

1 David L. Cheng, Bar No. 240926  
dcheng@fordharrison.com  
2 Jennifer S. McGeorge, Bar No. 221679  
jmcgeorge@fordharrison.com  
3 FORD & HARRISON LLP  
350 South Grand Avenue, Suite 2300  
4 Los Angeles, CA 90071  
Telephone: 213-237-2400  
5 Facsimile: 213-237-2401

6 Attorneys for Defendant,  
LINCARE INC.

7 **HAINES LAW GROUP, APC**

8 Paul K. Haines (SBN 248226)  
phaines@haineslawgroup.com  
9 Sean M. Blakely (SBN 264384)  
sblakely@haineslawgroup.com  
10 Alexandra R. McIntosh (SBN 320904)  
amcintosh@haineslawgroup.com  
11 2155 Campus Drive, Suite 180  
El Segundo, California 90245  
12 Tel: (424) 292-2350  
Fax: (424) 292-2355

13 Attorneys for Plaintiffs

14  
15 **UNITED STATES DISTRICT COURT**  
16 **CENTRAL DISTRICT OF CALIFORNIA**  
17

18 ANTELMA CHAVEZ, as an  
individual and on behalf of all others  
19 similarly situated,

20 Plaintiff,

21 v.

22 LINCARE INC., a Delaware  
corporation; LINCARE HOLDINGS  
23 INC., a Delaware corporation; and  
DOES 1 through 100,

24 Defendants.  
25

Case No. 2:20-cv-02043 JWH-E  
[Hon. John W. Holcomb, Courtroom 2]

**CLASS ACTION**

**JOINT STIPULATION OF CLASS  
ACTION SETTLEMENT AND  
RELEASE**

Action Filed: December 5, 2019  
Date of Removal: March 2, 2020  
Trial Date: February 1, 2022

1  
2 **JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE**

3 IT IS HEREBY STIPULATED, by and among Plaintiffs ANTELMA  
4 CHAVEZ and BERNAL MAZARIEGOS (“Plaintiffs”), on behalf of themselves  
5 and the Settlement Class Members on the one hand, and Defendant LINCARE INC.  
6 (“Defendant”), and subject to the approval of the Court, that the above-captioned  
7 action is hereby being compromised and settled pursuant to the terms and conditions  
8 set forth in this Joint Stipulation of Class Action Settlement and Release (the  
9 “Settlement”).

10 **1. DEFINITIONS**

11 Capitalized terms used in this Settlement shall have the meanings set forth below:

12 1.1. “Actions” mean the lawsuit(s) entitled *Antelma Chavez, as an*  
13 *individual and on behalf of all others similarly situated v. Lincare Inc., a Delaware*  
14 *corporation; and DOES 1 through 100* (United States District Court for the Central  
15 District of California Case No. 2:20-cv-02043 JWH- E (“Federal Class Action  
16 Case”); and Superior Court of California, for the County of Ventura Case No. 56-  
17 2019-00536955-CU-OE-VTA filed on December 5, 2019 (“State Court Class  
18 Action Case”); and Superior Court of California, for the County of Ventura Case  
19 No. 56-2020-00539898-CU-OE-VTA, filed on February 10, 2020 (“State Court  
20 PAGA Action”).

21 1.2. “Claims Administrator” means Phoenix Settlement Administrators  
22 Settlement Administrators.

23 1.3. “Claims Administration Costs” means the amount to be paid to the  
24 third-party Claims Administrator from the Gross Settlement Amount for the  
25 administration of the Settlement. The Claims Administration Costs amount is not to  
26 exceed Seventeen Thousand Five Hundred Dollars and No Cents (\$17,500.00). Any  
27 portion of the requested Claims Administration Costs that is not awarded to the  
28 Claims Administrator shall be part of the Net Settlement Amount.

1           1.4. “Class Counsel” means Paul Haines, Sean Blakely and Alexandra  
2 McIntosh of Haines Law Group, APC.

3           1.5. “Class Counsel Award” means reasonable attorneys’ fees for Class  
4 Counsel’s litigation and resolution of the Actions in a maximum amount of Five  
5 Hundred Thirty-Three Thousand Dollars and Thirty-Three Cents (\$533,333.33)  
6 (33.33% of the Gross Settlement Amount). The Court shall determine the amount  
7 of the Class Counsel Award, and it shall be paid from the Gross Settlement Amount.  
8 Any portion of the requested Class Counsel Award that is not awarded to Class  
9 Counsel shall be part of the Net Settlement Amount.

10           1.6. “Class Counsel Costs” means expenses incurred by Class Counsel for  
11 Class Counsel’s litigation and resolution of the Actions, not to exceed One hundred  
12 Fifteen Thousand Dollars and No Cents (\$115,000.00). The Court shall determine  
13 the amount of the Class Counsel Costs, and it shall be paid from the Gross Settlement  
14 Amount. Any portion of the requested Class Counsel Costs that is not awarded to  
15 Class Counsel shall be part of the Net Settlement Amount.

16           1.7. “Class Information” means information regarding Settlement Class  
17 Members that Defendant will in good faith compile from its records and provide to  
18 the Claims Administrator. Class Information shall be provided as a Microsoft Excel  
19 spreadsheet and shall include, for each Settlement Class Member the following:  
20 Settlement Class Member’s full name; last known address; last known home  
21 telephone number; social security number; the dates of termination for any  
22 Settlement Class Member terminated on or after December 5, 2016; and the number  
23 of PAGA and Wage Statement Workweeks. Because social security numbers are  
24 included in the Class Information, the information shall be produced subject to a  
25 protective order entered by the Court, for which the Claims Administrator shall,  
26 pursuant to that protective order or otherwise by agreement with Defendant,  
27 maintain the Class Information in confidence; access shall be limited to those with  
28 a need to use the Class Information as part of the administration of the Settlement;

1 and transmission shall be through use of a secure link created and maintained by the  
2 Administrator.

3 1.8. “Class Period” means the period from December 5, 2015 through and  
4 including August 11, 2022.

5 1.9. “Aggrieved Employee Period” means the period from December 5,  
6 2018 through and including August 11, 2022.

7 1.10. “Class Representative Enhancement Award” means the amount that the  
8 Court authorizes to be paid to Plaintiffs, not to exceed Fifteen Thousand Dollars and  
9 No Cents (\$15,000.00) to each Plaintiff (\$30,000.00 total), in recognition of  
10 Plaintiffs’ efforts and risks in assisting with the prosecution of the Actions. The Class  
11 Representative Enhancement Award shall be paid from the Gross Settlement  
12 Amount. Any portion of the requested Class Representative Enhancement Award  
13 that is not awarded to Plaintiffs shall be part of the Net Settlement Amount.

14 1.11. “Compensable Work Weeks” means the number of work weeks  
15 worked by each Settlement Class Member during the Class Period.

16 1.12. “PAGA Work Weeks” means the number of work weeks worked by  
17 each Aggrieved Employee during the Aggrieved Employee Period.

18 1.13. “Court” means the United States District Court for the Central District  
19 of California and/or the Superior Court of the State of California for the County of  
20 Ventura.

21 1.14. “Defendant” means Lincare Inc., and all of its affiliated entities, related  
22 entities, owners, officers, directors, members, parents, subsidiaries, affiliates,  
23 employees, agents, successors and assigns.

24 1.15. “Defense Counsel” means David L. Cheng and Jennifer S. McGeorge  
25 of Ford & Harrison, LLP.

26 1.16. “Effective Date” means the latest of the following dates: (i) the date  
27 upon which the Court grants final approval of the Settlement if no Settlement Class  
28 member files an objection to the Settlement; or (ii) if an objection to the Settlement

1 is filed, sixty-five (65) days after the date upon which the Court grants final approval  
2 of the Settlement if no appeal is initiated; or (iii) if a timely appeal is initiated, the  
3 Effective Date shall be the date of final resolution of that appeal (including any  
4 requests for rehearing and/or petitions for *certiorari*), resulting in final judicial  
5 approval of the Settlement.

6 1.17. "Employee Taxes" means the employee's share of any and all  
7 applicable federal, state, and local payroll taxes on the portion of Participating Class  
8 Members' Individual Settlement Payment that constitutes wages. The Employee  
9 Taxes will be paid out of the Net Settlement Amount.

10 1.18. "Employer Taxes" means the employer's share of any and all  
11 applicable federal, state, and local payroll taxes on the portion of Participating Class  
12 Members' Individual Settlement Payment that constitute wages. The Employer  
13 Taxes will be paid by Defendant, and not out of the Gross Settlement Amount or Net  
14 Settlement Amount.

15 1.19. "Final Approval Hearing" means the hearing held on the motion for  
16 final approval of the Settlement.

17 1.20. "Final Approval Date" means the date on which the Court grants final  
18 approval of the Settlement.

19 1.21. "Final Judgment" means the Court's entry of an order of judgment in  
20 the Action(s) following the Court's final approval of the Settlement.

21 1.22. "Gross Settlement Amount" means the maximum amount Defendant  
22 shall have to pay in connection with this Settlement (subject to the escalator  
23 provision below), by way of a common fund, which shall be inclusive of all  
24 Individual Settlement Payments to Participating Class Members, Class Counsel  
25 Award, Class Counsel Costs, Claims Administrator Costs, Class Representative  
26 Enhancement Award, and the PAGA Allocation. Subject to Court approval and the  
27 terms of this Settlement, the Gross Settlement Amount Defendant shall be required  
28 to pay is one million six hundred thousand dollars and no cents (\$1,600,000.00). No

1 portion of the Gross Settlement Amount will revert to Defendant, and the Settlement  
2 does not require Participating Class Members to submit claims as a prerequisite to  
3 receiving their Individual Settlement Payment. The Gross Settlement Amount is  
4 based on a calculation of an estimated 63,961 Compensable Work Weeks as of  
5 February 13, 2022. Defendant shall not be required to pay more than the Gross  
6 Settlement Amount as long as the amount of Compensable Work Weeks does not  
7 increase by more than 6,396 (10% of 63,961). Should the class size increase by  
8 more than 6,396 Compensable Work Weeks, then the Gross Settlement Amount  
9 shall increase proportionately — e.g., if the Compensable Work Weeks increase by  
10 10,000 (approximately 15.63%) percent, the Gross Settlement Amount shall also  
11 increase by 15.63% percent. Under no other circumstances shall Defendant be  
12 required to pay more than the Gross Settlement Amount except as provided for in  
13 this Settlement.

14 1.23. “Individual Settlement Payment” means the amount payable to each  
15 Participating Class Member, as calculated pursuant to Paragraph 3.22 of the  
16 Settlement, from the Net Settlement Amount. Checks for Individual Settlement  
17 Payments will specifically indicate that they are void if not negotiated within one  
18 hundred eight (180) days of their issuance.

19 1.24. “PAGA Allocation” means Fifty Thousand Dollars and No Cents  
20 (\$50,000.00) for the compromise of claims for civil penalties brought under the  
21 Labor Code Private Attorneys General Act of 2004 (“PAGA”).

22 1.25. “LWDA PAGA Allocation” means Thirty-Seven Thousand Five  
23 Hundred Dollars and No Cents (\$37,500.00), representing 75% of the PAGA  
24 Allocation, and is the amount payable from the Gross Settlement Amount to  
25 California’s Labor & Workforce Development Agency.

26 1.26. “Aggrieved Employee Settlement Payment” means the amount payable  
27 to each Aggrieved Employee, as calculated pursuant to Paragraph 3.24 of the  
28 Settlement, from the Aggrieved Employee PAGA Allocation. Checks for Aggrieved

1 Employee Settlement Payments will specifically indicate that they are void if not  
2 negotiated within one hundred eight (180) days of their issuance.

3 1.27. “Aggrieved Employee PAGA Allocation” means Seventeen Thousand  
4 Five Hundred Dollars and No Cents (\$17,500.00), representing 25% of the PAGA  
5 Allocation, and is the amount payable from the Gross Settlement Amount to  
6 Aggrieved Employees.

7 1.28. “Aggrieved Employees” shall mean any Settlement Class Member  
8 employed in California at any time from December 5, 2018 through and including  
9 August 11, 2022.

10 1.29. “Net Settlement Amount” means the Gross Settlement Amount, less  
11 the Class Counsel Award, the Class Counsel Costs, the Class Representative  
12 Enhancement Award, the Claims Administration Costs, and the PAGA Allocation.  
13 The Net Settlement Amount shall be distributed in its entirety to Participating Class  
14 Members.

15 1.30. “Notice of Objection” means a written statement of objection to the  
16 Settlement made and signed by a Settlement Class Member and includes the  
17 following: (1) the full name of the Settlement Class Member; (2) the dates of  
18 employment of the Settlement Class Member; (3) the last four (4) digits of the  
19 Settlement Class Member’s Social Security number and/or the Employee ID  
20 number; (4) the basis for the objection; and (5) whether the Settlement Class Member  
21 intends to appear at the Final Approval Hearing.

22 1.31. “Notice of Settlement” or “Notice Packet” means the Notice of  
23 Proposed Class Action Settlement and Notice of Settlement Award (substantially in  
24 the form attached hereto as **Exhibit “A”**).

25 1.32. “Participating Class Members” means all Settlement Class Members  
26 who do not submit a valid and timely Request for Exclusion.

27 1.33. “Parties” means Plaintiffs and Defendant collectively, and “Party” shall  
28 mean any Plaintiff or Defendant, individually.

1           1.34. “Plaintiffs” means Antelma Chavez and Bernal Mazariegos.

2           1.35. “Preliminary Approval” or “Preliminary Approval Date” means the  
3 date the Court enters the Preliminary Approval Order for the Settlement.

4           1.36. “Preliminary Approval Order” means the Proposed Order (filed  
5 concurrently with this Settlement) for preliminary approval of the Settlement.

6           1.37. “Plaintiffs’ General Release” means any and all claims, demands,  
7 liabilities, and causes of action of every nature and description whatsoever, known  
8 or unknown, asserted or that have been asserted or that might have been asserted,  
9 whether in tort, contract, or violation of any state or federal statute, rule or  
10 regulation, and that they may have against Defendant and all Released Parties, and  
11 arising out of, relating to, or in connection with Plaintiffs’ employment with  
12 Defendant. Plaintiffs’ General Release includes claims for wages; back pay; front  
13 pay; reinstatement; damages; or benefits. Plaintiffs’ General Release also releases  
14 any and all claims they may have that arose prior to the date of this Settlement, and  
15 hereby specifically waives and releases all claims, including, but not limited to,  
16 those arising under 42 U.S.C. § 1983; Title VII of the Civil Rights Act of 1964, as  
17 amended, the Civil Rights Act of 1991, 42 U.S.C. § 2000e *et. seq.*; the Equal Pay  
18 Act; the Americans With Disabilities Act of 1990, as amended; the Rehabilitation  
19 Act of 1973, as amended; the Age Discrimination in Employment Act (ADEA), as  
20 amended; Sections 1981 through 1988 of Title 42 of the United States Code, as  
21 amended; the Immigration Reform and Control Act, as amended; the Workers  
22 Adjustment and Retraining Notification Act, as amended; the Occupational Safety  
23 and Health Act, as amended; the Consolidated Omnibus Budget Reconciliation Act  
24 (COBRA); the Family and Medical Leave Act; the National Labor Relations Act;  
25 the Fair Credit Reporting Act; the Fair Labor Standards Act; the Labor Management  
26 Relations Act; the American Recovery and Reinvestment Act of 2009; the Genetic  
27 Information Nondiscrimination Act of 2008; and any and all state or local statutes,  
28 ordinances, or regulations, as well as all claims arising under common law, federal,

1 state, or local law involving any tort, employment contract (express or implied),  
2 public policy, wrongful discharge, or any other claim, including, but not limited to  
3 claims under the California Health and Safety, Labor, Civil and Government Codes;  
4 claims based upon the California Constitution; the Confidentiality of Medical  
5 Information Act; the California Family Rights Act; and the California Fair  
6 Employment & Housing Act, and recovery of attorney's fees and costs under any  
7 applicable statute. Plaintiffs shall be deemed to have, and by operation of the Final  
8 Judgment shall have, expressly waived and relinquished, to the fullest extent  
9 permitted by law, the provisions, rights and benefits of Section 1542 of the  
10 California Civil Code, or any other similar provision under federal or state law,  
11 which Section provides:

12 **A general release does not extend to claims that the creditor or**  
13 **releasing party does not know or suspect to exist in his or her favor**  
14 **at the time of executing the release and that, if known by him or**  
15 **her, would have materially affected his or her settlement with the**  
16 **debtor or released party.**

17 This release excludes any current and/or future claims that cannot be waived as a  
18 matter of law, including any claims for or related to workers compensation benefits,  
19 any claims for unemployment insurance benefits, or any other claims that cannot be  
20 released by law.

