake View LLC; FM Oaks LLC; FM Ocean Crest LLC; FM Ocean Ridge LLC; FM Pelican LLC; FM Pheasant Pointe LLC; FM Princeton LLC; FM Redwood Heights LLC; Fort Madison Care Properties LLC; Fort Worth MC Care Properties LLC; FV Longview AL MC Care Properties LLC; Georgetown MC Care Properties LLC; GHC Sub LLC; Gregory Alan Roderick; GH Senior Living LLC; Gilbert AL MC Care Properties LLC; Goodlettsville AL MC Care Properties LLC; Granite City Properties LLC; Green Valley Memory Associates LLC; Hawks ALF LLC; Highland Park MC Care Properties LLC; Hillside Road MC Care Properties LLC; HM Cities AL MC Care Properties LLC; Houston MC Care Properties LLC; HP Burlington Properties LLC; HP Harbor Properties LLC; HVP AL MC Care Properties LLC; HCRI Illinois Properties, LLC; Irving MC Care Properties LLC; Junction ALIL LLC; Keizer Care Properties LLC; Keizer Care Properties LLC; Kingwood MC Care Properties LLC; Lake Zurich MC Care Properties LLC; Lone Oak AL LLC; MBALMC Bend Care Properties LLC; Menomonee Falls MC Care Properties LLC; Mesa CT AL MC Properties LLC; Missoula AL MC Care Properties LLC; Monterey MC Care Properties LLC; Morrow ALF LLC; Morton Grove MC Care Properties LLC; Mount Pleasant Care Properties LLC; Muscatine Care Properties LLC; MV Senior Living LLC; Myrtle Beach AL MC Care Properties LLC; Naperville MC Care Properties LLC; Natomas AL MC Care Properties LLC; Neawanna Care Properties LLC; Newberg Memory Associates LLC; OC AL MC Care Properties LLC; Osprey ALF LLC; Oswego MC Care Properties; Ottumwa Care Properties LLC; PC AL MC Care Properties LLC; Peoria MC Care Properties LLC; Plano MC Care Properties LLC; PRI Sunol LLC; Salt Lake City MC Care Properties LLC; San Antonio Care Properties LLC; Scottsdale MC Care Properties LLC; Silver Creek Care Properties LLC; Sugarland MC Care Properties LLC; Suites ALF LLC; Sunrise Oaks MC Care Properties LLC; Suwanee AL MC Care Properties LLC; The Heart Properties LLC; Tigard Memory Associates LLC; Timber MC LLC; Towne Lake MC Care Properties LLC; Trussville Senior Housing Investors; Tyler Memory Care Properties LLC; Village At Seven Oaks AL MC LLC; Vineyard FG MC Care Properties LLC; Waco Care Properties LLC Woodlands MC Care Properties LLC; Welltower Landlord Group LLC; Welltower Inc.; Welltower OP LLC.; WELL Frontier Landlord LLC; Welltower TRS Holdco LLC; Welltower Tenant Group LLC; and WELL Frontier Tenant LLC.

The above list includes communities known as Arbor Oaks Terrace Memory Care; Aspen Ridge Memory Care; Aspen Ridge Retirement Community; Auberge at Aspen Park; Auberge at Bee Cave; Auberge at Benbrook Lake; Auberge at Brookfield; Auberge at Cedar Park; Auberge at Cypresswood; Auberge at Highland Park; Auberge at Kingwood; Auberge at Lake Zurich; Auberge at Missoula Valley; Auberge at Naperville; Auberge at Oak Village; Auberge at Onion Creek; Auberge at Orchard Park; Auberge at Peoria; Auberge at Plano; Auberge at Scottsdale; Auberge at Sugarland; Auberge at The Woodlands; Auberge at Valley Ranch; Auberge at Vintage Lake; Bay Pointe; Bay Pointe Retirement & Assisted Living and Marine Courte Memory Care; Bayside Terrace; Bellingham at Orchard; Callahan Court; Callahan Village; Canyon Valley Memory Care; Catalina Springs Memory Care; Cedar Village; Clearwater Springs; Copper Springs Assisted Living and Memory Care; Courte at Citrus Heights; Courtyard Fountains; Courtyard Towers; Edmonds Landing; Eternal Springs of Gilbert; Fountain View Manor Memory Care; Gilman Park Assisted Living; Grande Ronde Retirement Residence; GranVida Carpinteria; Greenhaven Estates; Hawks Ridge; Hawthorn Court at Ahwatukee; Heartis Arlington; Heartis Clear Lake; Heartis Conroe; Heartis Fayetteville; Heartis Longview; Heartis Mid-Cities; Heartis San Antonio; Heartis Suwanee; Heartis Village Peoria; Heartis Waco; HomePlace Special Care at Burlington; HomePlace Special Care at Oak Harbor; Jubilee Hills at Goodlettsville; Jubilee House on Warfield; Junction City; Lake View Terrace Memory Care; Lone Oak; Monterey Court Memory Care; Morrow Heights; Mountain View; Mt. Bachelor Assisted Living and Memory Care; Mt. Bachelor Memory Care; Neawanna by the Sea; Oak Hills Terrace Memory Care; Oaks at Lebanon; Ocean Ridge; Overland Court Senior Living; Paramount Court Senior Living; Pavilion at El Dorado Hills; Peachtree Senior Living; Pelican Pointe; Pheasant Pointe; Portside at Grande Dunes; Prairie Hills at Ottumwa; Princeton Village Assisted Living; Redwoods Heights; Reserve at Amarillo; Reserve at Georgetown; Reserve at Towne Lake; Silver Creek; SunnyBrook of Burlington; SunnyBrook of Fairfield; SunnyBrook of Fort Madison; SunnyBrook of Mt. Pleasant; SunnyBrook of Muscatine; Sunol Creek; The Reserve at Oswego; The Suites; The Terrace at Beverly Lake; Timberwood Court; Village at Heritage Park; Village at Keizer Ridge; Village at Keizer Ridge Assisted Living & Memory Care; Village at Seven Oaks; Vineyard at Fountaingrove; Vineyard Heights; Washington Gardens; and Where The Heart Is.

EXHIBIT B (RELEASEES)

Frontier Management LLC; Frontier Senior Living LLC; Frontier FC LLC; Frontier Exchange Landlord Group LLC; FCGR Holdings, LLC; Frontier Management Holdings, LLC; Arlington Heights MC Care Properties LLC; Bay Pointe LLC; Bellevue AL MC Care Properties LLC; Bellingham Memory Care LLC; Bend Memory Care LLC; Bremerton AL MC Care Properties LLC; Callahan ALF LLC; Callahan MC LLC; Callahan RET, LLC; Carpinteria AL MC Care Properties LLC; Clovis Assisted Living Facilities - One, LP; Courtyard Fountains Care Properties LLC; CV MC Villas Care Properties, LLC; Edmonds Landing LLC; El Dorado Care Properties LLC; Elk Grove Care Properties, LLC; EPC Landlord Group LLC; Everett Memory Care LLC; FM Aspen MC LLC; FM Aspen RET LLC; FM Cedar Village LLC; FM Clearwater Springs LLC; FM Fountains Godfrey, LLC; FM Fountains, LLC; FM Gilman LLC; FM Grande LLC; FM Oaks LLC; FM Ocean Crest LLC; FM Ocean Ridge LLC; FM Pelican LLC; FM Pheasant Pointe LLC; FM Princeton LLC; FM Redwood Heights LLC; Folsom MC Care Properties LLC; Fullerton MC Care Properties LLC; Garden Grove MC Care Properties LLC; GH Senior Living LLC; GHC Sub LLC; Granite City Properties LLC; Gregory Alan Roderick; Hawks ALF LLC; Highland Park MC Care Properties LLC; Hillsboro Care Properties, LLC; HP Burlington Properties LLC; HP Harbor Properties LLC; HCRI Illinois Properties, LLC; HVP AL MC Care Properties LLC; Junction ALIL LLC; Keizer Care Properties LLC; Lake Zurich MC Care Properties LLC; Lone Oak AL LLC; MBALMC Bend Care Properties LLC; Medford MC Care Properties LLC; Metropolis IL Care Properties, LLC; Monterey MC Care Properties LLC; Monterey Ventures, LLC; Morrow ALF LLC; Morton Grove MC Care Properties LLC; Mt Vernon AL MC Care Properties, LLC; MV Senior Living LLC; Naperville MC Care Properties LLC; Natomas AL MC Care Properties LLC; Neawanna Care Properties LLC; Newberg Memory Associates LLC; Ocean Park Care Properties, LLC; Osprey ALF LLC; Oswego MC Care Properties LLC; PC AL MC Care Properties LLC; PRI Sunol LLC; Redding MC Care Properties LLC; Redland MC Care Properties LLC; Rosewood Alf, LLC; San Dimas MC Care Properties LLC; Santa Ana MC Care Properties LLC; Shiloh Care Properties, LLC; Silver Creek Care Properties LLC; Suites ALF LLC; Sunrise Oaks MC Care Properties LLC; The Heart Properties LLC; Tigard Memory Partners LLC; Timber MC LLC; Welltower Landlord Group LLC; Welltower Inc.; Welltower OP LLC.; WELL Frontier Landlord LLC; Welltower TRS Holdco LLC; Welltower Tenant Group LLC; WELL Frontier Tenant LLC; Woodland Hills MC Care Properties LLC; Wheeling AL MC Care Properties LLC; Village at Seven Oaks AL MC LLC; Villa Rosa MC CA Care Properties, LLC; and Vineyard FG MC Care Properties LLC.

The above list includes communities known as Arbor Oaks Terrace Memory Care; Aspen Ridge Memory Care; Aspen Ridge Retirement Community; Auberge at Highland Park; Auberge at Lake Zurich; Auberge at Naperville; Auberge at Orchard Park; Bay Pointe; Bayside Terrace; Bellingham at Orchard; Blossom Grove Memory Care; Callahan Court; Callahan Village; Carmel Village Memory Care; Carmel Village of Clovis and Villas; Cedar Village; Clearwater Springs; Courte at Citrus Heights; Courtyard Fountains; Crescent Landing at Fullerton; Crescent Landing at Garden Grove; Crescent Landing at Santa Ana; Edmonds Landing; Empire Ranch; Fountain View Manor Memory Care; Fountains at Godfrey; Fountains of Granite City; Gilman Park Assisted Living; Grande Ronde Retirement Residence; GranVida Carpinteria; Greenhaven

Estates; GreenTree at Mt. Vernon; Hawks Ridge; Heartis Village Peoria; HomePlace Special Care at Burlington; Homeplace Special Care at Oak Harbor; Junction City; Laurel Glen at Bremerton; Lone Oak; Monterey Court Memory Care; Morrow Heights; Mountain View; Mt. Bachelor Assisted Living and Memory Care; Mt. Bachelor Memory Care; Neawanna By The Sea; Oaks at Lebanon; Ocean Park; Ocean Ridge; Paramount Court Senior Living; Pavilion at El Dorado Hills; Pelican Pointe; Pheasant Pointe; Princeton Village Assisted Living; Redwood Heights; Rosewood Park; Rosewood Specialty Care; Sagebrook at Bellevue; Silver Creek; Sunol Creek; Table Rock Memory Care; Terraces at Via Verde; The Landing on Dundee; The Preserve at Woodland Hills; The Reserve at Arlington Heights; The Reserve at Oswego; The Suites; The Terrace at Beverly Lake; Timberwood Court; Twin Oaks at Metropolis; Villa Rosa; Village at Heritage Park; Village at Keizer Ridge; Village at Seven Oaks; Vineyard at Fountaingrove; Vineyard Heights; Washington Gardens; Where The Heart Is; Willow Springs Memory Care; The Landing at Elk Grove; and Cedarhurst at Shiloh.

EXHIBIT C

Claims Admin Contact Info
Claims Admin ID <<ID>>

Mailing Date, 2022

<<FullName>>
<<Address1>> <<Address2>>
<<City>> <<State>> <<Zip>>

Wright, et al. v. Frontier Management LLC, et al.,
United States District Court, Eastern District of California, Case Number 2:19-cv-01767-
JAM-CKD

NOTICE OF CLASS ACTION SETTLEMENT
PLEASE READ THIS NOTICE CAREFULLY.

A court authorized this notice. This is not a solicitation from a lawyer.

You have been sent this Notice because there is a proposed settlement (the “Settlement”) of a class action lawsuit because the records of Frontier Management LLC; Frontier Senior Living, LLC; and/or GH Senior Living, LLC d/b/a Greenhaven Estates Living (collectively, “Defendants”) show you performed work for Defendants in the states of California, Washington, Oregon, and/or Illinois sometime between September 6, 2015 and [the date of preliminary approval]. Because you fit this definition, **you may be entitled to receive money from a Settlement¹ in this case, as described below.**

The purpose of this Notice is to inform you of the pending Settlement and your rights under it. Please understand this is not a notice of a lawsuit against you. You have not been sued. You are not required to appear in Court in response to this Notice. Please review this Notice and consider your options carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT	
DO NOTHING	If you do nothing, you will be sent a settlement payment upon final approval of the Settlement, and the state release of claims in Section 5 will apply to you. By cashing your settlement check, you will also release claims under federal law, as described below in Section 5.

¹ This notice summarizes the proposed Settlement. The capitalized terms in this Notice of Settlement have defined meanings that are set out in detail in the Settlement Agreement. To review a copy of the Settlement Agreement, please visit the Settlement website at [INSERT URL].

<p>EXCLUDE YOURSELF OR “OPT OUT”</p>	<p>If you “opt out” of the lawsuit and choose not to be part of the Settlement as described below in Section 3, the release of claims under federal, California, Oregon, Washington, and Illinois law will not apply to you, and you <u>will not</u> receive any payment under this Settlement, except as described in the following sentence.</p> <p>If you are an Aggrieved Employee (defined below), you will receive a pro rata portion of the Net PAGA Amount (defined below) whether or not you “opt out” of the Settlement.</p>
<p>OBJECT</p>	<p>You may write an objection to the Court stating why you do not like the Settlement, as described below in Section 6. You may also appear in Court and explain why you do object to the Settlement or use an attorney to appear for you. If you object, this does not mean you opt out of the Settlement (as explained below, if you opt out of the Settlement, you will not be permitted to object to the Settlement).</p>

1. Why Should You Read This Notice?

This Notice explains your right to share in the monetary proceeds of this Settlement, exclude yourself (“opt out”) of the Settlement, or object to the Settlement. If you object to the Settlement, you cannot opt out of the Settlement, and you will be bound by the terms of Settlement in the event the Court denies your objection.

The United States District Court, Eastern District of California, has preliminarily approved the Settlement as fair and reasonable. The Court will hold a Final Approval Hearing on [REDACTED], 2022 at [REDACTED], before the Honorable John A. Mendez at the [address and time].

2. What Is This Case About?

This lawsuit alleges that individuals whom Defendants employed as non-exempt employees and who worked for Defendants between September 6, 2015 and March 1, 2022, were not provided meal and rest breaks, were not compensated for all hours worked, were not paid minimum, straight time, overtime, or double time wages, were not paid all wages due upon termination, were not provided timely and compliant itemized wage statements, and were not reimbursed for necessary business expenses. This lawsuit also seeks recovery of unpaid wages, statutory damages, civil penalties for the State of California and individuals whom Defendants employed as non-exempt employees and who worked for Defendants between July 7, 2018 and [date of preliminary approval] in California under the California Labor Code Private Attorneys General Act (“PAGA”), interest, and attorneys’ fees and costs. The claims in this lawsuit are brought under the federal Fair Labor Standards Act (“FLSA”) and California, Washington, Oregon, and Illinois law.

Defendants contend that they have strong legal and factual defenses to these claims, but they recognize the risks, distractions, and costs associated with litigation. Defendants contend that the

wage and hour policies and practices at issue, including those regarding payment for time worked, overtime pay, meal breaks, rest breaks, and expense reimbursement, are lawful and have been lawful throughout the relevant time period. Defendants also contend that Plaintiffs' claims do not meet the requirements for class certification or collective treatment.

This Settlement is the result of good faith, arm's length negotiations between Plaintiffs and Defendants, through their respective attorneys. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair and appropriate under the circumstances, and in the best interests of the Settlement Class Members. This Settlement is a compromise and is not an admission of liability on the part of Defendants.

The Court has not ruled on the merits of Plaintiffs' claims or Defendants' defenses.

The Settlement Administrator has created a Settlement website, which can be accessed at [INSERT URL]. The Settlement website allows interested persons to view the Settlement Agreement, all papers filed by Class Counsel to obtain Court approval of the Settlement Agreement, and this Notice of Settlement (in generic form). The Settlement website also provides contact information for Class Counsel and the Settlement Administrator.

2. How Will the Settlement Payment Be Distributed?

The total settlement amount is \$9,500,000, which Defendants will pay into a settlement fund. This amount will mostly be distributed to the current and former employees who meet the definitions for participating in the Settlement, but it will also be used to pay for attorneys' fees and costs awarded by the Court, any enhancement payments to Plaintiffs that are awarded by the Court, the Settlement Administrator's costs, and a payment to the California Labor and Workforce Development Agency (LWDA) that is required by the PAGA.

The attorneys for Plaintiffs and the Settlement Class (referred to as "Class counsel") will ask the Court to award them up to 35% of the settlement amount, which is \$3,325,000, to compensate them for their services in this matter. Class Counsel will also request reimbursement for their costs spent in litigating this case, not to exceed \$110,000. Class Counsel will file a motion with the Court setting forth the bases for their requested costs and fees.

The Named Plaintiffs will ask the Court to award them in the amounts of \$10,000 to Plaintiff Joshua Wright, and \$5,000 each to Named Plaintiffs Loretta Stanley, Haley Quam, and Aiesha Lewis for their roles as the named plaintiffs prosecuting this lawsuit on the behalf of all Class and Collective Members, and up to \$5,000 to Emily Gracey for her role as the named plaintiff prosecuting the *Emily Gracey v. Frontier Management, LLC, et al.*, Stanislaus Superior Court, Case No. CV-22-000990, matter on behalf of the State of California.

The Settlement Administrator's costs are estimated to be no more than \$149,400, and this payment will also come from the settlement fund.

The payment to the LWDA and Aggrieved Employees in connection with the PAGA component of the Settlement will be \$95,000, and this payment will also come from the settlement fund.

The remainder of the settlement fund after subtracting the amounts described above is the “Net Settlement Amount” that will be distributed to Participating Individuals, which include Collective Members and State Class Members who do not opt out of the Settlement.

4. If I Choose to Participate in the Settlement, How Much Can I Expect to Receive?

According to records maintained by Defendants, your total estimated settlement payment will be at least \$ [REDACTED]. This amount is an estimated amount, and your final settlement payment is expected to differ from this amount (i.e., it could be higher or lower) and will be calculated as set forth below. All Settlement Award determinations will be based on Defendants’ timekeeping, payroll, and/or other records for Settlement Class members. Based on Defendants’ records, you are estimated to have worked [REDACTED] workweeks for Defendants during the relevant period in the State of California, [REDACTED] workweeks for Defendants during the relevant period in the State of Washington, [REDACTED] workweeks for Defendants during the relevant period in the State of Oregon, [REDACTED] workweeks for Defendants during the relevant period in the State of Illinois, and [REDACTED] workweeks for Defendants during the relevant period outside the states of California, Washington, Oregon, and Illinois.

You do not need to do anything to be sent your settlement payment. Just watch your mail for a check and cash it when you get it. If you participate in the Settlement, you will have 180 days to cash the check. If at the conclusion of the 180-day check void period, there are any uncashed checks, those monies will be paid to the Parties’ agreed upon *cy pres* recipient, Legal Aid at Work, subject to the Court’s approval in the Final Approval Order, if the total residual amount is less than \$95,000. If the total residual amount is \$95,000 or greater, a second distribution will occur to those Participating Individuals who cashed their check on a *pro rata* basis.

If you dispute the number of workweeks as shown on this Notice of Settlement, you may produce evidence to the Settlement Administrator establishing the dates you contend to have worked for Defendants. To do so, send a letter to the Settlement Administrator explaining the basis for your dispute and attach copies of the supporting evidence. Unless you present convincing evidence proving you worked more workweeks than shown by Defendants’ records, your Settlement Award will be determined based on Defendants’ records. Any disputes must be postmarked by [INSERT DATE] and should be mailed to [INSERT SETTLEMENT ADMINISTRATOR ADDRESS]. The Settlement Administrator will notify you of the decision on the dispute.

Payments to Participating Individuals will be calculated on the number of eligible workweeks. Each Participating Individual will be eligible to receive a *pro rata* share of the Net Settlement Amount based on the total number of eligible workweeks that the Participating Individual worked for Defendants during the relevant periods. Participating Individuals shall receive a *pro rata* portion of the Net Settlement Amount as follows:

1. For each week during which the Participating Individual worked for either Frontier Management LLC; Frontier Senior Living, LLC; or GH Senior Living, LLC at any time in California (between September 6, 2015 and March 1, 2022); Washington (between July 8, 2017 and March 1, 2022); Oregon (between July 8, 2014 and

March 1, 2022); Illinois (between July 8, 2017 and March 1, 2022); and in the United States, excluding the states California, Washington, Oregon, and Illinois (between and including March 12, 2017 and March 1, 2022), he or she shall be eligible to receive a *pro rata* portion of the Net Settlement Amount based on the number of workweeks the Participating Individual worked.

2. Each workweek during which work was performed in the United States will be equal to one (1) settlement share. To reflect the increased value of state law claims, workweeks during which work was performed in California will be equal to five (5) settlement shares, workweeks during which work was performed in Washington will be equal to three (3) settlement shares, workweeks during which work was performed in Oregon will be equal to three (3) settlement shares, and workweeks during which work was performed in Illinois will be equal to two (2) settlement shares.
3. The total number of settlement shares for all Participating Individuals will be added together and the resulting sum will be divided into the Net Settlement Amount to reach a per share dollar figure. That figure will then be multiplied by each Participating Individual's number of settlement shares to determine the Participating Individual's *pro rata* portion of the Net Settlement Amount.

Individuals who worked for Defendants between July 7, 2018 and [the date of Preliminary Approval of the Settlement] in the state of California will be Participating Individuals for purposes of the settlement of the PAGA claim in the lawsuit and will receive a *pro rata* share of the Net PAGA Amount (i.e., \$23,750.00) based on their number of workweeks employed by Defendants as non-exempt employees between July 7, 2018 and [the date of Preliminary Approval of the Settlement].

For tax reporting purposes, Settlement Awards to Participating Individuals will be allocated as follows: any portion of each Settlement Award that is provided from the Net PAGA Amount shall be allocated as penalties; for the remainder of each Settlement Award, twenty-five percent (25%) of each Settlement Award shall be allocated as wages, seventy-five percent (75%) of each Settlement Award shall be allocated as penalties and interest. None of the Parties or attorneys makes any representations concerning the tax consequences of this Settlement or your participation in it. Participating Individuals should consult with their own tax advisors concerning the tax consequences of the Settlement.

It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your monetary Settlement Award. If you fail to keep your address current, you may not receive your Settlement Award.

5. What Are The Releases?

Upon Final Approval of the Settlement Agreement and payment of amounts set forth under the Settlement, all Participating Individuals release claims as follows ("Released Claims") against Defendants and their present and former parent companies, subsidiaries, related or affiliated companies or entities, communities and/or community real estate owners affiliated or related to

Defendants (such as those listed in Exhibit A and B in the Settlement Agreement), and any of their shareholders, affiliates, and owners, members, joint employers, representatives, officers, directors, employees, agents, attorneys, insurers, predecessors, successors and assigns, as well as any individual or entity that could be liable for any of the Released Claims, and Defendants' Counsel (the Releasees and FLSA Releasees). The Releasees and FLSA Releasees do not include the entities ISL Employees, Inc. and Integrated Senior Living, LLC.

- Released FLSA Claims: Opt-In Plaintiffs shall release all Releasees and FLSA Releasees from the following rights or claims: any and all claims under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.* that were pled or could have been pled based on or arising out of the factual predicates and/or allegations of any Complaints in the Action, including but not limited to the Operative Complaint, between March 13, 2017 and March 1, 2022, as well as any state law minimum wage and overtime wage claims to the extent they overlap with the FLSA time period (between March 13, 2017 and March 1, 2022). The Final Approval Order and the Judgment entered as a result of this Settlement shall have *res judicata* and preclusive effect to the fullest extent allowed by law. State Class Members who are not Opt-In Plaintiffs and who cash, deposit, or otherwise negotiate their Settlement Award checks shall also release any and all claims against the Releasees and the FLSA Releasees under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*, arising from or related to their work for Defendants in the States of California, Washington, Oregon, and/or Illinois between March 13, 2017 and March 1, 2022.
- Released California Class Claims: The California Class Members who do not timely and validly request exclusion from the Settlement shall release the Releasees from any and all claims under California law, including all claims that were pled or could have been pled based on or arising out of the factual predicates and/or allegations of any Complaints or PAGA Letters in the Action, including but not limited to the Operative Complaint and Amended PAGA Letter. This includes claims for: the purported payment or nonpayment of compensation (including, but not limited to, wages, minimum wage, straight time, overtime, and/or premium pay), meal or rest period premiums or penalties; failure to pay for all hours worked; failure to provide compliant meal and rest periods, failure to reimburse business expenses, failure to provide timely and compliant wage statements, improper recordkeeping, unfair business practices; including related premiums, statutory penalties; waiting time penalties, civil penalties including, but not limited to, claims under PAGA; liquidated damages; interest; punitive damages; costs; attorneys' fees; injunctive relief; declaratory relief; or accounting, whether such causes of action are in tort, contract, or pursuant to a statutory remedy; between September 6, 2015 and March 1, 2022.
- Released Washington Class Claims: The Washington Class Members who do not timely and validly request exclusion from the Settlement shall release the Releasees from any and all claims under Washington law, including all claims that were pled or could have been pled based on or arising out of the factual predicates and/or allegations of any Complaints in the Action, including but not limited to the Operative Complaint: the purported payment or nonpayment of compensation (including, but not limited to, wages, minimum wage, straight time, overtime, and/or premium pay), meal or rest period premiums or penalties, reimbursement of business expenses, improper wage statements, improper recordkeeping,

unfair business practices, including related premiums, statutory penalties, civil penalties, liquidated damages, interest, punitive damages, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting, whether such causes of action are in tort, contract, or pursuant to a statutory remedy, between July 8, 2017 and March 1, 2022.

