

NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

Dianna Faith Moon v. Avalon Health Care Management, Inc.; Avalon Senior Living – Fortuna, L.L.C.; Avalon Senior Living – Cedar Creek, L.L.C.; Avalon Senior Living – Clearlake, L.L.C.; Avalon Senior Living – Yreka, L.L.C.; Avalon Senior Living Services, LLC; Eastridge Pacific Senior-Living, LLC; and Does 1 through 20, inclusive

Stanislaus Superior Court No. CV-21-003153

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A SETTLEMENT OF CLASS ACTION AND PAGA LITIGATION.

I. BACKGROUND OF THE CASE

A former employee Dianna Faith Moon (“Plaintiff”) filed a class action lawsuit alleging wage and hour violations and seeking penalties under the California Private Attorney General Act (“PAGA”) against Avalon Health Care Management, Inc., Avalon Senior Living – Fortuna, LLC, Avalon Senior Living – Clearlake, LLC, Avalon Senior Living – Yreka, LLC, Avalon Senior Living – Cedar Creek, LLC, Avalon Senior Living Services, LLC, and Eastridge Pacific Senior-Living LLC (“Defendants”) (Plaintiff and Defendants are collectively referred to as the “Parties”). The lawsuit was filed in Superior Court of the State of California for Stanislaus County (“Court”), Case No. CV-21-003153 (the “Action”).

The Action alleges Defendants failed to pay wages for off-the-clock work; improperly auto-deducted meal periods; failed to pay minimum wages, regular wages, overtime, and double time; failed to pay overtime at the regular rate of pay; failed to provide compliant meal periods and associated premiums; failed to provide complaint rest periods and associated premiums; failed to provide compliant wage statements; failed to keep requisite records; failed to timely pay wages upon termination; and therefore engaged in unfair competition and owes penalties under PAGA.

Defendants deny all claims, deny that Plaintiff and the Class Members are entitled to any recovery, and assert affirmative defenses in response to Plaintiff’s claims.

The Action has been actively litigated. There have been on-going investigations, and an exchange of extensive documentation and information. Furthermore, the Parties have engaged in arms-length private mediation before a well-respected mediator. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide Settlement based upon the recommendation of the mediator. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Settlement, Defendants continue to deny all allegations and claims.

The Parties have entered into a Joint Stipulation of Class Action and PAGA Settlement (“Settlement,” or “Agreement”), which has been preliminarily approved by the Court. The Settlement has been reached between the Parties on behalf of:

- (1) all persons employed by Defendants in an hourly, non-exempt position in California during the Class Period (defined as February 1, 2019 through December 4, 2020) (“Class Members”); and
- (2) all persons employed by Defendants in an hourly, non-exempt position in California during the PAGA Period (defined as June 17, 2020 through December 4, 2020) (“PAGA Members”)

II. WHAT IS A CLASS ACTION AND PAGA ACTION?

In a class action lawsuit, the plaintiff (also called the “Class Representative”) sues on behalf of other people who may have similar claims (“Class” or “Class Members”). In class action litigation, one Court resolves the issues for everyone in the Class in one lawsuit, except for those people who choose to exclude themselves from the Class. This class action also includes a PAGA claim where the Plaintiff seeks to recover penalties for the State of California. In a PAGA action, the State receives 75% of the civil penalties, while employees receive the remaining 25%.

III. ESTIMATED INDIVIDUAL AWARD

You have received this notice because Defendants' records indicate you are a Class Member and/or PAGA Member. This notice is to advise you of how you can participate in or be excluded from the Settlement.

Based on Defendants' records, your Individual Class Award is estimated to be \$_____ (less applicable withholdings) and your Individual PAGA Award is estimated to be \$_____. The actual amount you may receive may be more or less than the amount estimated depending on the number of Class Members who choose to exclude themselves from the Settlement, the actual number of Workweeks worked by Participating Class Members, and on the distributions approved and allocated by the Court. If no amount is stated for your Individual PAGA Award, then you are not eligible for an Individual PAGA Award under the Settlement because you didn't work during the PAGA Period.

The above estimates are based on Defendants' records showing that you worked _____ workweeks during the Class Period, and you worked _____ pay periods during the PAGA Period.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether or not you act. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement. The Court will also decide whether to enter a judgment that approves the releases of claims by Class Members and PAGA Members in accordance with the terms of the Settlement.

IV. SUMMARY OF SETTLEMENT

1. Under the terms of the Settlement, Defendants agrees to pay the Maximum Settlement Amount of Three Hundred Thirty-Seven Thousand Five Hundred Dollars (\$337,500.00), which is inclusive of all amounts Defendants are required to pay under the Settlement, including all Individual Class Awards to Participating Class Members, all Individual PAGA Awards to PAGA Members, the LWDA Payment, the employer portion of applicable taxes, Plaintiff's Enhancement Award, Class Counsels' Attorneys' Fees and Costs, and Administration Expenses. The entire Maximum Settlement Amount will be fully paid out and no portion of the Maximum Settlement Amount will revert back to Defendant.

2. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Maximum Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

a. Up to \$8,000.00 in Administration Expenses to the Administrator for costs of administration of the Settlement.

b. Up to \$11,000.00 as allocated as PAGA penalties, 75% of which will be paid to the LWDA and 25% of which will be distributed as Individual PAGA Awards to PAGA Members on a pro-rata basis based on the number of pay periods worked by all PAGA Members during the PAGA Period.

c. Up to \$118,125.00 (35% of the Maximum Settlement Amount) to Class Counsel for attorneys' fees and up to \$25,000.00 for litigation costs and expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

d. Up to \$10,000.00 as Plaintiff's Enhancement Award for Plaintiff in recognition of her effort and work in prosecuting the Action and in exchange for an individual general release of all claims.

3. After making the above deductions in amounts approved by the Court the Administrator will distribute the remaining amount (the “Net Settlement Amount”) as Individual Class Awards to Participating Class Members. The Individual Class Awards to Participating Class Members are calculated on a pro-rata basis based on the number of Workweeks worked by all Participating Class Members during the Class Period based on the Class Data provided by Defendants.

4. Each Individual Class Award to a Participating Class Member will be attributed 10% as wages and 90% as penalties and interest. The Administrator will report the portions paid as penalties and interest via IRS 1099 form, along with the Class Members’ PAGA Payments (if applicable), and will report portions attributed to wages via IRS form W-2. The Administrator will pay employer payroll taxes owed on the wage portion of Individual Class Awards. The Administrator will deduct employee payroll taxes from the wage portion of Individual Class Awards. Although the Parties have agreed to these allocations, neither side is giving you any advice on whether your payment(s) are taxable or how much you might owe in taxes. You solely responsible for correctly characterizing any payments made pursuant to the Settlement for tax purposes and for paying any taxes on the amounts received. You should consult a tax advisor if you have any questions about the tax consequences of the Settlement.

5. Releases of Claims. Upon Final Approval being granted by the Court, every Class Member who does not opt out of the Settlement (i.e., Participating Class Member), will release Defendants and the Released Parties from the Released Claims as described below. Additionally, every PAGA Member will release Defendants and the Released Parties from the Released PAGA Claims as described below. If the Settlement is not approved by the Court or does not become final for some other reason, the Action will continue as though the Settlement never occurred and without prejudice to any Party.

a. “Released Parties” means (i) Avalon Health Care Management, Inc., Avalon Senior Living – Fortuna, LLC, Avalon Senior Living – Clearlake, LLC, Avalon Senior Living – Yreka, LLC, Avalon Senior Living – Cedar Creek, LLC, Avalon Senior Living Services, LLC, and Eastridge Pacific Senior-Living LLC (“Defendants”), (ii) Defendants’ past and present direct and indirect parents; (iii) the respective past and present direct and indirect subsidiaries and affiliates of any of the foregoing; (iv) the past and present shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors and assigns of any of the foregoing; and (v) any individual or entity which could be jointly liable with any of the foregoing.

b. Release By Participating Class Members. As of the date funds are distributed by Defendants to the Administrator, Plaintiff and all Participating Class Members fully, finally, and forever release, compromise, and discharge the Released Parties from all claims under the California Labor Code, Wage Orders, regulations, and/or any other provisions of state or federal law against the Released Parties that were alleged in the Action and those that reasonably could have been alleged in the Action based on Plaintiff’s factual allegations asserted in the Action and any amendments thereto, including, without limitation, all claims for (1) off-the-clock work, (2) meal period auto-deduction, (3) unpaid minimum wages, (4) unpaid regular wages, (5) unpaid overtime, (6) unpaid double time, (7) regular rate of pay, (8) meal periods and meal period premiums, (9) rest breaks and rest break premiums, (10) wage statements, (11) failure to keep records, (12) timely payment of wages at separation, (13) violation of Unfair Competition Law, and any other Labor Code violations that were alleged in the Action, or that could have been alleged in the Action based on the facts alleged in the Action, which includes, but is not limited to, alleged violations of Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, Code of Civil Procedure section 1021.5, Business and Professions Code section 17200, *et seq.* during the Class Period (February 1, 2019 through December 4, 2020).

c. Release By PAGA Members and State of California. As of the date funds are distributed by Defendants to the Administrator, Plaintiff, all PAGA Members, and the State of California fully, finally, and

forever release, compromise, and discharge the Released Parties from all claims for civil penalties under the California Labor Code, Wage Orders, regulations, and/or any other provisions of state and federal law against the Released Parties that were alleged in the Action and that reasonably could have been alleged in the Action based on the factual allegations contained in the operative complaints in the Action and any amendments thereto, including, without limitation, all claims for civil penalties under PAGA (Labor Code § 2698 *et seq.*) related to (1) off-the-clock work, (2) meal period auto-deduction, (3) unpaid minimum wages, (4) unpaid regular wages, (5) unpaid overtime, (6) unpaid double time, (7) regular rate of pay, (8) meal periods and meal period premiums, (9) rest breaks and rest break premiums, (10) wage statements, (11) failure to keep records, (12) timely payment of wages at separation, and any other Labor Code violations that were alleged in the Action, or that could have been alleged in the Action based on the facts alleged in the Action, which includes, but is not limited to, alleged violations of Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, during the PAGA Period (June 17, 2020 through December 4, 2020).

V. YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

If you worked for Defendants during the Class Period and/or the PAGA Period, your options under the Settlement are as follows:

Do Nothing	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Award and an Individual PAGA Award (if applicable). In exchange, you will give up your right to assert the Released Claims against the Defendants and the Released Parties (defined above) and, if applicable, the Released PAGA Claims. Your check(s) will be sent to the same address as this notice. If you move or change your mailing address be sure to notify the Administrator as soon as possible.
You can exclude yourself (i.e., opt-out) of the Class Settlement but not the PAGA Settlement Response Deadline is March 30, 2023	If you do not wish to participate in the Settlement, you can opt-out by sending the Administrator a written Request for Exclusion. The Request for Exclusion must contain: your full name, signature with date, the case name and number of the Action; and a clear statement indicating that you want to be excluded from the Settlement. The Request for Exclusion must be signed, dated, and mailed by First Class U.S. Mail, or the equivalent, to the Administrator. All Requests for Exclusion must be postmarked no later than the Response Deadline. Any individual who submits a Request for Exclusion will not be allowed to object to the terms of the Settlement.
Participating Class Members can object to the Class Settlement but not the PAGA Settlement Response Deadline is March 30, 2023	Any Class Member who does not exclude himself/herself from the Settlement (i.e., a Participating Class Member) may object to the terms of the Settlement by filing a written objection with the Court and mailing a copy to the Settlement Administrator, no later than the Response Deadline. A written objection must contain: your full name, signature with date, the case name and number of the Action, a clear statement indicating that you object to the Settlement, each specific reason in support of the objection along with any legal support for each objection, a clear statement indicating whether you are represented by counsel and whether you intend to appear at the Final Approval Hearing. If the Court rejects the objection, you will nevertheless be bound by the terms of the Settlement.

<p>Participating Class Members can participate in the Final Approval Hearing</p>	<p>The Court’s Final Approval Hearing is scheduled to take place on May 22, 2023, at 8:30 a.m., in Department 24 of the Superior Court of California for the County of Stanislaus located at 801 10th Street, Modesto, California 95354.</p> <p>You don’t have to attend, but you have the right to appear (or hire an attorney to appear on your behalf at your own cost) at the Final Approval Hearing. If you do not exclude yourself from the settlement, you may object orally at the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts and legal support for your objection. If the Court rejects the objection, you will nevertheless be bound by the terms of the Settlement.</p> <p>It’s possible the Court will reschedule the Final Approval Hearing. Check the Court’s website for the most current information or contact Class Counsel to verify the date and time of the Final Approval Hearing.</p>
<p>You can dispute the calculation of your Workweeks / Pay Periods Dispute Deadline is March 15, 2023</p>	<p>The number of Class Period workweeks and/or PAGA Period Pay Periods you worked based on Defendants’ records are stated above. If you disagree with either of these numbers, you can dispute them by submitting a timely written Workweek Dispute to the Administrator. The Workweek Dispute must be signed, dated, and mailed by First Class U.S. Mail, or the equivalent, to the Administrator. All Workweek Disputes must be postmarked no later than the Dispute Deadline. Unless you submit documentary evidence in support of your dispute, Defendants’ records will be determinative. All Workweek Disputes will be resolved and decided by the Administrator, and the Administrator’s decision on all disputes will be final and binding.</p>

VI. HOW TO CONTACT THE ADMINISTRATOR

Moon v. Avalon Health Care Management
 c/o Phoenix Class Action Administration Solutions
 P.O. Box 7208
 Orange, CA 92863
 Telephone: 800-523-5773

VII. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you should consult the detailed “Joint Stipulation of Class and PAGA Settlement” which is on file with the Clerk of the Court and can be accessed at <https://www.phoenixclassaction.com/moon-v-avalon-health-care-management/>. The pleadings and other records in this Action, including the Settlement, may be examined at any time during regular business hours at the Office of the Clerk of the Stanislaus County at 801 10th Street, Modesto, California 95354.

If you want additional information about this Action and its proceedings, you can contact the Administrator or Class Counsel in this Action:

AEGIS LAW FIRM, PC
Samuel A. Wong, Esq.
Kashif Haque, Esq.
Jessica L. Campbell, Esq.
Joseph M. Szilagyi, Esq.
jszilagyi@aegislawfirm.com
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS.

BY ORDER OF THE SUPERIOR COURT.