21 1.38. "Class Released Claims" means that Plaintiffs and all Participating  
22 Class Members shall be deemed to have released Defendant and all Released Parties  
23 from all claims in the Actions, as well as any and all claims that were asserted or  
24 could have been asserted based on the facts pled in the Actions (including those  
25 alleged in Plaintiffs' Letters to the California Labor & Workforce Development  
26 Agency, the allegations of which are expressly incorporated herein, including any  
27 and all claims arising from the facts alleged in the Action(s), including all wage and  
28 hour claims for unpaid wages including minimum wages and overtime, failure to

1 pay wages during employment and upon separation of employment, meal and rest  
2 break violations, wage statement violations, failure to reimburse all necessary  
3 business expenses, and recovery of restitution, disgorgement, injunctive relief,  
4 declaratory relief, conversion, unjust enrichment, civil and statutory penalties,  
5 interest, liquidated damages, and claims under California Labor Code sections 201-  
6 203, 204, 210, 212-213, 218.6, 223, 226, 226.3, 226.7, 510, 512, 516, 558, 558.1,  
7 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2698-2699.5, 2802, 2804, applicable  
8 Industrial Welfare Commission Wage Orders, claims under California Business &  
9 Professions Code sections 17200-17208, Civil Code §§3287 and 3289, Code of  
10 Civil Procedure §1021.5, and recovery of attorney’s fees and costs under any  
11 applicable statute.

12 1.39. “PAGA Released Claims” means that Plaintiffs, the State of California,  
13 and, all Aggrieved Employees, regardless of whether they opt out from the  
14 Settlement, shall be deemed to have released Defendant and all Released Parties  
15 from any and all claims brought pursuant to the California Private Attorneys  
16 General Act of 2004, Cal. Lab. Code sections 2698, *et seq.*, based on the claims that  
17 were asserted or could have been asserted based on the facts pled in the Actions,  
18 including those alleged in Plaintiffs’ Letters to the California Labor & Workforce  
19 Development Agency, the allegations of which are expressly incorporated herein,  
20 including, without limitation, any and all claims arising from the facts alleged in  
21 the Action(s), including all wage and hour claims for unpaid wages including  
22 minimum wages and overtime, failure to pay wages during employment and upon  
23 separation of employment, meal and rest break violations, wage statement  
24 violations, failure to reimburse all necessary business expenses, and recovery of  
25 civil penalties for violations of California Labor Code sections 201-203, 204, 210,  
26 212-213, 218.6, 223, 226, 226.3, 226.7, 510, 512, 516, 558, 558.1, 1174, 1194,  
27 1194.2, 1197, 1197.1, 1198, 2698-2699.5, 2802, 2804, applicable Industrial  
28 Welfare Commission Wage Orders, claims under California Business &

1 Professions Code sections 17200-17208, Civil Code §§3287 and 3289, Code of  
2 Civil Procedure §1021.5, and recovery of attorney’s fees and costs under any  
3 applicable statute.

4 1.40. “Released Parties” means Defendant and all of its affiliated entities,  
5 related entities, owners, officers, directors, members, parents, subsidiaries,  
6 affiliates, employees, agents, successors and assigns.

7 1.41. “Request for Exclusion” means a request by any Settlement Class  
8 Member to exclude themselves from the Settlement. Any Settlement Class member  
9 who wishes to opt out of the Settlement must complete and mail a Request for  
10 Exclusion (defined below) to the Settlement Administrator within sixty (60) calendar  
11 days of the date of the initial mailing of the Notice Packets (the “Response  
12 Deadline”). The Notice Packet shall state that Settlement Class members who wish  
13 to exclude themselves from the Settlement must prepare and submit a Request for  
14 Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain  
15 the name, address, telephone number and the last four digits of the Social Security  
16 number of the Settlement Class member; (2) contain a statement that the Settlement  
17 Class member wishes to be excluded from the Settlement; (3) be signed by the  
18 Settlement Class member; and (4) be postmarked by the Response Deadline and  
19 mailed to the Settlement Administrator at the address specified in the Class Notice.  
20 If the Request for Exclusion does not contain the information listed in (1)-(3), it will  
21 not be deemed valid for exclusion from the Settlement, except a Request for  
22 Exclusion not containing a Settlement Class member’s telephone number and/or last  
23 four digits of the Social Security number will be deemed valid. The date of the  
24 postmark on the Request for Exclusion shall be the exclusive means used to  
25 determine whether a Request for Exclusion has been timely submitted. Any  
26 Settlement Class member who requests to be excluded from the Settlement Class  
27 will not be entitled to any recovery under this Settlement Agreement (except for any  
28 amount due to him or her from the PAGA Amount, if applicable).

1 1.42. "Response Deadline" means the date sixty (60) days after the Claims  
2 Administrator mails Notice Packets to Settlement Class Members, and shall be the  
3 last date on which Settlement Class Members may: (a) postmark Requests for  
4 Exclusion from the Settlement, or (b) postmark Objections to the Settlement.

5 1.43. "Settlement" means this Joint Stipulation of Class Action Settlement  
6 and Release.

7 1.44. "Settlement Class Member(s)" or "Settlement Class" means all non-  
8 exempt, hourly workers who were employed by Lincare Inc. in California at any  
9 time from December 5, 2015 through and including August 11, 2022. The  
10 Settlement Class, however, specifically excludes any employee who previously  
11 brought a lawsuit against Lincare Inc. and which subsequently resulted in settlement.

12 **2. RECITALS**

13 2.1. Class Certification, Remand and Amendment to Complaint. The  
14 Parties stipulate and agree to the class certification of the Settlement Class for  
15 purposes of this Settlement only. As a condition to Settlement, the Parties stipulate  
16 and agree to remand of the Federal Class Action Case to Ventura County Superior  
17 Court, Should the Settlement not become final and effective, class certification shall  
18 immediately be set aside (subject to further proceedings on motion of any party to  
19 certify or deny certification thereafter). The Parties' willingness to stipulate to class  
20 certification as part of the Settlement shall have no bearing on and shall not be  
21 admissible in or considered in connection with, the issue of whether a class should  
22 be certified in a non-settlement context in this Action(s), and shall have no bearing  
23 on and shall not be admissible or considered in connection with the issue of whether  
24 a class should be certified in any other lawsuit. In addition, should the Settlement  
25 not become final and effective, meaning the Court denies final approval with  
26 prejudice, within fourteen (14) days of the Settlement not becoming final and  
27 effective, Plaintiffs shall file an amended complaint substantially in the form  
28 attached hereto as **Exhibit B**.

1           2.2. Procedural History. On December 5, 2019, Plaintiff Antelma Chavez,  
2 a former employee of Defendant, filed a Class Action Complaint in the Superior  
3 Court of the state of California for the County of Ventura as a putative class action  
4 on behalf of all current and former non-exempt California employees of Defendant,  
5 during the period of December 5, 2015 “through the present.” Plaintiff Chavez  
6 alleged that Defendant Lincare Inc. and former Defendant Lincare Holdings Inc.: (1)  
7 failed to provide lawful meal periods, (2) failed to provide lawful rest periods, (3)  
8 failed to reimburse all necessary business expenses, (4) failed to provide accurate  
9 itemized wage statements; (5) failed to properly and timely pay wages upon  
10 termination of employment; and (6) engaged in unfair competition. Plaintiff Chavez  
11 sought recovery under the California Labor Code, the applicable Industrial Welfare  
12 Commission Wage Order, and the California Business & Professions Code. On  
13 March 2, 2020, Defendant filed a notice of removal, removing the lawsuit entitled  
14 *Antelma Chavez, as an individual and on behalf of all others similarly situated v.*  
15 *Lincare Inc., a Delaware corporation; Lincare Holdings Inc., a Delaware*  
16 *corporation; and DOES 1 through 100, Ventura County Superior Court Case No.*  
17 *56-2019-00536955-CU-OE-VTA* (“State Court Class Action Case”) to the United  
18 States District Court for the Central District of California, and the case was then  
19 issued USDC Case No. 2:20-cv-02043 JWH- E (“Federal Class Action Case”). On  
20 February 10, 2020 Plaintiff Chavez filed a second Action in the Superior Court of  
21 California for the County of Ventura under the Labor Code Private Attorneys  
22 General Act (“PAGA”), which was issued Ventura County Superior Court Case No.  
23 56-2020-00539898-CU-OE-VTA (“State Court PAGA Action”). After meet and  
24 confer discussions between the Parties, Defendant Lincare Holdings Inc. was  
25 dismissed as a Defendant to the Actions, the State Court PAGA Action was  
26 dismissed without prejudice, and the Parties stipulated to the filing of First and  
27 Second Amended Complaints in the Federal Class Action case. The Second  
28 Amended Complaint, which is the operative Complaint, was filed on May 10, 2021.

1 The Second Amended Complaint added Plaintiff Bernal Mazariegos as an additional  
2 Plaintiff, and alleges claims for: (1) failure to provide lawful meal periods, (2) failure  
3 to provide lawful rest periods, (3) failure to reimburse all necessary business  
4 expenses, (4) failure to provide accurate itemized wage statements; (5) failure to  
5 properly and timely pay wages upon termination of employment, including for the  
6 untimely payment of all minimum and/or overtime wages due; (6) unfair  
7 competition, and (7) Civil Penalties Under the PAGA.

8       2.3. Settlement Negotiations. On May 10, 2022, the Parties participated in  
9 a private mediation session with mediator Steven Serratore, a well-respected,  
10 experienced mediator in the field of wage and hour class actions. Prior to the  
11 mediation, Class Counsel conducted extensive discovery and investigation during  
12 the prosecution of the Action(s). The discovery and investigation included, among  
13 other things: (1) inspection and analysis of employee documents and data, time and  
14 payroll records, employment policies and procedures, and other relevant documents;  
15 (2) evaluation of legal positions taken by Defendant; (3) evaluation of potential  
16 class-wide damages and PAGA penalties; (4) review and research of applicable law  
17 with respect to the claims and potential defenses brought by Defendant; (5)  
18 Depositions of the Plaintiffs, Defendant's Persons Most Knowledgeable, and  
19 additional defense witnesses; and (6) written discovery responses. Class Counsel  
20 has vigorously prosecuted the Actions, and Defendant has vigorously defended it.  
21 The Parties have engaged in sufficient discovery and investigation to assess the  
22 relative merits of the claims and contentions of the Parties. Based on this  
23 information and the settlement discussions during the mediation conducted at arm's  
24 length, the Parties came to an agreement in principle on May 13, 2022. The  
25 settlement is the result of an informed and detailed evaluation of the potential  
26 liability of total exposure in relation to the costs and risks associated with continued  
27 litigation of the Actions.

28       2.4. Benefits of Settlement to Settlement Class Members. Plaintiffs and

1 Class Counsel recognize the length of continued proceedings necessary to litigate  
2 their disputes through certification, trial, and any possible appeal. Plaintiffs and  
3 Class Counsel have also taken into account the uncertainty and risk of the outcome  
4 of further litigation, the difficulties and delays inherent in such litigation, including,  
5 but not limited to, the risks related to a contested motion for class certification, and  
6 the risks related to liability raised by the issues in this case. Plaintiffs and Class  
7 Counsel are also aware of the burdens of proof necessary to establish liability for the  
8 claims asserted in the Actions and the difficulties in establishing damages for the  
9 Settlement Class Members. Plaintiffs and Class Counsel have also taken into  
10 account Defendant's agreement to enter into a settlement that confers substantial  
11 relief upon Settlement Class Members. Based on the foregoing, Plaintiffs and Class  
12 Counsel have determined that this Settlement is a fair, adequate, and reasonable, and  
13 is in the best interests of the Settlement Class Members.

14       2.5. No Admissions. The Parties understand and agree that this Settlement  
15 is the result of a good faith compromise of disputed claims and allegations.  
16 Defendant denies any and all claims alleged in the Actions and denies all  
17 wrongdoing whatsoever. This Agreement is not a concession or admission, and shall  
18 not be used against Defendant as an admission or indication with respect to any claim  
19 of any fault, concession or omission by Defendant, regardless of whether or not the  
20 Settlement is finally approved and/or consummated. In particular, but without  
21 limiting the generality of the foregoing, nothing about this Settlement shall be  
22 offered or construed as an admission that Defendant has violated any of its  
23 obligations under the California Labor Code, or of liability in general, or any  
24 wrongdoing, impropriety, responsibility, or fault whatsoever on the part of  
25 Defendant and/or the Released Parties. In addition, this Settlement shall not be  
26 offered or admissible in evidence against any of the Parties or any of the Released  
27 Parties, except in any action or proceeding brought by or against Plaintiffs, or  
28 Defendant to enforce its terms, or by Defendant in defense of any claims brought by

1 Plaintiffs. Further, the negotiation, terms, and entry of this Stipulation shall remain  
2 subject to the provisions of Federal Rule of Evidence 408, and any other analogous  
3 California state rules of evidence that are applicable.

4 2.7. Settlement Class Members' Claims. Plaintiffs claim that the Released  
5 Claims have merit and give rise to liability on the part of Defendant. This Settlement  
6 is a compromise of disputed claims. Nothing contained in this Settlement and no  
7 documents referred to herein, nor any action taken to carry out this Settlement may  
8 be construed or used as an admission by or against the Settlement Class Members or  
9 Class Counsel as to the merits or lack thereof of the claims asserted.

10 **3. TERMS OF SETTLEMENT**

11 The Parties agree as follows:

12 3.1. Binding Settlement. This Settlement shall bind the Parties and all  
13 Participating Class Members, subject to the terms and conditions hereof and the  
14 Court's approval.

15 3.2. Maximum Amount Payable. Under the terms of this Settlement, the  
16 maximum amount payable by Defendant (subject to the escalator language included  
17 in section 1.22) shall be the Gross Settlement Amount of one million six hundred  
18 thousand dollars and no cents (\$1,600,000.00), which includes Individual Settlement  
19 Payments to Participating Class Members, the Class Counsel Award, Class Counsel  
20 Costs, Claims Administrator Costs, Class Representative Enhancement Award,  
21 Employee Taxes, and the PAGA Allocation. Employer Taxes due on wage  
22 payments from the maximum amount payable shall be paid separately by Defendant,  
23 in addition to the maximum amount payable.

24 3.3. Releases As To Plaintiffs, Participating Class Members and All  
25 Settlement Class Members. As of the Effective Date, all Participating Class  
26 Members, including Plaintiffs will be deemed to have fully, finally and forever  
27 released, settled, compromised, relinquished, and discharged the Released Parties  
28 from the Class Released Claims for the period of December 5, 2015 through and

1 including August 11, 2022. Likewise, as of the Effective Date, the Plaintiffs' General  
2 Release and the PAGA Released Claims shall become effective.

3       3.4. Tax Liability. The Parties make no representations as to the tax  
4 treatment or legal effect of the payments called for hereunder, and Plaintiffs and  
5 Settlement Class Members are not relying on any statement or representation by the  
6 Parties in this regard. Plaintiffs and Settlement Class Members understand and agree  
7 that they will be responsible for the payment of any taxes and penalties assessed on  
8 the payments described herein and will hold the Released Parties free and harmless  
9 from and against any claims resulting from treatment of such payments as non-  
10 taxable damages, including the treatment of such payment as not subject to  
11 withholding or deduction for payroll and employment taxes. Plaintiffs are advised  
12 to consult with competent tax counsel in connection with this Settlement, and  
13 Plaintiffs are not relying on any statement or representation by Defendant in this  
14 regard. Defendant's share of Employer Taxes shall be paid separately from the  
15 Gross Settlement Amount.