- Released Oregon Class Claims: The Oregon Class Members who do not timely and validly request exclusion from the Settlement shall release the Releasees from any and all claims under Oregon law, including all claims that were pled or could have been pled based on or arising out of the same factual predicates and/or allegations of any Complaints in the Action, including but not limited to the Operative Complaint: the purported payment or nonpayment of compensation (including, but not limited to, wages, minimum wage, straight time, overtime, and/or premium pay), meal or rest period premiums or penalties, reimbursement of business expenses, improper wage statements, improper recordkeeping, unfair business practices, including related premiums, statutory penalties, civil penalties, liquidated damages, interest, punitive damages, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting, whether such causes of action are in tort, contract, or pursuant to a statutory remedy, between July 8, 2014 and March 1, 2022.
- Released Illinois Class Claims: The Illinois Class Members who do not timely and validly request exclusion from the Settlement shall release the Releasees from any and all claims under Illinois law, including all claims that were pled or could have been pled based on or arising out of the same factual predicates and/or allegations of any Complaints in the Action, including but not limited to the Operative Complaint: the purported payment or nonpayment of compensation (including, but not limited to, wages, minimum wage, straight time, overtime, and/or premium pay), meal or rest period premiums or penalties, reimbursement of business expenses, improper wage statements, improper recordkeeping, unfair business practices, including related premiums, statutory penalties, civil penalties, liquidated damages, interest, punitive damages, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting, whether such causes of action are in tort, contract, or pursuant to a statutory remedy, between July 8, 2017 and March 1, 2022.
- PAGA Claims: Plaintiff Wright fully releases the claims and rights to recover civil penalties against the Releasees on behalf of the LWDA and Aggrieved Employees, to recover civil penalties, costs, expenses, attorneys' fees, or interest against the Releasees on behalf of Aggrieved Employees and LWDA for any Labor Code or Wage Order violation alleged or could have been alleged in any Complaints or PAGA Letters, including but not limited to the Operative Complaint and Amended PAGA Letter, in the Action, including violations of the following: (1) (failure to pay minimum wage), (2) (failure to pay overtime wages), (3) (failure to provide meal and rest periods and/or premiums); (4) (failure to compensate for all hours worked); (5) (failure to provide and maintain records and to provide timely and compliant itemized wage statements); (6) (waiting time penalties); and (7) (failure to reimburse for necessary business expenditures) through Preliminary Approval. The Parties agree that there shall be no right for any Aggrieved Employee to opt out or otherwise exclude himself or herself from the release of PAGA claims. The Final Approval Order and the Judgment entered as a result of this Settlement shall have *res judicata* and preclusive effect to the fullest extent allowed by law.

NOTE: If you do not timely and validly request exclusion from the Settlement and you cash, deposit, or otherwise negotiate your Settlement Check, you will also release your Federal FLSA claims relating to your work in the states of California, Washington, Oregon, and/or Illinois, as applicable.

6. What Are My Rights?

- **Do Nothing:** If you are a member of the California, Washington, Oregon, and/or Illinois Classes and do not timely and validly opt-out, you will automatically become a Participating Individual and receive your prorated Settlement Award, and will be bound by the Settlement including its release provisions. Aggrieved Employees are bound by and cannot exclude themselves from the PAGA component of the Settlement even if you request exclusion.
- **Opt-Out:** If you are a member of the California, Washington, Oregon, and/or Illinois Classes and do not wish to be bound by the Settlement, you must submit a written exclusion from the Settlement (“opt-out”), postmarked by [INSERT DATE]. The written request for exclusion must contain your full name, address, telephone number, email address (if applicable), last four digits of your social security number, and must be signed individually by you. No opt-out request may be made on behalf of a group. The opt-out request must be sent by mail to the Settlement Administrator at [INSERT SETTLEMENT ADMINISTRATOR ADDRESS]. **Any person who requests exclusion (opts out) of the settlement will not be entitled to any Settlement Award as a State Class Member and will not be bound by the Settlement Agreement or have any right to object, appeal or comment thereon, except to the extent you are an Aggrieved Employee.** As an Aggrieved Employee, you will be bound by the PAGA component of the Settlement even if you request exclusion.
- **Object:** If you received this Notice and wish to object to the Settlement, you must submit a written statement objecting to the Settlement by [INSERT DATE]. The statement must state the factual and legal grounds for your objection to the settlement. The statement must state your full name, address, telephone number, and email address (if applicable), and must be signed by you. The statement must be mailed to the Court at the following address: [insert address]. You must also mail a copy of your objection to Class Counsel and Defendants’ counsel, at the addresses listed below by [INSERT DATE]:

Class Counsel

Carolyn H. Cottrell
Ori Edelstein
Michelle S. Lim
SCHNEIDER WALLACE
COTTRELL KONECKY LLP
2000 Powell Street, Suite 1400
Emeryville, CA 94608

Defendants' Counsel

Barbara I. Antonucci
Sarah K. Hamilton
CONSTANGY, BROOKS, SMITH &
PROPHETE LLP
601 Montgomery Street, Suite 350
San Francisco, CA 94111

If you mail a written objection, you may also, if you wish, appear at the Final Approval Hearing to discuss your objection with the Court and the parties to the Lawsuit. Your written objection must state whether you will attend the Final Approval Hearing, and your written notice of your intention to appear at the Final Approval Hearing must be filed with the Court and served upon Class Counsel and Defendants' counsel on or before the Notice Deadline. To be heard at the Final Approval Hearing you must also not opt out of the Settlement. If you wish to object to the Settlement but fail to return your timely written objection in the manner specified above, you shall be deemed to have waived any objection and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. The postmark date of mailing to Class Counsel and Defendants' counsel shall be the exclusive means for determining that an objection is timely mailed to counsel. Objections shall only be considered if the Settlement Class Member has not opted out of the Settlement. The failure to submit a written objection as a prerequisite to appearing in court to object to the settlement may be excused by the Court upon a showing of good cause.

You may also withdraw your objection in writing by mailing a withdrawal statement to the Court and counsel for the Parties postmarked no later than [INSERT DATE – 10 business days before final approval hearing], orally at the Final Approval hearing, or as otherwise ordered by the Court.

7. Can Defendants Retaliate Against Me for Participating in this Lawsuit?

No. Your decision as to whether or not to participate in this Lawsuit will in no way affect your work or employment with Defendants or future work or employment with Defendants. It is unlawful for Defendants to take any adverse action against you as a result of your participation in this Lawsuit. In fact, Defendants encourage you to participate in this Settlement.

8. Who Are the Attorneys Representing Plaintiffs and the Settlement Class?

Plaintiffs and the Settlement Class are represented by the following attorneys acting as Class Counsel:

Carolyn H. Cottrell

Ori Edelstein

Michelle S. Lim

SCHNEIDER WALLACE

COTTRELL KONECKY LLP

2000 Powell Street, Suite 1400

Emeryville, CA 94608

Telephone: (800) 689-0024

Facsimile: (415) 421-7105

ccottrell@schneiderwallace.com

oedelstein@schneiderwallace.com

mlim@schneiderwallace.com

9. How Will the Attorneys for the Settlement Class Be Paid?

Class Counsel will be paid from the Gross Settlement Amount of \$9,500,000. You do not have to pay the attorneys who represent the Settlement Class. The Settlement Agreement provides that Class Counsel will request attorneys' fees of up to thirty-five percent (35%) of Gross Settlement Amount (i.e., \$3,325,000.00) plus their out-of-pocket costs, not to exceed \$110,000.00. Class Counsel will file a Motion for Attorneys' Fees and Costs with the Court. The amount of attorneys' fees and costs awarded will be determined by the Court at the Final Approval Hearing.

10. Where can I get more information?

If you have questions about this Notice, or the Settlement, or if you did not receive this Notice in the mail and you believe that you are or may be a member of the Settlement, you should contact the Class Counsel.

This Notice is only a summary. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at the Settlement website at [INSERT URL], by contacting Class Counsel toll-free at (800) 689-0024, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.caed.uscourts.gov>, or by visiting the office of the Clerk of the Court for the [INSERT ADDRESS], between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, THE JUDGE; FRONTIER MANAGEMENT LLC; FRONTIER SENIOR LIVING, LLC; OR GH SENIOR LIVING, LLC FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.

EXHIBIT D

Claims Admin Contact Info
Claims Admin ID <<ID>>

Mailing Date, 2022

<<FullName>>
<<Address1>> <<Address2>>
<<City>> <<State>> <<Zip>>

Wright, et al. v. Frontier Management LLC, et al.,
United States District Court, Eastern District of California, Case Number 2:19-cv-01767-
JAM-CKD

NOTICE OF COLLECTIVE ACTION SETTLEMENT
PLEASE READ THIS NOTICE CAREFULLY.

A court authorized this notice. This is not a solicitation from a lawyer.

You have been sent this Notice because there is a proposed settlement (the “Settlement”) of a collective action lawsuit because you previously completed an Opt-In Consent Form in the federal lawsuit *Wright, et al. v. Frontier Management LLC, et al.*, United States District Court, Eastern District of California, Case No. 2:19-cv-01767-JAM-CKD and the records of Frontier Management LLC; Frontier Senior Living, LLC; and/or GH Senior Living, LLC d/b/a Greenhaven Estates Living (collectively, “Defendants”) show you performed work for Defendants in the United States of America sometime between March 12, 2017 and March 1, 2022. Because you fit this definition, **you may be entitled to receive money from a Settlement² in this case, as described below.**

1. Why Should You Read This Notice?

The purpose of this Notice is to inform you of the pending Settlement and your rights to share in the monetary proceeds of this Settlement under it. Please understand this is not a notice of a lawsuit against you. You have not been sued. You are not required to appear in Court in response to this Notice. Please review this Notice and consider your options carefully.

The United States District Court, Eastern District of California, has preliminarily approved the Settlement as fair and reasonable. The Court will hold a Final Approval Hearing on [REDACTED], 2022 at [REDACTED], before the Honorable John A. Mendez at the [address and time].

2. What Is This Case About?

This lawsuit alleges that individuals whom Defendants employed as non-exempt employees and who worked for Defendants between March 12, 2017 and March 1, 2022, were not provided meal

² This notice summarizes the proposed Settlement. The capitalized terms in this Notice of Settlement have defined meanings that are set out in detail in the Settlement Agreement. To review a copy of the Settlement Agreement, please visit the Settlement website at [INSERT URL].

and rest breaks, were not compensated for all hours worked, and were not paid minimum, straight time, overtime or wages. This lawsuit seeks recovery of unpaid wages, statutory damages, civil penalties, interest, and attorneys' fees and costs. The claims in this lawsuit are brought under the federal Fair Labor Standards Act ("FLSA").

Defendants contend that they have strong legal and factual defenses to these claims, but they recognize the risks, distractions, and costs associated with litigation. Defendants contend that the wage and hour policies and practices at issue, including those regarding payment for time worked, overtime pay, meal breaks, rest breaks, and expense reimbursement, are lawful and have been lawful throughout the relevant time period. Defendants also contend that Plaintiffs' claims do not meet the requirements for collective treatment.

This Settlement is the result of good faith, arm's length negotiations between Plaintiffs and Defendants, through their respective attorneys. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair and appropriate under the circumstances, and in the best interests of the Collective Members. This Settlement is a compromise and is not an admission of liability on the part of Defendants.

The Court has not ruled on the merits of Plaintiffs' claims or Defendants' defenses.

The Settlement Administrator has created a Settlement website, which can be accessed at [\[INSERT URL\]](#). The Settlement website allows interested persons to view the Settlement Agreement, all papers filed by Class Counsel to obtain Court approval of the Settlement Agreement, and this Notice of Settlement (in generic form). The Settlement website also provides contact information for Class Counsel and the Settlement Administrator.

2. How Will the Settlement Payment Be Distributed?

The total settlement amount is \$9,500,000, which Defendants will pay into a settlement fund. This amount will mostly be distributed to the current and former employees who meet the definitions for participating in the Settlement, but it will also be used to pay for attorneys' fees and costs awarded by the Court, any enhancement payments to Plaintiffs that are awarded by the Court, the Settlement Administrator's costs, and a payment to the California Labor and Workforce Development Agency (LWDA) that is required by the Labor Code Private Attorneys General Act of 2004 ("PAGA").

The attorneys for Plaintiffs and the Settlement Class (referred to as "Class counsel") will ask the Court to award them up to 35% of the settlement amount, which is \$3,325,000, to compensate them for their services in this matter. Class Counsel will also request reimbursement for their costs spent in litigating this case, not to exceed \$110,000. Class Counsel will file a motion with the Court setting forth the bases for their requested costs and fees.

The Named Plaintiffs will ask the Court to award them in the amounts of \$10,000 to Plaintiff Joshua Wright, and \$5,000 each to Named Plaintiffs Loretta Stanley, Haley Quam, and Aiesha Lewis for their roles as the named plaintiffs prosecuting this lawsuit on the behalf of all Class and Collective Members, and up to \$5,000 to Emily Gracey for her role as the named plaintiff

prosecuting the *Emily Gracey v. Frontier Management, LLC, et al.*, Stanislaus Superior Court, Case No. CV-22-000990, matter on behalf of the State of California.

The Settlement Administrator's costs are capped at \$149,400, and this payment will also come from the settlement fund.

The payment to the LWDA and Aggrieved Employees in connection with the PAGA component of the Settlement will be \$95,000, and this payment will also come from the settlement fund.

The remainder of the settlement fund after subtracting the amounts described above is the "Net Settlement Amount" that will be distributed to Participating Individuals, which include Collective Members, State Class Members who do not opt out of the Settlement and Aggrieved Employees.

4. How Much Can I Expect to Receive?

According to records maintained by Defendants, your total estimated settlement payment will be at least \$ [REDACTED]. This amount is an estimated amount, and your final settlement payment is expected to differ from this amount (i.e., it could be higher or lower) and will be calculated as set forth below. All Settlement Award determinations will be based on Defendants' timekeeping, payroll, and/or other records for Settlement Class members. Based on Defendants' records, you are estimated to have worked [REDACTED] workweeks for Defendants during the relevant period outside the states of California, Washington, Oregon, and Illinois.

You do not need to do anything to be sent your settlement payment. Just watch your mail for a check and cash it when you get it. You will have 180 days to cash the check. If at the conclusion of the 180-day check void period, there are any uncashed checks, those monies will be paid to the Parties' agreed upon *cy pres* recipient, Legal Aid at Work, subject to the Court's approval in the Final Approval Order, if the total residual amount is less than \$95,000. If the total residual amount is \$95,000 or greater, a second distribution will occur to those Participating Individuals who cashed their check on a *pro rata* basis.

If you dispute the number of workweeks as shown on this Notice of Settlement, you may produce evidence to the Settlement Administrator establishing the dates you contend to have worked for Defendants. To do so, send a letter to the Settlement Administrator explaining the basis for your dispute and attach copies of the supporting evidence. Unless you present convincing evidence proving you worked more workweeks than shown by Defendants' records, your Settlement Award will be determined based on Defendants' records. Any disputes must be postmarked by [INSERT DATE] and should be mailed to [INSERT SETTLEMENT ADMINISTRATOR ADDRESS]. The Settlement Administrator will notify you of the decision on the dispute.

Payments to Collective Members will be calculated on the number of eligible workweeks. Each Collective Member will be eligible to receive a *pro rata* share of the Net Settlement Amount based on the total number of eligible workweeks that the he or she worked for Defendants during the relevant periods. Participating Individuals shall receive a *pro rata* portion of the Net Settlement Amount as follows:

4. For each week during which the Participating Individual worked for either Frontier Management LLC; Frontier Senior Living, LLC; or GH Senior Living, LLC at any time in California (between September 6, 2015 and March 1, 2022); Washington (between July 8, 2017 and March 1, 2022); Oregon (between July 8, 2014 and March 1, 2022); Illinois (between July 8, 2017 and March 1, 2022); and in the United States, excluding the states California, Washington, Oregon, and Illinois (between and including March 12, 2017 and March 1, 2022), he or she shall be eligible to receive a *pro rata* portion of the Net Settlement Amount based on the number of workweeks the Participating Individual worked.
5. Each workweek during which work was performed in the United States will be equal to one (1) settlement share. To reflect the increased value of state law claims, workweeks during which work was performed in California will be equal to five (5) settlement shares, workweeks during which work was performed in Washington will be equal to three (3) settlement shares, workweeks during which work was performed in Oregon will be equal to three (3) settlement shares, and workweeks during which work was performed in Illinois will be equal to two (2) settlement shares.
6. The total number of settlement shares for all Participating Individuals will be added together and the resulting sum will be divided into the Net Settlement Amount to reach a per share dollar figure. That figure will then be multiplied by each Participating Individual's number of settlement shares to determine the Participating Individual's *pro rata* portion of the Net Settlement Amount.

For tax reporting purposes, Settlement Awards to Collective Members will be allocated as follows: twenty-five percent (25%) of each Settlement Award shall be allocated as wages, and seventy-five percent (75%) of each Settlement Award shall be allocated as penalties and interest. None of the Parties or attorneys makes any representations concerning the tax consequences of this Settlement or your participation in it. Collective Members should consult with their own tax advisors concerning the tax consequences of the Settlement.

It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your monetary Settlement Award. If you fail to keep your address current, you may not receive your Settlement Award.

5. What Are The Releases for Collective Members?

Upon Final Approval of the Settlement Agreement and payment of amounts set forth under the Settlement, all Collective Members release claims as follows (“Released Claims”) against Defendants and their present and former parent companies, subsidiaries, related or affiliated companies or entities, communities and/or community real estate owners affiliated or related to Defendants (such as those listed in Exhibit A and Exhibit B in the Settlement Agreement), and any of their shareholders, affiliates, and owners, members, joint employers, representatives, officers, directors, employees, agents, attorneys, insurers, predecessors, successors and assigns, as well as any individual or entity that could be liable for any of the Released Claims, and Defendants’

Counsel (collectively, the “FLSA Releasees”). The FLSA Releasees do not include the entities ISL Employees, Inc. and Integrated Senior Living, LLC.

- **Released FLSA Claims:** Opt-In Plaintiffs shall release all Releasees and FLSA Releasees from the following rights or claims: any and all claims under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.* (“FLSA”) that were pled or could have been pled based on or arising out of the factual predicates and/or allegations of any Complaints in the Action, including but not limited to the Operative Complaint, between March 13, 2017 and March 1, 2022, as well as any state law minimum wage and overtime wage claims to the extent they overlap with the FLSA time period (between March 13, 2017 and March 1, 2022). The Final Approval Order and the Judgment entered as a result of this Settlement shall have *res judicata* and preclusive effect to the fullest extent allowed by law.

6. What Are My Rights?

Please see Section 4 above for an estimate of how much you will receive under the settlement as a Collective Member. To obtain payment under the settlement as a Collective Member, you MUST cash the settlement check that will be sent to you in several months. Therefore, you have two options:

- **Opt-In:** Cash the settlement check that will be sent to you to participate in the Settlement and receive a payment as a Collective Member.
- **Do Nothing:** Do not cash the settlement check that will be sent to you. If you do not cash the settlement check, you will not receive any payment under the Settlement as a Collective Member, and your claims against Defendants under the FLSA will be released.

7. Can Defendants Retaliate Against Me for Participating in this Lawsuit?

No. Your decision as to whether or not to participate in this Lawsuit will in no way affect your work or employment with Defendants or future work or employment with Defendants. It is unlawful for Defendants to take any adverse action against you as a result of your participation in this Lawsuit. In fact, Defendants encourage you to participate in this Settlement.

8. Who Are the Attorneys Representing Plaintiffs and the Settlement Class?

Plaintiffs and the Settlement Class are represented by the following attorneys acting as Class Counsel:

Carolyn H. Cottrell

Ori Edelstein

Michelle S. Lim

SCHNEIDER WALLACE

COTTRELL KONECKY LLP

2000 Powell Street, Suite 1400

Emeryville, CA 94608

Telephone: (800) 689-0024

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ccottrell@schneiderwallace.com

oedelstein@schneiderwallace.com

mlim@schneiderwallace.com

9. How Will the Attorneys for the Settlement Class Be Paid?

Class Counsel will be paid from the Gross Settlement Amount of \$9,500,000. You do not have to pay the attorneys who represent the Settlement Class. The Settlement Agreement provides that Class Counsel will request attorneys' fees of up to thirty-five percent (35%) of Gross Settlement Amount (i.e., \$3,325,000.00) plus their out-of-pocket costs, not to exceed \$110,000.00. Class Counsel will file a Motion for Attorneys' Fees and Costs with the Court. The amount of attorneys' fees and costs awarded will be determined by the Court at the Final Approval Hearing.

10. Where can I get more information?

If you have questions about this Notice, or the Settlement, or if you did not receive this Notice in the mail and you believe that you are or may be a member of the Settlement, you should contact the Class Counsel.

This Notice is only a summary. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at the Settlement website at [INSERT URL], by contacting Class Counsel toll-free at (800) 689-0024, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.caed.uscourts.gov>, or by visiting the office of the Clerk of the Court for the [INSERT ADDRESS], between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, THE JUDGE; FRONTIER MANAGEMENT LLC; FRONTIER SENIOR LIVING, LLC; OR GH SENIOR LIVING, LLC FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.

EXHIBIT E

1 Carolyn Hunt Cottrell (SBN 166977)
2 Ori Edelstein (SBN 268145)
3 Michelle S. Lim (SBN 315691)
4 SCHNEIDER WALLACE
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6 2000 Powell Street, Suite 1400
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8 Tel: (415) 421-7100
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10 Attorneys for Plaintiff, the Putative Classes and
11 Collective, and on behalf of the State of
12 California and Aggrieved Employees

13 **UNITED STATES DISTRICT COURT FOR THE**
14 **EASTERN DISTRICT OF CALIFORNIA**

15 JOSHUA WRIGHT, LORETTA STANLEY,
16 HALEY QUAM, and AIESHA LEWIS on behalf
17 of themselves and all others similarly situated,

18 Plaintiffs,

19 vs.

20 FRONTIER MANAGEMENT LLC, FRONTIER
21 SENIOR LIVING, LLC, and GH SENIOR
22 LIVING, LLC dba GREENHAVEN ESTATES
23 ASSISTED LIVING,

24 Defendants.

Case No. 2:19-cv-01767-JAM-CKD

**SECOND AMENDED CLASS AND
COLLECTIVE ACTION COMPLAINT
FOR DAMAGES AND DECLARATORY
RELIEF AND DEMAND FOR JURY
TRIAL**

28

1 **CLASS AND COLLECTIVE ACTION COMPLAINT**

2 Plaintiffs Joshua Wright, Loretta Stanley, Haley Quam, and Aiesha Lewis (“Plaintiffs”), on
3 behalf of themselves and all others similarly situated, complains, and alleges as follows:

4 **SUBJECT MATTER JURISDICTION AND VENUE**

5 1. This court has federal question jurisdiction over the subject matter of this action
6 pursuant to 28 U.S.C. § 1331 as this case is brought under the laws of the United States, specifically
7 the FLSA, 29 U.S.C. § 201, *et seq.* This Court has supplemental jurisdiction over Plaintiffs’ state-
8 law claims pursuant to 28 U.S.C. § 1367.

9 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391. Defendants
10 employ numerous hourly, non-exempt employees who reside in this district, and a substantial part of
11 the events giving rise to Plaintiffs’ claims occurred within this judicial district. Defendants are
12 subject to personal jurisdiction here. Defendant Frontier Management, according to its website,
13 operates multiple residential memory care and senior living facilities, and employs Class and
14 Collective members, in California, including in this judicial district. Defendant Frontier Senior
15 living, according to its filings with the California Secretary of State, is the corporate entity through
16 which Defendant Frontier Management manages its California operations, including those in this
17 judicial district.

18 **INTRODUCTION**

19 3. Plaintiffs bring this class and collective action against Frontier Management LLC
20 (“Frontier Management”), Frontier Senior Living, LLC (“Frontier Senior Living”), and GH Senior
21 Living, LLC dba Greenhaven Estates Assisted Living (“Greenhaven”) (collectively, “Defendants”)
22 on behalf of themselves and other similarly situated individuals who were employed or worked as
23 hourly, non-exempt employees for Defendants.

