

JOINT STIPULATION OF SETTLEMENT AND RELEASE OF CLASS ACTION

Subject to final approval by the Court, this Joint Stipulation of Settlement and Release of Class Action (“Settlement Agreement”) is between Plaintiff/Class Representative Eva Yanez (“Plaintiff”), and Defendant Gardner Family Health Network, Inc. (“Defendant”). Plaintiff and Defendant are referred to collectively as the “Parties.”

I. DEFINITIONS

- A. **Administration Costs**: The costs incurred by the Settlement Administrator to administer this Settlement, which are estimated to be no more than \$10,000.
- B. **Agreement, Settlement Agreement, or Joint Stipulation**: This settlement agreement, titled “Joint Stipulation of Settlement and Release of Class Action.”
- C. **Attorney Fee Award**: The amount, not to exceed one-third of the Gross Settlement Amount, \$375,000, finally approved by the Court and awarded to Class Counsel.
- D. **Class**: All non-exempt employees of Defendant who worked at any time from February 24, 2016, to March 18, 2022, in the State of California.
- E. **Class Action**: The putative class action lawsuit filed February 24, 2020, amended April 3, 2020. Santa Clara County Superior Court Case No. 20CV364033.
- F. **Class Counsel**: Michael D. Singer and Jeff Geraci of Cohelan Khoury & Singer, and Sahag Majarian of Law Offices of Sahag Majarian II.
- G. **Class Data**: Class Data means information Defendant will compile from its available, existing, electronic records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and include each Class Member’s: (i) full name; (ii) last-known address; (iii) Social Security and Employee ID number; and (iv) dates of employment.
- H. **Class Member**: Each person eligible to participate in this Settlement who is a member of the Class as defined above.
- I. **Class Notice**: The Notice of Class Action Settlement, substantially similar to the form attached as **Exhibit A**, subject to Court approval.
- J. **Class Period**: The time period from February 24, 2016, to March 18, 2022.
- K. **Class Representative(s) or Plaintiff(s)**: Eva Yanez.
- L. **Class Representative Service Payment**: The amount the Court awards to Plaintiff Eva Yanez as a Class Representative, which will not exceed \$5,000.

- M. Complaint:** The class action complaint filed by Plaintiff, February 24, 2020, and the first amended complaint filed on April 3, 2020.
- N. Cost Award:** The amount the Court awards Class Counsel for payment of actual litigation costs subject to proof, which shall not exceed \$21,500.
- O. Counsel for Defendant:** Attorney Sharon L. Hightower of Ericksen Arbuthnot.
- P. Court:** The State of California, Santa Clara County Superior Court.
- Q. Defendant:** Gardner Family Health Network, Inc.
- R. Effective Final Settlement Date:** The date when Final Approval of the Settlement can no longer be appealed or, if there are no objectors and no Plaintiff(s) in intervention at the time the Court grants Final Approval, the date the court enters judgment granting Final Approval of the Settlement.
- S. Gross Settlement Amount or GSA:** The total value of the Settlement is a non-reversionary One Million One Hundred Twenty Five Thousand Dollars and Zero Cents (\$1,125,000). This is the gross amount Defendant can be required to pay under this Settlement Agreement, which includes, subject to Court approval: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) Attorney Fee Award and Cost Award to Class Counsel; (3) the Class Representative Service payment paid to the Class Representative; (4) Administration Costs, and (5) the PAGA Payment. Defendant's portion of payroll taxes is not included in the GSA and will be a separate obligation of Defendant. No portion of the GSA will revert to Defendant for any reason.
- T. Individual Settlement Share:** The amount payable to a Participating Class Member under the terms of this Agreement.
- U. LWDA:** California Labor and Workforce Development Agency.
- V. Net Settlement Amount or NSA:** The total amount available for distribution to Participating Class Members, which is the GSA less Attorney Fee and Cost Award, Class Representative Enhancement, the PAGA Payment, Administration Costs.
- W. PAGA:** The California Labor Code Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 *et seq.*).
- X. PAGA Notice:** The notice of Labor Code violations filed with the LWDA on January 24, 2020, by Plaintiff, and attached to the First Amended Complaint.