16       3.5. Circular 230 Disclaimer. The Parties acknowledge and agree that (1)  
17 no provision of this Settlement, and no written communication or disclosure between  
18 or among the Parties, Class Counsel or Defense Counsel and other advisers, is or  
19 was intended to be, nor shall any such communication or disclosure constitute or be  
20 construed or be relied upon as, tax advice within the meaning of United States  
21 Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the  
22 acknowledging party (a) has relied exclusively upon his, her, or its own, independent  
23 legal and tax counsel for advice (including tax advice) in connection with this  
24 Settlement, (b) has not entered into this Settlement based upon the recommendation  
25 of any other party or any attorney or advisor to any other party, and (c) is not entitled  
26 to rely upon any communication or disclosure by any attorney or advisor to any other  
27 party to avoid any tax penalty that may be imposed on the acknowledging party; and  
28 (3) no attorney or advisor to any other party has imposed any limitation that protects

1 the confidentiality of any such attorney's or adviser's tax strategies (regardless of  
2 whether such limitation is legally binding) upon disclosure by the acknowledging  
3 party of the tax treatment or tax structure of any transaction, including any  
4 transaction contemplated by this Settlement.

5 3.6. Settlement Approval and Implementation Procedures. As part of this  
6 Settlement, the Parties agree to the following procedures for obtaining the Court's  
7 preliminary approval of the Settlement, certifying the Settlement Class, notifying  
8 Settlement Class Members of the Settlement, obtaining the Court's final approval of  
9 the Settlement, and processing the Individual Settlement Payments and Aggrieved  
10 Employee Settlement Payments.

11 3.7. Preliminary Approval and Certification. As soon as practicable after  
12 execution of this Settlement, the Parties will jointly submit this Settlement to the  
13 Court for its preliminary approval. Such submission will include this Settlement,  
14 the proposed Notice Packet, the proposed Preliminary Approval Order, and any,  
15 memoranda and evidence as may be necessary for the Court to determine that this  
16 Settlement is fair, adequate, and reasonable. The Parties agree to request the Court  
17 to enter an order conditionally certifying the Settlement Class after the preliminary  
18 approval hearing, in accordance with Rule 23 and or California Rules of Court, Rule  
19 3.769(c). The motion for preliminary approval of the Settlement shall also include  
20 a declaration from Class Counsel that it has provided notice to the California Labor  
21 & Workforce Development Agency as required under Cal. Lab. Code section  
22 2699(1)(2).

23 3.8. Class Information. No more than fifteen (15) calendar days after the  
24 entry of the Preliminary Approval Order, Defendant shall provide the Claims  
25 Administrator with the Class Information for purposes of mailing Notice Packets to  
26 Settlement Class Members.

27 3.9. Notice by First Class U.S. Mail. Upon receipt of the Class Information,  
28 the Claims Administrator will perform a search on the National Change of Address

1 database to update the Settlement Class Members' addresses. No more than ten (10)  
2 calendar days after receiving the Class Information from Defendant, as provided  
3 herein, the Claims Administrator shall mail copies of the Notice Packet in English  
4 and Spanish to all Settlement Class Members by regular First-Class U.S. Mail  
5 (attached hereto as Exhibits A and B, to be translated by the Claims Administrator).  
6 The Claims Administrator shall exercise its best judgment to determine the current  
7 mailing address for each Settlement Class Member. The address identified by the  
8 Claims Administrator as the current mailing address shall be presumed to be the best  
9 mailing address for each Settlement Class Member. It will be conclusively  
10 presumed that if an envelope so mailed has not been returned within twenty (20)  
11 days of the mailing that the Settlement Class Member received the Notice Packet.

12 3.10. Undeliverable Notices. Any Notice Packets returned to the Claims  
13 Administrator as undeliverable on or before the Response Deadline shall be re-  
14 mailed to the forwarding address affixed thereto.

15 3.11. For each Settlement Class Member whose Notice Packet is returned,  
16 there will be one (1) skip trace by the Claims Administrator. If an updated mailing  
17 address is identified, the Claims Administrator shall resend the Notice Packet to the  
18 Settlement Class Member. One (1) supplemental Notice Packet shall be mailed to  
19 each Settlement Class Member whose original Notice Packet is returned as  
20 undeliverable to the Claims Administrator. Such re-mailing shall be made within  
21 five (5) business days of the Claims Administrator receiving notice that the  
22 respective Notice Packet was undeliverable. Reasonable requests by the Claims  
23 Administrator for additional information in Defendant's possession must be  
24 responded to within a reasonable amount of time by counsel for Defendant. It is the  
25 intent of the Parties that reasonable means be used to locate the Settlement Class  
26 Members and apprise them of their rights.

27 3.12. Settlement Class Members to whom Notice Packets are re-sent after  
28 having been returned undeliverable to the Claims Administrator shall have an

1 additional fourteen (14) calendar days to mail the Request for Exclusion or a Notice  
2 of Objection. Notice Packets that are re-sent shall inform the recipient of this  
3 adjusted deadline. The date of the postmark on the return envelope shall be the  
4 exclusive means used to determine whether a Settlement Class Member has returned  
5 his or her Request for Exclusion on or before the adjusted deadline. It will be  
6 conclusively presumed that if an envelope so mailed has not been returned within  
7 twenty (20) days of the mailing, that the Settlement Class Member received the  
8 Notice Packet. If a Settlement Class Member's Notice Packet is returned to the  
9 Claims Administrator more than once as undeliverable, then an additional Notice  
10 Packet shall not be re-mailed.

11 3.13. Compliance with the procedures specified in paragraphs 3.9 through  
12 3.12 of this Settlement shall constitute due and sufficient notice to Settlement Class  
13 Members of this Settlement and shall satisfy the requirement of due process.  
14 Nothing else shall be required of, or done by, the Parties, Class Counsel, and/or  
15 Defense Counsel to provide notice of the proposed Settlement.

16 3.14. Disputes. Settlement Class Members will have the opportunity during  
17 the sixty (60) day Response Deadline, should they disagree with Defendant's records  
18 regarding their days worked during the Class Period, to provide documentation  
19 and/or an explanation to show contrary days worked. Absent evidence to the  
20 contrary, Defendant's records will be presumed correct. If there is a dispute, the  
21 Claims Administrator will notify and consult with the Parties to determine whether  
22 an adjustment is warranted. The Claims Administrator shall determine the eligibility  
23 for, and the amounts of, any Individual Settlement Payments under the terms of this  
24 Settlement. The Claims Administrator's determination of the eligibility for and  
25 amount of any Individual Settlement Payment shall be binding upon the Settlement  
26 Class Member and the Parties. The Claims Administrator shall inform Class  
27 Counsel in a timely fashion as to the submission and resolution of all disputes.

28 3.15. Exclusions (Opt-Outs). The Notice Packet shall state that Settlement

1 Class Members who wish to exclude themselves from the Settlement must submit a  
2 Request for Exclusion by the Response Deadline. The Request for Exclusion: (1)  
3 must contain the name, address, and the last four (4) digits of the Social Security  
4 number of the Settlement Class Member requesting exclusion, (2) must be signed by  
5 the Settlement Class Member; and (3) must be postmarked by the Response Deadline  
6 and returned to the Claims Administrator at the specified address. If the Request for  
7 Exclusion does not contain the information listed in (1)-(3), it will not be deemed  
8 valid for exclusion from this Settlement. The date of the postmark on the return-  
9 mailing envelope shall be the exclusive means used to determine whether a Request  
10 for Exclusion has been timely submitted. Any Settlement Class Member who  
11 requests to be excluded from the Settlement will not be entitled to any recovery  
12 under the Settlement and will not be bound by the terms of the Settlement, unless  
13 the employee worked during the PAGA Period, for which they will receive their  
14 Aggrieved Employee Settlement Payment regardless of whether they opt out of the  
15 Settlement. Settlement Class Members who receive a Notice Packet, but fail to  
16 submit a valid and timely Request for Exclusion on or before the Response Deadline  
17 shall be bound by all terms of the Settlement and any Final Judgment entered in the  
18 Action(s) if the Settlement is approved by the Court. At no time shall any of the  
19 Parties or their counsel seek to solicit or otherwise encourage members of the  
20 Settlement Class to submit Requests for Exclusion from the Settlement. Class  
21 Counsel shall not represent any Settlement Class Member with respect to any such  
22 Requests for Exclusion. Settlement Class Members who submit a valid Request for  
23 Exclusion may not also submit a Notice of Objection. No later than seven (7)  
24 calendar days after the Response Deadline, the Claims Administrator shall provide  
25 Defense Counsel with a final list of the Settlement Class Members who have timely  
26 submitted a Request for Exclusion.

27 3.16. Objections. The Notice Packet shall state that Settlement Class  
28 Members who wish to object to the Settlement must not submit a Request for

1 Exclusion and can either submit a written statement of objection (“Notice of  
2 Objection”) by the Response Deadline to the Claims Administrator and/or appear at  
3 the Final Approval Hearing. The Notice of Objection must be signed by the  
4 Settlement Class Member and state: (1) the full name of the Settlement Class  
5 Member; (2) the dates of employment of the Settlement Class Member; (3) the last  
6 four (4) digits of the Settlement Class Member’s Social Security number and/or the  
7 Employee ID number; (5) the basis for the objection; and (6) whether the Settlement  
8 Class Member intends to appear at the Final Approval Hearing. The Notice of  
9 Objection must be postmarked by the Response Deadline and returned to the Claims  
10 Administrator at the specified address. Within five (5) days of receiving a Notice of  
11 Objection from a Settlement Class Member, the Claims Administrator shall forward  
12 the Notice of Objection to Class Counsel and Defense Counsel. Class Counsel will  
13 thereafter lodge the Settlement Class Member’s Notice of Objection with the Court.  
14 Settlement Class Members who submit a Request for Exclusion are not entitled to  
15 object to the Settlement. At no time shall any of the Parties or their counsel seek to  
16 solicit or otherwise encourage Settlement Class Members to file or serve written  
17 objections to the Settlement or appeal from the Final Judgment. Class Counsel shall  
18 not represent any Settlement Class Members with respect to any such objections.

19       3.17. Plaintiffs’ Participation. By executing this Settlement, Plaintiffs hereby  
20 stipulate that they will not object to or exclude themselves from the Settlement in  
21 any way.

22       3.18. No Solicitation of Settlement Objections or Exclusions. The Parties  
23 and their counsel agree to use their best efforts to carry out the terms of this  
24 Settlement. At no time shall any of the Parties or their counsel seek to solicit or  
25 otherwise encourage Settlement Class Members to submit either written objections  
26 to the Settlement or Requests for Exclusion from the Settlement, or to appeal from  
27 the Court’s Final Judgment.

28       3.19. Funding of the Gross Settlement Amount. This is a non-reversionary

1 Settlement in which Defendant is required to pay the entire Gross Settlement  
2 Amount. No portion of the Gross Settlement Amount will revert to Defendant.  
3 Defendant is separately and solely responsible for any employer payroll taxes owed  
4 as a result of the Settlement. By no later than sixty (60) calendar days after the  
5 Effective Date, Defendant shall provide to the Claims Administrator the Gross  
6 Settlement Amount. No payments from the Gross Settlement Amount shall be made  
7 before the Gross Settlement Amount is fully funded. No release in this Settlement  
8 shall be effective until the Gross Settlement Amount is fully funded.

9 3.20. Accounting by Claims Administrator. No more than five (5) business  
10 days after the Gross Settlement Amount is fully funded, the Claims Administrator  
11 will provide the Parties with an accounting of all anticipated payments from the  
12 Gross Settlement Amount. The Net Settlement Amount shall be calculated by  
13 deducting from the Gross Settlement Amount payments for (1) Class Representative  
14 Enhancement Award, as specified in this Settlement and approved by the Court; (2)  
15 Class Counsel Award, as specified in this Settlement and approved by the Court; (3)  
16 Class Counsel Costs, as specified in this Settlement and approved by the Court; (4)  
17 Claims Administration Costs, as specified in this Settlement and approved by the  
18 Court; and (5) the PAGA Allocation, as specified in this Settlement and approved  
19 by the Court. The Net Settlement Amount shall be distributed in Individual  
20 Settlement Payments in accordance with Paragraphs 3.21 and 3.22.

21 3.21. Individual Settlement Payments. Each Participating Class Member  
22 shall be eligible to receive an Individual Settlement Payment, which is a share of the  
23 Net Settlement Amount, based on the number of Compensable Work Weeks worked  
24 by the Participating Class Member during the Class Period. Individual Settlement  
25 Payments shall be paid pursuant to the formula set forth in Paragraph 3.22 below.  
26 Individual Settlement Payments shall be mailed by regular First-Class U.S. Mail to  
27 Participating Class Members' last known mailing address no later than fifteen (15)  
28 calendar days after the Gross Settlement Amount is fully funded. Individual

1 Settlement Payments will specifically indicate that they are void if not negotiated  
2 within one hundred eight (180) days of their issuance. Individual Settlement  
3 Payments reflect settlement of a dispute regarding wages, interest, and penalties.  
4 Individual Settlement Payments will be allocated as follows: ten percent (10%) as  
5 wages; and ninety percent (90%) as interest and penalties. The “wage” portion of  
6 each Individual Settlement Payment will be reduced by any Employee Taxes. The  
7 Claims Administrator shall issue the appropriate tax documents associated with the  
8 Individual Settlement Payments, including an IRS Form W-2 for the amounts  
9 allocated as “wages” and an IRS Form 1099 for the amounts allocated as “interest”  
10 or “penalties.”

11 3.22. Individual Settlement Payment Formula.

12 a. From the Net Settlement Amount, the Settlement Administrator  
13 will calculate each Participating Class Member’s Individual  
14 Settlement Payment based on the following formula:

15 i. Wage Statement Amount: 15% of the Net Settlement Amount  
16 shall be designated as the “Wage Statement Amount.” Each  
17 Participating Class Member who was employed by Defendant  
18 at any time between December 5, 2018 to the end of the Class  
19 Period, shall receive a portion of the Wage Statement Amount  
20 pursuant to the same formula set forth in Paragraph 3.24  
21 below.

22 ii. Waiting Time Amount: 15% of the Net Settlement Amount  
23 shall be designated as the “Waiting Time Amount.” The  
24 Waiting Time Amount shall be distributed in equal, pro-rata  
25 shares to each Participating Class Member who separated their  
26 employment from Defendant at any time from December 5,  
27 2016 to the end of the Class Period.

28 iii. The remainder (70%) of the Net Settlement Amount will be  
distributed to each Participating Class Member based on their  
proportionate number of Compensable Work Weeks worked  
during the Class Period, by multiplying the remaining Net  
Settlement Amount by a fraction, the numerator of which is  
the Participating Class member’s total Compensable Work  
Weeks worked during the Class Period, and the denominator

1 of which is the total number of Compensable Work Weeks  
2 worked by all Participating Class members during the Class  
3 Period.

4 The Claims Administrator will reduce each Individual Settlement Payment by  
5 Employee Taxes, which will be based on the most recent W-4 form on record  
6 for Participating Class Members.