24 4. Defendants maintain a longstanding policy and practice of failing to properly
25 compensate non-exempt employees for work performed during meal periods, for work performed
26 while “off-the-clock,” and for missed rest and meal periods. These policies denied Plaintiffs and other
27

1 hourly, non-exempt employees payment for all hours worked, including overtime, and deny Plaintiffs
2 and Class members meal and rest periods that comply with California, Washington, Oregon, and
3 Illinois law.

4 5. Defendants violate the FLSA and laws of the states of California, Washington, Oregon,
5 and Illinois, by knowingly and willfully requiring Plaintiffs and Class and Collective members to
6 perform work and/or remain on duty during meal and rest breaks, subjecting them to interruptions
7 during those times. While Defendants require Class and Collective members to clock in and out for
8 meal periods, these employees remain on duty and are continuously subject to interruption during
9 that time.

10 6. Defendants received value from the work performed by Plaintiffs and Class and
11 Collective members during their meal periods and while “off-the-clock” without compensating them
12 for their services. Defendants willfully, deliberately, and voluntarily failed to pay Plaintiffs and Class
13 and Collective members for work performed.

14 7. Defendants’ conduct violated and continues to violate the FLSA because of the
15 mandate that non-exempt employees, such as Plaintiffs and the Collective members, be paid at one
16 and one-half times their regular rate of pay for all hours worked in excess of forty within a single
17 workweek. *See* 29 U.S.C. § 207(a).

18 8. This is a class action against Defendants to challenge their policies and practices of: (1)
19 failing to pay Plaintiffs and Class members minimum wage; (2) failing to pay Plaintiffs and Class
20 members overtime wages; (3) failing to authorize and permit Plaintiff and Class members to take
21 meal and rest breaks to which they are entitled by law; (4) failing to compensate Plaintiffs and Class
22 members for all hours worked; (5) failing to provide Plaintiffs and Class members accurate, itemized
23 wage statements; (6) failing to timely pay Plaintiffs and Class members full wages upon termination
24 or resignation; (7) failing to reimburse Plaintiffs and Class members for necessary business expenses,
25 and engaging in unfair and unlawful business practices.

26 9. Plaintiffs file this action to recover on behalf of themselves and Class and Collective
27

1 members all unpaid wages, compensation, penalties, and other damages owed to them under the
2 FLSA and state law individually, as a 29 U.S.C. § 216(b) collective action; as a class action under
3 Federal Rule of Civil Procedure 23; and as a representative action under the Private Attorneys General
4 Act of 2004 (“PAGA”), in order to remedy the sweeping practices which Defendants have integrated
5 into their time tracking and payroll policies and which have deprived Plaintiffs and Class and
6 Collective members of their lawfully-earned wages.

7 10. As a result of violations, Plaintiffs seek compensation, damages, penalties, and interest
8 to the full extent permitted by the FLSA, as well as the wage, hour, labor, and other applicable laws
9 of the States of California, Washington, Oregon, and Illinois, as described herein.

10 11. Plaintiffs also seeks declaratory, equitable, and injunctive relief, including restitution.

11 12. Finally, Plaintiffs seeks reasonable attorneys’ fees and costs under the FLSA and
12 applicable laws of the States of California, Washington, Oregon, and Illinois, as described herein.

13 **PARTIES**

14 13. Plaintiff Joshua Wright is an individual over the age of eighteen, and at all times
15 relevant to this Complaint was a resident of the State of California, County of Sacramento. Mr.
16 Wright was employed as a Medication Technician by Defendants at their Greenhaven facility from
17 April 12, 2018 until March 15, 2019.

18 14. Plaintiff Loretta Stanley is an individual over the age of eighteen, and at all times
19 relevant to this Complaint was a resident of the State of Oregon. Ms. Stanley was employed as a Lead
20 Medical Technician and Caregiver by Defendants at their Monetary Ray Court Happy Valley facility
21 in Portland, Oregon, from December 2018 until September 2019.

22 15. Plaintiff Haley Quam is an individual over the age of eighteen, and at all times relevant
23 to this Complaint was a resident of the State of Washington. Ms. Quam was employed as a Caregiver
24 by Defendants at their facility in Bellingham, Washington from September 2017 until September
25 2018.

26 16. Plaintiff Aiesha Lewis is an individual over the age of eighteen, and at all times relevant
27

1 to this Complaint was a resident of the State of Illinois. Ms. Lewis was employed as a Caregiver by
2 Defendants at their facility in Granite City, Illinois from July 2017 to approximately October 2017.

3 17. The Collective is a certified collective action for settlement purposes only pursuant to
4 29 U.S.C. § 216(b), which includes all individuals who have submitted Opt-In Consent Forms in the
5 Federal Action and worked for Defendants as non-exempt, hourly employees between March 13,
6 2017 and March 1, 2022.

7 18. The California Class members are all persons who are employed, have been employed,
8 or alleged in the Action to have been employed by Defendants as a non-exempt employee in the State
9 of California between September 6, 2015 and March 1, 2022.

10 19. The Aggrieved Employees are all persons who are employed, have been employed, or
11 are alleged in the Action to have been employed by Defendants as a non-exempt employee in the
12 State of California at any time between July 7, 2018 and preliminary approval of a settlement in this
13 action.

14 20. The Washington Class members are all persons who are employed, have been
15 employed, or are alleged to have been employed in the Action by Defendants as a non-exempt
16 employee in the state of Washington between July 8, 2017 and March 1, 2022.

17 21. The Oregon Class members are all persons who are employed, have been employed, or
18 are alleged in the Action to have been employed by Defendants as a non-exempt employee in the
19 state of Oregon between July 8, 2014 and March 1, 2022.

20 22. The Illinois Class members are all persons who are employed, have been employed, or
21 are alleged in the Action to have been employed by Defendants as a non-exempt employee in the
22 state of Illinois between July 8, 2017 and March 1, 2022.

23 23. Plaintiffs are informed, believe, and thereon allege that Defendant Frontier
24 Management is an Oregon limited liability corporation that maintains its principal office in Portland,
25 Oregon.

26 24. Plaintiffs are informed, believe, and thereon allege that Defendant Frontier Senior
27

1 Living is an Oregon limited liability corporation that maintains its principal office in Portland,
2 Oregon.

3 25. Plaintiffs are informed, believe, and thereon allege that that Defendant Greenhaven is
4 a California limited liability company that maintains its headquarters in Sacramento, California.
5 Defendant Greenhaven is registered to do business in the state of California.

6 26. Plaintiffs are informed, believe, and thereon allege that Defendant Frontier
7 Management owns Frontier Senior Living, that Defendant Frontier Senior Living is a member of
8 Defendant Greenhaven, and that Defendants Frontier Management, Frontier Senior Living, and
9 Greenhaven all share at least one member or manager and all share the same primary place of
10 business.

11 27. Plaintiffs are informed, believe, and thereon allege that at all times mentioned in this
12 Complaint, Defendants were the agents and employees of their co-defendants and in doing the things
13 alleged in this Complaint were acting within the course and scope of such agency and employment.

14 28. Plaintiffs are informed, believe, and thereon allege that Defendants maintain a chain of
15 retirement and assisted living communities throughout the United States (“affiliated communities”),
16 including in California, Washington, Oregon, and Illinois. Plaintiff is informed, believes, and thereon
17 alleges that Defendants employ the hourly, non-exempt employees that work at affiliated
18 communities throughout the United States, including in California, Washington, Oregon, and Illinois.

19 29. Plaintiffs are informed and believe that each and every one of the acts and omissions
20 alleged herein were performed by, and/or attributable to, Defendants Frontier Management, Frontier
21 Senior Living, Greenhaven, and affiliated communities, each acting as agents and/or employees,
22 and/or under the direction and control of each of the other, and that said acts and failures to act were
23 within the course and scope of said agency, employment and/or direction and control.

24 30. Plaintiffs are informed, believes, and thereon allege that Defendant Frontier
25 Management directly controls the operations of its agents, Defendants Frontier Senior Living,
26 Greenhaven, and affiliated communities. Plaintiffs are informed, believe, and thereon allege that
27

1 Defendants Frontier Management, Frontier Senior Living, Greenhaven, and affiliated communities
2 jointly exercised control over Plaintiffs and Class and Collective members with respect to their
3 employment.

4 31. As employers of Plaintiffs and the Class and Collective members throughout the
5 relevant time periods, Defendants, and each of them, are solely, jointly, and severally liable for back
6 pay, penalties, and other economic damages owed to Plaintiffs and the Class and Collective members.

7 32. Throughout this Complaint, any reference to “Defendant” or “Defendants” is intended
8 to refer to Defendants Frontier Management, Frontier Senior Living, and Greenhaven jointly.

9 33. Plaintiffs and Class and Collective members were and are employees of Defendants
10 within the meaning of 29 U.S.C. § 203(e).

11 34. At all material times, Defendants have been an enterprise in commerce or in the
12 production of goods for commerce within the meaning of section 3(s)(1) of the FLSA because
13 Defendants have had and continues to have employees engaged in commerce. 29 U.S.C. § 203(s)(1).

14 35. Plaintiffs are informed, believe, and thereon allege that Defendants have had, and
15 continue to have, an annual gross business volume of not less than \$500,000, thereby exceeding the
16 statutory standard. 29 U.S.C. § 203(s)(1)(A)(ii).

17 36. At all material times, Defendants have been an employer within the meaning of the
18 FLSA under 29 U.S.C. § 203(d).

19 37. In addition to Plaintiffs, Defendants have employed numerous other employees who,
20 like Plaintiff, are hourly, non-exempt employees engaged in interstate commerce. Further,
21 Defendants are engaged in interstate commerce since they order supplies across state lines, conduct
22 business deals with merchants across state lines, and process patient credit cards with banks in other
23 states.

24 38. At all material times, Plaintiffs and Collective and Class members were employees who
25 engaged in commerce or in the production of goods for commerce as required by 29 U.S.C. § 207.

26 39. At all material times, Defendants have done business under the laws of California, have
27

1 had places of business in California, including in this judicial district, and have employed Class
2 members in this judicial district. Defendants are a “person” as defined in Labor Code § 18 and
3 Business and Professions Code § 17201. At all relevant times, Defendants have been Plaintiffs’
4 “employer” within the meaning of the FLSA, California, Washington, Oregon, and Illinois.

5 **FACTUAL ALLEGATIONS**

6 40. Defendants operate a chain of retirement and assisted living communities throughout
7 the United States and California, including Greenhaven, which is located in Sacramento, California.
8 Defendants employ hundreds of hourly non-exempt workers similarly situated to Plaintiff across
9 these facilities.

10 41. Plaintiff Wright worked at Greenhaven as a Medication Technician from April 12, 2018
11 until March 15, 2019. He was paid at an hourly rate of \$14.50 and regularly worked in excess of
12 eight hours a day and forty hours per week, usually working approximately 44 to 46 hours per week.

13 42. Plaintiff Stanley worked for Defendants in Portland, Oregon as a Lead Medical
14 Technician and Caregiver from approximately December 2018 until September 2019. She was paid
15 at an hourly rate of \$15.00 and regularly worked in excess of eight hours a day and forty hours per
16 week, usually working approximately 43 to 45 hours per week.

17 43. Plaintiff Quam worked for Defendants in Bellingham, Washington as a Caregiver from
18 approximately September 2017 until December 2018. She was paid at an hourly rate of \$12.00 and
19 regularly worked in excess of eight hours a day and forty hours per week, usually working
20 approximately 40 to 60 hours per week.

21 44. Plaintiff Lewis worked for Defendants in Granite City, Illinois as a Caregiver from
22 approximately July 2017 until October 2017. She was paid at an hourly rate of \$10.00 and regularly
23 worked in excess of eight hours a day and forty hours per week, usually working approximately 44
24 to 50 hours per week.

25 45. As a matter of policy, Defendants deny Plaintiffs, Class, and Collective members meal
26 and rest breaks to which they are entitled and, for example, require them to remain on duty during
27

1 their scheduled shifts, including during rest breaks and while clocked out for meal periods.
2 Defendants do not compensate these employees for work performed while clocked out for meal
3 periods.

4 46. Defendants require Plaintiffs, Class, and Collective members to carry communication
5 devices, including personal cellphones, radios, and pagers, with them at all times. Defendants require
6 them to carry these devices so that Plaintiffs and Class and Collective members can be reached at all
7 times throughout the day to handle issues concerning their patients and facility personnel.
8 Defendants have a policy and/or practice that Class and Collective members must keep these
9 communication devices, namely walkie-talkies, on during meal and rest breaks, in order to be
10 continuously available. Defendants require these employees to respond to calls during this time,
11 regardless of whether they are taking a meal or rest break. Plaintiffs are informed, believe, and
12 thereon allege that this policy and practice applies to all hourly-paid, non-exempt staff.

13 47. Defendants deny Plaintiffs and Class and Collective members meal and rest periods to
14 which they are statutorily entitled, as well as the overtime premiums resulting from the additional
15 off-the-clock work performed during meal breaks.

16 48. Despite these recurring violations, Defendants do not provide Plaintiffs and Class and
17 Collective members premium pay for missed breaks and meal periods.

18 49. Plaintiffs and Class and Collective members are also regularly required to work off-
19 the-clock, time which Defendants neither record nor compensate them for. For example, Defendants
20 require Class and Collective members to perform a number of duties off the clock, including filling
21 out paperwork, waiting for other employees to relieve them of their posts, or help other employees
22 with a number of tasks, such as transferring residents, after clocking out for the day. These tasks
23 would take Class and Collective members anywhere from ten minutes to 1 hour per shift to complete.
24 Defendants did not compensate Class and Collective members for this time worked.

25 50. Defendants required Plaintiffs and Class and Collective members to work additional
26 time off the clock, which Defendants neither record nor compensate them for. For example,
27

1 Defendants require Plaintiff Wright and California Class members to use a timeclock that encounters
2 technical difficulties 2 to 3 times per pay period. These technical difficulties prevent employees from
3 logging their work hours. Defendants do not account for this off-the-clock work when compensating
4 Plaintiff Wright and California Class members, resulting in widespread under-compensation. As a
5 result, Defendants failed to record or compensate each California Class member for approximately
6 8 to 12 hours of off-the-clock work for each pay period. Although Defendants' management staff is
7 aware of the timeclock issues, which Plaintiff Wright reported multiple times, Defendants refuse to
8 remedy this issue. Plaintiff is informed, believes, and thereon alleges that this same timekeeping
9 system is used across Defendants' facilities, including in California.

10 51. As another example, Defendants require Plaintiff Stanley and Illinois Class members
11 to arrive at work ten to fifteen minutes prior to clocking in for their shifts. Defendants neither record
12 nor compensate Plaintiff Stanley and Illinois Class members for this time worked.

13 52. Defendants' common course of wage-and-hour abuse includes routinely failing to
14 maintain true and accurate records of the hours worked by Collective and Class members. For
15 example, Defendants have failed to record hours that Plaintiffs and Collective and Class members
16 worked during missed meal breaks as well as hours worked off the clock.

17 53. Defendants also engage in a policy and/or practice of rounding time worked by
18 Plaintiffs, Class, and Collective members to the detriment of Plaintiffs, Class, and Collective
19 members. Specifically, Defendants typically round down time worked by Plaintiffs, Class, and
20 Collective members to the nearest fifth-minute. Ultimately, this rounding policy and/or practice
21 results in the underpayment of wages to the Plaintiffs, Class, and Collective members.

22 54. The wage statements Defendant provides are not accurate because they do not include,
23 or otherwise incorrectly state, the items required by Labor Code section 226. For example, they do
24 not reflect the actual hours worked by Plaintiffs and Class members. The wage statements do not
25 contain off-the-clock work or time that should be compensable during interruptible meal breaks.
26 Further, the wage statements are inaccurate because they do not include premium pay for missed
27

1 breaks, overtime, and work that was performed while the timeclock was out of service.

2 55. Further, Defendants do not provide Class members, including Plaintiffs, with full
3 payment of all wages owed at the end of employment. As these workers are owed for off-the-clock
4 work, unpaid overtime, and premium pay when their employment ends, and these amounts remain
5 unpaid under Defendants' policies and practices, Defendants fail to pay all wages due upon
6 termination. As a consequence, Defendants are subject to waiting time penalties.

7 56. Finally, Defendants do not reimburse or compensate Plaintiffs and Class members for
8 business expenses incurred for Defendants benefit. For example, Plaintiffs and Class members are
9 required to use their personal cell phones, in addition to their radios, in order to stay in constant
10 communication with managers via phone calls and texts, especially once managers are no longer on
11 the premises. Plaintiffs and Class members were also not reimbursed or compensated for the
12 purchasing and maintenance other business expenses such as clothing, footwear, tools, supplies and
13 equipment, such as personal protective equipment. Defendants do not reimburse or compensate
14 Plaintiffs and Class members for these and other business expenses.

15 57. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and
16 Workforce Development Agency ("LWDA") with notice ("PAGA notice") of his intention to file
17 this action on July 1, 2019. Sixty-five calendar days have passed without notice from the LWDA.
18 Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with
19 § 2699.3(a). Further, Plaintiff amended his PAGA notice which is attached hereto as Exhibit A
20 ("amended PAGA notice"). Plaintiff incorporates the facts alleged in the PAGA notice and amended
21 PAGA notice herein.

22 **COLLECTIVE ALLEGATIONS UNDER THE FLSA**

23 58. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
24 herein.

25 59. Plaintiffs bring this Complaint as a collective action pursuant to 29 U.S.C. § 216(b)
26 on behalf of the following collective of individuals:
27

1 all individuals who have submitted Opt-In Consent Forms in the Federal
2 Action and worked for Defendants as non-exempt, hourly employees
between March 13, 2017 and March 1, 2022.

3 60. Defendants have not compensated these employees for all hours worked, including
4 minimum wage and overtime compensation for all hours worked over 40 hours per week.

5 61. Plaintiffs' claims for violations of the FLSA may be brought and maintained as an
6 "opt-in" collective action pursuant to Section 216(b) of the FLSA because Plaintiffs' FLSA claims
7 are similar to the claims of the Collective members.

8 62. Plaintiffs are informed, believe, and thereon allege that that Collective members have
9 been denied compensation, including overtime compensation for time worked "off-the-clock," and
10 would therefore likely join this collective action if provided a notice of their rights to do so.

11 63. Plaintiffs and the Collective members are similarly situated. Defendants subjected
12 Collective members, like Plaintiffs, to Defendants' common practices, policies, or plans of refusing
13 to pay overtime for all work performed in clear violation of the FLSA. Other hourly, non-exempt
14 employees work, or have worked, for Defendants but were not paid overtime at the rate of one and
15 one-half times their regular hourly rate when those hours exceeded forty per workweek. Other hourly,
16 non-exempt employees also performed compensable work while "off-the-clock" which, when
17 included with their recorded hours, results in additional overtime hours worked that were not
18 compensated at the rate of one and one-half times their regular hourly in violation of the FLSA.

19 64. Although Defendants permitted and/or required Collective members to work in excess
20 of forty hours per workweek, Defendants have denied them full compensation for their hours worked
21 over forty as a result of meal breaks that were interrupted due to work demands and "off-the-clock"
22 work.

23 65. Collective members perform or have performed the same or similar work as Plaintiffs.

24 66. Collective members regularly work or have worked in excess of forty hours during a
25 workweek.

1 67. Collective members are not exempt from receiving overtime compensation under the
2 FLSA.

3 68. Defendants' failure to pay overtime compensation as required by the FLSA resulted
4 from generally applicable policies and practices and did not depend on the personal circumstances
5 of FLSA Collective members.

6 69. This action may be properly maintained as a collective action on behalf of the defined
7 Collective because, throughout the relevant time period:

8 a. Defendants maintained common scheduling systems and policies with respect to
9 Plaintiff and Collective members, controlled the scheduling systems and policies
10 implemented throughout their facilities and retained authority to review and revise
11 or approve the schedules assigned to Plaintiffs and Collective members;

12 b. Defendants maintained common timekeeping systems and policies with respect to
13 Plaintiffs and Collective members; and

14 c. Defendants maintained common payroll systems and policies with respect to
15 Plaintiffs and Collective members, controlled the payroll systems and policies
16 applied to Plaintiffs and Collective members, and set the pay rates assigned to
17 Plaintiffs and Collective members.

18 70. Collective members, irrespective of their particular job requirements, are entitled to
19 overtime compensation for hours worked in excess of forty during a workweek.

20 71. Plaintiffs and Collective members' claims arise from a common nucleus of operative
21 facts; namely, the continued and willful failure of Defendants to comply with their obligation to
22 legally compensate their employees. Liability is based on a systematic course of wrongful conduct
23 by Defendants that caused harm to all Collective members. Defendants had a plan, policy or practice
24 of not recording or paying Plaintiffs and Collective members for interrupted, interruptible, or missed
25 meal and rest breaks, as well as work performed "off-the-clock." These unpaid hours are typically
26

1 worked in excess of 40 hours per week, and therefore the failure to track these hours results in a
2 violation of the FLSA.

3 72. Plaintiffs estimate the Collective, including both current and former employees over
4 the relevant time period, will include upwards of 500 people or more. The precise number of
5 Collective members should be readily available from Defendants' personnel, scheduling, time and
6 payroll records, and from input received from Collective members as part of the notice and "opt-in"
7 process provided by 29 U.S.C. § 216(b). The names and addresses of the Collective members are
8 discoverable from Defendants' records.

9 **RULE 23 CLASS ALLEGATIONS**

10 73. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
11 herein.

12 74. Plaintiff Wright brings this case as a class action on behalf of himself and all others
13 similarly situated pursuant to Federal Rule of Civil Procedure 23. The Class that Plaintiff Wright
14 seeks to represent is defined as follows:

15 all persons who are employed, have been employed, or alleged in the Action
16 to have been employed by Defendants as a non-exempt employee in the
17 State of California between September 6, 2015 and March 1, 2022 (the
"California Class").

18 75. Plaintiff Quam brings this case as a class action on behalf of herself and all others
19 similarly situated pursuant to Federal Rule of Civil Procedure 23. The Class that Plaintiff Quam
20 seeks to represent is defined as follows:

21 all persons who are employed, have been employed, or are alleged to have
22 been employed in the Action by Defendants as a non-exempt employee in
23 the state of Washington between July 8, 2017 and March 1, 2022 (the
"Washington Class").

24 76. Plaintiff Stanley brings this case as a class action on behalf of herself and all others
25 similarly situated pursuant to Federal Rule of Civil Procedure 23. The Class that Plaintiff Stanley
26 seeks to represent is defined as follows:

27 all persons who are employed, have been employed, or are alleged in the

1 Action to have been employed by Defendants as a non-exempt employee in
2 the state of Oregon between July 8, 2014 and March 1, 2022 (the “Oregon
3 Class”).

4 77. Plaintiff Lewis brings this case as a class action on behalf of herself and all others
5 similarly situated pursuant to Federal Rule of Civil Procedure 23. The Class that Plaintiff Lewis
6 seeks to represent is defined as follows:

7 all persons who are employed, have been employed, or are alleged in the
8 Action to have been employed by Defendants as a non-exempt employee in
9 the state of Illinois between July 8, 2017 and March 1, 2022 (the “Illinois
10 Class”).

11 78. This action has been brought and may properly be maintained as a class action under
12 Federal Rule of Civil Procedure 23 because there is a well-defined community of interest in the
13 litigation and the Class is easily ascertainable.

14 a. **Numerosity:** The potential members of the Classes as defined are so numerous
15 that joinder of all the members of the Class is impracticable. Plaintiffs are informed and
16 believes that the number of Class members for each Class exceeds 500. This volume makes
17 bringing the claims of each individual member of the class before this Court impracticable.
18 Likewise, joining each individual members of the Classes as a plaintiff in this action is
19 impracticable. Furthermore, the identities of the Classes will be determined from Defendants’
20 records, as will the compensation paid to each of them. As such, a class action is a reasonable
21 and practical means of resolving these claims. To require individual actions would prejudice
22 the Classes and Defendants.

23 b. **Commonality:** There are questions of law and fact common to Plaintiffs and the
24 Classes that predominate over any questions affecting only individual members of the Classes.
25 These common questions of law and fact include, but are not limited to:

26 i. Whether Defendants fail to compensate putative California, Washington,
27 Oregon, and Illinois Class members for all hours worked in violation of the
28 California Labor Code and Wage Orders, the Washington’s Minimum
Wage Act, Revised Code of Washington (“RCW”); the Oregon Revised

1 Statutes (“ORS”); the Oregon Administrative Rules (“OAR”); the Illinois
2 Minimum Wage Law (“IMWL”); and the Illinois’ Wage Payment and
3 Collection Act (“IWPCA”) respectively.

4 ii. Whether Defendants fail to compensate putative California, Washington,
5 Oregon, and Illinois Class members with at least minimum wage for all
6 compensable work time in violation of the California Labor Code, Wage
7 Orders, and Business and Professions Code §§ 17200 et seq., as well as the
8 RCW, ORS, and IMWL respectively.

9 iii. Whether Defendants fail to properly compensate putative California,
10 Washington, Oregon, and Illinois Class members with overtime wages, at
11 either one and one-half times or double the rate of pay, to members of the
12 putative Classes in violation of the California Labor Code and Wage Orders,
13 the RCW, AWA, ORS, OAR, and IMWL respectively.

14 iv. Whether Defendants fail to authorize, permit, make available, and/or
15 provide putative California, Washington, Oregon, and Illinois Class
16 members with compliant meal periods to which they are entitled in violation
17 of the California Labor Code, Wage Orders, as well as the RCW, OAR, and
18 IWPCA respectively.