- Y. PAGA Payment:** The PAGA Payment is \$30,000 of the GSA to satisfy the PAGA penalties claim. Seventy-five percent (75%) (\$22,500) shall be paid to the LWDA, and twenty-five percent (25%) (\$7,500) shall be distributed to Aggrieved Employees, on a pro rata basis, as set forth below.
- Z. PAGA Aggrieved Employees:** Class Members who worked anytime from January 24, 2019 to March 18, 2022 (“PAGA Period”).
- AA. Participating Class Members:** All Class Members who do not submit a valid and timely request to exclude themselves from the class action Settlement.
- BB. Parties:** Plaintiff Eva Yanez, individually and as Class Representative, and Defendant Gardner Family Health Network, Inc.
- CC. Preliminary Approval or Preliminary Approval Order:** The Court’s order preliminarily approving the proposed Settlement.
- DD. Released Claims:** The released claims means all causes of action and factual or legal theories that were alleged in the Complaint or reasonably could have been alleged based on the facts alleged in the Complaint, including: (a) failure to pay minimum wages; (b) failure to pay overtime wages; (c) failure to provide meal periods; (d) failure to provide rest breaks; (e) failure to provide accurate itemized wage statements; (f) failure to timely pay wages due upon separation of employment; (g) Violations of the Unfair Competition Law; (h) civil penalties under PAGA. (collectively, the “Released Claims”). The Released Claims include all claims for compensatory, consequential, incidental, liquidated, punitive, and exemplary damages; restitution; interest; costs and fees; injunctive or equitable relief; and any other remedies available at law or equity during the Class Period.
- EE. Released Parties:** Defendant and all of Defendant’s current or former parent companies, subsidiary or related companies, partnerships, joint ventures, representatives, attorneys, agents, insurers, employee benefit programs (and the trustees, administrators, fiduciaries, and insurers of such programs), and any other persons acting by or through any of those persons or entities, or their successors.
- FF. Request for Exclusion.** A Class Member’s written request to exclude himself or herself from the Settlement, submitted as described in the Class Notice.
- GG. Response Deadline:** The deadline by which Class Members must postmark to the Settlement Administrator a valid Request for Exclusion or submit written objections to the Settlement. The Response Deadline will be 45 calendar days from the initial mailing of the Class Notice. The Response Deadline will be extended 15 calendar days for any Class Member who is re-mailed a Class Notice by the Settlement Administrator as described in this Settlement. Agreement.
- HH. Settlement Administrator:** CPT Group, Inc.

II. RECITALS

- A. On February 24, 2020, a class action complaint against Defendant was filed in the Superior Court of the State of California for the County of Santa Clara. On April 3, 2020, a first amended class action and representative action complaint was filed, alleging Defendant failed to: (a) pay minimum wages; (b) pay overtime wages; (c) provide meal periods; (d) provide rest breaks; (e) provide accurate itemized wage statements; (f) timely pay wages due during employment; (g) timely pay wages due upon separation of employment; and was liable for (h) violations of the Unfair Competition Law; and (i) PAGA civil penalties.
- B. On March 18, 2022, after exchanging discovery and mediation data, the Parties attended a full-day private mediation with Hon. Maria Elena-James (Ret.), a respected and experienced mediator of wage-and-hour class actions, which resulted in a resolution of the Class Action in its entirety.
- C. Plaintiff believes the alleged claims are meritorious, and that the prerequisites for class certification can be satisfied in this Class Action.
- D. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Class Action, disputes the damages and penalties claimed by Plaintiff, and further contends that, for any purpose other than settlement, the Class Action is not appropriate for class or representative action treatment.
- E. The Parties believe the Settlement is fair, reasonable, and adequate. The Settlement was reached through arm's-length negotiations, taking into account all relevant factors. The Parties recognize the uncertainty, risk, expense, and delay of further litigation, including trial and appeal. Accordingly, the Parties desire to fully, finally, and forever settle, compromise, and discharge all Released Claims.