7 3.23. Aggrieved Employee Settlement Payments. Each Aggrieved Employee  
8 shall be eligible to receive an Aggrieved Employee Settlement Payment, which is a  
9 share of the Aggrieved Employee PAGA Allocation, based on the number of PAGA  
10 Work Weeks worked by the Aggrieved Employee during the Aggrieved Employee  
11 Period. Aggrieved Employee Settlement Payments shall be paid pursuant to the  
12 formula set forth in Paragraph 3.24 below. Aggrieved Employee Settlement  
13 Payments shall be mailed by regular First-Class U.S. Mail to Participating Class  
14 Members' last known mailing address no later than fifteen (15) calendar days after  
15 the Gross Settlement Amount is fully funded. Aggrieved Employee Settlement  
16 Payments will specifically indicate that they are void if not negotiated within one  
17 hundred eight (180) days of their issuance. Aggrieved Employee Settlement  
18 Payments reflect settlement of a dispute regarding civil penalties, and therefore shall  
19 be treated as 1099 income. The Claims Administrator shall issue the appropriate tax  
20 documents associated with the Aggrieved Employee Settlement Payments, including  
21 an IRS Form 1099.

22 3.24. Aggrieved Employee Settlement Payment Formula. Defendant will  
23 calculate the PAGA Work Weeks for each Aggrieved Employee. The Claims  
24 Administrator will calculate a Payment Ratio from the Aggrieved Employee PAGA  
25 Allocation for each Aggrieved Employee by dividing the respective PAGA Work  
26 Weeks by the total PAGA Work Weeks for all Aggrieved Employees. Each  
27 Aggrieved Employee's Payment Ratio will then be multiplied by the Aggrieved  
28 Employee PAGA Allocation to determine each Aggrieved Employee Settlement

1 Payment.

2 3.25. The Claims Administrator will be responsible for issuing to Plaintiffs,  
3 Aggrieved Employees, Participating Class Members, and Class Counsel W-2's,  
4 1099's, or other tax forms as may be required by law for all amounts paid pursuant  
5 to this Settlement. The Claims Administrator will also be responsible for forwarding  
6 all payroll taxes and penalties to the appropriate government authorities. Defendant  
7 shall be responsible for Employer Taxes. Defendant shall have no responsibility for  
8 deciding the validity of any Individual Settlement Payment, Aggrieved Employee  
9 Settlement Payment, or any other payments made pursuant to this Settlement, shall  
10 have no involvement in or responsibility for the determination or payment of  
11 Employee Taxes, and shall have no liability for any errors made with respect to such  
12 Employee Taxes.

13 3.26. No benefit, including but not limited to pension benefits, shall increase  
14 or accrue as a result of any payment made pursuant to this Settlement.

15 3.27. If a check for an Individual Settlement Payment or Aggrieved  
16 Employee Settlement Payment is returned to the Claims Administrator as  
17 undeliverable, the Claims Administrator shall promptly attempt to obtain a valid  
18 mailing address by performing a skip trace search. If another address is identified,  
19 the Claims Administrator shall mail the check to the newly identified address. If an  
20 Individual Settlement Payment or Aggrieved Employee Settlement Payment check  
21 is returned to the Claims Administrator a second time as undeliverable, the Claims  
22 Administrator shall not attempt any further re-mailing of that check. Any settlement  
23 checks that remain uncashed one hundred eighty (180) or more calendar days after  
24 issuance shall be voided; and any remainder of the Net Settlement Fund and  
25 unclaimed and uncashed funds shall be distributed in accordance with California  
26 Code of Civil Procedure section 384, which provides, in pertinent part, as follows:

27 “... before the entry of a judgment in a class action established pursuant  
28 to Section 382 that provides for the payment of money to members of  
the class, the court shall determine the total amount that will be payable

1 to all class members if all class members are paid the amount to which  
2 they are entitled pursuant to the judgment. The court shall also set a date  
3 when the parties shall report to the court the total amount that was  
4 actually paid to the class members. After the report is received, the court  
5 shall amend the judgment to direct the defendant to pay the sum of the  
6 unpaid residue or unclaimed or abandoned class member funds, plus any  
7 interest that has accrued thereon, to nonprofit organizations or  
8 foundations to support projects that will benefit the class or similarly  
9 situated persons, or that promote the law consistent with the objectives  
10 and purposes of the underlying cause of action, to child advocacy  
11 programs, or to nonprofit organizations providing civil legal services to  
12 the indigent. The court shall ensure that the distribution of any unpaid  
13 residue or unclaimed or abandoned class member funds derived from  
14 multistate or national cases brought under California law shall provide  
15 substantial or commensurate benefit to California consumers. For  
16 purposes of this subdivision, “judgment” includes a consent judgment,  
17 decree, or settlement agreement that has been approved by the court.”  
18 (Cal. Code of Civ. Proc. §384(b)).

19 Any funds payable to Settlement Class members whose checks were not cashed  
20 within 180 days after mailing will escheat to the California State Controller pursuant  
21 to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name  
22 of the Settlement Class member to whom the check was issued, until such time that  
23 they claim their property.

24 3.28. Class Representative Enhancement Awards. Defendant agrees not to  
25 oppose or object to any application or motion by Plaintiffs for a Class Representative  
26 Enhancement Award, not to exceed Fifteen Thousand Dollars and No Cents  
27 (\$15,000.00) for each of the named Plaintiffs, Antelma Chavez and Bernal  
28 Mazariegos, as consideration for Plaintiffs’ time and effort in bringing and  
prosecuting this matter. The Class Representative Enhancement Award shall be paid  
to Plaintiffs from the Gross Settlement Amount no later than fifteen (15) calendar  
days after the Gross Settlement Amount is fully funded. The Claims Administrator  
shall issue an IRS Form 1099 — MISC to Plaintiffs for their Class Representative  
Enhancement Award. Plaintiffs shall be solely and legally responsible for payment  
of all applicable taxes on their Class Representative Enhancement Awards and shall  
hold Defendant harmless from any claim or liability for taxes, penalties, or interest  
arising as a result of the Class Representative Enhancement Award(s). The Class

1 Representative Enhancement Award(s) shall be in addition to Plaintiffs' Individual  
2 Settlement Payment(s) as a Participating Class Member. In the event that the Court  
3 awards lesser amounts than the Class Representative Enhancement Awards  
4 requested, then any portion of the requested amounts not awarded to Plaintiffs shall  
5 be added to the Net Settlement Amount. Plaintiffs shall not have the right to revoke  
6 their agreement to the Settlement on the grounds the Court did not approve any or  
7 all of their request for a Class Representative Enhancement Award.

8       3.29. Class Counsel Award and Costs. Defendant agrees not to oppose or  
9 object to any application or motion by Class Counsel for a Class Counsel Award,  
10 currently anticipated not to exceed Five Hundred Thirty-Three Thousand Thirty-  
11 Three dollars and Thirty-Three Cents (\$533,333.33) and Class Counsel Costs not to  
12 exceed One hundred Fifteen Thousand Dollars and No Cents (\$115,000.00) from  
13 the Gross Settlement Amount. The Class Counsel Award and Class Counsel Costs  
14 shall be paid no later than fifteen (15) calendar days after the Gross Settlement  
15 Amount is fully funded. Class Counsel shall be solely and legally responsible to pay  
16 all applicable taxes on the payments made pursuant to this paragraph. The Claims  
17 Administrator shall issue an IRS Form 1099 — MISC to Class Counsel for the  
18 payments made pursuant to this paragraph. This Settlement is not contingent upon  
19 the Court awarding Class Counsel any particular amount in attorneys' fees and costs.  
20 Any amount requested by Class Counsel for the Class Counsel Award and Class  
21 Counsel Costs and not granted by the Court shall be part of the Net Settlement  
22 Amount.

23       3.30. Defendant's Option to Terminate Settlement. If, after the Response  
24 Deadline and before the Final Approval Hearing, ten percent or more of the number  
25 of Settlement Class Members submit timely and valid Requests for Exclusion from  
26 the Settlement, Defendant shall have, in its sole discretion, the option to terminate  
27 this Settlement. Defendant shall exercise this option to terminate, if it wishes, at  
28 least sixteen (16) court days prior to the Final Approval Hearing. If Defendant

1 decides to void the Settlement, then the Settlement and conditional class certification  
2 shall be considered void, and neither the Settlement, conditional class certification,  
3 nor any of the related negotiations or proceedings, shall be of any force or effect,  
4 and the Parties shall stand in the same position, without prejudice, as if this  
5 Settlement had been neither entered into nor filed with the Court. Should Defendant  
6 void the Settlement under this paragraph, it shall be solely responsible for all Claims  
7 Administration Costs.

8       3.31. Claims Administration Costs. The Claims Administrator shall be paid  
9 for the costs of administration of the Settlement from the Gross Settlement Amount.  
10 Such costs of administration are not to expected to exceed Seventeen Thousand Five  
11 Hundred Dollars and No Cents (\$17,500.00), unless the court approves a higher  
12 amount. No fewer than twenty (20) days prior to the Final Approval Hearing, the  
13 Claims Administrator shall provide the Parties with a statement detailing the costs  
14 of administration. The Claims Administrator, on Defendant's behalf, shall have the  
15 authority and obligation to make payments, credits and disbursements, including  
16 payments and credits in the manner set forth in this Settlement, to Participating Class  
17 Members, calculated in accordance with the methodology set out in this Settlement  
18 and orders of the Court. The Parties agree to cooperate in the administration of the  
19 Settlement and to make all reasonable efforts to control and minimize the costs and  
20 expenses incurred in administration of the Settlement. The Parties each represent  
21 they do not have any financial interest in the Claims Administrator or otherwise have  
22 a relationship with the Claims Administrator that could create a conflict of interest.  
23 The Claims Administrator shall be responsible for: processing and mailing all court-  
24 approved payments to the Plaintiffs, Class Counsel, Participating Class Members,  
25 and the LWDA; printing and mailing the Notice Packets to the Settlement Class  
26 Members as called for in this Settlement and ordered by the Court; receiving and  
27 reporting Notice of Objections and Requests for Exclusion submitted by Settlement  
28 Class Members; providing declaration(s) as necessary in support of preliminary

1 and/or final approval of this Settlement; and other tasks as the Parties mutually agree  
2 or the Court orders the Claims Administrator to perform. The Claims Administrator  
3 shall keep the Parties timely apprised of the performance of all Claims Administrator  
4 responsibilities. Any legally mandated tax reports, tax forms, tax filings, or other  
5 tax documents required by administration of this Settlement shall be prepared by the  
6 Claims Administrator. Any expenses incurred in connection with such preparation  
7 shall be Claims Administration Costs. The Claims Administrator shall be paid the  
8 Claims Administration Costs no later than fifteen (15) calendar days after the Gross  
9 Settlement Amount is fully funded.

10 3.32. Final Approval Hearing. At a reasonable time following the Response  
11 Deadline, the Court shall hold the Final Approval Hearing, where objections, if any,  
12 may be heard, and the Court shall determine amounts properly payable for (i) the  
13 Class Counsel Award, (ii) the Class Counsel Costs, (iii) the Class Representative  
14 Enhancement Awards, (iv) the LWDA PAGA Allocation; and (v) the Claims  
15 Administration Costs.

16 3.33. Entry of Final Judgment. If the Court approves this Settlement at the  
17 Final Approval Hearing, the Parties shall request that the Court enter the Final  
18 Judgment after the Gross Settlement Amount has been fully funded, with the Court  
19 retaining jurisdiction over the Parties to enforce the terms of the judgment. If the  
20 Court grants final approval to the Settlement, notice of Final Approval shall be  
21 posted on a website set up by the Settlement Administrator. Following the Court's  
22 entry of Final Judgment, Class Counsel shall provide notice to the California Labor  
23 & Workforce Development Agency in accordance with Cal. Lab. Code section  
24 2699(1)(3).

25 3.34. No Effect on Employee Benefits. Amounts paid to Plaintiffs or other  
26 Participating Class Members pursuant to this Settlement will not count as earnings  
27 or compensation for purposes of any benefits (e.g., pensions or retirement plans)  
28 sponsored by Defendant. It is expressly understood and agreed that the receipt of

1 Individual Settlement Amount shall not entitle any Participating Class Member to  
2 additional compensation or benefits under any collective bargaining agreement or  
3 under any bonus, contest or other compensation or benefit plan or agreement in place  
4 during the period covered by the Settlement, nor shall it entitle any Participating  
5 Class Member to any increased pension and/or retirement, or other deferred  
6 compensation benefits. It is the intent of the Parties that Individual Settlement  
7 Amounts provided for in this Settlement are the sole payments to be made by  
8 Defendant to Participating Class Members in connection with this Settlement, with  
9 the exception of Plaintiffs, and that the Participating Class Members are not entitled  
10 to any new or additional compensation or benefits as a result of having received the  
11 Individual Settlement Awards. Furthermore, the receipt of Individual Settlement  
12 Amounts by Participating Class Members shall not, and does not, by itself establish  
13 any general, special, or joint employment relationship between and among the  
14 Participating Class Member(s) and Defendant.

15 3.35. Nullification of Settlement. In the event: (i) the Court does not enter  
16 the Preliminary Approval Order as specified herein; (ii) the Court does not grant  
17 final approval of the Settlement as provided herein; (iii) the Court does not enter a  
18 Final Judgment as provided herein; or (iv) the Settlement does not become final for  
19 any other reason, this Settlement shall be null and void and any order or judgment  
20 entered by the Court in furtherance of this Settlement shall be treated as void from  
21 the beginning. In such a case, the Parties and any funds to be awarded under this  
22 Settlement shall be returned to their respective statuses as of the date and time  
23 immediately prior to the execution of this Settlement, and the Parties shall proceed  
24 in all respects as if this Settlement had not been executed, except that any costs and  
25 fees already incurred by the Claims Administrator shall be split by the Parties. In  
26 the event an appeal is filed from the Court's Final Judgment, or any other appellate  
27 review is sought, administration of the Settlement shall be stayed pending final  
28 resolution of the appeal or other appellate review, but any fees incurred by the

1 Claims Administrator prior to it being notified of the filing of an appeal from the  
2 Court's Final Judgment, or any other appellate review, shall be paid to the Claims  
3 Administrator by Defendant within thirty (30) days of said notification.

4 3.36. Dispute Resolution. Except as otherwise set forth herein, all disputes  
5 concerning the interpretation, calculation or payment of settlement claims, or other  
6 disputes regarding compliance with this Settlement shall be resolved as follows:

7 3.37.1 If Plaintiffs or Class Counsel, on behalf of Plaintiffs or any  
8 Settlement Class Members, or Defendant, at any time believe that the other Party or  
9 Parties have breached or acted contrary to the Settlement, that Party shall notify the  
10 other Party or Parties in writing of the alleged violation. Upon receiving notice of  
11 the alleged violation or dispute, the responding Party shall have ten (10) days to  
12 correct the alleged violation and/or respond to the initiating Party with the reasons  
13 why the Party disputes all or part of the allegation.

14 3.37.2. If the response does not address the alleged violation to the  
15 initiating Party's satisfaction, the Parties shall negotiate in good faith for up to ten  
16 (10) days to resolve their differences.

17 3.37.3. If thereafter, the Parties still cannot resolve the dispute, the  
18 Parties shall utilize the services of Steve Serratore (Mediator) in a good-faith attempt  
19 to mediate and resolve the dispute.

20 3.37.4. If the Parties are unable to resolve their differences after  
21 twenty (20) days, either Party may file an appropriate motion for enforcement with  
22 the Court. The Court may award reasonable attorneys' fees and costs to the  
23 prevailing party in any motion or action taken to enforce this Settlement.

24 3.37. Exhibits and Headings. The terms of this Settlement include the terms  
25 set forth in Exhibits A and B, which are attached to this Settlement and incorporated  
26 by this reference as though fully set forth in this paragraph. Any Exhibits to this  
27 Settlement are an integral part of the Settlement. The descriptive headings of any  
28 paragraphs or sections of this Settlement are inserted for convenience of reference

1 only and do not constitute a part of this Settlement.

2 3.38. Interim Stay of Proceedings. The Parties agree to stay all proceedings  
3 in the Action(s) and thereafter implement and complete the Settlement.

4 3.39. Amendment or Modification. This Settlement may be amended or  
5 modified only by a written instrument signed by counsel for all Parties or their  
6 successors-in-interest.