19 v. Whether Defendants fail to authorize, permit, make available, and/or
20 provide putative California, Washington, Oregon, and Illinois Class
21 members with compliant rest periods to which they are entitled in violation
22 of the California Labor Code and Wage Orders, the RCW, OAR, and
23 IWPCA respectively.

24 vi. Whether Defendants fail to reimburse putative California and Washington
25 Class members for reasonable business expenses that they incur in violation
26 of the California Labor Code and Wage Orders, as well as the RCW
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respectively.

vii. Whether Defendants fail to provide putative California and Washington Class members with timely, accurate itemized wage statements in violation of the California Labor Code and Wage Orders, as well as the RCW respectively.

viii. Whether Defendants fail to timely pay putative California, Washington, Oregon, and Illinois Class members for all wages owing upon termination of employment in violation of the California Labor Code and Wage Orders, the RCW, ORS, and IWPCA respectively.

ix. Whether Defendant violates Business and Professions Code §§ 17200 et seq., by:

- a) failing to compensate putative Class members for all hours worked, including at minimum wage and as overtime compensation;
- b) failing to pay putative Class members minimum wage for all hours worked;
- c) failing to properly pay overtime compensation, at either one and one-half times or double the regular rate of pay, to putative Class members;
- d) failing to authorize and permit, make available, and/or provide putative Class members with timely meal and rest periods to which they are entitled;
- e) failing to reimburse Class members for reasonable and necessary business expenses;
- f) failing to provide putative Class members with timely, accurate itemized wage; and
- g) failing to timely pay putative Class members for all wages owed

1 upon termination of employment.

2 x. The proper formula for calculating restitution, damages and penalties owed
3 to Plaintiff and the putative Class alleged herein.

4 c. **Typicality:** Plaintiffs' claims are typical of the claims of the Classes. Defendants'
5 common course of conduct in violation of law as alleged herein has caused Plaintiffs and
6 members of the putative Classes to sustain the same or similar injuries and damages. Plaintiffs'
7 claims are thereby representative of and co-extensive with the claims of the Classes.

8 d. **Adequacy of Representation:** Plaintiffs are members of the Classes, do not have
9 any conflicts of interest with other putative Class members and will prosecute the case
10 vigorously on behalf of the Classes. Counsel representing Plaintiffs is competent and
11 experienced in litigating large employment class actions, including misclassification and wage
12 and hour class actions. Plaintiffs will fairly and adequately represent and protect the interests
13 of the members of the putative Classes.

14 e. **Superiority of Class Action:** A class action is superior to other available means
15 for the fair and efficient adjudication of this controversy. Individual joinder of all members of
16 the putative Classes is not practicable, and questions of law and fact common to the Class
17 predominate over any questions affecting only individual members of the Classes. Each
18 member of the putative Classes have been damaged and is entitled to recovery by reason of
19 Defendants' illegal policies and/or practices. Class action treatment will allow those similarly
20 situated persons to litigate their claims in the manner that is most efficient and economical for
21 the parties and the judicial system. The injury suffered by each Class member, while
22 meaningful on an individual basis, is not of such magnitude as to make the prosecution of
23 individual actions against Defendants economically feasible. Individualized litigation
24 increases the delay and expense to all Parties and the Court. By contrast, class action treatment
25 will allow those similarly situated persons to litigate their claims in the manner that is most
26 efficient and economical for the parties and the judicial system.

1 79. In the alternative, the Classes may be certified because the prosecution of separate
2 actions by the individual members of the Classes would create a risk of inconsistent or varying
3 adjudication with respect to individual members of the Classes, and, in turn, would establish
4 incompatible standards of conduct for Defendants.

5 80. Further, Defendants have acted or refused to act on grounds generally applicable to the
6 Classes, thereby making appropriate final injunctive or declaratory relief with respect to the Classes
7 as a whole.

8 81. If each individual member of the Classes were required to file an individual lawsuit,
9 Defendants would necessarily gain an unconscionable advantage because Defendants would be able
10 to exploit and overwhelm the limited resources of each member of the Classes with Defendants'
11 vastly superior financial legal resources.

12 82. Requiring each individual member of the Classes to pursue an individual remedy would
13 also discourage the assertion of lawful claims by the Class members who would be disinclined to
14 pursue these claims against Defendants because of an appreciable and justifiable fear of retaliation
15 and permanent damage to their lives, careers and well-being.

16 **FIRST CAUSE OF ACTION**
17 **Violation of the Fair Labor Standards Act**
18 **Pursuant to 29 U.S.C. §§ 201, et seq.**
19 **(Against All Defendants – on Behalf of the Collective)**

20 83. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
21 herein.

22 84. This claim is brought by Plaintiffs Wright, Stanley, Quam, and Lewis on behalf of the
23 Collective against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH
24 Senior Living, LLC dba Greenhaven Estates Assisted Living.

25 85. The FLSA requires that covered employees receive compensation for all hours worked
26 and overtime compensation of not less than one and one-half times the regular rate of pay for all
27 hours worked in excess of forty hours in a workweek. 29 U.S.C. §§ 206(a)(1), 207(a)(1).

28 86. At all times material herein, Plaintiffs and the Collective are covered employees

1 entitled to the rights, protections, and benefits provided under the FLSA. 29 U.S.C. §§ 203(e) and
2 207(a).

3 87. Defendants are covered employers required to comply with the FLSA's mandates.

4 88. Defendants have violated the FLSA with respect to Plaintiffs and the Collective, by,
5 *inter alia*, failing to compensate Plaintiffs and the Collective for all hours worked and, with respect
6 to such hours, failing to pay the legally mandated overtime premium for such work and/or minimum
7 wage. Defendants have also violated the FLSA by failing to keep required, accurate records of all
8 hours worked by Plaintiffs and the Collective. 29 U.S.C. § 211(c).

9 89. Plaintiffs and the Collective are victims of a uniform and company-wide compensation
10 policy that has been applied to current and former non-exempt, hourly employees of Defendants,
11 working throughout the United States.

12 90. Plaintiffs and the Collective are entitled to damages equal to the mandated pay,
13 including minimum wage, straight time, and overtime premium pay within the three years preceding
14 the filing of the complaint, plus periods of equitable tolling, because Defendants have acted willfully
15 and knew or showed reckless disregard for whether the alleged conduct was prohibited by the FLSA.

16 91. Defendants have acted neither in good faith nor with reasonable grounds to believe
17 that their actions and omissions were not a violation of the FLSA, and as a result thereof, Plaintiffs
18 and the Collective are entitled to recover an award of liquidated damages in an amount equal to the
19 amount of unpaid overtime pay and/or prejudgment interest at the applicable rate. 29 U.S.C. §
20 216(b).

21 92. Pay, including minimum wage, straight time, and overtime compensation, has been
22 unlawfully withheld by Defendants from Plaintiffs and the Collective as a result of the Defendants'
23 violations of the FLSA. Accordingly, Defendants are liable for unpaid wages, together with an
24 amount equal as liquidated damages, attorneys' fees, and costs of this action.

25 93. Wherefore, Plaintiffs and the Collective request relief as hereinafter provided.

26 **SECOND CAUSE OF ACTION**

**Failure to Pay Minimum Wages
Pursuant to California Labor Code § 1194
(Against All Defendants – on Behalf of the California Class)**

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3 94. Plaintiffs re-allege and incorporates the foregoing paragraphs as though fully set forth
4 herein.

5 95. This claim is brought by Plaintiff Wright on behalf of the California Class against
6 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
7 dba Greenhaven Estates Assisted Living.

8 96. Defendants fail to compensate Plaintiff and putative Class members with at least the
9 minimum wage for all hours worked or spent in Defendants' control because Plaintiff and the
10 putative Class members are paid at rates at or just above the applicable California minimum, and
11 when the required premium payments for missed breaks, wages for off-the-clock work, unpaid wages
12 due to Defendants' rounding policies and practices, and overtime wages are factored in, the actual
13 rate of pay often drops below the applicable California minimum.

14 97. Defendants have maintained policies and procedures which created a working
15 environment where Plaintiff and Class members are routinely compensated at a rate that is less than
16 the statutory minimum wage.

17 98. During the applicable statutory period, Labor Code §§1182.11, 1182.12 and 1197, and
18 the Minimum Wage Order were in full force and effect and required that Defendants' employees
19 receive the minimum wage for all hours worked irrespective of whether nominally paid on a piece
20 rate, or any other bases, at the rate of ten dollars (\$10.00) per hour commencing January 1, 2016.

21 99. IWC Wage Order 4-2001(2)(K) defines hours worked as "the time during which an
22 employee is subject to the control of an employer, and includes all the time the employee is suffered
23 or permitted to work, whether or not required to do so."

24 100. Labor Code § 1194(a) provides as follows:
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1 Notwithstanding any agreement to work for a lesser wage, any employee
2 receiving less than the legal minimum wage or the legal overtime
3 compensation applicable to the employee is entitled to recover in a civil
4 action the unpaid balance of the full amount of this minimum wage or
overtime compensation, including interest thereon, reasonable attorneys’
fees, and costs of suit.

5 101. Because of Defendants’ policies and practices with regard to compensating Plaintiff
6 and Class members, Defendants have failed to pay minimum wages as required by law. Plaintiff and
7 Class members frequently perform work for which they are compensated below the statutory
8 minimum, as determined by the IWC.

9 102. Labor Code §1194.2 provides that, in any action under § 1194 to recover wages because
10 of the payment of a wage less than minimum wage fixed by an order of the commission, an employee
11 shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid
12 and interest thereon.

13 103. California law further requires that employers pay their employees for all hours worked
14 at the statutory or agreed upon rate. No part of the rate may be used as a credit against a minimum
15 wage obligation.

16 104. By failing to maintain adequate time records as required by Labor Code §1174(d) and
17 IWC Wage Order 4-2001(7), Defendants have made it difficult to calculate the minimum wage
18 compensation due to Plaintiff and Class members.

19 105. As a direct and proximate result of the unlawful acts and/or omissions of Defendants,
20 Plaintiff and Class members have been deprived of minimum wages in an amount to be determined
21 at trial, and are entitled to a recovery of such amount, plus liquidated damages, plus interest thereon,
22 attorneys’ fees, and costs of suit pursuant to Labor Code §§ 1194, 1194.2 and 1197.1.

23 106. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
24 provided.

25 **THIRD CAUSE OF ACTION**
26 **Failure to Pay Overtime Wages**
27 **Pursuant to California Labor Code § 510**
(Against All Defendants – on Behalf of the California Class)

1 107. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
2 herein.

3 108. This claim is brought by Plaintiff Wright on behalf of the California Class against
4 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
5 dba Greenhaven Estates Assisted Living.

6 109. Defendants do not compensate Plaintiff and Class members with appropriate overtime,
7 including time and half and double time, at the regular rate of pay, as required by California law.

8 110. Labor Code § 510(a) provides as follows:

9
10 Eight hours of labor constitutes a day's work. Any work in excess of eight
11 hours in one workday and any work in excess of 40 hours in any one
12 workweek and the first eight hours worked on the seventh day of work in
13 any one workweek shall be compensated at the rate of no less than one and
14 one-half times the regular rate of pay for an employee. Any work in excess
15 of 12 hours in one day shall be compensated at the rate of no less than twice
16 the regular rate of pay for an employee. In addition, any work in excess of
17 eight hours on any seventh day of a workweek shall be compensated at the
18 rate of no less than twice the regular rate of pay of an employee.

15 111. The IWC Wage Order 4-2001(3)(A)(1) states:

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17 [E]mployees shall not be employed more than eight (8) hours in any
18 workday or more than 40 hours in any workweek unless the employee
19 receives one and one-half (1 ½) times such employee's regular rate of pay
20 for all hours worked over 40 hours in the workweek. Eight (8) hours of
21 labor constitutes a day's work. Employment beyond eight (8) hours in any
22 workday or more than six (6) days in any workweek is permissible provided
23 the employee is compensated for such overtime at not less than:
24 . . . One and one-half (1 ½) times the employee's regular rate of pay for all
25 hours worked in excess of eight (8) hours up to and including 12 hours in
26 any workday, and for the first eight (8) hours worked on the seventh (7th)
27 consecutive day of work in a workweek; and . . . Double the employee's
28 regular rate of pay for all hours worked in excess of 12 hours in any workday
and for all hours worked in excess of eight (8) hours on the seventh (7th)
consecutive day of work in a workweek[.] . . .

112. Labor Code § 1194(a) provides as follows:

Notwithstanding any agreement to work for a lesser wage, any employee
receiving less than the legal minimum wage or the legal overtime

1 compensation applicable to the employee is entitled to recover in a civil
2 action the unpaid balance of the full amount of this minimum wage or
3 overtime compensation, including interest thereon, reasonable attorney's
4 fees, and costs of suit.

5 113. Labor Code § 200 defines wages as “all amounts for labor performed by employees of
6 every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
7 commission basis or other method of calculation.” All such wages are subject to California’s
8 overtime requirements, including those set forth above.

9 114. Defendants often require Plaintiff and Class members to work in excess of eight hours
10 per day. Defendants do not compensate Plaintiff and Class members at an overtime rate for hours in
11 excess of eight hours each day or in excess of forty in each week, nor does Defendants compensate
12 Plaintiff and Class members at a double time rate for hours in excess of twelve each day or in excess
13 of eight on the seventh consecutive day.

14 115. Plaintiff and Class members have worked overtime hours for Defendants without being
15 paid overtime premiums at the regular rate of pay in violation of the Labor Code, the applicable IWC
16 Wage Order, and other applicable law.

17 116. Defendants have knowingly and willfully refused to properly compensate Plaintiff and
18 the Class for overtime work. As a proximate result of the aforementioned violations, Defendants
19 have damaged Plaintiff and the Class in amounts to be determined according to proof at time of trial,
20 but in an amount in excess of the jurisdictional requirements of this Court.

21 117. Defendants are liable to Plaintiff and the Class alleged herein for the unpaid overtime
22 and civil penalties, with interest thereon. Furthermore, Plaintiff is entitled to an award of attorneys’
23 fees and costs as set forth below.

24 118. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
25 provided.

26 **FOURTH CAUSE OF ACTION**
27 **Failure to Authorize and Permit, Provide and/or Make Available Meal and Rest Periods**
28 **Pursuant to California Labor Code §§ 226.7 and 512**
(Against All Defendants – on Behalf of the California Class)

1 119. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
2 herein.

3 120. This claim is brought by Plaintiff Wright on behalf of the California Class against
4 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
5 dba Greenhaven Estates Assisted Living.

6 121. Defendants denied Plaintiff and California Class Members meal and rest breaks to
7 which they were entitled. For example, Defendants require Plaintiff and Class members to respond
8 to calls at all times during their shifts, even if this means cutting breaks short or not being relieved
9 for breaks at all. Defendants also engage in rounding policies and practices that result in the
10 underpayment.

11 122. Defendants do not pay Plaintiff and Class members one hour of premium pay at the
12 regular rate of pay for the missed meal and rest breaks.

13 123. Labor Code §§ 226.7 and 512 and the applicable Wage Order requires Defendants to
14 authorize and permit meal and rest periods to its employees. Labor Code §§ 226.7 and 512 and the
15 Wage Order prohibit employers from employing an employee for more than five hours without a
16 meal period of not less than thirty minutes, and from employing an employee more than ten hours
17 per day without providing the employee with a second meal period of not less than thirty minutes.
18 Section 226.7 and the applicable Wage Order also require employers to authorize and permit
19 employees to take ten minutes of net rest time per four hours or major fraction thereof of work, and
20 to pay employees their full wages during those rest periods. Unless the employee is relieved of all
21 duty during the thirty-minute meal period and ten-minute rest period, the employee is considered “on
22 duty” and the meal or rest period is counted as time worked under the applicable wage orders.

23 124. Under § 226.7(b) and the applicable Wage Order, an employer who fails to authorize,
24 permit, and/or make available a required meal period must, as compensation, pay the employee one
25 hour of pay at the employee’s regular rate of compensation for each workday that the meal period
26 was not authorized and permitted. Similarly, an employer must pay an employee denied a required
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1 rest period one hour of pay at the employee's regular rate of compensation for each workday that the
2 rest period was not authorized and permitted and/or not made available.

3 125. Defendants knowingly and willfully refuse to perform their obligations to authorize
4 and permit and/or make available to Plaintiff and the Class the ability to take the off-duty meal and
5 rest periods to which they are entitled. Defendants also fail to pay Plaintiff and the Class one hour
6 of pay at the regular rate for each off-duty meal and/or rest periods that they are denied. Defendants'
7 conduct described herein violates Labor Code §§ 226.7 and 512. Therefore, pursuant to Labor Code
8 § 226.7(b), Plaintiff and the Class are entitled to compensation for the failure to authorize and permit
9 and/or make available meal and rest periods, plus interest, attorneys' fees, expenses and costs of suit.

10 126. As a proximate result of the aforementioned violations, Plaintiff and the Class have
11 been damaged in an amount according to proof at time of trial.

12 127. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
13 provided.

14 **FIFTH CAUSE OF ACTION**
15 **Failure to Pay for All Hours Worked**
16 **Pursuant to California Labor Code §§ 200, 204, 1194, and 1198**
17 **(Against All Defendants – on Behalf of the California Class)**

18 128. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
19 herein.

20 129. This claim is brought by Plaintiff Wright on behalf of the California Class against
21 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
22 dba Greenhaven Estates Assisted Living.

23 130. Plaintiff alleges that Defendants willfully engaged and continue to engage in a policy
24 and practice of not compensating Plaintiff and putative Class members for all hours worked or spent
25 in Defendants' control.

26 131. Defendants regularly require Plaintiff and putative Class members to perform
27 uncompensated off-the-clock work. Detailed above, Defendants require Plaintiff and putative Class
28 members to perform work before and after their scheduled shifts, to clock out for meal breaks but

1 then require, suffer, and/or permit them to work through these meal breaks, and otherwise failed to
2 pay for all wages.

3 132. Labor Code § 200 defines wages as “all amounts for labor performed by employees of
4 every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
5 commission basis or method of calculation.”

6 133. Labor Code § 204(a) provides that “[a]ll wages ... earned by any person in any
7 employment are due and payable twice during each calendar month....”

8 134. Labor Code § 1194(a) provides as follows:

9 Notwithstanding any agreement to work for a lesser wage, any employee
10 receiving less than the legal minimum wage or the legal overtime
11 compensation applicable to the employee is entitled to recover in a civil
12 action the unpaid balance of the full amount of this minimum wage or
overtime compensation, including interest thereon, reasonable attorneys’
fees, and costs of suit.

13 135. Labor Code § 1198 makes it unlawful for employers to employ employees under
14 conditions that violate the Wage Order.

15 136. IWC Wage Order 4-2001(2)(K) defines hours worked as “the time during which an
16 employee is subject to the control of an employer, and includes all the time the employee is suffered
17 or permitted to work, whether or not required to do so....”

18 137. In violation of California law, Defendants knowingly and willfully refuse to perform
19 its obligation to provide Plaintiff and putative Class members with compensation for all time worked.
20 Therefore, Defendants committed, and continue to commit, the acts alleged herein knowingly and
21 willfully, and in conscious disregard of Plaintiff’s and putative Class members’ rights. Plaintiff and
22 putative Class members are thus entitled to recover nominal, actual, and compensatory damages,
23 plus interest, attorneys’ fees, expenses and costs of suit.

24 138. As a proximate result of the aforementioned violations, Plaintiff and the putative Class
25 have been damaged in an amount according to proof at time of trial.

26 139. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
27 provided.

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SIXTH CAUSE OF ACTION
Failure to Provide Accurate Itemized Wage Statements
Pursuant to California Labor Code § 226
(Against All Defendants – on Behalf of the California Class)

140. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

141. This claim is brought by Plaintiff Wright on behalf of the California Class against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC dba Greenhaven Estates Assisted Living.

142. Defendants do not provide Plaintiff and Class members with accurate itemized wage statements as required by California law.

143. Labor Code § 226(a) provides:

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

144. The IWC Wage Order also establishes this requirement. (See IWC Wage Order 4-2001(7)).

145. Labor Code § 226(e)(1) provides:

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate

1 penalty of four thousand dollars (\$4,000), and is entitled to an award of
2 costs and reasonable attorney's fees.

3 146. Plaintiff seeks to recover actual damages, costs and attorneys' fees under this section.

4 147. Defendants have failed to provide timely, accurate itemized wage statements to
5 Plaintiff and Class members in accordance with Labor Code § 226(a) and the IWC Wage Order. For
6 example, the wage statements Defendants provide their employees, including Plaintiff and Class
7 members, do not reflect the actual hours worked, actual gross wages earned, or actual net wages
8 earned. The wage statements are simply a record of shifts worked, and the amount earned per shift.

9 148. Defendants are liable to Plaintiff and the Class alleged herein for the amounts described
10 above in addition to the civil penalties set forth below, with interest thereon. Furthermore, Plaintiff
11 is entitled to an award of attorneys' fees and costs as set forth below.

12 149. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
13 provided.

14 **SEVENTH CAUSE OF ACTION**
15 **Waiting Time Penalties**
16 **Pursuant to California Labor Code §§ 201-203**
17 **(Against All Defendants – on Behalf of the California Class)**

18 150. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
19 herein.

20 151. This claim is brought by Plaintiff Wright on behalf of the California Class against
21 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
22 dba Greenhaven Estates Assisted Living.

23 152. Defendants do not provide Class members whose employment with Defendants has
24 ended, including Plaintiff, with their wages due at the time their employment ends as required under
25 California law.

26 153. Labor Code § 201 provides:

27 If an employer discharges an employee, the wages earned and unpaid at the
28 time of discharge are due and payable immediately.

154. Labor Code § 202 provides:

1 If an employee not having a written contract for a definite period quits his
2 or her employment, his or her wages shall become due and payable not later
3 than 72 hours thereafter, unless the employee has given 72 hours previous
4 notice of his or her intention to quit, in which case the employee is entitled
5 to his or her wages at the time of quitting.

6 155. Labor Code § 203 provides, in relevant part:

7 If an employer willfully fails to pay, without abatement or reduction, in
8 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
9 employee who is discharged or who quits, the wages of the employee shall
10 continue as a penalty from the due date thereof at the same rate until paid
11 or until an action therefor is commenced; but the wages shall not continue
12 for more than 30 days.

13 156. Class members have left their employment with Defendants during the statutory period,
14 at which time Defendants owed them unpaid wages, including overtime and double time wages.

15 157. Defendants willfully refuse and continue to refuse to pay former Class members all the
16 wages that are due and owing them, in the form of, *inter alia*, overtime and double time pay and meal
17 and rest period premium pay, upon the end of their employment. As a result of Defendants' actions,
18 Plaintiff and Class members have suffered and continue to suffer substantial losses, including lost
19 earnings, and interest.

20 158. Defendants' willful failure to pay Class members the wages due and owing them
21 constitutes a violation of Labor Code §§ 201-202. As a result, Defendants are liable to Class
22 members for all penalties owing pursuant to Labor Code §§ 201-203.

23 159. In addition, § 203 provides that an employee's wages will continue as a penalty up to
24 thirty days from the time the wages were due. Therefore, Plaintiff and Class members are entitled
25 to penalties pursuant to Labor Code § 203, plus interest.

26 160. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
27 provided.

28 **EIGHTH CAUSE OF ACTION**
Failure to Reimburse for Necessary Business Expenses
Pursuant to California Labor Code § 2802
(Against All Defendants – on Behalf of the California Class)

161. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
herein.

1 162. This claim is brought by Plaintiff Wright on behalf of the California Class against
2 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
3 dba Greenhaven Estates Assisted Living.

4 163. Defendants do not reimburse Plaintiff and Class members for necessary business
5 expenses.

6 164. Labor Code § 2802(a) provides as follows:

7 An employer shall indemnify his or her employee for all necessary
8 expenditures or losses incurred by the employee in direct consequence
9 of the discharge of his or her duties, or of his or her obedience to the
10 directions of the employer, even though unlawful, unless the employee,
11 at the time of obeying the direction, believed them to be lawful.

12 165. Defendants require Plaintiff and Class members to incur numerous work-related
13 expenses, including but not limited to tools and supplies like their personal cell phones to perform
14 their work duties. However, Defendants do not compensate Plaintiff and Class members for the
15 expenses required to perform their work-related tasks.

16 166. For example, Defendants require Plaintiff and Class members to use their personal
17 mobile devices for Defendants' benefit. Defendants does not reimburse Plaintiff or Class members
18 for these expenses that are necessary to perform their daily work assignments.

19 167. Defendants are liable to Plaintiff and Class members for the unreimbursed expenses
20 and civil penalties, with interest thereon. Furthermore, Plaintiff is entitled to an award of attorneys'
21 fees and costs as set forth below.

22 168. As a direct and proximate result of the aforementioned violations, Plaintiff and Class
23 members have been damaged in an amount according to proof at time of trial.

24 169. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
25 provided.

26 **NINTH CAUSE OF ACTION**

27 **Unfair Business Practices**

28 **Pursuant to California Business and Professions Code §§ 17200, et seq.
(Against All Defendants – on Behalf of the California Class)**

1 170. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
2 herein.

3 171. This claim is brought by Plaintiff Wright on behalf of the California Class against
4 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
5 dba Greenhaven Estates Assisted Living.