III. SETTLEMENT TERMS AND CONDITIONS

- A. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the maximum Gross Settlement Amount (“GSA”), excluding payroll taxes, that Defendant is obligated to pay under this Settlement Agreement is One Million Dollars and No Cents (\$1,125,000.00). All of the GSA will be disbursed pursuant to this Settlement Agreement without the need of any Class Member to submit a claim form and none of the GSA will revert to Defendant.
- B. **Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate to certification of the claims asserted on behalf of Class Members.

- C. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiff and Class Members for purposes of this Settlement only. If the Settlement does not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall not be admissible or used in any way in connection with the question of whether the Court should certify any claims in a non-settlement context in this Class Action or in any other lawsuit or venue. If the Settlement does not become effective, Defendant reserves the right to contest any issues relating to class certification, liability and damages.
- D. Appointment of Class Representative.** Solely for the purposes of this Settlement, the Parties stipulate Plaintiff shall be appointed as the representatives for the Class.
- E. Appointment of Class Counsel.** Solely for the purpose of this Settlement, the Parties stipulate and agree the Court appoint Class Counsel to represent the Class.
- F. Settlement Disbursement.** Subject to, and Court Approval, the Settlement Administrator will disburse the Gross Settlement Amount as follows:
- 1. To Plaintiff.** In addition to her Individual Settlement Share, Plaintiff will receive up to Five Thousand Dollars (\$5,000) as a Class Representative Service Payment, subject to Court approval, without payroll tax deductions, and an IRS Form 1099 issued. Plaintiff will be solely responsible for taxes on the Service Payment and hold Defendant and Released Parties harmless from any liability for taxes or penalties arising from the payment. If the amount awarded is less than requested, the difference will become part of the NSA.
 - 2. To Class Counsel.** Class Counsel will apply to the Court for a total Attorney Fee Award not to exceed one-third or \$375,000 of the GSA and a Cost Award not to exceed \$21,500. IRS Forms 1099 will be issued to Class Counsel for these payments. Class Counsel shall be solely responsible for all taxes on the Fee and Cost Awards. If the amount awarded is less than the amount requested by Class Counsel for the Attorney Fee Award or Cost Award, the difference shall become part of the NSA.
 - 3. To the Appropriate Taxing Authorities.** The Settlement Administrator will calculate the amount of the Participating Class Members' and Defendant's portion of payroll taxes. The Settlement Administrator will withhold the amount of the Participating Class Members' portion of normal payroll taxes from each Individual Settlement Share. The Administrator will forward all amounts to the appropriate taxing authorities.
 - 4. To the Settlement Administrator.** The Settlement Administrator will pay to itself Administration Costs approved by the Court not to exceed \$10,000. If the actual Administration Costs are less than the amount requested, the difference will become part of the NSA.

5. To Participating Class Members.

- a. Individual Settlement Share Calculation.** The Settlement Administrator will calculate Individual Settlement Shares by dividing the number of weeks each Class Member worked during the Class Period by the number of Work Weeks all Class Members worked during the Class Period and multiplying that number by the Net Settlement Amount.
- b. Tax Treatment for Individual Settlement Shares.** Individual Settlement Shares will be apportioned 30% wages and 70% interest and penalties. The wage portion shall be subject to customary tax withholdings and reported by IRS W-2 forms. Payment of all wage amounts will be made subject to a Class Member's current or last W-4 form, unless an updated form is provided. Amounts paid as penalties and interest shall be reported by IRS 1099 forms.