7 3.40. Entire Settlement. This Settlement and any attached Exhibits constitute  
8 the entire agreement among these Parties, and no oral or written representations,  
9 warranties or inducements have been made to any Party concerning this Settlement  
10 or its exhibits, other than the representations, warranties and covenants contained  
11 and memorialized in the Settlement and its exhibits. No other prior or  
12 contemporaneous written or oral agreements may be deemed binding on the Parties.

13 3.41. Authorization to Enter into Settlement. Counsel for the Parties warrant  
14 and represent they are expressly authorized by the Parties whom they represent to  
15 negotiate this Settlement and to take all appropriate actions required or permitted to  
16 be taken by such Parties pursuant to this Settlement to effectuate its terms, and to  
17 execute any other documents required to effectuate the terms of this Settlement. The  
18 Parties and their counsel will cooperate with each other and use their best efforts to  
19 affect the implementation of the Settlement. In the event the Parties are unable to  
20 reach agreement on the form or content of any document needed to implement the  
21 Settlement, or on any supplemental provisions that may become necessary to  
22 effectuate the terms of this Settlement, the Parties may seek the assistance of the  
23 Court to resolve such disagreement. The person signing this Settlement on behalf  
24 of Defendant represents and warrants that he or she is authorized to sign this  
25 Settlement on behalf of Defendant. Plaintiffs represent and warrant that they are  
26 authorized to sign this Settlement and that they have not assigned any claim, or part  
27 of a claim, covered by this Settlement to a third-party.

28 3.42. Binding on Successors and Assigns. This Settlement shall be binding

1 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as  
2 previously defined.

3 3.43. No Prior Assignments. The Parties and their counsel represent,  
4 covenant, and warrant that they have not directly or indirectly assigned, transferred,  
5 encumbered, or purported to assign, transfer, or encumber to any person or entity  
6 any portion of any liability, claim, demand, action, cause of action or right herein  
7 released and discharged.

8 3.44. California Law Governs. All terms of this Settlement and the exhibits  
9 hereto shall be governed by and interpreted according to the laws of the State of  
10 California.

11 3.45. This Settlement is Fair, Adequate and Reasonable. The Parties believe  
12 this Settlement is a fair, adequate, and reasonable settlement of the Actions and have  
13 arrived at this Settlement after extensive arms-length negotiations, taking into  
14 account all relevant factors, present and potential.

15 3.46. Jurisdiction of the Court. In accordance with California Rule of Court  
16 3.769(h), the Parties agree that the Court shall retain jurisdiction with respect to the  
17 interpretation, implementation, and enforcement of the terms of this Settlement and  
18 all orders and judgments entered in connection therewith, and the Parties and their  
19 counsel hereto submit to the jurisdiction of the Court for purposes of interpreting,  
20 implementing, and enforcing this Settlement and all orders and judgments entered  
21 in connection therewith.

22 3.47. Invalidity of Any Provision. Before declaring any provision of this  
23 Settlement invalid, the Court shall first attempt to construe the provision to be valid  
24 to the fullest extent possible, consistent with applicable precedents.

25 3.48. Waiver of Certain Appeals. The Parties agree to waive appeals and to  
26 stipulate to class certification for purposes of this Settlement only.

27 3.49. Cooperation. The Parties agree to cooperate fully with one another to  
28 accomplish and implement the terms of this Settlement. Such cooperation shall

1 include, but not be limited to, execution of such other documents and the taking of  
2 such other action as may be reasonably necessary to fulfill the terms of this  
3 Settlement. The Parties to this Settlement shall use their best efforts, including all  
4 efforts contemplated by this Settlement and any other efforts that may become  
5 necessary by Court order, or otherwise, to effectuate this Settlement and its terms.

6 3.50. Publicity. Plaintiffs and Class Counsel agree that they will not issue  
7 any press releases, initiate any contact with the press, respond to any press inquiry,  
8 or have any communication with the press about the Actions and/or the fact, amount,  
9 or terms of the Settlement. However, Class Counsel may refer to the settlement  
10 amount and the nature of the case without identifying any of the Parties. Before the  
11 date of the filing of the motion for preliminary approval of the Settlement, Plaintiffs  
12 and Class Counsel will not initiate any contact with Settlement Class Members about  
13 the Settlement, except that: (a) Class Counsel, if contacted by a Settlement Class  
14 Member, may respond that a settlement has been reached and that the details will be  
15 communicated in a forthcoming Court-approved notice; and (b) Plaintiffs, if  
16 contacted by a Settlement Class Member, may respond only that the Settlement  
17 Class Member should contact Class Counsel. Neither Plaintiffs nor Class Counsel  
18 shall hold a press conference or otherwise seek to affirmatively contact the media  
19 about the Settlement. Additionally, no Party or their counsel shall disparage the  
20 Settlement.

21 3.51. Mutual Preparation. The Parties have had a full opportunity to negotiate  
22 the terms and conditions of this Settlement. Accordingly, this Settlement will not be  
23 construed more strictly against one party than another merely by virtue of the fact  
24 that it may have been prepared by counsel for one of the Parties, it being recognized  
25 that, because of the arm's-length negotiations between the Parties, all Parties have  
26 contributed to the preparation of this Settlement.

27 3.52. Representation by Counsel. The Parties acknowledge that they have  
28 been represented by counsel throughout all negotiations that preceded the execution

1 of this Settlement, and that this Settlement has been executed with the consent and  
2 advice of counsel, and reviewed in full. Further, Plaintiffs and Class Counsel warrant  
3 and represent that there are no liens on the Settlement Agreement.

4 3.53. All Terms Subject to Final Court Approval. All amounts and  
5 procedures described in this Stipulation are subject to final Court approval.

6 3.54. Notices. Unless otherwise specifically provided, all notices, demands  
7 or other communications in connection with this Settlement shall be: (1) in writing;  
8 (2) deemed given on the third business day after mailing or if emailed, the next  
9 business day; and (3) sent via email and/or United States registered or certified mail,  
10 return receipt requested, addressed as follows:

11 **To Plaintiffs:**

12 Paul K. Haines, Esq.  
13 phaines@haineslawgroup.com  
14 Sean Blakely, Esq.  
15 sblakely@haineslawgroup.com  
16 Alexandra McIntosh, Esq.  
17 amcintosh@haineslawgroup.com  
2155 Campus Drive, Suite 180  
El Segundo, California 90245  
Telephone: (424) 292-2350  
Facsimile: (424) 292-2355

18 **To Defendant:**

19 David L. Cheng, Esq.  
20 dcheng@fordharrison.com  
21 Jennifer S. McGeorge, Esq.  
22 jmcgeorge@fordharrison.com  
23 FORD & HARRISON, LLP  
350 South Grand Avenue, Suite 2300  
Los Angeles, CA 90071  
Telephone: (213) 237-2400  
Facsimile: (213) 237-2401

24 3.55. Execution by Settlement Class Members. It is agreed that it is  
25 impossible or impractical to have each Settlement Class Member execute this  
26 Settlement. The Notice of Settlement will advise all Settlement Class Members of  
27 the binding nature of the release and such shall have the same force and effect as if  
28 each Settlement Class Member executed this Settlement.

1           3.56. Execution by Plaintiffs and Defendant. Plaintiffs and Defendant, by  
2 signing this Settlement, are bound by the terms herein.

3           3.57. Fair, Adequate and Reasonable Settlement. The Parties hereto agree  
4 that the terms and conditions of this Settlement are the result of lengthy, intensive,  
5 arms-length negotiations between the Parties and that this Settlement shall not be  
6 construed in favor of or against any of the Parties by reason of their participation in  
7 the drafting of this Settlement.

8           3.58. Binding Agreement. The Parties warrant that they understand and have  
9 full authority to enter into this Settlement, and further intend that this Settlement will  
10 be fully enforceable and binding on all Parties, and agree that it will be admissible  
11 and subject to disclosure in any proceeding to enforce its terms, notwithstanding any  
12 mediation confidentiality provisions that otherwise might apply under federal or  
13 state law.

14           3.59. Counterparts. This Settlement shall become effective upon its  
15 execution by all of the undersigned. Plaintiffs and Defendant, may execute this  
16 Settlement in counterparts, and execution of counterparts shall have the same force  
17 and effect as if each had signed the same instrument. Copies of the executed  
18 Settlement shall be effective for all purposes as though the signatures contained  
19 therein were original signatures.

20 Dated: September 19, 2022

LINCARE INC.

21 By:   
22 Name: Sheila Kalteux  
23 Title: Authorized Representative

24 Dated: September \_\_\_\_, 2022

25 By: \_\_\_\_\_  
26 ANTELMA CHAVEZ, Plaintiff

27 Dated: September \_\_\_\_, 2022

28 By: \_\_\_\_\_  
BERNAL MAZARIEGOS, Plaintiff



# 2022-09-12 Joint Stipulation of Class Action Settlement and Release (FINAL for signatures) (002)

Final Audit Report

2022-09-24

Created:	2022-09-22
By:	Andy Lidman (alidman@haineslawgroup.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAajtvRw-U1dzLX0yBLpidGeJPH4BVKq0x

## "2022-09-12 Joint Stipulation of Class Action Settlement and Release (FINAL for signatures) (002)" History

-  Document created by Andy Lidman (alidman@haineslawgroup.com)  
2022-09-22 - 9:00:18 PM GMT- IP address: 206.169.56.234
-  Document emailed to antelmachavez8@gmail.com for signature  
2022-09-22 - 9:01:01 PM GMT
-  Email viewed by antelmachavez8@gmail.com  
2022-09-22 - 9:29:41 PM GMT- IP address: 172.56.120.240
-  Signer antelmachavez8@gmail.com entered name at signing as Antelma Chavez  
2022-09-24 - 2:28:55 AM GMT- IP address: 23.240.136.34
-  Document e-signed by Antelma Chavez (antelmachavez8@gmail.com)  
Signature Date: 2022-09-24 - 2:28:56 AM GMT - Time Source: server- IP address: 23.240.136.34
-  Agreement completed.  
2022-09-24 - 2:28:56 AM GMT



Adobe Acrobat Sign



# 2022-09-12 Joint Stipulation of Class Action Settlement and Release (FINAL for signatures)

Final Audit Report

2022-09-26

Created:	2022-09-22
By:	Andy Lidman (alidman@haineslawgroup.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAtyG6myuKtNhDqG2gaQO8CllwNqUBD5sT

## "2022-09-12 Joint Stipulation of Class Action Settlement and Release (FINAL for signatures)" History

-  Document created by Andy Lidman (alidman@haineslawgroup.com)  
2022-09-22 - 7:20:30 PM GMT - IP address: 206.169.56.234
-  Document emailed to mazariegos698@gmail.com for signature  
2022-09-22 - 7:21:33 PM GMT
-  Email viewed by mazariegos698@gmail.com  
2022-09-26 - 5:09:08 PM GMT - IP address: 76.93.44.62
-  Signer mazariegos698@gmail.com entered name at signing as Bernal F Mazariegos  
2022-09-26 - 5:10:34 PM GMT - IP address: 76.93.44.62
-  Document e-signed by Bernal F Mazariegos (mazariegos698@gmail.com)  
Signature Date: 2022-09-26 - 5:10:35 PM GMT - Time Source: server- IP address: 76.93.44.62
-  Agreement completed.  
2022-09-26 - 5:10:35 PM GMT



# EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF VENTURA

ANTELMA CHAVEZ, as an individual and on behalf  
of all others similarly situated,

Plaintiff,

vs.

LINCARE INC., a Delaware corporation; and DOES 1  
through 100,

Defendants.

Case No. 56-2019-00536955-CU-OE-VTA

**NOTICE OF CLASS ACTION SETTLEMENT**

To: All non-exempt, hourly workers who were employed by Lincare Inc. (“Lincare”) in California at any time from December 5, 2015 through and including August 11, 2022 (the “Class Period”).

**PLEASE READ THIS NOTICE CAREFULLY  
THIS NOTICE IS BEING PROVIDED TO YOU IN ENGLISH AND SPANISH  
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

You may be entitled to money from this Settlement. Lincare’s records show that you were employed by Lincare as a non-exempt employee in California between December 5, 2015 and August 11, 2022. The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment. Notice of the final judgment will be posted online at [ADMIN WEBSITE URL](mailto:ADMIN@LINCARE.COM).

***What is this case about?***

Plaintiffs Antelma Chavez and Bernal Mazariegos (“Plaintiffs”) brought this lawsuit against Lincare, asserting claims on behalf of all Participating Class Members. Plaintiffs are known as the “Class Representatives,” and their attorneys, who also represent the interests of all Participating Class Members, are known as “Class Counsel.”

In the Lawsuit, Plaintiffs alleged that Lincare: (1) failed to pay all minimum wages; (2) failed to pay all overtime wages; (3) failed to provide all meal periods; (4) failed to authorize and permit all rest periods; (5) failed to maintain accurate records and issue accurate, itemized wage statements; (6) failed to pay all final wages at termination; (7) engaged in unfair business practices; and (8) is liable for civil penalties under the Private Attorneys General Act (Labor Code section 2698) (“PAGA”).

Lincare denies that it has done anything wrong. Lincare denies that it owes Participating Class Members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Lincare, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiffs’ claims. However, to avoid additional expense, inconvenience, and interference with business operations, the parties concluded that it is in Lincare’s best interests and the interests of Participating Class Members to settle the Lawsuit on the terms summarized in this Notice. After Lincare provided relevant information to Class Counsel, the Settlement was reached after mediation and negotiations between the parties.

The Class Representatives and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Lincare, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

**If you are still employed by Lincare, your decision about whether to participate in the Settlement will not affect your employment. California law and Lincare’s policies strictly prohibit unlawful retaliation.** Lincare will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Participating Class Member because of his or her decision to either participate or not participate in the Settlement.

***Who are the Attorneys?***

<p>Attorneys for Plaintiffs / Participating Class Members:</p> <p><b>HAINES LAW GROUP, APC</b> Paul K. Haines (SBN 248226) phaines@haineslawgroup.com Sean M. Blakely (SBN 264384) sblakely@haineslawgroup.com Alexandra R. McIntosh (SBN 320904) amcintosh@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com</p>	<p>Attorneys for Lincare:</p> <p><b>FORD &amp; HARRISON LLP</b> David L. Cheng (SBN 240926) dcheng@fordharrison.com Jennifer S. McGeorge (SBN 221679) jmcgeorge@fordharrison.com 350 South Grand Avenue, Suite 2300 Los Angeles, CA 90071 Tel: (213) 237-2400 Fax: (213) 237-2401</p>
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***What are the terms of the Settlement?***

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class – for settlement purposes only – of all current and former non-exempt employees of Lincare in California who worked at any time during the Class Period. The class excludes any employee who previously brought a lawsuit against Lincare and which subsequently resulted in settlement. Participating Class Members who do not submit a valid and timely Request For Exclusion from the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Lincare, as described below in the “Release” section.

Lincare agreed to pay \$1,600,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Participating Class Members, attorneys’ fees and expenses, settlement administration costs, payment to the California Labor and Workforce Development Agency (“LWDA”) for its share of PAGA civil penalties, and the Class Representative Enhancement Awards. Lincare will fund the Gross Settlement Amount no later than 60 days after the final approval of the settlement (assuming no objections or appeals).

The following deductions from the Gross Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved **Phoenix** Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and who will perform other duties relating to the Settlement. The Court has approved setting aside up to \$17,500.00 from the Gross Settlement Amount to pay the Settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Participating Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Gross Settlement Amount. Participating Class Members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Fund (which is currently estimated to be \$533,333.33) as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$115,000.00 for verified costs which were incurred by Class Counsel in connection with the Lawsuit.

Class Representative Enhancement Awards. Class Counsel will ask the Court to award \$15,000.00 to each of the named Plaintiffs as a Class Representative Enhancement Award. This is meant to compensate Plaintiffs for their service and extra work provided on behalf of the Participating Class Members.

PAGA Payment to the State of California. The parties have agreed to allocate \$50,000.00 of the Gross Settlement Amount as PAGA civil penalties. Per Labor Code section 2699(i), 75% of such penalties (\$37,500.00) will be payable to the LWDA for its share of PAGA penalties, and the remaining 25% (\$12,500.00) will be payable to the individuals with PAGA standing (“Aggrieved Employees”) as part of the Net Settlement Amount.