6 172. Business and Professions Code §§17200 *et seq.* prohibits unfair competition in the form
7 of any unlawful, unfair or fraudulent business acts or practices.

8 173. Business and Professions Code § 17204 allows a person injured by the unfair business
9 acts or practices to prosecute a civil action for violation of the UCL.

10 174. Labor Code § 90.5(a) states it is the public policy of California to vigorously enforce
11 minimum labor standards in order to ensure employees are not required to work under substandard
12 and unlawful conditions, and to protect employers who comply with the law from those who attempt
13 to gain competitive advantage at the expense of their workers by failing to comply with minimum
14 labor standards.

15 175. Beginning at an exact date unknown to Plaintiff, but at least since the date four years
16 prior to the filing of this suit, Defendants have committed acts of unfair competition as defined by
17 the Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent business acts
18 and practices described in this Complaint, including, but not limited to:

- 19 a. violations of Labor Code § 1194 and IWC Wage Order pertaining to the payment
20 of wages;
- 21 b. violations of Labor Code § 510 and applicable IWC Wage Orders pertaining to
22 overtime;
- 23 c. violations of Labor Code §§ 1182.11, 1182.12, and 1197 and IWC wage orders
24 pertaining to minimum wage;
- 25 d. violations of Labor Code §§226.7 and 512 and IWC wage orders pertaining to meal
26 and rest breaks;
- 27

- e. violations of Labor Code § 226 regarding accurate, timely itemized wage statements;
- f. violations of Labor Code §§ 201-203; and
- g. violations of Labor Code § 2802.

176. The violations of these laws and regulations, as well as of the fundamental California public policies protecting wages and discouraging overtime labor underlying them, serve as unlawful predicate acts and practices for purposes of Business and Professions Code §§17200 *et seq.*

177. The acts and practices described above constitute unfair, unlawful and fraudulent business practices, and unfair competition, within the meaning of Business and Professions Code §§17200, *et seq.* Among other things, the acts and practices have taken from Plaintiff and the Class wages rightfully earned by them, while enabling Defendants to gain an unfair competitive advantage over law-abiding employers and competitors.

178. Business and Professions Code § 17203 provides that a court may make such orders or judgments as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition. Injunctive relief is necessary and appropriate to prevent Defendants from repeating their unlawful, unfair, and fraudulent business acts and practices alleged above.

179. As a direct and proximate result of the aforementioned acts and practices, Plaintiff and the Class members have suffered a loss of money and property, in the form of unpaid wages which are due and payable to them.

180. Business and Professions Code §17203 provides that the Court may restore to any person in interest any money or property which may have been acquired by means of such unfair competition. Plaintiff and the Class are entitled to restitution pursuant to Business and Professions Code §17203 for all wages and payments unlawfully withheld from employees during the four-year period prior to the filing of this Complaint. Plaintiff's success in this action will enforce important rights affecting the public interest and in that regard Plaintiff sues on behalf of himself as well as

1 others similarly situated. Plaintiff and Class members seek and are entitled to unpaid wages,
2 declaratory and injunctive relief, and all other equitable remedies owing to them.

3 181. Plaintiff herein takes upon himself enforcement of these laws and lawful claims. There
4 is a financial burden involved in pursuing this action, the action is seeking to vindicate a public right,
5 and it would be against the interests of justice to penalize Plaintiff by forcing them to pay attorneys'
6 fees from the recovery in this action. Attorneys' fees are appropriate pursuant to Code of Civil
7 Procedure §1021.5 and otherwise.

8 182. Wherefore, Plaintiff and the putative California Class request relief as hereinafter
9 provided.

10 **TENTH CAUSE OF ACTION**

11 **Penalties Pursuant to § 2699(a) of the Private Attorneys General Act
(Against All Defendants – on Behalf of the Aggrieved Employees and State of California)**

12 183. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
13 herein. This claim is brought by Plaintiff Wright on behalf of the Aggrieved Employees against
14 Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC
15 dba Greenhaven Estates Assisted Living.

16 184. California Labor Code § 2699(a) provides:

17 Notwithstanding any other provision of law, any provision of this code
18 that provides for a civil penalty to be assessed and collected by the
19 Labor and Workforce Development Agency or any of its departments,
20 divisions, commissions, boards, agencies or employees, for a violation
of this code, may, as an alternative, be recovered through a civil action
brought by an aggrieved employee on behalf of himself or herself and
other current or former employees.

21 185. California Labor Code § 203 provides, in relevant part:

22 If an employer willfully fails to pay, without abatement or reduction,
23 in accordance with Sections 201, 201.5, 202, and 205.5, any wages of
24 an employee who is discharged or who quits, the wages of the
25 employee shall continue as a penalty from the due date thereof at the
same rate until paid or until an action therefore is commenced; but the
wages shall not continue for more than 30 days.

26 186. California Labor Code § 226(a) provides:

1 Every employer shall, semimonthly or at the time of each payment of
2 wages, furnish each of his or her employees, either as a detachable part
3 of the check, draft, or voucher paying the employee's wages, or
4 separately when wages are paid by personal check or cash, an accurate
5 itemized statement in writing showing (1) gross wages earned, (2) total
6 hours worked by the employee, except for any employee whose
7 compensation is solely based on a salary and who is exempt from
8 payment of overtime under subdivision (a) of Section 515 or any
9 applicable order of the Industrial Welfare Commission, (3) the number
10 of piece-rate units earned and any applicable piece rate if the employee
11 is paid on a piece-rate basis, (4) all deductions, provided that all
12 deductions made on written orders of the employee may be aggregated
13 and shown as one item, (5) net wages earned, (6) the inclusive dates of
14 the period for which the employee is paid, (7) the name of the employee
15 and his or her social security number, (8) the name and address of the
16 legal entity that is the employer, and (9) all applicable hourly rates in
17 effect during the pay period and the corresponding number of hours
18 worked at each hourly rate by the employee. The deductions made
19 from payments of wages shall be recorded in ink or other indelible
20 form, properly dated, showing the month, day, and year, and a copy of
21 the statement or a record of the deductions shall be kept on file by the
22 employer for at least four years at the place of employment or at a
23 central location within the State of California.

15 187. Labor Code § 510(a) provides:

16 Eight hours of labor constitutes a day's work. Any work in excess of eight
17 hours in one workday and any work in excess of 40 hours in any one
18 workweek and the first eight hours worked on the seventh day of work in any
19 one workweek shall be compensated at the rate of no less than one and one-
20 half times the regular rate of pay for an employee. Any work in excess of 12
21 hours in one day shall be compensated at the rate of no less than twice the
22 regular rate of pay for an employee.

21 188. Labor Code §§ 226.7 and 512 and the applicable Wage Order requires Defendants to
22 authorize and permit meal and rest periods to its employees. Labor Code § 512(a) provides:

23 An employer shall not employ an employee for a work period of more than
24 five hours per day without providing the employee with a meal period of not
25 less than 30 minutes, except that if the total work period per day of the
26 employee is no more than six hours, the meal period may be waived by
27 mutual consent of both the employer and employee. An employer shall not
28 employ an employee for a work period of more than 10 hours per day without
providing the employee with a second meal period of not less than 30 minutes,
except that if the total hours worked is no more than 12 hours, the second

1 meal period may be waived by mutual consent of the employer and the
2 employee only if the first meal period was not waived.

3 189. California Labor Code § 558(a) provides:

4 (a) Any employer or other person acting on behalf of an employer who
5 violates, or causes to be violated, a section of this chapter or any
6 provision regulating hours and days of work in any order of the
7 Industrial Welfare Commission shall be subject to a civil penalty as
8 follows:

9 (1) For any initial violation, fifty dollars (\$50) for each underpaid
10 employee for each pay period for which the employee was
11 underpaid in addition to an amount sufficient to recover underpaid
12 wages.

13 (2) For each subsequent violation, one hundred dollars (\$100) for
14 each underpaid employee for each pay period for which the
15 employee was underpaid in addition to an amount sufficient to
16 recover underpaid wages.

17 (3) Wages recovered pursuant to this section shall be paid to the
18 affected employee.

19 190. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and
20 Workforce Development Agency (“LWDA”) with notice (“PAGA notice”) of his intention to file
21 this claim on July 1, 2019. Sixty-five calendar days have passed without notice from the LWDA.
22 Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with
23 § 2699.3(a). Further, Plaintiff amended his PAGA notice which is attached hereto as Exhibit A.

24 191. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure
25 by Defendants, as alleged above, to timely pay all wages owed to Plaintiff and Aggrieved Employees
26 (e.g., unpaid minimum wages, overtime wages, meal and rest period premiums) during and at the
27 end of their employment in compliance with Labor Code §§ 201-202, 204 in the amounts established
28 by Labor Code § 203. Plaintiff seeks such penalties as an alternative to the penalties available under
Labor Code § 203, as prayed for herein.

192. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure
by Defendants, alleged above, to provide Plaintiff and each Aggrieved Employee an accurate,
itemized wage statement in compliance with Labor Code §§ 226(a) and 1174(d) in the amounts
established by Labor Code § 226(e). Plaintiff seeks such penalties as an alternative to the penalties
available under Labor Code § 226(e), as prayed for herein.

1 193. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure
2 by Defendants, alleged above, to provide Plaintiff and each Aggrieved Employee compliant meal
3 and rest periods in compliance with Labor Code §§ 226.7 and 512.

4 194. Plaintiff also seeks civil penalties pursuant to Labor Code §§ 2800 and 2802 for each
5 failure by Defendants, alleged above, to reimburse and indemnify Plaintiff and Aggrieved
6 Employees for all necessary expenditures and losses by Aggrieved Employees in direct consequence
7 of the discharge of their duties.

8 195. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each violation
9 of the following Labor Code sections: §§ 1194 1197, 1197.1 (failure to pay minimum wage); §§
10 510, 1194 (failure to pay overtime wages); § 226.7 and 512 (failure to provide meal and rest periods);
11 §§ 204 and 210 (failure to compensate for all hours worked); § 226 (failure to provide timely and
12 compliant itemized wage statements); §§ 201-203 (failure to pay wages upon termination or
13 discharge); §§ 2800-2802 (failure to reimburse for necessary business expenditures); §§ 551-552
14 (failure to provide 1 day of rest during a 7 day workweek); § 558 (civil penalties for underpayment
15 of wages); 1198 (failure to pay at the regular rate of pay where employee is scheduled to work and
16 does report for work but is not provided work less than half the employee's usual or scheduled day's
17 work); 1174(d) (failure to keep complete and accurate wage statements); 2810.5 (failure to provide
18 written notice of pay and other necessary information at time of hire); and violations of IWC Wage
19 Orders including, but not limited to, Wage Orders 4-2001 and 5-2001.

20 196. Plaintiff also seeks civil penalties for all of the violations alleged in Exhibit A.

21 197. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved
22 Employees, and himself as set forth in Labor Code § 2699(g)(i).

23 198. Defendants are liable to Plaintiff, the Aggrieved Employees, and the State of California
24 for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an
25 award of attorneys' fees and costs as set forth below.

26 199. Wherefore, Plaintiff requests relief as hereinafter provided.
27

ELEVENTH CAUSE OF ACTION

**Penalties Pursuant to § 2699(f) of the Private Attorneys General Act
(Against All Defendants – on Behalf of the Aggrieved Employees and State of California)**

200. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein. This claim is brought by Plaintiff Wright on behalf of the Aggrieved Employees against Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior Living, LLC dba Greenhaven Estates Assisted Living.

201. Labor Code § 2699(f) provides:

For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

202. To the extent than any violation alleged herein does not carry penalties under Labor Code § 2699(a), Plaintiff seeks civil penalties pursuant to Labor Code § 2699(f) for Plaintiff and Aggrieved Employees each pay period in which he or she was aggrieved, in the amounts established by Labor Code § 2699(f).

203. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff has provided the LWDA with notice of his intention to file this claim on July 1, 2019. Sixty-five calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

204. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved Employees, and themselves as set forth in Labor Code § 2699(g)(i).

205. Defendants are liable to Plaintiff, the Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

206. Wherefore, Plaintiff requests relief as hereinafter provided.

TWELFTH CAUSE OF ACTION
Failure to Pay Minimum Wage

1 **Pursuant to RCW 49.46.090, RCW 49.12.150**
2 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
3 **of the Washington Class)**

4 207. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
5 herein.

6 208. This claim is brought by Plaintiff Quam on behalf of the Washington Class against
7 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

8 209. As detailed above, Defendants fail to compensate Plaintiff Quam and putative Class
9 members with at least the minimum wage for all hours worked.

10 210. Under RCW 49.46.090, employers must pay employees all wages to which they are
11 entitled under the Washington Minimum Wage Act. If the employer fails to do so, RCW 49.46.090
12 requires that the employer pay the employees the full amount due to such employee, less any amount
13 actually paid to the employee, and for costs and such reasonable attorney’s fees as may be allowed
14 by the court.

15 211. During the applicable statutory period, RCW 49.46.020(1)(a) was in full force and
16 effect and required that Plaintiff and putative Class members receive the minimum wage for all hours
17 worked at the rate of nine dollars thirty-two cents (\$9.32) per hour commencing January 1, 2014, at
18 the rate of nine dollars forty-seven cents (\$9.47) per hour commencing July 1, 2015, at the rate of
19 eleven dollars (\$11.00) per hour commencing January 1, 2017, at a rate of eleven dollars and fifty
20 cents (\$11.50) per hour commencing January 1, 2018, at a rate of twelve dollars (\$12.00) per hour
21 commencing January 1, 2019, and at a rate of thirteen dollars and fifty cents (\$13.50) per hour
22 commencing January 1, 2020.

23 212. Washington Administrative Code (“WAC”) 296-126-002 defines hours worked as “all
24 hours during which the employee is authorized or required by the employer to be on duty on the
25 employer's premises or at a prescribed work place.

26 213. RCW 49.46.090(1) provides, in relevant part:
27 Any employer who pays any employee less than the amounts to which such
28 employee is entitled under or by virtue of this chapter, shall be liable to such
employee affected for the full amount due to such employee under this

1 chapter, less any amount actually paid to such employee by the employer,
2 and for costs and such reasonable attorney's fees as may be allowed by the
3 court.

4 214. RCW 49.12.150 also provides:

5 If any employee shall receive less than the legal minimum wage, except as
6 hereinbefore provided in RCW 49.12.110, said employee shall be entitled
7 to recover in a civil action the full amount of the legal minimum wage as
8 herein provided for, together with costs and attorney's fees to be fixed by
9 the court, notwithstanding any agreement to work for such lesser wage. In
10 such action, however, the employer shall be credited with any wages which
11 have been paid upon account.

12 215. RCW 49.48.030 allows the court to grant reasonable attorney's fees "[i]n any action in
13 which any person is successful in recovering judgment for wages or salary owed" to him or her.

14 216. Because of Defendants' policies and practices with regard to compensating Plaintiff
15 and putative Class members, Defendants have failed to pay minimum wages as required by law.
16 Plaintiff and putative Class members frequently perform work for which they are compensated below
17 the statutory minimum.

18 217. Plaintiff and putative Class members have been deprived of minimum wages in an
19 amount to be proven at trial, and are entitled to a recovery of such amount, plus interest thereon,
20 attorneys' fees, and costs of suit pursuant to RCW 49.46.090 and 49.48.030.

21 218. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter
22 provided.

23 **THIRTEENTH CAUSE OF ACTION**

24 **Failure to Pay Overtime Wages**

25 **Pursuant to WMWA 49.46.130**

26 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
27 of the Washington Class)**

28 219. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
herein.

219. This claim is brought by Plaintiff Quam on behalf of the Washington Class against
Defendants Frontier Management LLC and Frontier Senior Living, LLC.

220. As detailed above, Defendants fail to compensate Plaintiff and putative Class members
with at least the minimum wage for all hours worked.

1 222. Defendants do not compensate Plaintiff and putative Class members with the
2 appropriate overtime rate for work performed in excess of forty hours per week.

3 223. RCW 49.46.130(1) provides that work performed in excess of forty hours in a given
4 week must be compensated at a rate of no less than one and one-half times the regular rate of pay for
5 an employee.

6 224. Wages are defined in the RCW 49.46.010(7) as “compensation due to an employee by
7 reason of employment, payable in legal tender of the United States or checks on banks convertible
8 into cash on demand at full face value, subject to such deductions, charges, or allowances as may be
9 permitted by rules of the director.”

10 225. All such wages are subject to Washington’s overtime requirements, including those set
11 forth above.

12 226. RCW 49.46.090(1) provides, in relevant part:

13 Any employer who pays any employee less than the amounts to which such
14 employee is entitled under or by virtue of this chapter, shall be liable to such
15 employee affected for the full amount due to such employee under this
16 chapter, less any amount actually paid to such employee by the employer,
and for costs and such reasonable attorney's fees as may be allowed by the
court.

17 227. RCW 49.48.030 allows the court to grant reasonable attorney’s fees “[i]n any action in
18 which any person is successful in recovering judgment for wages or salary owed” to him or her.

19 228. Defendants regularly require Plaintiff and putative Class members to work in excess of
20 forty hours per week, but do not compensate them at an overtime rate for all of this work.
21 Furthermore, as detailed above, Defendants routinely require Plaintiff and putative Class members
22 to work, off the clock, which increases the amount of overtime compensation to which they are due,
23 but do not receive.

24 229. Plaintiff and putative Class members have worked overtime hours for Defendants
25 without being paid overtime premiums in violation of the RCW, and other applicable laws of the
26 state of Washington.

27 230. Defendants have knowingly and willfully refused to perform their obligation to
28

1 compensate Plaintiff and the putative Class members for all premium wages for overtime work.

2 231. Plaintiff and putative Class members are entitled to recover unpaid overtime under
3 Washington law, and they are also entitled to declaratory relief stating Defendants violated the
4 statute, and continues to violate the statute, as described above.

5 232. Plaintiff further seeks declaratory relief stating Defendants is in violation of RCW
6 49.46.130 for failing to compensate putative Class members for “off-the-clock” work performed for
7 the benefit of Defendants.

8 233. Plaintiff and putative Class members who are within the applicable statute of
9 limitations are entitled to collect the difference between the wages received that were then due and
10 the overtime wages due in an amount to be proven at trial, together with double damages (RCW
11 49.52.070), attorney fees, costs and disbursements (RCW 49.12.150; RCW 49.48.030), civil
12 penalties (RCW 49.12.170), as well as pre- and post-judgment interest at the rate of 12% per annum
13 (RCW 19.52.020).

14 234. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter
15 provided.

16 **FOURTEENTH CAUSE OF ACTION**
17 **Failure to Authorize and Permit and/or Make Available Meal and Rest Breaks**
18 **Pursuant to RCW 49.12.020**
19 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
20 **of the Washington Class)**

21 235. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
22 herein.

23 236. This claim is brought by Plaintiff Quam on behalf of the Washington Class against
24 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

25 237. As detailed above, Defendants fail to compensate Plaintiff and putative Class members
26 with at least the minimum wage for all hours worked.

27 238. RCW 49.12.010 provides:

The welfare of the state of Washington demands that all employees be
protected from conditions of labor which have a pernicious effect on their
health. The state of Washington, therefore, exercising herein its police and

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sovereign power declares that inadequate wages and unsanitary conditions of labor exert such pernicious effect.

239. RCW 49.12.020 provides that “[i]t shall be unlawful to employ any person in any industry or occupation within the state of Washington under conditions of labor detrimental to their health.”

240. Pursuant to RCW 49.12.005(5) and WAC 296-126-002(9), conditions of labor “means and includes the conditions of rest and meal periods” for employees.

241. WAC 296-126-092 provides:

(1) Employees shall be allowed a meal period of at least thirty minutes which commences no less than two hours nor more than five hours from the beginning of the shift. Meal periods shall be on the employer's time when the employee is required by the employer to remain on duty on the premises or at a prescribed work site in the interest of the employer.

(2) No employee shall be required to work more than five consecutive hours without a meal period.

(3) Employees working three or more hours longer than a normal work day shall be allowed at least one thirty-minute meal period prior to or during the overtime period.

(4) Employees shall be allowed a rest period of not less than ten minutes, on the employer's time, for each four hours of working time. Rest periods shall be scheduled as near as possible to the midpoint of the work period. No employee shall be required to work more than three hours without a rest period.

(5) Where the nature of the work allows employees to take intermittent rest periods equivalent to ten minutes for each 4 hours worked, scheduled rest periods are not required.

242. In the present case, Plaintiff and putative Class members are routinely required to work through rest and meal periods. When Plaintiff and putative Class members do receive a meal or rest break, these breaks generally are on duty.

243. By actions alleged above, Defendants have violated WAC 296-126-092. This, in turn, constitutes a violation of RCW 49.12.010 and RCW 49.12.020.

244. Defendants implemented a policy and practice of either failing to provide Plaintiff and putative Class members with the meal and rest breaks to which they were entitled, failing to ensure those breaks were taken, failing to record missed breaks, and failing to pay for missed breaks.

1 245. Because Plaintiff and putative Class members were not provided a meal break, were
2 not relieved of all duties during their meal breaks, and were subject to interruption during their meal
3 breaks, they did not receive continuous meal breaks in accordance with WAC 296-126-092.

4 246. Because Plaintiff and putative Class members have failed to receive the meal and rest
5 breaks to which they were entitled, ICS has violated WAC 296-126-092.

6 247. Because Plaintiff and putative Class members were constantly engaged in work
7 activities during their meal breaks in violation of WAC 296-126-092, Plaintiff and putative Class
8 members should be additionally compensated for thirty (30) minutes each for each meal break
9 missed. *See Pellino v. Brink's Inc.*, 164 Wn. App. 668, 688, 267 P.3d 383 (2011).

10 248. Because Plaintiff and putative Class members were constantly engaged in work
11 activities during their paid rest breaks in violation of WAC 296-126-092, Plaintiff and putative Class
12 members should be additionally compensated for ten (10) minutes each for each rest break missed.
13 *See Washington State Nurses Ass'n v. Sacred Heart Med. Ctr.*, 175 Wn.2d 822, 287 P.3d 516 (2012).

14 249. Plaintiff and putative Class members are entitled to recover wages at one and one-half
15 times their regular hourly rate for all time owed by Defendants for missed rest and meal breaks that,
16 when added to the other hours worked in a week, exceeded 40 hours.

17 250. As a result of these unlawful acts, Plaintiff and the putative Class have been deprived
18 of compensation in amounts to be determined at trial, and Plaintiff and the putative Class are entitled
19 to the recovery of such damages, including interest thereon, civil penalties, and attorneys' fees and
20 costs under RCW 49.48.030 and 49.12.170.

21 251. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter
22 provided.

23 **FIFTEENTH CAUSE OF ACTION**

24 **Unpaid Wages On Termination**

25 **Pursuant to RCW 49.48.010**

26 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
27 **of the Washington Class)**

28 252. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth

1 herein.

2 253. This claim is brought by Plaintiff Quam on behalf of the Washington Class against
3 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

4 254. As detailed above, Defendants fail to compensate Plaintiff and putative Class members
5 with at least the minimum wage for all hours worked.

6 255. RCW 49.48.010 provides that “[w]hen any employee shall cease work for an employer,
7 whether by discharge or by voluntary withdrawal, the wages due him on account of his employment
8 shall be paid to him at the end of the established pay period.”

9 256. By the actions alleged above, Defendants have violated and continues to violate the
10 provisions of RCW 49.48.010.

11 257. Under RCW 49.46.090, employers must pay employees all wages to which they are
12 entitled under the Washington Minimum Wage Act. If the employer fails to do so, RCW 49.46.090
13 requires that the employer pay the employees the full amount of the statutory minimum wage rate
14 less any amount actually paid to the employee.

15 258. By the actions alleged above, Defendants have violated the provisions of RCW
16 49.46.090 and the Washington law by failing to pay any wage whatsoever to Plaintiff and putative
17 Class members when they work off the clock, miss all or part of their breaks, and are deprived of
18 correct overtime compensation.

19 259. As a result of the unlawful acts of Defendants, Plaintiff and the putative Classes have
20 been deprived of regular and overtime compensation in an amount to be determined at trial. Pursuant
21 to RCW 49.46.090 and 49.48.030, Plaintiff and the putative Class are entitled to recover attorneys'
22 fees and costs of suit.

23 260. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter
24 provided.

25 **SIXTEENTH CAUSE OF ACTION**

26 **Willful Refusal to Pay Wages**

27 **Pursuant to RCW 49.52.050**

28 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**

of the Washington Class)

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2 261. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
3 herein.

4 262. This claim is brought by Plaintiff Quam on behalf of the Washington Class against
5 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

6 263. As detailed above, Defendants fail to compensate Plaintiff and putative Class members
7 with at least the minimum wage for all hours worked.

8 264. RCW 49.52.050(2) provides that any employer or agent of any employer who
9 “[w]illfully and with intent to deprive the employee of any party of his wages, shall pay any employee
10 a lower wage than the wage such employer is obligated to pay such employee by any statute,
11 ordinance, or contract” shall be guilty of a misdemeanor.

12 265. RCW 49.52.070 provides that any employer who violates the foregoing statute shall be
13 liable in a civil action for twice the amount of wages withheld, together with costs of suit and
14 reasonable attorney fees.