Calculation of Participating Class Members’ Individual Settlement Payment. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount, which will be distributed to all Participating Class Members who do not submit a valid and timely Request for Exclusion (described below). The Net Settlement Amount will be divided as follows:

- (i) PAGA Amount: The \$12,500.00 payable to Aggrieved Employees as PAGA civil penalties will be designated as the “Aggrieved Employee PAGA Allocation.” Each employee who was employed by Lincare in California any time between December 5, 2018 and August 11, 2022 (“Aggrieved Employee Period”), will receive a portion of the Aggrieved Employee PAGA Allocation proportionate to the number of workweeks that he or she worked during the aforementioned time period.
- (ii) Wage Statement Amount: Fifteen percent (15%) of the Net Settlement Amount will be designated as the “Wage Statement Amount.” Each employee who was employed by Lincare in California any time between December 5, 2018 and August 11, 2022, will receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period.
- (iii) Waiting Time Amount: Fifteen percent (15%) of the Net Settlement Amount will be designated as the “Waiting Time Amount.” The Waiting Time Amount will be distributed in equal shares to each Participating Class Member who separated their employment with Lincare on or after December 5, 2016.
- (iv) The remainder of the Net Settlement Amount will be distributed to each Participating Class Member based on their proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the Participating Class Member’s total workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all Participating Class Members during the Class Period.

Individual Settlement Payments to Participating Class Members. If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Participating Class Members who did not submit a valid and timely Request for Exclusion. Each Participating Class Member who receives an Individual Settlement Payment must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Participating Class Members whose checks are not cashed within 180 days after mailing will be distributed to the California State Controller in the name of the Settlement Class member to whom the check was issued.

Allocation and Taxes. Each Individual Settlement Payment will be allocated as 90% penalties and interest and 10% wages. The Settlement Administrator will be responsible for issuing to Participating Class Members an IRS Form 1099 (for amounts paid as penalties and interest) and IRS Form W2 (for amounts paid as wages). Amounts paid to PAGA Members for their share of civil penalties under PAGA will be allocated as 100% penalties. The Settlement Administrator will issue PAGA Members an IRS Form 1099 for these payments. The Settlement Administrator will be responsible for calculating and withholding all employee-share employment taxes and other legally required withholdings from each Individual Settlement Payment.

Release. If the Court approves the Settlement, each Participating Class Member who has not submitted a timely and valid Request for Exclusion will fully release and discharge Lincare, and all of its affiliated entities, related entities, owners, officers, directors, members, parents, subsidiaries, affiliates, employees, agents, successors and assigns (collectively the “Released Parties”), from all claims in the Actions, as well as any and all claims that were asserted or could have been asserted based on the facts pled in the Actions (including those alleged in Plaintiffs’ Letters to the California Labor & Workforce Development Agency, the allegations of which are expressly incorporated herein including any and all claims arising from the facts alleged in the Action(s), including all wage and hour claims for unpaid wages including minimum wages and overtime, failure to pay wages during employment and upon separation of employment, meal and rest break violations, wage statement violations, failure to reimburse all necessary business expenses, and recovery of restitution, disgorgement, injunctive relief, declaratory relief, conversion, unjust enrichment, civil and statutory penalties, interest, liquidated damages, and claims under California Labor Code sections 201-203, 204, 210, 212-213, 218.6, 223, 226, 226.3, 226.7, 510, 512, 516, 558, 558.1, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2698-2699.5, 2802, 2804, applicable Industrial Welfare Commission Wage Orders, claims under California Business & Professions Code sections 17200-17208, Civil Code §§3287 and 3289, Code of Civil Procedure

§1021.5, and recovery of attorney’s fees and costs under any applicable statute (“Class Released Claims”). This release will apply to claims arising during the Class Period and become effective upon the date that Lincare deposits the entire Gross Settlement Amount with the Settlement Administrator.

Conditions of Settlement. The Settlement becomes effective on the latest of the following dates: (i) if no timely objections are filed or if all objections are withdrawn, the date upon which the Court enters final approval; (ii) if an objection is filed, sixty-five (65) days after the date upon which the Court grants final approval of the settlement if no appeal is initiated; or (iii) if a timely appeal is initiated, the Effective Date shall be the date of final resolution of that appeal (including any requests for rehearing and/or petitions for *certiorari*), resulting in final judicial approval of the Settlement (the “Effective Date”).

### ***How can I claim money from the Settlement?***

Do Nothing. If you do nothing, you will be entitled to your Individual Settlement Payment, which has been calculated for you based on the formula set forth above, as stated in the accompanying Notice of Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

### ***What other options do I have?***

Dispute Information in Notice of Settlement Award. Your award is based on the proportionate number of workweeks that you worked during the Class Period and Aggrieved Employee Period as well as whether you are entitled to a share of the Wage Statement and/or Waiting Time Amount. The information contained in Lincare’s records regarding this information, along with your estimated Individual Settlement Payment, is listed on the accompanying Notice of Settlement Award. If you disagree with the information in your Notice of Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Participating Class Members. Should a consensus not be reached, any outstanding disputes will be submitted to the Court for a final determination.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a timely Request for Exclusion. Any Settlement Class member who wishes to opt out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator by <<RESPONSE DEADLINE>>. The Request for Exclusion shall state that Settlement Class members who wish to exclude themselves from the Settlement must prepare and submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by <<RESPONSE DEADLINE>> and mailed to the Settlement Administrator at the <<ADMIN ADDRESS>>. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion not containing a Settlement Class member’s telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement (except for any amount due to him or her from the PAGA Amount, if applicable).

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator. Your written objection should include (1) your full name; (2) your dates of employment; (3) the last four (4) digits of your Security number and/or Employee ID number; (4) the basis for your objection; and (5) whether you intend to appear at the Final Approval Hearing. All objections or other correspondence must state the name and number of the case, which is *Antelma Chavez v. Lincare, et al.*, Ventura County Superior Court, Case No. 56-2019-00536955-CU-OE-VTA. Objections in writing must be signed and postmarked on or before <<RESPONSE DEADLINE>>.

You may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department 41 of the Ventura County Superior Court located at 800 South Victoria Avenue,

Ventura, California 93009. The location, date, and time of the Final Approval Hearing may be moved without further notice to you. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing if you wish to appear in person. You have the right to appear either in person or through your own attorney at this hearing, whether or not you submit a written objection. If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Participating Class Members who do not object.

***What is the next step?***

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department 41 of the Ventura County Superior Court located at 800 South Victoria Avenue, Ventura, California 93009. The location, date, and time of the Final Approval Hearing may be moved without further notice to you. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, the Enhancement Award to the Class Representatives, the Settlement Administrator's costs, and the amount related to the PAGA civil penalties. **You are not required to attend the Final Approval Hearing.**

***How can I get additional information?***

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Clerk's Office at the Ventura County Courthouse, located at Ventura County Superior Court, 800 South Victoria Avenue, Ventura, California 93009, during regular business hours. You may also contact Class Counsel using the contact information listed above for more information.

**PLEASE DO NOT CALL OR WRITE THE COURT, LINCARE, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS**

***REMINDER AS TO TIME LIMITS***

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>.

**NOTICE OF SETTLEMENT AWARD**

*ANTELMA CHAVEZ v. LINCARE INC.*  
VENTURA COUNTY SUPERIOR COURT, CASE NO. 56-2019-00536955-CU-OE-VTA

Please complete, sign, date and return this Form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the information listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

**(I) Please type or print your name:**

\_\_\_\_\_

(First, Middle, Last)

**(II) Please type or print the following identifying information if your contact information has changed:**

\_\_\_\_\_

Former Names (if any)

\_\_\_\_\_

New Street Address

\_\_\_\_\_

City

State

Zip Code

**(III) Information Used to Calculate Your Individual Settlement Payment:**

According to Lincare’s records:

- (a) You worked \_\_\_\_\_ workweeks for Lincare in California between December 5, 2015 and August 11, 2022;
- (b) You worked \_\_\_\_\_ workweeks for Lincare in California between December 5, 2018 and August 11, 2022;
- (c) You <<DID/DID NOT>> separate your employment with Lincare on or after December 5, 2016.

**Based on the above, your Individual Settlement Payment is estimated to be \$ \_\_\_\_\_ and your PAGA Amount is estimated to be \$ \_\_\_\_\_.**

**(IV) If you disagree with items (a) - (c) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this form:**

\_\_\_\_\_  
\_\_\_\_\_

If you dispute the above information from Lincare’s records, those records will control unless you are able to provide documentation that establishes that Lincare’s records are mistaken. If there is a dispute about whether Lincare’s information or yours is accurate, and the dispute cannot be resolved informally, the Parties and the Settlement Administrator will resolve the dispute as described in the Class Notice that accompanies this Form. Any unresolved disputes will be submitted to the Court for a final determination.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED NO LATER THAN <<RESPONSE DEADLINE>>.**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# EXHIBIT B

1 **HAINES LAW GROUP, APC**  
Paul K. Haines (SBN 248226)  
2 phaines@haineslawgroup.com  
Tuvia Korobkin (SBN 268066)  
3 tkorobkin@haineslawgroup.com  
Alexandra R. McIntosh (SBN 320904)  
4 amcintosh@haineslawgroup.com  
2155 Campus Drive, Suite 180  
5 El Segundo, California 90245  
Tel: (424) 292-2350  
6 Fax: (424) 292-2355

7 Attorneys for Plaintiffs

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9  
10 **FOR THE COUNTY OF VENTURA**

11 ANTELMA CHAVEZ, as an individual and on  
behalf of all others similarly situated,

12  
13 Plaintiff,

14 vs.

15 LINCARE INC., a Delaware corporation; and  
DOES 1 through 100,

16 Defendants.  
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Case No. 2:20-cv-02043 JWH-E

**THIRD AMENDED CLASS AND  
REPRESENTATIVE ACTION  
COMPLAINT**

- (1) **MEAL PERIOD VIOLATIONS  
(LABOR CODE §§ 226.7, 512, 558);**
- (2) **REST PERIOD VIOLATIONS  
(LABOR CODE §§ 226.7, 516, 558);**
- (3) **FAILURE TO REIMBURSE ALL  
NECESSARY BUSINESS  
EXPENDITURES (LABOR CODE  
§§ 2802, 2804);**
- (4) **WAGE STATEMENT  
VIOLATIONS (LABOR CODE §  
226);**
- (5) **WAITING TIME PENALTIES  
(LABOR CODE §§ 201-203, 212-  
213);**
- (6) **UNFAIR COMPETITION (BUS &  
PROF CODE § 17200 *et seq.*); and**
- (7) **CIVIL PENALTIES UNDER THE  
PRIVATE ATTORNEYS  
GENERAL ACT ((LABOR CODE §  
2698, *et seq.*)**
- (8) **MINIMUM WAGE VIOLATIONS  
(LABOR CODE §§ 1182.12, 1194,  
1194.2, AND 1197)**
- (9) **FAILURE TO PAY OVERTIME  
WAGES (LABOR CODE §§ 204,  
510, 558, 1194, AND 1198)**

**(10) FAIR LABOR STANDARDS ACT  
VIOLATIONS (29 U.S.C. § 201, *et*  
*seq.*)**

**DEMAND FOR JURY TRIAL  
UNLIMITED CIVIL CASE**

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1 Plaintiffs Antelma Chavez and Bernal Mazariegos (“Plaintiffs”), on behalf of themselves  
2 and all others similarly situated, hereby brings this Second Amended Class and Representative  
3 Action Complaint (“Complaint”) against Lincare Inc.; and DOES 1 to 100, inclusive (collectively  
4 “Defendants”), and on information and belief, alleges as follows:

5 **JURISDICTION**

6 1. Plaintiffs, on behalf of themselves and all others similarly situated, originally filed  
7 this action in Ventura County Superior Court for recovery of unpaid wages and penalties under  
8 California Business & Professions Code § 17200 *et seq.*; Labor Code §§ 201-203, 212-213, 226,  
9 226.7, 510, 512, 516, 558, 1182.12, 1194, 1197, 1194.2, 1198, 2802, and 2804; 29 U.S.C. § 201,  
10 *et seq.*; and Industrial Welfare Commission (“IWC”) Wage Order No. 7-2001 (hereinafter, “Wage  
11 Order 7”), in addition to seeking injunctive relief, declaratory relief, and restitution. As explained  
12 herein, Plaintiff Chavez filed a separate action seeking civil penalties under the Private Attorneys  
13 General Act (Labor Code § 2698 *et seq.*) (“PAGA”). Pursuant to a stipulation of the parties and  
14 Court order, Plaintiff Chavez seeks those civil penalties in this Complaint as well.

15 2. This Complaint is brought pursuant to California Code of Civil Procedure § 382.  
16 The monetary damages and restitution that Plaintiff seeks exceeds the minimal jurisdictional  
17 limits of the Superior Court and will be established according to proof at trial.

18 3. This Court has jurisdiction over Defendants because, upon information and belief,  
19 Defendants have sufficient minimum contacts in California, or otherwise intentionally avail  
20 themselves to the California market so as to render the exercise of jurisdiction over them by the  
21 California courts consistent with the traditional notions of fair play and substantial justice.

22 **VENUE**

23 4. Venue as to each Defendant is proper in this judicial district pursuant to California  
24 Code of Civil Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions  
25 complained of hereon occurred in the County of Ventura. Defendants own, maintain offices,  
26 transact business, have agent(s) within the County of Ventura, and/or otherwise are found within  
27 the County of Ventura, and Defendants are within the jurisdiction of this Court for purposes of  
28 service of process.

1 **PARTIES**

2 5. Plaintiffs are individuals over the age of eighteen (18). At all relevant times herein,  
3 Plaintiffs were and currently are, California residents. During the four years immediately  
4 preceding the filing of this action and within the statute of limitations periods applicable to each  
5 cause of action pled herein, Defendants employed Plaintiffs as non-exempt employees. Plaintiffs  
6 were, and are, victims of Defendants’ policies and/or practices complained of herein, lost money  
7 and/or property, and has been deprived of the rights guaranteed by under California Business &  
8 Professions Code § 17200 *et seq.*; Labor Code §§ 201-203, 212-213, 226, 226.7, 510, 512, 516,  
9 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, and 2698 *et seq.*; 29 U.S.C. § 201, *et seq.*;  
10 and Wage Order 7, which sets employment standards for the “Mercantile Industry.”

11 6. Plaintiffs are informed and believe, and based thereon alleges, that during the four  
12 years preceding the filing of this action and continuing to the present, Defendants did (and  
13 continue to do) business by supplying respiratory-therapy products, and employed Plaintiffs and  
14 other similarly situated non-exempt employees within Ventura County and the State of California  
15 and, therefore, were (and are) doing business in Ventura County and the State of California.

16 7. Plaintiffs do not know the true names, identities and capacities, whether individual,  
17 corporate, associate or otherwise, of Defendants Does 1 through 10, inclusive, and for that reason,  
18 said defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court  
19 to amend this Complaint when such true names and capacities are discovered. Plaintiff is  
20 informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether  
21 individual, partners, or corporate, were responsible in some manner for the acts and omissions  
22 alleged herein, and proximately caused Plaintiffs and the Classes (as defined in Paragraph 19) to  
23 be subject to the unlawful employment practices, wrongs, injuries and damages complained of  
24 herein.

25 8. Plaintiffs are informed, and believe, and thereon alleges, that at all times  
26 mentioned herein, Defendants were and are the employers of Plaintiffs and all members of the  
27 Classes.

28 9. At all times herein mentioned, each of said Defendants participated in the doing

1 of the acts hereinafter alleged to have been done by the named Defendants. Furthermore, the  
2 Defendants, and each of them, were the agents, servants, and employees of each and every one of  
3 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned  
4 were acting within the course and scope of said agency and employment. Defendants, and each  
5 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or  
6 omissions complained of herein.

7 10. At all times mentioned herein, Defendants, and each of them, were members of  
8 and engaged in a joint venture, partnership, and common enterprise, and acting within the course  
9 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Plaintiffs  
10 further allege that all Defendants were joint employers for all purposes of Plaintiffs and all  
11 members of the Classes.

12 **GENERAL FACTUAL ALLEGATIONS**

13 11. Defendants employed Plaintiff Chavez as a “Customer Service Representative”  
14 (or similarly titled position) from approximately August 2016 to on or about December 18, 2018.  
15 Throughout Plaintiff Chavez’s employment with Defendants, Plaintiff Chavez worked at  
16 Defendants’ office in Oxnard, California.

17 12. During Plaintiff Chavez’s tenure, Defendants required Plaintiff Chavez and other  
18 non-exempt employees to record their hours worked using Defendants’ timekeeping system.  
19 Specifically, Plaintiff Chavez and other non-exempt employees clocked in and out using their  
20 work computer at the beginning and end of their shift, in addition to at the beginning and end of  
21 each meal period.

22 13. Defendants employed Plaintiff Mazariegos as a “Customer Delivery Technician”  
23 (or similarly titled position) from approximately October 2016 to approximately December 2016.  
24 Throughout Plaintiff Mazariegos’ employment with Defendants, Plaintiff Mazariegos worked at  
25 Defendants’ office in Redlands, California.

26 14. At all times relevant herein, Defendants’ meal period policies/practices failed to  
27 provide Plaintiffs and other non-exempt employees with legally-compliant meal periods,  
28 including meal periods of at least 30-minutes commencing before the conclusion of the fifth hour

1 of work and/or a second meal period when they worked shifts in excess of 10.0 hours. Due to  
2 work demands imposed by Defendants, Plaintiffs and other non-exempt employees often were  
3 unable to take a meal period prior to the completion of the fifth hour of work, and on some  
4 occasions were not provided with any meal period at all. For example, during the pay period  
5 beginning on 11/26/2018 and ending on 12/9/2018, Plaintiff Chavez worked two shifts in excess  
6 of nine hours without receiving any meal period, and during this same pay period she also had  
7 four meal periods that began after the completion of her fifth hour of work. Yet during this pay  
8 period, Plaintiff Chavez was not paid a meal period premium by Defendants for any of these shifts  
9 in which they failed to provide her with all legally required meal periods, as mandated by Labor  
10 Code § 226.7. Upon information and belief, Defendants failed to maintain an adequate system  
11 for ensuring meal period compliance amongst its non-exempt employee workforce. As a result  
12 of Defendants' failure to provide all legally required meal periods, Defendants failed to  
13 compensate their employees with the required meal period premium for each workday in which  
14 employees experienced a meal period violation. Upon information and belief, during at least a  
15 portion of the putative class period, Defendants did not maintain a payroll code or other  
16 mechanism for the payment of meal period premiums under Labor Code § 226.7 in the event they  
17 failed to provide a legally compliant meal period to their non-exempt employees.

18 15. Defendants failed to authorize and permit Plaintiffs and other non-exempt  
19 employees from taking all legally-compliant rest periods due to work demands as well as  
20 Defendant's unlawful on-premises rest period policy. As a result, Plaintiffs and other non-exempt  
21 employees were often not authorized or permitted to take any rest periods during work shifts in  
22 excess of 8.0 hours or a third rest period on shifts in excess of 10.0 hours. On those occasions,  
23 Defendants failed to compensate Plaintiffs and other non-exempt employees with the required  
24 rest period premium for each workday in which they experienced a rest period violation as  
25 mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained no payroll  
26 code or other mechanism for the payment of rest period premium payments under Labor Code §  
27 226.7 in the event that Plaintiffs and other non-exempt employees were not provided with a  
28 legally-compliant rest period.

1           16. Defendants also failed to reimburse Plaintiffs and other non-exempt employees for  
2 all reasonable and necessary work expenditures, including, but not limited to personal cellular  
3 phone expenses. Specifically, Plaintiffs' supervisor called and/or text messaged Plaintiffs on their  
4 personal cellular phone on most workdays to discuss work-related matters, and there were often  
5 group text messages pertaining to work-related matters that Plaintiffs and her co-workers used to  
6 communicate with each other throughout the workday. Additionally, when Plaintiff Mazariegos  
7 worked on-call hours during the weekends, Plaintiff Mazariegos was required to use his personal  
8 cellular phone to receive work related calls, including work assignments. Plaintiffs and other non-  
9 exempt employees were not reimbursed for these work-related expenditures as required pursuant  
10 to Labor Code § 2802.

11           17. Defendants also failed to pay Plaintiff Mazariegos and other non-exempt  
12 employees all reporting time wages owed. During Plaintiff Mazariegos' employment with  
13 Defendants, Defendants required him and other non-exempt employees to work on-call shifts,  
14 during which Plaintiff Mazariegos and other non-exempt employees had to be available to receive  
15 a call at any point during the shift. On information and belief, if Plaintiffs and other non-exempt  
16 employees received a call during an on-call shift, they only had a limited amount of time to  
17 respond to the call and arrive at the worksite. If the employee failed to answer the call and/or  
18 arrive at the worksite within a specified amount of time, he or she would be disciplined. On  
19 occasions when Plaintiff Mazariegos and other non-exempt employees were required to work  
20 scheduled on-call shifts, but were not called in to work or were furnished less than half of their  
21 usual or scheduled day's work, Defendants failed to pay Plaintiff Mazariegos and other non-  
22 exempt employees with half their usual or scheduled day's work (but in no event less than two  
23 hours nor more than four hours), at their regular rate of pay in violation of Wage Order 7 § 5 and  
24 Labor Code § 1198.

25           18. As a result of Defendants' failure to pay all meal and rest period premium wages,  
26 Defendants maintained inaccurate payroll records, issued inaccurate wage statements to Plaintiffs  
27 and other non-exempt employees, and failed to pay Plaintiffs and other non-exempt employees  
28 all wages owed at the time of their separation of employment with Defendants. Defendants also

1 failed to timely pay Plaintiff Chavez her final wages at the time of her separation from  
2 employment as Defendants did not pay Plaintiff Chavez's her earned wages until two months  
3 after her separation from employment. Upon information and belief, Defendants have a policy  
4 and practice of failing to pay all earned wages to their former employees at the time of their  
5 separation from employment. Defendant further failed to issue accurate itemized wage statements  
6 as a result of its failure to include the name and address of the legal entity that is the employer.

7 19. Defendants further violated California Labor Code sections 212 and 213 by issuing  
8 pay cards to its employees, including Plaintiff Chavez, as payment of their final wages without  
9 their voluntary authorization and which were not negotiable and payable in cash, on demand,  
10 without discount at established businesses within the State of California.

11 **CLASS ACTION ALLEGATIONS**

12 20. **Class Definitions:** Plaintiffs brings this action on behalf of themselves and the  
13 following Classes pursuant to Rule 23 of the Federal Rules of Civil Procedure:

- 14 a. The Meal Period Class consists of all of Defendants' current and former non-  
15 exempt employees in California who worked at least one shift in excess of 5.0  
16 hours, during the four years immediately preceding the filing of this action through  
17 the present.
- 18 b. The Rest Period Class consists of all of Defendants' current and former non-  
19 exempt employees in California who worked at least one shift in excess of 3.5  
20 hours, during the four years immediately preceding the filing of this action through  
21 the present.
- 22 c. The Employee Expense Class consists of all of Defendants' current and former  
23 non-exempt employees in California who were not reimbursed for the use of their  
24 personal cellular phones, during the four years preceding the filing of this action  
25 through the present.
- 26 d. The Wage Statement Class consists of (i) all members of the Meal Period Class  
27 and/or Rest Period Class who received a wage statement from Defendants and/or  
28 (ii) all employees who received a wage statement with Defendant's logo, during

1 the one year preceding the filing of this action through the present.

2 e. The Waiting Time Class consists of consists of all (i) Defendants' former  
3 employees in California who upon their separation of employment received their  
4 final wages in the form of a pay card and/or (ii) Defendants' former employees  
5 who did not receive their final wages immediately at the time of termination; (iii)  
6 Defendants' former employees who did not receive their final wages at least 72  
7 hours after resignation; and (iv) Defendants' formerly employed members of the  
8 Meal Period Class, Rest Period Class, Minimum Wage Class, and/or Overtime  
9 Class during the three years immediately preceding the filing of this action through  
10 the present.

11 f. The Minimum Wage Class consists of all of Defendants' current and former non-  
12 exempt employees in California who worked at least one on call shift, during the  
13 four years preceding the filing of this action through the present.

14 g. The Overtime Class consists of all of Defendants' current and former non-exempt  
15 employees in California who worked more than 8 hours in a workday and/or more  
16 than 40 hours in a workweeks and worked at least one on call shift, during the four  
17 years preceding the filing of this action through the present.

18 21. **Numerosity/Ascertainability:** The members of the Classes are so numerous that  
19 joinder of all members would be unfeasible and not practicable. The membership of the Classes  
20 is unknown to Plaintiffs at this time; however, it is estimated that the members of each of the  
21 Classes number greater than one hundred (100) individuals. The identity of such membership is  
22 readily ascertainable via inspection of Defendants' employment records.

23 22. **Common Questions of Law and Fact Predominate/Well Defined Community**  
24 **of Interest:** There are common questions of law and fact as to Plaintiffs and all other similarly  
25 situated non-exempt employees, which predominate over questions affecting only individual  
26 members including, without limitation to:

27 a. Whether Defendants provided all legally-compliant meal periods to Plaintiffs and  
28 members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;

- 1           b.     Whether Defendants authorized and permitted all legally-compliant rest periods to  
2           Plaintiffs and members of the Rest Period Class pursuant to Labor Code §§ 226.7  
3           and 516;
- 4           c.     Whether Defendants' reimbursement policies, and failure to reimburse Plaintiffs  
5           and members of the Employee Expense Class for business expenditures  
6           necessarily incurred in the performance of their work duties comply with Labor  
7           Code § 2802;
- 8           d.     Whether Defendants furnished legally-compliant wage statements to Plaintiff  
9           Chavez and members of the Wage Statement Class pursuant to Labor Code §§  
10          226;
- 11          e.     Whether Defendants' polices and/or practices for the timing and amount of  
12          payment of final wages to Plaintiffs and Waiting Time Class members at their  
13          separation of employment were lawful;
- 14          f.     Whether Defendants paid all overtime wages owed to members of the Overtime  
15          Class for all overtime hours worked pursuant to Labor Code sections 204, 510,  
16          558, 1194, and 1198;
- 17          g.     Whether Defendants provided all reporting time pay to members of the Minimum  
18          Wage Class pursuant to Wage Order 7 § 5, Labor Code section 204; and
- 19          h.     Whether Defendants' paid employees their final pay on a pay card or ATM card  
20          without their authorization in violation of Labor Code sections 212 and 213.

21          23.     **Predominance of Common Questions:** Common questions of law and fact  
22          predominate over questions that affect only individual members of the Classes. The common  
23          questions of law set forth above are numerous and substantial and stem from Defendants' policies  
24          and/or practices applicable to each individual class member, such as meal and rest periods,  
25          reimbursement for necessary business expenditures, furnishing accurate and itemized wage  
26          statements, payment of final wages on pay cards, minimum wage and overtime, and timely paying  
27          all final wages upon separation of employment. As such, the common questions predominate over  
28          individual questions concerning each individual class member's showing as to their eligibility for

1 recovery or as to the amount of their damages.

2           24.     **Typicality:** Plaintiffs' claims are typical of the claims of the Classes because  
3 Defendants employed Plaintiffs as a non-exempt employee in California during the statute(s) of  
4 limitations period applicable to each cause of action pled in this Complaint. As alleged herein,  
5 Plaintiffs, like the members of the Classes, did not receive all meal periods, were not authorized  
6 and permitted to take all rest periods, did not receive reimbursements for necessary business  
7 expenditures, did not receive itemized and accurate wage statements, and did not receive all final  
8 wages owed to them upon their separation of employment with Defendants. Additionally, Plaintiff  
9 Chavez received her final wages on a pay card without her consent.

10           25.     **Adequacy of Representation:** Plaintiffs are fully prepared to take all necessary  
11 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,  
12 Plaintiffs' attorneys are ready, willing, and able to fully and adequately represent the members of  
13 the Classes and Plaintiffs. Plaintiffs' attorneys have prosecuted and defended numerous wage-  
14 and-hour class actions in state and federal courts in the past and are committed to vigorously  
15 prosecuting this action on behalf of the members of the Classes.

16           26.     **Superiority:** The Labor Code is broadly remedial in nature and serves an  
17 important public interest in establishing minimum working conditions and standards in California.  
18 These laws and labor standards protect the average working employee from exploitation by  
19 employers who have the responsibility to follow the laws and who may seek to take advantage of  
20 superior economic and bargaining power in setting onerous terms and conditions of employment.  
21 The nature of this action and the format of laws available to Plaintiffs and members of the Classes  
22 make the class action format a particularly efficient and appropriate procedure to redress the  
23 violations alleged herein. If each employee were required to file individual lawsuits, Defendants  
24 would necessarily gain an unconscionable advantage since they would be able to exploit and  
25 overwhelm the limited resources of each individual plaintiff with their vastly superior financial  
26 and legal resources. Moreover, requiring each member of the Classes to pursue an individual  
27 remedy would also discourage the assertion of lawful claims by employees who would be  
28 disinclined to file an action against their former and/or current employer for real and justifiable

1 fear of retaliation and permanent damages to their careers at subsequent employment. Further, the  
2 prosecution of separate actions by individual class members, even if possible, would create a  
3 substantial risk of inconsistent or varying verdicts or adjudications with respect to individual class  
4 members against Defendants herein; and which would establish potentially incompatible  
5 standards of conduct for Defendants; and/or legal determinations with respect to individual class  
6 members which would, as a practical matter, be dispositive of the interest of the other class  
7 members not parties to adjudications or which would substantially impair or impede the ability  
8 of the class members to protect their interests. Further, the claims of the individual members of  
9 the Class are not sufficiently large to warrant vigorous individual prosecution considering all of  
10 the concomitant costs and expenses attending thereto. As such, the Classes are maintainable as  
11 classes under Rule 23 of the Federal Rules of Civil Procedure.

12 **FIRST CAUSE OF ACTION**

13 **MEAL PERIOD VIOLATIONS**

14 **(AGAINST ALL DEFENDANTS)**

15 27. Plaintiffs re-alleges and incorporates by reference all prior paragraphs.

16 28. Defendants failed to provide Plaintiffs and members of the Meal Period Class with  
17 proper meal periods in accordance with the mandates of the California Labor Code and Wage  
18 Order 7. As such, Defendants are responsible for paying premium compensation for meal period  
19 violations pursuant to Labor Code §§ 226.7, 512, and 558, and Wage Order 7.

20 29. Plaintiffs are informed and believe that Defendants maintained a policy and/or  
21 practice of failing to pay all meal period premiums at the employee's regular rate of  
22 compensation, despite Defendants' failure to provide Plaintiffs and other non-exempt employees  
23 with all legally-complaint meal periods. As a result, Plaintiffs and members of the Meal Period  
24 Class are owed meal period premium payments per California Labor Code § 512 and 226.7, and  
25 Civil Code §§ 3287(b) and 3289.

26 ///

27 ///

28 ///



1 37. Due to Defendants' unlawful policy and practice of requiring employees to use  
2 their personal cellular phones for work-related purposes, and failing to pay reimbursements to  
3 Plaintiffs and members of the Employee Expense Class, Defendants have violated Labor Code  
4 §2802.

5 38. As a proximate result of Defendants' policies and/or practices in violation of Labor  
6 Code §§ 2802 and 2804, Plaintiff and members of the Employee Expense Class suffered damages  
7 in sums, which will be shown according to proof.