15 266. An employer’s nonpayment of wages is willful and made with intent “when it is the
16 result of knowing and intentional action and not the result of a bona fide dispute as to the obligation
17 of payment.” *Wingert v. Yellow Freight Sys., Inc.* 146 Wash.2d 841, 849 (2002), quoting *Chelan*
18 *Cnty. Deputy Sheriffs’ Ass’n v. Chelan County*, 109 Wash.2d 282, 300 (1987).

19 267. In the present case, Defendants intentionally fail to pay all wages owed to Plaintiff and
20 putative Class members, including minimum wage and overtime wages, by requiring Plaintiff and
21 putative Class members to work during meal and rest periods. Defendants knew or should have
22 known that their employment policies violate Washington law, and their failure to pay wages owed
23 to Plaintiff and putative Class members was “willful” under RCW 49.52.050(2).

24 268. Because Defendants’ failure to pay wages owed was “willful,” Plaintiff and the putative
25 Class are entitled to exemplary damages under RCW 49.52.070.

26 269. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter
27 provided.

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SEVENTEETH CAUSE OF ACTION

Violations of RCW 49.52.060 and WAC 296-126-028

(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf of the Washington Class)

270. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

271. This claim is brought by Plaintiff Quam on behalf of the Washington Class against Defendants Frontier Management LLC and Frontier Senior Living, LLC.

272. As detailed above, Defendants fail to compensate Plaintiff and putative Class members with at least the minimum wage for all hours worked.

273. Pursuant to RCW 49.52.060 and WAC 296-126-028, an employer may not make deductions from employee’s wages except in limited circumstances.

274. Under Washington law, deductions and rebates must be identified and recorded “openly and clearly in employee payroll records.” WAC 296-126-028(5); *see also* RCW 49.52.060; WAC 296-128-010(9).

275. By the actions alleged above, Defendants have violated RCW 49.52.060 and WAC 296-126-028.

276. As a result of the unlawful acts of Defendants, Plaintiff and the putative Class have been deprived of compensation in amounts to be determined at trial. Pursuant to RCW 49.52.060 and WAC 296-126-028, Plaintiff and the putative Class are entitled to recovery of such damages, including interest thereon, as well as attorneys’ fees under RCW 49.48.030 and costs.

277. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter provided.

EIGHTEENTH CAUSE OF ACTION

Violation of Washington’s Consumer Protection Act

Pursuant to RCW 19.86

(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf of the Washington Class)

278. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

1 279. This claim is brought by Plaintiff Quam on behalf of the Washington Class against
2 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

3 280. As detailed above, Defendants fail to compensate Plaintiff and putative Class members
4 with at least the minimum wage for all hours worked.

5 281. Defendants have engaged in unfair or deceptive acts or practices when they: (i) fail to
6 pay Plaintiffs and putative Class members wages for off-the-clock work; (ii) prevent Plaintiffs and
7 putative Class members from taking rest and meal breaks; (iii) fail to pay Plaintiffs and putative
8 Class members for the periods during which their rest and meal breaks were interrupted; (iv) fail to
9 pay Plaintiffs and putative Class members for overtime worked; (v) violate RCW 49.46.30; (vi)
10 violate WAC 296-126-023; and (vii) violate WAC 296-126-092 and 296-125-0287.

11 282. Defendants' unfair or deceptive acts or practices repeatedly occur in Defendants' trade
12 or business, injured Plaintiff and the putative Class, and impacted the public interest because they
13 injured other persons and had and have the capacity to injure other persons.

14 283. As a direct and proximate cause of Defendants' unfair or deceptive acts or practices,
15 Plaintiff and the putative Class have suffered actual damages, in that Plaintiff and putative Class
16 members are wrongfully denied the payment of wages, are forced to work off the clock, and are
17 prevented from taking rest and meal breaks.

18 284. As a result of Defendants' unfair and deceptive practices, Plaintiff and the putative
19 Class are entitled, pursuant to RCW 19.86.090, to recover treble damages, reasonable attorneys' fees,
20 and costs.

21 285. Wherefore, Plaintiff and the putative Washington Class request relief as hereinafter
22 provided.

23 **NINETEENTH CAUSE OF ACTION**
24 **Failure to Pay Minimum Wages**
25 **Pursuant to ORS 653.025 AND OAR 839-020-0030**
26 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
27 **of the Oregon Class)**

28 286. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth

1 herein.

2 287. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
3 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

4 288. As detailed above, Defendants fail to compensate Plaintiff Lewis and putative Class
5 members with at least the minimum wage for all hours worked.

6 289. Pursuant to ORS 653.015, it is “the policy of the State of Oregon to establish minimum
7 wage standards for workers at levels consistent with their health, efficiency and general well-being.”

8 290. During the applicable statutory period, ORS 653.025 was in full force and effect and
9 required that Plaintiff and putative Class members receive the minimum wage for each hour of work
10 time that the employees are gainfully employed at the rate of nine dollars seventy-five cents (\$9.75)
11 per hour commencing June 1, 2016, at the rate of ten dollars twenty-five cents (\$10.25) per hour
12 commencing July 1, 2017, at the rate of ten dollars seventy-five cents (\$10.75) per hour commencing
13 July 1, 2018, at a rate of eleven dollars and twenty-five cents (\$11.25) per hour commencing July 1,
14 2019, and at a rate of twelve dollars (\$12.00) per hour commencing July 1, 2020.

15 291. ORS 653.010 defines work time worked as “both time worked and time of authorized
16 attendance.”

17 292. ORS 653.055(1) provides, in relevant part:

18
19 Any employer who pays an employee less than the wages to which the
20 employee is entitled under ORS 653.010 (Definitions for ORS 653.010 to
21 653.261) to 653.261 (Minimum employment conditions) is liable to the
22 employee affected:

- 23 (a) For the full amount of the wages, less any amount actually paid
24 to the employee by the employer; and
25 (b) For civil penalties provided in ORS 652.150 (Penalty wage for
26 failure to pay wages on termination of employment).

27 293. Pursuant to ORS 12.080, a six-year statute of limitations is applied for liability of
28 unpaid regular wages. *See, e.g., Makaneole v. Solarworld Indus. Am., Inc.*, No. 3:14-CV-1528-PK,
2016 WL 7856433, at *13 (D. Or. Sept. 2, 2016), *report and recommendation adopted*, No. 3:14-
CV-01528-PK, 2017 WL 253983 (D. Or. Jan. 17, 2017) (“As to [plaintiff’s claims] for unpaid regular

1 wages, that claim is subject to a six-year statute of limitations[.]” (citing ORS 12.080(1)).

2 294. ORS 652.150(1) states that, “if an employer willfully fails to pay any wages or
3 compensation of any employee whose employment ceases, as provided in ORS 652.140 . . . , then,
4 as a penalty for the nonpayment, the wages or compensation of the employee shall continue from the
5 due date thereof at the same hourly rate for eight hours per day until paid or until action therefor is
6 commenced. *See* ORS 652.150(1). Penalty wages are not to continue for more than 30 days from the
7 due date. *See* ORS 652.150(1)(a).

8 295. Pursuant to ORS 12.100(2), “the limitations period applicable to claims for penalties
9 arising out of the failure to pay minimum wages is three years.” *Gessele v. Jack in the Box, Inc.*, 427
10 F. Supp. 3d 1276, 1326 (D. Or. 2019) (citing *Russell v. U. S. Bank Nat'l Ass'n*, 246 Or. App. 74, 77,
11 265 P.3d 1, 2 (2011)).

12 296. Defendants’ failure to make payment of Plaintiff’s and putative Class members’ final
13 wages when due was willful and continued for not less than 30 days.

14 297. ORS 653.055(4) allows the court to grant reasonable attorney’s fees “to the prevailing
15 party in any action brought by an employee under this section.”

16 298. Because of Defendants’ policies and practices with regard to compensating Plaintiff
17 and putative Class members, Defendants have failed to pay minimum wages as required by law.
18 Plaintiff and putative Class members frequently perform work for which they are compensated below
19 the statutory minimum.

20 299. Because of Defendants’ failure to make payment of final wages when due, Plaintiff is
21 due statutory penalty wages of not less than one hundred percent, pursuant to ORS 652.150, for the
22 continuation of Plaintiff’s unpaid final wages for not less than 30 days. Likewise, putative Class
23 members who ended their employment but were not fully compensated their total wages due and
24 owing are likewise due statutory penalty wages pursuant to ORS 652.150.

25 300. Because of Defendants’ failure to pay Plaintiff’s and putative Class members’ wages
26 within the time required by law, Plaintiff and putative Class members are entitled to recover costs,
27

1 disbursements, and reasonable attorney fees pursuant to ORS 653.055(4) and ORS 652.200.

2 301. Plaintiff and putative Class members who are within the applicable six-year statute of
3 limitations seek statutory wages pursuant to ORS 653.055; plus costs, disbursements and attorney
4 fees pursuant to ORS 653.055(4) and ORS 652.200; plus pre- and post-judgment interest in the
5 amount of 9% per annum incurred herein under ORS 82.010.

6 302. Plaintiff and putative Class members who are within the applicable three-year statute
7 of limitations also seek civil penalties pursuant to ORS 653.055 and ORS 12.100(2).

8 303. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
9 provided.

10 **TWENTIETH CAUSE OF ACTION**

11 **Failure to Pay Overtime Wages**

12 **Pursuant to ORS 653.261 AND OAR 839-020-0030**

13 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
14 **of the Oregon Class)**

15 304. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
16 herein.

17 305. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
18 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

19 306. Pursuant to ORS 653.261, Defendants were required to pay Plaintiff and Oregon Class
20 members one and one-half times their regular rate of pay for all hours worked in excess of forty in a
21 given workweek, when those wages were due, but willfully failed to do so.

22 307. Plaintiff and putative Class members are entitled to recover unpaid overtime under
23 Oregon law, and Plaintiff and putative Class members are also entitled to declaratory relief stating
24 Defendants violated the statute, and continue to violate the statute, by incorporating and continuing
25 to utilize the automatic time deduction policy as described above.

26 308. Plaintiff and putative Class members are further entitled to recover unpaid overtime for
27 time worked “off-the-clock” that went uncompensated. Plaintiff and putative Class members further
28 seek declaratory relief stating Defendants are in violation of ORS 653.261 and OAR 839-020-0030

1 for failing to compensate Plaintiff for “off-the-clock” work performed for the benefit of Defendants.

2 309. Plaintiff and putative Class members who are within the applicable two-year statute of
3 limitations are entitled to collect the difference between wages received then due and the overtime
4 wages due in an amount to be proven at trial, together with attorney fees, costs and disbursements,
5 as well as pre- and post-judgment interest at the rate of 9% per annum. See ORS 652.200; ORS
6 82.010.

7 310. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
8 provided.

9 **TWENTY-FIRST CAUSE OF ACTION**

10 **Unlawful Deductions from Wages**

11 **Pursuant to ORS 652.610**

12 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
13 of the Oregon Class)**

14 311. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
15 herein.

16 312. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
17 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

18 313. Defendants deducted wages from Plaintiff and putative Class members for unidentified
19 deductions, namely for deducting wages in the form of failing to compensate Plaintiff and putative
20 Class members for “off-the-clock” work performed. Said withholdings were unauthorized and in
21 violation of ORS 652.610.

22 314. As a result of Defendants’ wrongful withholdings, Plaintiff and putative Class members
23 are entitled to actual damages or \$200 per violation, whichever is greater, for each violation pursuant
24 to ORS 652.615. Defendants are liable for unpaid wages and liabilities for unlawful deductions from
25 wages for a period of six years from the date the wages were earned. ORS 12.080(1).

26 315. Because of Defendants’ failure to pay Plaintiff’s and putative Class members’ wages
27 within 48 hours after they were due, Plaintiff and putative Class members are entitled to recover
28 costs, disbursements, and reasonable attorney fees pursuant to ORS 652.200.

1 316. Because of Defendants’ wrongful withholding from Plaintiff’s and putative Class
2 members’ wages, Plaintiff and putative Class members are entitled to recover costs, disbursements
3 and a reasonable sum for attorney fees, pursuant to ORS 652.615, plus pre- and post-judgment
4 interest in the amount of 9% per annum incurred herein under ORS 82.010.

5 317. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
6 provided.

7 **TWENTY-SECOND CAUSE OF ACTION**
8 **Failure to Pay All Wages Due Upon Separation of Employment**
9 **Pursuant to ORS 652.140**
10 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
11 **of the Oregon Class)**

12 318. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
13 herein.

14 319. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
15 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

16 320. ORS 652.140 requires that, “[w]hen an employer discharges an employee or when
17 employment is terminated by mutual agreement, all wages earned and unpaid at the time of the
18 discharge or termination become due and payable not later than the end of the first business day after
19 the discharge or termination.” See ORS 652.140(1).

20 321. ORS 652.140 further requires that individuals who provide at least 48 hours’ notice of
21 an intent to quit must immediately be paid all wages earned and unpaid at the time their resignation
22 becomes effective. If the employee quits within less than 48 hours’ notice, the employer must pay
23 all wages earned and unpaid within five days. Plaintiff provided four days’ notice of her intent to
24 leave CVH’s employment.

25 322. ORS 652.150 states that, “if an employer willfully fails to pay any wages or
26 compensation of any employee whose employment ceases, as provided in ORS 652.140 . . . , then,
27 as a penalty for the nonpayment, the wages or compensation of the employee shall continue from the
28 due date thereof at the same hourly rate for eight hours per day until paid or until action therefor is

1 commenced. See ORS 652.150(1). Penalty wages are not to continue for more than 30 days from the
2 due date. See ORS 652.150(1)(a).

3 323. Pursuant to ORS 12.080, a six-year statute of limitations is applied for liability of
4 unpaid regular wages. *See, e.g., Makaneole v. Solarworld Indus. Am., Inc.*, No. 3:14-CV-1528-PK,
5 2016 WL 7856433, at *13 (D. Or. Sept. 2, 2016), *report and recommendation adopted*, No. 3:14-
6 CV-01528-PK, 2017 WL 253983 (D. Or. Jan. 17, 2017) (“As to [plaintiff’s claims] for unpaid regular
7 wages, that claim is subject to a six-year statute of limitations[.]”) (citing ORS 12.080(1)).

8 324. As described above, Defendants enacted a policy that deprived Plaintiff and putative
9 Class members compensation for all hours worked, including automatic time deductions and work
10 duties performed “off-the-clock.” As a result, Defendants failed to pay Plaintiff and putative Class
11 members all wages due and owing after separation from employment in violation of ORS 652.140.

12 325. In failing to pay all wages due upon separation of employment, Defendants acted as a
13 free agent, determined its own actions, was not responsible to, nor coerced by any other person, entity
14 or authority. Defendants knew that Plaintiff and putative Class members had ended and possessed
15 information regarding the hours worked and amount of wages due Plaintiff and putative Class
16 members at the date of termination. Defendants were capable of paying all wages earned and due at
17 termination.

18 326. Defendants’ failure to make payment of Plaintiff’s and putative Class members’ final
19 wages when due was willful and continued for not less than 30 days.

20 327. Because of Defendants’ failure to make payment of final wages when due, Plaintiff is
21 due statutory penalty wages of not less than one hundred percent, pursuant to ORS 652.150, for the
22 continuation of Plaintiff’s unpaid final wages for not less than 30 days. Likewise, putative Class
23 members who ended their employment but were not fully compensated their total wages due and
24 owing are likewise due statutory penalty wages pursuant to ORS 652.150.

25 328. Because of Defendants’ failure to pay Plaintiff’s and putative Class members’ wages
26 within the time required by law, Plaintiff and putative Class members are entitled to recover costs,
27

1 disbursements, and reasonable attorney fees pursuant to ORS 652.200.

2 329. Plaintiff and putative Class members seek statutory wages pursuant to ORS 652.150;
3 plus costs, disbursements and attorney fees pursuant to ORS 652.200; plus pre- and post-judgment
4 interest in the amount of 9% per annum incurred herein under ORS 82.010.

5 330. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
6 provided.

7 **TWENTY-THIRD CAUSE OF ACTION**

8 **Meal Break Violations**

9 **Pursuant to OAR 839-020-0050**

10 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf
11 of the Oregon Class)**

12 331. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
13 herein.

14 332. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against
15 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

16 333. Pursuant to OAR 839-020-0050, employees who have worked at least six hours are
17 entitled to a meal period of not less than 30 continuous minutes during which the employee is relieved
18 of all duties. See OAR 839-020-0050(2)(a). Except as otherwise provided in the rule, if an employee
19 is not relieved of all duties for 30 continuous minutes during the meal period, the employer must pay
20 the employee for the entire 30-minute meal period. See OAR 839-020-0050(2)(b).

21 334. Defendant implemented a policy that automatically rounds time worked from
22 Plaintiff's and putative Class members' time for each shift worked, to the detriment of Plaintiff and
23 putative Class members.

24 335. Because Plaintiff and putative Class members' meal breaks were subject to
25 interruption, were on duty, were not continuous, and were not relieved of all duties during the break,
26 Defendants' automatic time deduction for meal periods was and is in violation of OAR 839-020-
27 0050, and Plaintiff and putative Class members should be reimbursed for back wages for the entire
28 30 minutes from each work day.

1 336. Plaintiff is entitled to declaratory relief that Defendants’ past and ongoing automatic
2 time deduction policy violated and is in violation of the Oregon meal break requirements.

3 337. Plaintiff and putative Class members are entitled to recover unpaid wages at their
4 regular hourly rate for the minutes that were automatically deducted by Defendants for each work
5 period where that deduction took place. Pursuant to ORS 12.080, a six-year statute of limitations is
6 applied for liability of unpaid regular wages.

7 338. Defendants’ violation of the Oregon meal break rules was willful, as that term is used
8 in ORS 652.150. Defendants’ violation was willful because the automatic time deduction policy was
9 implemented purposefully and was not the product of inadvertence. Defendants had, or reasonably
10 should have had, a level of awareness of their obligation to pay Plaintiff and putative Class members
11 such that Defendants’ failure to pay was “willful.”

12 339. Because of Defendants’ failure to pay Plaintiff’s and putative Class members’ wages
13 within 48 hours after they were due, Plaintiff and putative Class members are entitled to recover
14 costs, disbursements, and reasonable attorney fees pursuant to ORS 652.200.

15 340. Because of Defendants’ wrongful withholding from putative Class members’ wages,
16 putative Class members are entitled to recover costs, disbursements and a reasonable sum for
17 attorney fees, pursuant to ORS 652.615, plus pre- and post-judgment interest in the amount of 9%
18 per annum incurred herein under ORS 82.010.

19 341. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
20 provided.

21 **TWENTY-FOURTH CAUSE OF ACTION**
22 **Declaratory Relief for Rest Period Violations**
23 **Pursuant to OAR 839-020-0050(6)**
24 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
25 **of the Oregon Class)**

26 342. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
27 herein.

28 343. This claim is brought by Plaintiff Lewis on behalf of the Oregon Class against

1 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

2 344. Pursuant to OAR 839-020-0050, every employer is required to provide each employee,
3 for each segment of four hours or major pay thereof worked in a work period, a rest period of not
4 less than ten continuous minutes during which the employee is relieved of all duties, without
5 deduction from the employee's pay. OAR 839-020-0050(6)(a).

6 345. Plaintiff and putative Class members generally worked shifts lasting over hours per
7 shift. Accordingly, Plaintiff and putative Class members were entitled to at least two separate rest
8 periods lasting 10 minutes each during which Plaintiff and putative Class members should have been
9 relieved of all duties. As discussed above, Plaintiff and putative Class members are subject to
10 interruption and are consistently denied requisite rest periods.

11 346. Plaintiff and putative Class members are entitled to declaratory relief finding that
12 Defendant is in violation of the rest break requirements provided by Oregon law.

13 347. Wherefore, Plaintiff and the putative Oregon Class request relief as hereinafter
14 provided.

15 **TWENTY-FIFTH CAUSE OF ACTION**

16 **Failure to Pay Minimum Wage**

17 **Pursuant to 820 ILCS § 105/4**

18 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
19 **of the Illinois Class)**

20 348. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
21 herein.

22 349. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
23 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

24 350. As detailed above, Defendants fails to compensate Plaintiff and putative Class
25 members with at least the minimum wage for all hours worked.

26 351. During the applicable statutory period, the IMWL, 820 ILCS § 105/4(a)(1), was in full
27 force and effect and required that Plaintiff and putative Class members receive the minimum wage
28 for all hours worked at the rate of eight dollars twenty-five cents (\$8.25) per hour commencing July

1 1, 2010, at the rate of nine dollars twenty-five cents (\$9.25) per hour commencing January 1, 2020,
2 and at the rate of ten dollars (\$10.00) per hour commencing July 1, 2020.

3 352. Plaintiff and putative Class members were directed to work by Defendants and, in fact,
4 did work but were not compensated at least at the Illinois minimum wage rate for all time worked.
5 Pursuant to 820 § ILCS 105/4, Plaintiff and putative Class members are entitled to be compensated
6 at least at the applicable Illinois-mandated minimum wage rate for all time worked.

7 353. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled
8 to recover unpaid minimum wages for three years prior to the filing of this suit, plus punitive damages
9 in the amount of two percent (2%) per month of the amount of underpayments.

10 354. Pursuant to 815 ILCS § 205/2, Plaintiff and the putative Class members are entitled to
11 recover prejudgment interest on minimum wage underpayments.

12 355. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled
13 to recover reasonable attorneys' fees and costs for their IMWL minimum wage claims.

14 356. Because of Defendants' policies and practices with regard to compensating Plaintiff
15 and putative Class members, Defendants have willfully failed to pay minimum wages as required by
16 law. The off-the-clock work—including but not limited to work during meal periods that have been
17 deducted from the nominal hours worked—contributes to the actual hours worked by Plaintiff and
18 putative Class members. Moreover, Defendants regularly require Plaintiff and putative Class
19 members to pay out-of-pocket for work expenses including but not limited to personal cellphone
20 bills, and fail to fully reimburse Plaintiff and putative Class members for these expenses, if at all.
21 When the remuneration received by Plaintiff and putative Class members is reduced by unreimbursed
22 out-of-pocket expenses, and then divided by the actual hours worked, Plaintiff and putative Class
23 members are frequently compensated below the statutory minimum.

24 357. Plaintiff and putative Class members have been deprived of minimum wages in an
25 amount to be proven at trial, and are entitled to a recovery of such amount, plus statutory damages,
26 interest thereon, attorneys' fees, and costs of suit pursuant to 820 ILCS § 105/12(a) and 815 ILCS §
27

1 205/2.

2 358. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
3 provided.

4 **TWENTY-SIXTH CAUSE OF ACTION**
5 **Failure to Pay Overtime Wages**
6 **Pursuant to 820 ILCS § 105/4a**
7 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
8 **of the Illinois Class)**

9 359. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
10 herein.

11 360. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
12 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

13 361. Defendants do not compensate Plaintiff and putative Class members with the
14 appropriate overtime rate for work performed in excess of forty hours per week.

15 362. 820 ILCS § 105/4a provides that work performed in excess of forty hours in a given
16 week must be compensated at a rate of no less than one and one-half times the regular rate of pay for
17 an employee.

18 363. 820 ILCS § 115/2 provides as follows:

19 For all employees, other than separated employees, "wages" shall be
20 defined as any compensation owed an employee by an employer pursuant
21 to an employment contract or agreement between the 2 parties, whether the
22 amount is determined on a time, task, piece, or any other basis of
23 calculation.

24 364. All such wages are subject to Illinois' overtime requirements, including those set forth
25 above.

26 365. 820 ILCS § 115/3 provides that "[e]very employer shall be required, at least semi-
27 monthly, to pay every employee all wages earned during the semi-monthly pay period."

28 366. 820 ILCS § 115/4 provides as follows:

All wages earned by any employee during a semi-monthly or bi-weekly pay
period shall be paid to such employee not later than 13 days after the end of
the pay period in which such wages were earned. All wages earned by any

1 employee during a weekly pay period shall be paid not later than 7 days
2 after the end of the weekly pay period in which the wages were earned. All
3 wages paid on a daily basis shall be paid insofar as possible on the same day
4 as the wages were earned, or not later in any event than 24 hours after the
5 day on which the wages were earned. Wages of executive, administrative
and professional employees, as defined in the Federal Fair Labor Standards
Act of 1938, may be paid on or before 21 calendar days after the period
during which they are earned.

6 367. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled
7 to recover unpaid overtime wages for three years prior to the filing of this suit, plus punitive damages
8 in the amount of two percent (2%) per month of the amount of underpayments.

9 368. Pursuant to 815 ILCS § 205/2, Plaintiff and the putative Class members are entitled to
10 recover prejudgment interest on overtime wage underpayments.

11 369. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled
12 to recover reasonable attorneys' fees and costs for their IMWL overtime claims.

13 370. Because of Defendants' policies and practices with regard to compensating Plaintiff
14 and putative Class members, Defendants have willfully failed to pay overtime wages as required by
15 law. The off-the-clock work—including but not limited to work during meal periods that have been
16 deducted from the nominal hours worked—contributes to the actual hours worked by Plaintiff and
17 putative Class members. The actual hours worked exceed the threshold for overtime pay. Moreover,
18 Defendants regularly require Plaintiff and putative Class members to pay out-of-pocket for work
19 expenses including but not limited to personal cellphone bills, and fail to fully reimburse Plaintiff
20 and putative Class members for these expenses, if at all. When the remuneration received by Plaintiff
21 and putative Class members is reduced by unreimbursed out-of-pocket expenses, and then divided
22 by the actual hours worked, Defendants fail to compensate by Plaintiff and putative Class members
23 at the appropriate overtime rate for all of these hours.

24 371. Plaintiff and putative Class members have been deprived of overtime wages in an
25 amount to be proven at trial, and are entitled to a recovery of such amount, plus statutory damages,
26 interest thereon, attorneys' fees, and costs of suit pursuant to 820 ILCS § 105/12(a) and 815 ILCS §
27 205/2.

1 372. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
2 provided.

3 **TWENTY-SEVENTH CAUSE OF ACTION**
4 **Failure to Pay for All Hours Worked**
5 **Pursuant to 820 ILCS §§ 115/3 and 115/4**
6 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
7 **of the Illinois Class)**

8 373. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
9 herein.

10 374. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
11 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

12 375. Defendants willfully engaged in and continues to engage in a policy and practice of not
13 compensating Plaintiff and putative Class members for all hours worked or spent in their control.

14 376. Defendants regularly schedules Plaintiff and the putative Class members to work
15 twelve-hour shifts. However, Defendants intentionally and willfully require Plaintiff and the
16 putative Class members to complete additional work off-the-clock, in excess of twelve hours per
17 day. For example, Defendants automatically deduct thirty minutes for time spent taking meal.
18 However, Plaintiff and putative Class members routinely work through this meal period and are not
19 compensated for that work. As a result, Defendants fail to pay Plaintiff and the putative Class
20 members for all hours worked and fail to track their actual hours worked.

21 377. 820 ILCS § 115/2 provides as follows:

22 For all employees, other than separated employees, "wages" shall be
23 defined as any compensation owed an employee by an employer pursuant
24 to an employment contract or agreement between the 2 parties, whether the
25 amount is determined on a time, task, piece, or any other basis of
26 calculation.

27 378. 820 ILCS § 115/3 provides that “[e]very employer shall be required, at least semi-
28 monthly, to pay every employee all wages earned during the semi-monthly pay period.”

379. 820 ILCS § 115/4 provides as follows:

All wages earned by any employee during a semi-monthly or bi-weekly pay

1 period shall be paid to such employee not later than 13 days after the end of
2 the pay period in which such wages were earned. All wages earned by any
3 employee during a weekly pay period shall be paid not later than 7 days after
4 the end of the weekly pay period in which the wages were earned. All wages
5 paid on a daily basis shall be paid insofar as possible on the same day as the
6 wages were earned, or not later in any event than 24 hours after the day on
7 which the wages were earned. Wages of executive, administrative and
8 professional employees, as defined in the Federal Fair Labor Standards Act
9 of 1938, may be paid on or before 21 calendar days after the period during
10 which they are earned.

11 380. Defendants require Plaintiff and putative Class members to work off-the-clock without
12 compensation. In other words, Plaintiff and putative Class members are forced to perform work for
13 the benefit of Defendants without compensation.

14 381. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled
15 to recover unpaid wages for three years prior to the filing of this suit, plus punitive damages in the
16 amount of two percent (2%) per month of the amount of underpayments.

17 382. Pursuant to 815 ILCS § 205/2, Plaintiff and the putative Class members are entitled to
18 recover prejudgment interest on wage underpayments.

19 383. Pursuant to 820 ILCS § 105/12(a), Plaintiff and the putative Class members are entitled
20 to recover reasonable attorneys' fees and costs for their unpaid wage claims.

21 384. In violation of Illinois law, Defendants knowingly and willfully refuse to perform their
22 obligations to provide Plaintiff and the putative Classes with compensation for all time worked.
23 Defendants regularly fail to track the time they actually worked or to compensate them for hours
24 worked. Therefore, Defendants committed, and continue to commit, the acts alleged herein
25 knowingly and willfully, and in conscious disregard of the Plaintiff and the putative Class members'
26 rights. Plaintiff and the putative Classes are thus entitled to recover nominal, actual, statutory, and
27 compensatory damages, plus interest, attorneys' fees, expenses, and costs of suit, pursuant to 820
28 ILCS § 105/12(a) and 815 ILCS § 205/2.

385. As a proximate result of the aforementioned violations, Plaintiff and the putative
Classes have been damaged in an amount according to proof at time of trial.

386. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter

1 provided.

2 **TWENTY-EIGHTH CAUSE OF ACTION**

3 **Unpaid Wages on Termination**

4 **Pursuant to 820 ILCS § 115/5**

5 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
6 **of the Illinois Class)**

7 387. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
8 herein.

9 388. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
10 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

11 389. Under the IWPCA, 820 ILCS § 115/5, employers must pay employees all wages to
12 which they are entitled under the IMWL at the time of the employee’s separation from employment,
13 if possible, “but in no case later than the next regularly scheduled payday for such employee.”

14 390. Under the IWPCA, 820 ILCS § 115/14, any employee not timely paid final
15 compensation by his or her employer as required by the IWPCA “shall be entitled to recover through
16 a claim filed with the Department of Labor or in a civil action, but not both, the amount of any such
17 underpayments and damages of 2% of the amount of any such underpayments for each month
18 following the date of payment during which such underpayments remain unpaid. In a civil action,
19 such employee shall also recover costs and all reasonable attorney’s fees.”

20 391. Pursuant to 815 ILCS § 205/2, Plaintiff and the putative Class members are entitled to
21 recover prejudgment interest for their final compensation claims.

22 392. Pursuant to 820 ILCS § 820 ILCS 115/14, Plaintiff and the putative Class members are
23 entitled to recover reasonable attorneys’ fees and costs for their final compensation claims.

24 393. By the actions alleged above, Defendants have violated the provisions of the IWPCA,
25 820 ILCS § 115/5 by failing to pay any wage whatsoever to Plaintiff and putative Class members
26 when they work off the clock, miss all or part of their breaks, and are deprived of correct overtime
27 compensation. Moreover, Defendants regularly require Plaintiff and putative Class members to pay
28 out-of-pocket for work expenses including but not limited to personal cellphone bills, and fail to

1 fully reimburse Plaintiff and putative Class members for these expenses, if at all. These amounts
2 remain due upon the separation of employment. Therefore, Defendants committed, and continue to
3 commit, the acts alleged herein knowingly and willfully, and in conscious disregard of the Plaintiff
4 and the putative Class members' rights. Plaintiff and the putative Classes are thus entitled to recover
5 nominal, actual, statutory, and compensatory damages, plus interest, attorneys' fees, expenses, and
6 costs of suit, pursuant to 820 ILCS § 115/14 and 815 ILCS § 205/2.

7 394. As a proximate result of the aforementioned violations, Plaintiff and the putative
8 Classes have been damaged in an amount according to proof at time of trial.

9 395. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
10 provided.

11 **TWENTY-NINTH CAUSE OF ACTION**
12 **Violation of Illinois Consumer Fraud and Deceptive Business Practices Act**
13 **Pursuant to 815 ILCS § 505/1 *et seq.***
14 **(Against Defendants Frontier Management LLC and Frontier Senior Living, LLC – on Behalf**
15 **of the Illinois Class)**

16 396. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
17 herein.

18 397. This claim is brought by Plaintiff Stanley on behalf of the Illinois Class against
19 Defendants Frontier Management LLC and Frontier Senior Living, LLC.

20 398. The Illinois Consumer Fraud and Deceptive Business Practices Act prohibits unfair
21 competition in the form of any unlawful, unfair, or fraudulent business acts or practices.

22 399. 815 ILCS § 505/10a allows a person injured by the unfair business acts or practices to
23 prosecute a civil action for violation of the Illinois Consumer Fraud and Deceptive Business Practices
24 Act.

25 400. 820 ILCS § 105/2 states it is the policy of the IMWL “to establish a minimum wage
26 standard for workers at a level consistent with their health, efficiency and general well-being; to
27 safeguard such minimum wage against the unfair competition of wage and hour standards which do
28 not provide such adequate standards of living; and to sustain purchasing power and increase

1 employment opportunities.”

2 401. 820 ILCS § 105/2 further states:

3 It is against public policy for an employer to pay to his employees an
4 amount less than that fixed by [the IMWL]. Payment of any amount less
5 than herein fixed is an unreasonable and oppressive wage, and less than
6 sufficient to meet the minimum cost of living necessary for health. Any
7 contract, agreement or understanding for or in relation to such unreasonable
8 and oppressive wage for any employment covered by [the IMWL] is void.

9 402. Defendants have committed acts of unfair competition as defined by the Illinois
10 Consumer Fraud and Deceptive Business Practices Act, by engaging in the unlawful, unfair, and
11 fraudulent business acts and practices described in this Complaint, including, but not limited to:

- 12 a. violations of 820 ILCS §§ 105/4, 115/3 and 115/4 pertaining to payment of wages,
13 including minimum wage, for all hours worked;
- 14 b. violations of 820 ILCS § 105/4a pertaining to overtime;
- 15 c. violations of 820 ILCS § 140/3 pertaining to meal breaks; and
- 16 d. violations of 820 ILCS § 115/5 pertaining to unpaid wages upon termination;

17 403. The violations of these laws, as well as of the fundamental Illinois public policies
18 protecting wages, serve as unlawful predicate acts and practices for purposes of 815 ILCS § 505/1 *et*
19 *seq.*

20 404. The acts and practices described above constitute unfair, unlawful, and fraudulent
21 business practices, and unfair competition, within the meaning of 815 ILCS § 505/1 *et seq.* Among
22 other things, the acts and practices have taken from Plaintiff and the putative Class members wages
23 rightfully earned by them, while enabling Defendants to gain an unfair competitive advantage over
24 law-abiding employers and competitors.

25 405. 815 ILCS § 505/10a provides that a court “in its discretion may award actual economic
26 damages or any other relief which the court deems proper,” including injunctive relief where
27 appropriate.

28 406. As a direct and proximate result of the aforementioned acts and practices, Plaintiff and

1 the putative Class members have suffered a loss of money and property, in the form of unpaid wages
2 which are due and payable to them, in an amount according to proof at time of trial.

3 407. Under the Illinois Consumer Fraud and Deceptive Business Practices Act, a plaintiff
4 may recover both compensatory and punitive damages. *See, e.g., Black v. Lovino*, 219 Ill. App. 3d
5 378 (1991); *Check v. Clifford Chrysler Plymouth of Buffalo Grove, Inc.*, 342 Ill. App. 3d 150 (1st
6 Dist. 2003). Plaintiff and putative Class members are entitled to an award pursuant to 815 ILCS §
7 505/10a for all wages and payments unlawfully withheld from employees during the three-year
8 period prior to the filing of the Complaint in this action. Plaintiff's success in this action will enforce
9 important rights affecting the public interest and in that regard Plaintiff sues on behalf of herself as
10 well as others similarly situated. Plaintiff and putative Class members seek and are entitled to unpaid
11 wages, declaratory and injunctive relief, punitive damages, and all other equitable remedies owing
12 to them.

13 408. Plaintiff herein takes upon herself enforcement of these laws and lawful claims. There
14 is a financial burden involved in pursuing this action, the action is seeking to vindicate a public right,
15 and it would be against the interests of justice to penalize Plaintiff by forcing him to pay attorneys'
16 fees from the recovery in this action. Attorneys' fees are appropriate pursuant to 815 ILCS § 505/10a
17 and otherwise.

18 409. Wherefore, Plaintiff and the putative Illinois Class request relief as hereinafter
19 provided.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs, on behalf of themselves and the putative Classes and Collective
22 they seeks to represent in this action, request the following relief:

- 23 1. For an order certifying that the First Cause of Action in this Complaint may be
24 maintained as a collective action pursuant to 29 U.S.C. § 216(b) and that prompt notice
25 of this action be issued to potential members of the Collective, apprising them of the
26 pendency of this action, and permitting them to assert their FLSA claims;

- 1 2. For an order equitably tolling the statute of limitations for the potential members of the
- 2 Collective;
- 3 3. Damages and restitution according to proof at trial for all unpaid wages and other
- 4 injuries, as provided by the FLSA, California Labor Code, California Business and
- 5 Professions Code; WMWA, ORS, IMWL, IWPCA, and other laws of the States of
- 6 California, Washington, Oregon, and Illinois;
- 7 4. For a declaratory judgment that Defendants have violated the FLSA, California Labor
- 8 Code, ORS, and public policy as alleged herein;
- 9 5. For a declaratory judgment that Defendants have violated California Business and
- 10 Professions Code §§ 17200 et seq., as a result of the aforementioned violations of the
- 11 California Labor Code and of California public policy protecting wages;
- 12 6. For a declaratory judgment that Defendants Frontier Management LLC and Frontier
- 13 Senior Living, LLC have violated the Illinois Consumer Fraud and Deceptive
- 14 Business Practices Act, 815 ILCS § 505/1 et seq., as a result of the aforementioned
- 15 violations of the IMWL, IWPCA, and of Illinois public policy protecting wages;
- 16 7. For preliminary, permanent, and mandatory injunctive relief prohibiting Defendants,
- 17 its officers, agents, and all those acting in concert with them from committing in the
- 18 future those violations of law herein alleged;
- 19 8. For an equitable accounting to identify, locate, and restore to all current and former
- 20 employees the wages they are due, with interest thereon;
- 21 9. For an order awarding Plaintiff and the members of the Classes compensatory damages,
- 22 including lost wages, earnings, liquidated damages, and other employee benefits,
- 23 restitution, recovery of all money, actual damages, and all other sums of money owed
- 24 to Plaintiff and members of the Classes, together with interest on these amounts,
- 25 according to proof;
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- 10. For an order awarding Plaintiff and members of the Classes and Collective civil penalties pursuant to the FLSA, California Labor Code, PAGA, WMWA, ORS, IMWL, IWPCA, and the laws of the States of California, Washington, Oregon, and Illinois, with interest thereon;
- 11. For an award of reasonable attorneys’ fees as provided by the FLSA, California Labor Code, California Code of Civil Procedure § 1021.5, Labor Code § 2699(g)(1), WMWA, ORS, IMWL, IWPCA, and the laws of the States of California, Washington, Oregon, Illinois, and/or other applicable law;
- 12. For all costs of suit;
- 13. For such other and further relief as this Court deems just and proper.

Respectfully submitted,

Date: June 1, 2022

/s/ Carolyn H. Cottrell
Carolyn H. Cottrell
Ori Edelstein
Michelle S. Lim
SCHNEIDER WALLACE
COTTRELL KONECKY LLP

Attorneys for Plaintiff, the Putative Classes and
Collective, on behalf of the State of California and
Aggrieved Employees

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to a jury.

Respectfully submitted,

Date: June 1, 2022

/s/ Carolyn H. Cottrell
Carolyn H. Cottrell
Ori Edelstein
Michelle S. Lim
SCHNEIDER WALLACE
COTTRELL KONECKY LLP

Attorneys for Plaintiff, the Putative Classes and Collective, and on behalf of the State of California and Aggrieved Employees

EXHIBIT A

[DATE]

ELECTRONICALLY FILED

Attn: PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612

Re: Private Attorneys General Act of 2004 Notice

Employee: Joshua Wright

Employer: Frontier Management LLC; Frontier Senior Living, LLC; GH Senior Living, LLC dba Greenhaven Estates Assisted Living; Paramount Court Senior Living, PC AL MC Care Properties LLC

To Whom It May Concern:

We represent Joshua Wright, a former employee of Frontier Management LLC; Frontier Senior Living, LLC (collectively, “Frontier”); GH Senior Living, LLC dba Greenhaven Estates Assisted Living (“Greenhaven”) (collectively “Defendants”). We filed a Private Attorneys General Act (“PAGA”) complaint against Frontier Management LLC and Greenhaven Estates Senior Living on behalf of Mr. Wright and all other current and former similarly situated, hourly, non-exempt employees in California. On July 1, 2019, we provided notice to the Labor and Workforce Development Agency (“LWDA”) of our client’s intent to bring claims under California Labor Code § 2699(a) and (f).

Frontier owns and manages retirement and assisted living communities throughout California and the United States (“communities”), including Greenhaven, which is located in Sacramento, California. Mr. Wright and other hourly, non-exempt employees were hired to work at Frontier’s California facilities. Mr. Wright worked at Greenhaven as a Medical Technician from April 12, 2018 until March 15, 2019. He was paid at an hourly rate of \$14.50 and regularly worked approximately 44 to 46 hours per week.

On July 1, 2019, we provided notice of Mr. Wright’s intent to file a complaint against Defendants on behalf of Defendants’ current and former non-exempt employees who have been denied minimum wage, proper overtime compensation, compliant meal and rest breaks, premium pay for non-compliant meal and rest breaks, and payment for all hours worked. Mr. Wright will pursue claims on behalf of the California class pursuant to California state laws for Labor Code §§ 1194 (failure to pay minimum wage), §§ 510, 1194 (failure to pay overtime wages), § 226.7 and 512 (failure to provide meal and rest periods); § 204 (failure to compensate for all hours worked); § 226 (failure to provide timely and compliant itemized wage statements); §§ 201-203 (waiting time penalties); § 2802 (failure to reimburse for necessary business expenditures); California Business and Professions Code §§

1 17200, *et seq.* (engaging in unfair business practices). Mr. Wright pled causes of action pursuant to
 2 California Labor Code § 2699(a) and (f) for civil penalties for violating the various California Labor
 Code provisions enumerated above, including civil penalties for violation of California Labor Code §
 3 558.¹

4 We write to further amend the July 1, 2019 letter, to provide notice and clarify the names of
 the Defendants. These include Frontier Management LLC; Frontier Senior Living, LLC; and GH
 5 Senior Living, LLC dba Greenhaven Estates Assisted Living, Paramount Court Senior Living, PC AL
 MC Care Properties LLC (hereinafter “Defendants”). Through this letter Wright intends and to provide
 6 notice to Defendants and all other related or affiliated entities, subsidiaries, parents, predecessors,
 successors, owners, joint employers and communities, community owners of the allegations herein.
 7 We also write to provide notice of Mr. Wright’s intent to amend his complaint to supplement Mr.
 Wright’s claims already noticed above by providing further detail and citing additional claims: Labor
 8 Code §§ 551-552 (failure to provide 1 day of rest during a 7 day workweek); 1197, 1197.1 (failure to
 pay minimum wage); 1198 (failure to pay at the regular rate of pay where employee is scheduled to
 9 work and does report for work but is not provided work less than half the employee’s usual or
 scheduled day’s work); 1174(d) (failure to keep complete and accurate wage statements); 2800 (failure
 10 to reimburse for necessary business expenditures); 2810.5 (failure to provide written notice of pay and
 other necessary information at time of hire); violations of IWC Wage Orders including, but not limited
 11 to, Wage Orders 4-2001 and 5-2001; and failure to pay overtime and premiums at the regular rate of
 12 pay.

13 Defendants did not provide compliant meal and rest periods for Mr. Wright and aggrieved
 14 employees. Defendants required Mr. Wright and other aggrieved employees to work during meal and
 rest periods and failed to compensate them properly for non-compliant meal and rest periods including,
 15 *inter alia*, short, late, interrupted, and missed meal and rest periods. Mr. Wright and aggrieved
 employees regularly work through their unpaid meal breaks since they are required to clock out for
 16 meal breaks yet remain on-duty and are subject to interruption throughout these “breaks.” Defendants
 have a policy and/or practice that Mr. Wright and aggrieved employees must keep their personal
 17 cellphones, radios, pagers, and walkie-talkies on during meal and rest breaks in order to be
 continuously on-call. Defendants rounded the meal periods recorded by aggrieved employees,
 18 resulting in aggrieved employees receiving short meal periods without being paid the required
 premium wages. Defendants also required aggrieved employees to stay on work premises during rest
 19 periods. This results in meal and rest breaks that are not compliant with California law, because Mr.
 Wright and other hourly non-exempt employees are not relieved of all duty and their meal and rest
 20 breaks were regularly interrupted. Plaintiff and putative class members do not receive premium pay
 for missed breaks. As a result of these policies, Defendants have denied Mr. Wright and other
 21 aggrieved employees the overtime and meal and rest periods to which they are statutorily entitled.

22 _____
 23
 24 ¹ California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who
 violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order
 25 of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any individual violation, fifty
 dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an
 amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
 26 underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to
 recover underpaid wages.” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are
 27 in addition to any other civil or criminal penalty provided by law.”

1 In addition, Mr. Wright and other aggrieved employees worked in excess of eight hours in a
2 day and forty hours in a week and were, therefore, entitled to receive overtime compensation, but they
3 were not paid for all hours worked. Employees are regularly required to work off-the-clock – time
4 which goes unrecorded and uncompensated – including performing work before their scheduled shifts,
5 after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks. For example,
6 Defendants require aggrieved employees to perform a number of duties off the clock, including filling
7 out paperwork, waiting for other employees to relieve them of their posts, or help other employees
8 with a number of tasks, such as transferring residents, after clocking out for the day. Such work
9 included, but was not limited to, waiting in line, responding to work related inquiries, going through
10 COVID-19 protocols, and assisting patients. Defendants rounded the work time recorded by aggrieved
11 employees in a manner that was not fair and neutral on its face and/or that favored Defendants over
12 time, resulting in aggrieved employees being underpaid for their time worked. Defendants also
13 rounded the meal periods recorded by Mr. Wright and aggrieved employees, resulting in short meal
14 periods without the payment of premium wages. These tasks would take aggrieved employees
15 anywhere from ten minutes to 1 hour per shift to complete. On information and belief, Defendants did
16 not compensate aggrieved employees for this time worked and other time worked, including by failing
17 to pay minimum wages and overtime wages to which they were entitled. Also, the regular rate of pay
18 for overtime, doubletime and meal/rest premiums did not include additional remuneration.

12 Defendants further require Mr. Wright and aggrieved employees to use a timeclock, which
13 encountered technical difficulties 2 to 3 times per pay period. These technical difficulties prevented
14 employees from logging their work hours. This resulted in approximately 8 to 12 hours of off-the-
15 clock work each pay period. Although Defendants' management staff were aware of the timeclock
16 issues, which were reported multiple times by Mr. Wright, it was not remedied during the time that
17 Mr. Wright was employed. On information and belief this timekeeping system is used across Frontier's
18 California facilities.

17 Further, Defendants do not reimburse or compensate Mr. Wright and aggrieved employees for
18 business expenses incurred for Defendants benefit. For example, Mr. Wright and aggrieved employees
19 are required to use their personal cell phones in order to stay in constant communication with managers
20 via phone calls and texts, especially once managers are no longer on the premises. Defendants do not
21 reimburse or compensate Mr. Wright and aggrieved employees for the purchasing and maintenance of
22 these and other business expenses such as clothing, footwear, tools, supplies and equipment, such as
23 personal protective equipment.

21 During the relevant time period, the aggrieved employees were required to regularly and/or
22 consistently work in excess of six (6) days in a workweek. During the relevant time period, aggrieved
23 employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one
24 (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During
25 the relevant time period, the aggrieved employees were required to work in excess of six (6) days in a
26 workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and
27 when the aggrieved employees accumulated days of rest, they were not actually provided the opportunity
28 to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

26 During the relevant time period, Defendants failed to pay aggrieved employees half the usual or
27 scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's

1 regular rate of pay for workdays in which aggrieved employees reported to work and were furnished less
2 than half the usual or scheduled day's work. During the relevant time period, Defendants failed to pay
3 aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which aggrieved
4 employees were required to report for work a second time in one workday and were furnished less than two
5 (2) hours of work upon the second reporting.

6 Plaintiffs and aggrieved employees experience a number of issues, including (but not limited
7 to) receiving incorrect wage statements which Defendants did not keep in a complete and accurate
8 manner, not timely receiving all pay owed to them (e.g. unpaid minimum wages, overtime wages,
9 meal and rest period premiums) during and at the end of their employment, and compensation below
10 minimum wage for all hours worked. Defendants failed to pay Mr. Wright and aggrieved employees
11 all wages due to them within any time period specified by California Labor Code sections 201, 202,
12 and 204, including earned and unpaid minimum, overtime, and premium wages, as discussed above.
13 Defendants provided Mr. Wright and other aggrieved employees with wage statements that were in
14 violation of California Labor Code section 226(a) and the violations include, but are not limited to,
15 the failure to include the actual and total hours worked, including, for example, time spent working
16 off-the-clock and during meal and rest periods. Compensation for off the clock work, overtime, and
17 premium pay for missed breaks remains outstanding after termination.

18 In addition, Defendants failed to accurately provide aggrieved employees with the requisite
19 notices in violation of California Labor Code section 2810.5. Defendants failed to keep accurate and
20 complete payroll records showing the actual hours worked daily and the wages earned by aggrieved
21 employees, including earned and unpaid minimum, overtime, and premium wages.

22 Mr. Wright is represented by Schneider Wallace Cottrell Konecky LLP (“SWCK”), a law firm
23 based in Emeryville, California. SWCK has extensive experience in the successful litigation and
24 resolution of employment and class actions nationwide. A description of the work, mission, and
25 credentials of the firm can be found at www.schneiderwallace.com. Mr. Wright and his counsel are
26 committed to zealously pursuing redress on behalf of the State of California and all other similarly
27 situated employees for the violations and civil penalties set forth above.