8 39. Plaintiff and members of the Employee Expense Class are entitled to attorneys'  
9 fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

10 40. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of  
11 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,  
12 Plaintiffs and members of the Employee Expense Class are entitled to interest, which shall accrue  
13 from the date on which they incurred the initial necessary expenditure.

14 **FOURTH CAUSE OF ACTION**

15 **WAGE STATEMENT VIOLATIONS**

16 **(AGAINST ALL DEFENDANTS)**

17 41. Plaintiffs re-allege and incorporate by reference all prior paragraphs.

18 42. Plaintiffs are informed and believe, and based thereon alleges, that Defendants  
19 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff  
20 Chavez and the Wage Statement Class with accurate and itemized wage statements that included,  
21 among other requirements, all meal and rest period premium wages earned in violation of Labor  
22 Code § 226.

23 43. Defendants' failure to furnish Plaintiff Chavez and members of the Wage  
24 Statement Class with accurate and itemized wage statements resulted in actual injury, as said  
25 failures led to, among other things, the non-payment of all their meal and rest period premium  
26 wages, and deprived them of the information necessary to identify the discrepancies in  
27 Defendants' reported data.

28 44. Defendants' failures create an entitlement to recovery by Plaintiff Chavez and

1 members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant  
2 to Labor Code §§ 226, including statutory penalties, civil penalties, and reasonable attorneys' fees  
3 and costs of suit according to Labor Code §§ 226 and 226.3.

4 **FIFTH CAUSE OF ACTION**

5 **WAITING TIME PENALTIES**

6 **(AGAINST ALL DEFENDANTS)**

7 45. Plaintiffs re-allege and incorporates by reference all prior paragraphs.

8 46. This cause of action is brought pursuant to Labor Code §§ 201-203, which require  
9 an employer to pay all wages immediately at the time of separation of employment in the event  
10 the employer discharges the employee or the employee provides at least 72 hours of notice of  
11 their intent to quit. In the event the employee provides less than 72 hours of notice of their intent  
12 to quit, said employee's wages become due and payable not later than 72 hours upon said  
13 employee's last date of employment.

14 47. Additionally, Defendants violated Labor Code §§ 201-203, 212, and 213 by  
15 issuing pay cards or ATM cards as final payment of wages to employees upon their separation  
16 from employment without the employ consent. Specifically, although Defendants offer  
17 employees three options for receiving their pay, Defendants written policies and practices require  
18 employees to receive their final pay on a debit card in violation of Labor Code § 212. As alleged  
19 herein, these pay cards or ATM cards were not useable at all locations, required fees for usage in  
20 some instances, and upon information and belief, did not allow employees to access all of the  
21 monies contained on such cards.

22 48. Plaintiffs are informed and believe, and based thereon allege, that Defendants  
23 failed to timely pay Plaintiffs and members of the Waiting Time Class all final wages due to them  
24 at their separation from employment, including all minimum and overtime wages, and meal and  
25 rest period premium wages.

26 49. Furthermore, Plaintiffs are informed and believe, and based thereon alleges, that  
27 as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiffs and  
28 members of the Waiting Time Class all earned wages at the end of employment in a timely manner

1 pursuant to the requirements of Labor Code §§ 201-203.

2 50. Defendants' failure to pay all final wages was willful within the meaning of Labor  
3 Code § 203. Defendants' willful failure to timely pay Plaintiffs and the members of the Waiting  
4 Time Class their earned wages upon separation from employment results in a continued payment  
5 of wages up to thirty days from the time the wages were due.

6 51. Therefore, Plaintiffs and members of the Waiting Time Class are entitled to  
7 compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

8 **SIXTH CAUSE OF ACTION**

9 **UNFAIR COMPETITION**

10 **(AGAINST ALL DEFENDANTS)**

11 52. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

12 53. Defendants have engaged and continue to engage in unfair and/or unlawful  
13 business practices in California in violation of Business and Professions Code § 17200 *et seq.* by:  
14 (a ) failing to provide Plaintiffs and members of the Meal Period Class with all meal periods to  
15 which they are entitled, or failing to pay them meal period premium payments in lieu thereof; (b)  
16 failing to authorize and permit all required duty-free rest periods to Plaintiffs and members of the  
17 Rest Period Class, and/or failing to pay them rest period premiums payments in lieu thereof; (c)  
18 failing to reimburse all necessary business expenditures to Plaintiffs and members of the  
19 Employee Expense Class; (d) failing to furnish Plaintiff Chavez and members of the Wage  
20 Statement Class accurate and itemized wage statements; (e) failing to timely pay all wages owed  
21 upon separation to Plaintiffs and members of the Waiting Time Class; (f) failing to pay all  
22 minimum wages owed to Plaintiff Mazariegos and members of the Minimum Wage Class; (g)  
23 failing to pay all overtime wages to Plaintiff Mazariegos and members of the Overtime Class; and  
24 (h) paying Plaintiff Chavez and members of the Waiting Time Class their final wages on a pay  
25 card without their consent.

26 54. Defendants' utilization of these unfair and/or unlawful business practices deprived  
27 Plaintiffs and continues to deprive members of the Classes of compensation to which they are  
28 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage

1 over Defendants' competitors who have been and/or are currently employing workers and  
2 attempting to do so in honest compliance with applicable wage and hour laws.

3 55. Because Plaintiffs are a victim of Defendants' unfair and/or unlawful conduct  
4 alleged herein, Plaintiffs for themselves and on behalf of the members of the Classes, seeks full  
5 restitution of monies, as necessary and according to proof, to restore any and all monies withheld,  
6 acquired, and/or converted by Defendants pursuant to Business and Professions Code §§ 17203  
7 and 17208.

8 56. The acts complained of herein occurred within the last four years immediately  
9 preceding the filing of the Complaint in this action.

10 57. Plaintiffs were compelled to retain the services of counsel to file this court action  
11 to protect their interests and those of the Classes, to obtain restitution and injunctive relief on  
12 behalf of Defendants' current non-exempt employees, and to enforce important rights affecting  
13 the public interest. Plaintiffs have thereby incurred the financial burden of attorneys' fees and  
14 costs, which they are entitled to recover under Code of Civil Procedure § 1021.5.

15 **SEVENTH CAUSE OF ACTION**

16 **PRIVATE ATTORNEYS GENERAL ACT**

17 **(AGAINST ALL DEFENDANTS)**

18 58. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

19 59. Defendants have committed Labor Code violations against Plaintiffs and other  
20 aggrieved employees. Plaintiff Chavez is an "aggrieved employee" within the meaning of Labor  
21 Code § 2698 *et seq.*, and acting on behalf of herself, other aggrieved employees, and the State of  
22 California, brings this representative action against Defendants to recover the civil penalties due  
23 to Plaintiff Chavez and other aggrieved employees against whom one or more of the violations  
24 has been committed, and the State of California according to proof, pursuant to Labor Code §  
25 2699, including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay  
26 each employee and \$200.00 for each subsequent violation or willful or intentional violation  
27 pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount  
28 unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each subsequent

1 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial  
2 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per  
3 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent  
4 violation of Labor Code § 226, pursuant to Labor Code § 226.3 per employee per pay period;  
5 and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per  
6 employee per pay period for those violations of the Labor Code for which no civil penalty is  
7 specifically provided, based on the following Labor Code violations:

- 8 a. Failing to provide all legally required meal periods, and failing to pay meal period  
9 premium pay, to Plaintiff Chavez and other aggrieved employees in violation of  
10 Labor Code §§ 226.7, 512, and 558;
- 11 b. Failing to authorize and permit all legally required rest periods, and failing to pay  
12 rest period premiums, to Plaintiff Chavez and other aggrieved employees in  
13 violation of Labor Code §§ 226.7, 516, and 558;
- 14 c. Failing to reimburse Plaintiff Chavez and other aggrieved employees for all  
15 necessary business expenses in violation of Labor Code §§ 1198, 2802 and 2804;
- 16 d. Failing to furnish Plaintiff Chavez and other aggrieved employees with complete,  
17 accurate, itemized wage statements in violation of Labor Code § 226;
- 18 e. Failing to timely pay all final wages and compensation earned by Plaintiff Chavez,  
19 and other aggrieved employees at the time of separation of employment in  
20 violation of Labor Code §§ 201, 202, and 203;
- 21 f. Failing to pay Plaintiff Chavez and other aggrieved employees all earned wages at  
22 least twice during each calendar month in violation of Labor Code § 204; and
- 23 g. Failing to maintain accurate records on behalf of Plaintiff Chavez and other  
24 aggrieved employees in violation of Labor Code § 1174.

25 60. On December 5, 2019, Plaintiff Chavez notified Defendant Lincare Inc. via  
26 certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its  
27 website, of Defendants’ violations of the California Labor Code and Plaintiff Chavez’s intent to  
28 bring a claim for civil penalties under the PAGA with respect to violations of the California Labor

1 Code identified in Paragraph 59 (a)-(g) above. Now that sixty-five days have passed from Plaintiff  
2 Chavez’s notifying Defendants and the LWDA of these violations, Plaintiff Chavez has exhausted  
3 her administrative requirements for bringing a PAGA claim for these violations.

4 61. On February 10, 2020, Plaintiff Chavez filed an action against Defendants in  
5 Ventura County Superior Court, Case No. 56-2020-00539898-CU-OE-VTA, seeking PAGA civil  
6 penalties based on alleged violations of the Labor Code sections mentioned above (the “PAGA  
7 Action”). Pursuant to a stipulation of the parties and subsequent Court order, the statute of  
8 limitations period established by the PAGA Action applies to this PAGA cause of action in the  
9 instant case. Accordingly, Plaintiff Chavez’s PAGA cause of action reaches back to one year  
10 prior to the submission of her PAGA letter, or December 5, 2018.

11 62. Plaintiff Chavez was compelled to retain the services of counsel to file this court  
12 action to protect her interests and the interests of other aggrieved employees, and to assess and  
13 collect the civil penalties owed by Defendants. Plaintiff Chavez has thereby incurred attorneys’  
14 fees and costs, which she is entitled to receive under California Labor Code § 2699(g).

15 **EIGHTH CAUSE OF ACTION**  
16 **MINIMUM WAGE VIOLATIONS**  
17 **(AGAINST ALL DEFENDANTS)**

18 63. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

19 64. Wage Order 7, § 4 and California Labor Code §§ 1197 and 1182.12 establish the  
20 right of employees to be paid minimum wages for all hours worked, in amounts set by state law.  
21 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal  
22 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with  
23 attorneys’ fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid  
24 wages and interest accrued thereon.

25 65. At all relevant times herein, Defendants failed to conform their pay practices to  
26 the requirements of the law by failing to pay Plaintiff Mazariegos and members of the Minimum  
27 Wage Class for all hours worked including, but not limited to, all hours they were subject to the  
28 control of Defendants and/or suffered or permitted to work under the California Labor Code and

1 Wage Order 7.

2 66. California Labor Code § 1198 makes unlawful the employment of an employee  
3 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide  
4 that an employer who has failed to pay its employees the legal minimum wage is liable to pay  
5 those employees the unpaid balance of the unpaid wages as well as liquidated damages in an  
6 amount equal to the wages due and interest thereon.

7 67. As a direct and proximate result of Defendants' unlawful conduct as alleged  
8 herein, Plaintiff Mazariegos and the Minimum Wage Class have sustained economic damages  
9 including, but not limited to, unpaid wages and lost interest, in an amount to be established at  
10 trial, and are entitled to recover economic and statutory damages and penalties and other  
11 appropriate relief as a result of Defendants' violations of the California Labor Code and Wage  
12 Order 7.

13 68. The foregoing practices and policies are unlawful and create an entitlement to  
14 recovery by Plaintiff Mazariegos and the members of the Minimum Wage Class in a civil action  
15 for the unpaid amount of minimum wages owing, including interest thereon, liquidated damages,  
16 statutory and civil penalties, attorney's fees, and costs of suit according to California Labor Code  
17 §§ 204, 558, 1194, 1197, and 1198, Wage Order 7, and Code of Civil Procedure § 1021.5.

18 **NINTH CAUSE OF ACTION**

19 **FAILURE TO PAY ALL OVERTIME WAGES**

20 **(AGAINST ALL DEFENDANTS)**

21 69. Plaintiffs re-alleges and incorporates by reference all previous paragraphs.

22 70. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, and  
23 1198, which provide that non-exempt employees are entitled to all overtime wages and  
24 compensation for all overtime hours worked and provide a private right of action for the failure  
25 to pay all overtime compensation for overtime work performed.

26 71. At all times relevant herein, Defendants were required to properly compensate  
27 non-exempt employees, including Plaintiff Mazariegos and members of the Overtime Class, for  
28 all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 7.

1 Defendants caused Plaintiff Mazariegos to work overtime and hours but did not credit Plaintiff or  
2 members of the Overtime Class with all overtime hours actually worked, and did not compensate  
3 Plaintiff Mazariegos or members of the Overtime Pay Class at one and one-half times their regular  
4 rate of pay for such hours or at double the regular rate of pay for hours worked for such hours.

5 72. The foregoing policies and practices are unlawful and create entitlement to  
6 recovery by Plaintiff and the Overtime Class Members in a civil action for the unpaid amount of  
7 overtime premiums owing, including interest thereon, statutory penalties, attorneys' fees, and  
8 costs of suit according to California Labor Code §§ 204, 210, 216, 510, 1194, and 1198; and Code  
9 of Civil Procedure § 1021.5.

10 **TENTH CAUSE OF ACTION**

11 **FAIR LABOR STANDARDS ACT VIOLATIONS**

12 **(AGAINST ALL DEFENDANTS)**

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

15 74. This cause of action is brought pursuant to 29 U.S.C. § 207, which requires  
16 employers to pay all non-exempt employees one and one-half times the regular rate of pay for all  
17 hours worked in excess of 40 per workweek, as well as minimum wage.

18 75. Plaintiff Mazariegos and members of the Minimum Wage and Overtime Class  
19 were required to work on call shifts, where they were required to remain on-call after working a  
20 full eight hour shift. Upon information and belief, Defendants only compensated members of the  
21 Minimum Wage and Overtime Class for their on-call shifts if they were called into work.  
22 Plaintiffs allege that as a result, Defendants failed to pay its employees at least minimum wage  
23 for all hours worked as well as all overtime wages earned.

24 76. Defendants' policy and practice of failing to pay the minimum wage for all hours  
25 worked, and requiring overtime work and not paying at the proper overtime rate for said work  
26 violates the FLSA's overtime requirements including, but not limited to 29 U.S.C. § 207.

27 77. Defendants' policies and practices, as alleged, constitute a willful violation of the  
28 FLSA, within the meaning of 29 U.S.C. § 255.



1 pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount  
2 unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each subsequent  
3 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial  
4 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per  
5 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent  
6 violation of Labor Code § 226 pursuant to Labor Code § 226.3 per employee per pay period;  
7 and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per  
8 employee per pay period for Labor Code violations for which no civil penalty is specifically  
9 provided;

10 11. Upon the Eighth Cause of Action, for payment of minimum wages, liquidated  
11 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and  
12 1197;

13 12. Upon the Ninth Cause of Action, for compensatory, consequential, general, and  
14 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

15 13. Upon the Tenth Cause of Action, for compensatory, consequential, liquidated  
16 damages, and general and special damages pursuant to 29 U.S.C. §§ 207 and 216;

17 14. Prejudgment interest on all due and unpaid wages pursuant to California Labor  
18 Code § 218.6, and Civil Code §§ 3287 and 3289;

19 15. On all causes of action, for attorneys' fees and costs as provided by Labor Code  
20 §§ 218.5, 226, 2802(c), and 2699(g), the FLSA, and Code of Civil Procedure § 1021.5; and

21 16. For such other and further relief the Court may deem just and proper.

22 Dated: December 14, 2022

HAINES LAW GROUP, APC

23  
24 By:



25 Paul K. Haines  
26 Attorneys for Plaintiffs  
27  
28

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

3 Dated: December 14, 2022

HAINES LAW GROUP, APC

4  
5 By:



6 Paul K. Haines  
7 Attorneys for Plaintiffs