28 Sincerely,

SCHNEIDER WALLACE
COTTRELL KONECKY LLP

CAROLYN H. COTTRELL
Attorney at Law

cc via certified mail:

1 Frontier Management LLC
7420 Southwest Bridgeport Road, Suite 105
2 Portland, Oregon 97224

3 GH Senior Living, LLC
7420 Bridgeport Road, Suite 105
4 Portland, Oregon 97224

5 Frontier Senior Living, LLC
6 7420 Southwest Bridgeport Road, Suite 105
7 Portland, Oregon 97224

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EXHIBIT F

[DATE]

ELECTRONICALLY FILED

Attn: PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612

Re: Private Attorneys General Act of 2004 Notice

Employee: Joshua Wright

Employer: Frontier Management LLC; Frontier Senior Living, LLC; GH Senior Living, LLC dba Greenhaven Estates Assisted Living; Paramount Court Senior Living, PC AL MC Care Properties LLC

To Whom It May Concern:

We represent Joshua Wright, a former employee of Frontier Management LLC; Frontier Senior Living, LLC (collectively, “Frontier”); GH Senior Living, LLC dba Greenhaven Estates Assisted Living (“Greenhaven”) (collectively “Defendants”). We filed a Private Attorneys General Act (“PAGA”) complaint against Frontier Management LLC and Greenhaven Estates Senior Living on behalf of Mr. Wright and all other current and former similarly situated, hourly, non-exempt employees in California. On July 1, 2019, we provided notice to the Labor and Workforce Development Agency (“LWDA”) of our client’s intent to bring claims under California Labor Code § 2699(a) and (f).

Frontier owns and manages retirement and assisted living communities throughout California and the United States (“communities”), including Greenhaven, which is located in Sacramento, California. Mr. Wright and other hourly, non-exempt employees were hired to work at Frontier’s California facilities. Mr. Wright worked at Greenhaven as a Medical Technician from April 12, 2018 until March 15, 2019. He was paid at an hourly rate of \$14.50 and regularly worked approximately 44 to 46 hours per week.

On July 1, 2019, we provided notice of Mr. Wright’s intent to file a complaint against Defendants on behalf of Defendants’ current and former non-exempt employees who have been denied minimum wage, proper overtime compensation, compliant meal and rest breaks, premium pay for non-compliant meal and rest breaks, and payment for all hours worked. Mr. Wright will pursue claims on behalf of the California class pursuant to California state laws for Labor Code §§ 1194 (failure to pay minimum wage), §§ 510, 1194 (failure to pay overtime wages), § 226.7 and 512 (failure to provide meal and rest periods); § 204 (failure to compensate for all hours worked); § 226 (failure to provide timely and compliant itemized wage statements); §§ 201-203 (waiting time penalties); § 2802 (failure to reimburse for necessary business expenditures); California Business and Professions Code §§ 17200, *et seq.* (engaging in unfair business practices). Mr. Wright pled causes of action pursuant to California Labor Code § 2699(a) and (f) for civil penalties

for violating the various California Labor Code provisions enumerated above, including civil penalties for violation of California Labor Code § 558.³

We write to further amend the July 1, 2019 letter, to provide notice and clarify the names of the Defendants. These include Frontier Management LLC; Frontier Senior Living, LLC; and GH Senior Living, LLC dba Greenhaven Estates Assisted Living, Paramount Court Senior Living, PC AL MC Care Properties LLC (hereinafter “Defendants”). Through this letter Wright intends and to provide notice to Defendants and all other related or affiliated entities, subsidiaries, parents, predecessors, successors, owners, joint employers and communities, community owners of the allegations herein. We also write to provide notice of Mr. Wright’s intent to amend his complaint to supplement Mr. Wright’s claims already noticed above by providing further detail and citing additional claims: Labor Code §§ 551-552 (failure to provide 1 day of rest during a 7 day workweek); 1197, 1197.1 (failure to pay minimum wage); 1198 (failure to pay at the regular rate of pay where employee is scheduled to work and does report for work but is not provided work less than half the employee’s usual or scheduled day’s work); 1174(d) (failure to keep complete and accurate wage statements); 2800 (failure to reimburse for necessary business expenditures); 2810.5 (failure to provide written notice of pay and other necessary information at time of hire); violations of IWC Wage Orders including, but not limited to, Wage Orders 4-2001 and 5-2001; and failure to pay overtime and premiums at the regular rate of pay.

Defendants did not provide compliant meal and rest periods for Mr. Wright and aggrieved employees. Defendants required Mr. Wright and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods. Mr. Wright and aggrieved employees regularly work through their unpaid meal breaks since they are required to clock out for meal breaks yet remain on-duty and are subject to interruption throughout these “breaks.” Defendants have a policy and/or practice that Mr. Wright and aggrieved employees must keep their personal cellphones, radios, pagers, and walkie-talkies on during meal and rest breaks in order to be continuously on-call. Defendants rounded the meal periods recorded by aggrieved employees, resulting in aggrieved employees receiving short meal periods without being paid the required premium wages. Defendants also required aggrieved employees to stay on work premises during rest periods. This results in meal and rest breaks that are not compliant with California law, because Mr. Wright and other hourly non-exempt employees are not relieved of all duty and their meal and rest breaks were regularly interrupted. Plaintiff and putative class members do not receive premium pay for missed breaks. As a result of these policies, Defendants have denied Mr. Wright and other aggrieved employees the overtime and meal and rest periods to which they are statutorily entitled.

³ California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any individual violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.”

In addition, Mr. Wright and other aggrieved employees worked in excess of eight hours in a day and forty hours in a week and were, therefore, entitled to receive overtime compensation, but they were not paid for all hours worked. Employees are regularly required to work off-the-clock – time which goes unrecorded and uncompensated – including performing work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks. For example, Defendants require aggrieved employees to perform a number of duties off the clock, including filling out paperwork, waiting for other employees to relieve them of their posts, or help other employees with a number of tasks, such as transferring residents, after clocking out for the day. Such work included, but was not limited to, waiting in line, responding to work related inquiries, going through COVID-19 protocols, and assisting patients. Defendants rounded the work time recorded by aggrieved employees in a manner that was not fair and neutral on its face and/or that favored Defendants over time, resulting in aggrieved employees being underpaid for their time worked. Defendants also rounded the meal periods recorded by Mr. Wright and aggrieved employees, resulting in short meal periods without the payment of premium wages. These tasks would take aggrieved employees anywhere from ten minutes to 1 hour per shift to complete. On information and belief, Defendants did not compensate aggrieved employees for this time worked and other time worked, including by failing to pay minimum wages and overtime wages to which they were entitled. Also, the regular rate of pay for overtime, doubletime and meal/rest premiums did not include additional remuneration.

Defendants further require Mr. Wright and aggrieved employees to use a timeclock, which encountered technical difficulties 2 to 3 times per pay period. These technical difficulties prevented employees from logging their work hours. This resulted in approximately 8 to 12 hours of off-the-clock work each pay period. Although Defendants' management staff were aware of the timeclock issues, which were reported multiple times by Mr. Wright, it was not remedied during the time that Mr. Wright was employed. On information and belief this timekeeping system is used across Frontier's California facilities.

Further, Defendants do not reimburse or compensate Mr. Wright and aggrieved employees for business expenses incurred for Defendants benefit. For example, Mr. Wright and aggrieved employees are required to use their personal cell phones in order to stay in constant communication with managers via phone calls and texts, especially once managers are no longer on the premises. Defendants do not reimburse or compensate Mr. Wright and aggrieved employees for the purchasing and maintenance of these and other business expenses such as clothing, footwear, tools, supplies and equipment, such as personal protective equipment.

During the relevant time period, the aggrieved employees were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

During the relevant time period, Defendants failed to pay aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. During the relevant time period, Defendants failed to pay aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which aggrieved employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

Plaintiffs and aggrieved employees experience a number of issues, including (but not limited to) receiving incorrect wage statements which Defendants did not keep in a complete and accurate manner, not timely receiving all pay owed to them (e.g. unpaid minimum wages, overtime wages, meal and rest period premiums) during and at the end of their employment, and compensation below minimum wage for all hours worked. Defendants failed to pay Mr. Wright and aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201, 202, and 204, including earned and unpaid minimum, overtime, and premium wages, as discussed above. Defendants provided Mr. Wright and other aggrieved employees with wage statements that were in violation of California Labor Code section 226(a) and the violations include, but are not limited to, the failure to include the actual and total hours worked, including, for example, time spent working off-the-clock and during meal and rest periods. Compensation for off the clock work, overtime, and premium pay for missed breaks remains outstanding after termination.

In addition, Defendants failed to accurately provide aggrieved employees with the requisite notices in violation of California Labor Code section 2810.5. Defendants failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by aggrieved employees, including earned and unpaid minimum, overtime, and premium wages.

Mr. Wright is represented by Schneider Wallace Cottrell Konecky LLP (“SWCK”), a law firm based in Emeryville, California. SWCK has extensive experience in the successful litigation and resolution of employment and class actions nationwide. A description of the work, mission, and credentials of the firm can be found at www.schneiderwallace.com. Mr. Wright and his counsel are committed to zealously pursuing redress on behalf of the State of California and all other similarly situated employees for the violations and civil penalties set forth above.

Sincerely,

SCHNEIDER WALLACE
COTTRELL KONECKY LLP

CAROLYN H. COTTRELL
Attorney at Law

cc via certified mail:

Frontier Management LLC
7420 Southwest Bridgeport Road, Suite 105
Portland, Oregon 97224

GH Senior Living, LLC
7420 Bridgeport Road, Suite 105
Portland, Oregon 97224

Frontier Senior Living, LLC
7420 Southwest Bridgeport Road, Suite 105
Portland, Oregon 97224

EXHIBIT G

Claims Admin Contact Info

Claims Admin ID <<ID>>

Mailing Date, 2022

<<FullName>>

<<Address1>> <<Address2>>

<<City>> <<State>> <<Zip>>

Re: REMINDER TO CASH SETTLEMENT CHECK FOR CLASS AND COLLECTIVE ACTION SETTLEMENT

Dear <<FullName>>:

You previously were sent your payment from the settlement of the lawsuit entitled *Wright, et al. v. Frontier Management LLC, et al.*, United States District Court, Eastern District of California, Case No. 2:19-cv-01767-JAM-CKD (the “Lawsuit”). Our records show that you have not yet cashed your settlement check. You will be bound by the settlement whether or not you cash the check.

Please cash your check promptly. Your check will expire on [REDACTED] and then will be sent to the [cy pres recipient or to individuals who have cashed their checks].

If you have any questions about the settlement, you can visit the Settlement website at [INSERT URL]; contact Class Counsel toll-free at (800) 689-0024; view the public docket for the case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.caed.uscourts.gov>; or you may contact the settlement administrator (whose contact information is at the top of this letter). Please do not call the Court about this letter.

Sincerely,

Claims Administrator

1 Carolyn H. Cottrell (SBN 166977)
2 Ori Edelstein (SBN 268145)
3 Michelle S. Lim (SBN 315691)
4 **SCHNEIDER WALLACE**
5 **COTTRELL KONECKY LLP**
6 2000 Powell Street, Suite 1400
Emeryville, California 94608
Telephone: (415) 421-7100
Facsimile: (415) 421-7105
ccottrell@schneiderwallace.com
oedelstein@schneiderwallace.com
mlim@schneiderwallace.com

7 *Attorneys for Plaintiffs, and the Putative*
8 *Classes and Collective*

9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11 JOSHUA WRIGHT, LORETTA STANLEY,
12 HALEY QUAM, and AIESHA LEWIS, on
13 behalf of themselves and all others similarly
situated,

14 Plaintiffs,

15 vs.

16 FRONTIER MANAGEMENT LLC,
17 FRONTIER SENIOR LIVING, LLC, and GH
18 SENIOR LIVING, LLC dba GREENHAVEN
ESTATES ASSISTED LIVING,

19 Defendants.

Case No.: 2:19-cv-01767-JAM-CKD

Hon. John A. Mendez

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND COLLECTIVE ACTION
SETTLEMENT**

Date: September 13, 2022

Time: 1:30 p.m.

Ctrm.: 6, 14th Floor

Filed: September 6, 2019

Trial Date: None

1 The Motion for Preliminary Approval of Settlement filed by Plaintiffs Joshua Wright, Loretta
2 Stanley, Haley Quam, and Aiesha Lewis, Plaintiffs in this action (the “Action”), came on for
3 hearing regularly in Courtroom 6, 14th Floor, of the above captioned court, the Honorable John A.
4 Mendez presiding. Defendants in the Action do not oppose the motion.

5 In the operative complaint in the Action, Plaintiffs allege that Defendants violated federal
6 and state wage and hour laws with respect to current and former non-exempt employees who
7 worked for Defendants. Throughout the relevant time period, Plaintiffs allege that Defendants
8 committed violations as to Plaintiffs and Class and Collective Members by: (1) not paying Class
9 and Collective Members proper minimum and overtime wages for work performed off-the-clock
10 on a daily basis; (2) failing to provide Class and Collective Members with a reasonable opportunity
11 to take meal and rest periods, and failing to compensate Class and Collective Members when such
12 meal and rest periods are not taken; (3) failing to reimburse necessarily-incurred expenses; and (4)
13 failing to issue accurate, itemized wage statements.

14 After discovery and extensive investigation by Plaintiffs’ counsel, the Parties participated in
15 three sessions of private mediations with respected neutral mediator David Rotman and Steve
16 Serratore in an attempt to resolve the claims. As a result of the final mediation session on October
17 5, 2021 and further arm’s-length negotiations facilitated by Mr. Serratore, the Parties reached a
18 global settlement that resolves all of the claims in all of the Action. The Parties then executed a
19 Class Action Settlement Agreement and Release (“Settlement”) on June 8, 2022.

20 A hearing was held before this Court on September 13, 2022 for the purpose of determining,
21 among other things, whether the proposed Settlement is within the range of possible approval, if
22 Notices of the Settlement to Members of the California Class and FLSA Collective Members are
23 appropriate, and whether a formal fairness hearing, also known as a final approval hearing, should
24 be scheduled. Appearing at the hearing was Schneider Wallace Cottrell Konecky LLP on behalf of
25 Plaintiffs, the Collective, and Putative Classes, and Constangy, Brooks, Smith & Prophete LLP on
26 behalf of Defendants Frontier Management LLC, Frontier Senior Living, LLC, and GH Senior
27 Living, LLC dba Greenhaven Estates Assisted Living (collectively, “Defendants”).

28 Having reviewed the papers and documents presented, having heard the statements of

1 counsel, and having considered the matter, the Court HEREBY ORDERS as follows:

2 1. The Court hereby GRANTS preliminary approval of the terms and conditions
3 contained in the Settlement, attached to the Declaration of Carolyn H. Cottrell in support of
4 Plaintiffs' Motion for Preliminary Approval of Settlement as **Exhibit 1**, as to the California,
5 Oregon, Washington, and Illinois Classes ("State Classes"). The Court preliminarily finds that the
6 terms of the Settlement appear to be within the range of possible approval, pursuant to Federal Rule
7 of Civil Procedure 23 and applicable law.

8 2. The Court finds on a preliminary basis that: (1) the settlement amount is fair and
9 reasonable to the members of the State Classes when balanced against the probable outcome of
10 further litigation relating to class certification, liability and damages issues, and appeals; (2)
11 significant discovery, investigation, research, and litigation have been conducted such that counsel
12 for the Parties at this time are able to reasonably evaluate their respective positions; (3) settlement
13 at this time will avoid substantial costs, delay, and risks that would be presented by the further
14 prosecution of the litigation; and (4) the proposed Settlement has been reached as the result of
15 intensive, serious, and non-collusive, arms-length negotiations between the Parties. Accordingly,
16 the Court preliminarily finds that the Settlement was entered into in good faith.

17 3. The Court hereby GRANTS conditional certification of the provisional State Classes,
18 in accordance with the Settlement, for the purposes of this Settlement only. The State Classes are
19 defined as:

- 20 a. The California Class means all persons who are employed, have been employed, or
21 alleged in the Action to have been employed by Defendants as a non-exempt
22 employee in the State of California between September 6, 2015 and March 1, 2022.
- 23 b. The Oregon Class means all persons who are employed, have been employed, or are
24 alleged in the Action to have been employed by Defendants as a non-exempt
25 employee in the state of Oregon between July 8, 2014 and March 1, 2022.
- 26 c. The Washington Class means all persons who are employed, have been employed, or
27 are alleged to have been employed in the Action by Defendants as a non-exempt
28 employee in the state of Washington between July 8, 2017 and March 1, 2022.

1 d. The Illinois Class means all persons who are employed, have been employed, or are
2 alleged in the Action to have been employed by Defendants as a non-exempt
3 employee in the state of Illinois between July 8, 2017 and March 1, 2022.

4 4. The Court hereby GRANTS approval of the terms and conditions contained in the
5 Settlement as to the Collective of Opt-In Plaintiffs. The Court finds that the terms of the Settlement
6 are a fair and reasonable resolution of a *bona fide* dispute and that the terms of the Settlement are
7 within the range of possible approval pursuant to the Fair Labor Standards Act and applicable law.

8 5. The Court finds that: (1) the settlement amount is fair and reasonable to the Collective
9 Members when balanced against the probable outcome of further litigation relating to class
10 certification, liability and damages issues, and potential appeals; (2) significant discovery,
11 investigation, research, and litigation have been conducted such that counsel for the Parties at this
12 time are able to reasonably evaluate their respective positions; (3) settlement at this time will avoid
13 substantial costs, delay, and risks that would be presented by the further prosecution of the
14 litigation; and (4) the proposed Settlement has been reached as the result of intensive, serious, and
15 non-collusive, arms-length negotiations between the Parties. Accordingly, the Court finds that the
16 Settlement was entered into in good faith.

17 6. The Court conditionally certified the Collective in its March 17, 2020 Order (ECF
18 15), and the Court now finally certifies the Collective pursuant to 29 U.S.C. § 216(b) for Settlement
19 purposes only. The Collective is defined as all individuals who have submitted Opt-In Consent
20 Forms in the Federal Action and worked for Defendants as non-exempt, hourly employees between
21 March 13, 2017 and March 1, 2022.

22 7. The Court hereby authorizes the retention of Settlement Services, Inc. as Settlement
23 Administrator for the purpose of the Settlement, with reasonable administration costs estimated to
24 be \$149,400.

25 8. The Court hereby conditionally appoints Schneider Wallace Cottrell Konecky LLP
26 as Counsel for the Class. The Court hereby conditionally appoints Plaintiffs Wright, Stanley, Quam,
27 and Lewis as Class Representatives for the California, Oregon, Washington, and Illinois State
28 Classes, respectively.

1 9. The Court hereby appoints Schneider Wallace Cottrell Konecky LLP as Counsel for
2 the Collective. The Court hereby appoints Plaintiffs Wright, Stanley, Quam, and Lewis as
3 Collective Representatives for the Collective.

4 10. The Court hereby APPROVES the Notices of Settlement attached to the Settlement
5 as **Exhibit C** and **Exhibit D**. The Court finds that the Notice of Settlement, along with the related
6 notification procedure contemplated by the Settlement, constitute the best notice practicable under
7 the circumstances and are in full compliance with the applicable laws and the requirements of due
8 process. The Court further finds that the Notices of Settlement appear to fully and accurately inform
9 the Members of the State Classes of all material elements of the proposed Settlement, of their right
10 to be excluded from the Settlement, and of their right and opportunity to object to the Settlement.
11 The Court also finds that the Notice of Settlement appears to fully and accurately inform the
12 Members of the Collective of all material elements of the proposed Settlement.

13 11. The Court hereby authorizes dissemination of the Notice of Settlement to Members
14 of the State Classes and the Collective. Subject to the terms of the Settlement, the Notice of
15 Settlement shall be mailed via first-class mail to the most recent known address of each Member of
16 the State Classes and the Collective within the timeframe specified in the Settlement, and sent via
17 email to all such persons for whom Defendants have an email address. The Parties are authorized
18 to make non-substantive changes to the proposed Notice of Settlement that are consistent with the
19 terms of the Settlement and this Order.

20 12. The Court hereby APPROVES the proposed procedure for members of the State
21 Classes to request exclusion from the Rule 23 component of the Settlement, which is to submit a
22 written statement requesting exclusion to the Settlement Administrator during the time period
23 permitted under the Settlement. Any member of the State Classes who submits a written exclusion
24 shall not be a member of the State Classes, shall be barred from participating in the Rule 23
25 component of the Settlement, and shall receive no benefit from the Rule 23 component of the
26 Settlement.

27 13. The Court further PRELIMINARILY APPROVES Plaintiffs' counsel's request for
28 attorneys' fees of up to one-third of the Gross Settlement Amount, or \$3,166,663.50, plus their

1 costs, not to exceed \$110,000. The Parties are authorized to make changes to the proposed Notice
 2 of Settlement to reflect that Class Counsel will request up to one-third of the Gross Settlement
 3 Amount, or \$3,166,663.50, to compensate them for their services in this matter.

4 14. The Court ORDERS that Plaintiffs’ counsel shall file a motion for final approval of
 5 the Settlement, with the appropriate declarations and supporting evidence, including a declaration
 6 setting forth the identity of any members of the State Classes who request exclusion from the
 7 Settlement, by _____.

8 15. The Court ORDERS that Plaintiffs’ counsel shall file a motion for approval of the
 9 fee and cost award and of the service award to the Class Representative, with the appropriate
 10 declarations and supporting evidence, by _____, to be heard at the same time as the
 11 motion for final approval of the Settlement.

12 16. The Court further ORDERS that each member of the State Classes shall be given a
 13 full opportunity to object to the Rule 23 component of the proposed Settlement and request for
 14 attorneys’ fees, and to participate at a Final Approval Hearing, which the Court sets to commence
 15 on _____ at _____ in Courtroom 6, 14th Floor, of the United States
 16 District Court, Eastern District of California. Any Class Member seeking to object to the proposed
 17 Settlement may file such objection in writing with the Court and shall serve such objection on
 18 Plaintiffs’ counsel and Defendants’ counsel.

19 17. Accordingly, GOOD CAUSE APPEARING, the Court hereby APPROVES the
 20 proposed Notices of Settlement and adopts the following dates and deadlines:

21	Deadline for Defendants to pay the Gross Settlement Amount in the QSF	Within 30 calendar days after Final Approval Order
22	Deadline for Defendants to provide SSI with the Class List	Within 30 calendar days after the Court’s preliminary approval of the Settlement
23	Deadline for SSI to mail the Notice of Settlement to Class Members	Within 10 business days after SSI receives the Class List
24	Deadline for State Class Members to postmark requests to opt-out or file objections to the Settlement (“Notice Deadline”)	60 days after Notice of Settlement are initially mailed
25	Deadline for SSI to provide all counsel with a report showing (i) the names of Settlement Class Members; (ii) the Individual Settlement	Within 10 business days after the Notice Deadline
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28		

1	Payments owed to each Settlement Class Members; (iii) the final number of Settlement Class Members who have submitted objections or valid letters requesting exclusion from the Settlement; (iv) the estimated average and median recoveries per State Class Member; (v) the largest and smallest estimated recoveries to State Class Members; and (vi) the number of undeliverable Notices of Settlement.	
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5	Deadline for filing of Final Approval Motion	As provided above
6	Final Approval Hearing	No earlier than 30 days after the Notice Deadline
7	Effective Date	The latest of the following dates: (i) if there are one or more objections to the settlement that are not subsequently withdrawn, then the date after the expiration of time for filing a notice of appeal of the Court's Final Approval Order, assuming no appeal or request for review has been filed; (ii) if there is a timely objection and appeal by one or more objectors, then the date after such appeal or appeals are terminated (including any requests for rehearing) resulting in the final judicial approval of the Settlement; or (iii) if there are no timely objections to the settlement, or if one or more objections were filed but subsequently withdrawn before the date of Final Approval, then the first business day after the Court's order granting Final Approval of the Settlement is entered
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17	Deadline for SSI to calculate the employer share of taxes and provide Defendants with the total amount of Defendants' Payroll Taxes	Within 5 business days after final Settlement Award calculations are approved
18		
19	Deadline for SSI to make payments under the Settlement to Participating Individuals, the LWDA, Class Representatives, Plaintiffs' counsel, and itself	Within 30 days after the Effective Date or as soon as reasonably practicable
20		
21	Check-cashing deadline	180 days after issuance
22	Deadline for SSI to provide written certification of completion of administration of the Settlement to counsel for all Parties and the Court	Within 10 business days after the check cashing period
23		
24	Deadline for SSI to tender uncashed check funds to cy pres recipient Legal Aid at Work or redistribute such uncashed funds to Participating Individuals who cashed their Settlement Award checks	As soon as practicable after check-cashing deadline
25		
26		
27	Deadline for Plaintiffs to file a Post-Distribution Accounting	Within 21 days after the distribution of any uncashed funds
28		

1 18. The Court further ORDERS that, pending further order of this Court, all proceedings
2 in the Action, except those contemplated herein and in the Settlement, are stayed, and all deadlines
3 are vacated.

4 19. If for any reason the Court does not execute and file a Final Approval Order and
5 Judgment, the proposed Settlement subject to this Order and all evidence and proceedings had in
6 connection with the Settlement shall be null and void.

7 20. The Court may, for good cause, extend any of the deadlines set forth in this Order or
8 adjourn or continue the final approval hearing without further notice to the State Classes.

9

10 **IT IS SO ORDERED.**

11

12 Dated: _____

13

HON. JOHN A. MENDEZ
UNITED STATES DISTRICT COURT JUDGE

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