G. Appointment of Settlement Administrator. The Settlement Administrator shall be responsible for preparing, printing, and mailing the Class Notice; tracking objections and requests for exclusion; mailing Individual Settlement Shares; mailing 75% of the PAGA Payment to the LWDA; performing skip traces and remailing Class Notices and Individual Settlement Shares; calculating payroll tax deductions; calculating Individual Settlement Shares; providing weekly status reports to Defendant's and Class Counsel; providing a due diligence declaration for submission to the Court before the Final Approval hearing; distributing the Attorney Fee Award and Cost Award to Class Counsel; printing and providing Class Members, Aggrieved Employees and Plaintiff with W-2s and 1099 forms as required by this Agreement and applicable law; providing a due diligence declaration for submission to the Superior Court upon completion of Settlement distribution; providing funds remaining as a result of uncashed checks to the approved cy pres recipient. The Parties represent they do not have any financial interest in the Settlement Administrator, or otherwise have a relationship with it that could create a conflict of interest.

H. Procedure for Approving Settlement.

1. Motion for Preliminary Approval and Conditional Certification.

- a.** Plaintiff will move for an order certifying the Class for settlement purposes only, Preliminary Approving the Settlement, approving the Class Notice, and setting a date for the Final Approval hearing.
- b.** If the Court declines to conditionally certify the Class or Preliminarily Approve all material aspects of the Settlement, the Parties will work together in good faith to address concerns raised by the Court and propose a revised settlement for approval.

2. Notice to Class Members.

- a.** Within thirty (30) calendar days after entry of the Preliminary Approval Order, Defendant will deliver to the Settlement Administrator the Class Data and the information needed to calculate its share of payroll taxes.
- b.** Upon receipt of Class Data, the Settlement Administrator will search the National Change of Address Database and make address changes. The Class Data shall be confidential and all reasonable precautions taken to maintain confidentiality. Class Data shall not be used for any purpose other than to administer this Settlement.
- c.** Within fourteen (14) days calendar days after Defendant's deadline to provide the Class Data to the Settlement Administrator, the Settlement Administrator will mail the Class Notice to all identified Class Members via first-class U.S. Mail.
- d.** The Settlement Administrator will take reasonable steps to trace the mailing address of any Class Member for whom a Class Notice is returned by U.S. Postal Service as undeliverable, within ten (10) days from receipt of the returned Notice including, tracking all undelivered mail; performing prompt address searches; and promptly re-mailing Notices. If the Settlement Administrator is unable to locate a better address, a Class Notice shall be re-mailed to the original address. Class Members who receive a re-mailed Class Notice, will have fifteen (15) days from re-mailing to postmark a request for exclusion, or written objection to the Settlement.
- e.** Class Members may dispute the information provided in their Class Notice, but must do so in writing, via first class mail, postmarked by the Response Deadline. To the extent Class Members dispute the number of weeks they have been credited with, Class Members may provide evidence to the Settlement Administrator showing why they believe the information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's records will be presumed accurate. If a Class Member produces evidence to the contrary, the Parties will evaluate the evidence, and make a final decision as to the number of eligible weeks, subject to review by the Court.
- f.** The Settlement Administrator shall provide a weekly status report informing Class and Defendant's Counsel of the number of Notice Packets mailed, number returned as undeliverable, number re-mailed, and number of requests for exclusion, and objections, received.

- g. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator will provide the Parties a declaration setting forth compliance with its obligations under this Agreement. The declaration shall be filed with the Court by Class Counsel. Before the Final Approval hearing, the Settlement Administrator will supplement its declaration if any material changes occur from the date of its prior declaration.

3. Objections to Settlement.

- a. **Written Objection.** Class Members may object to the Settlement in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than the Response Deadline.
- b. **Format.** Written objections shall state: (a) the objecting person's full name, address, and telephone number; (b) describe any legal and factual arguments supporting the objection; and (c) provide copies of any documents on which the objection is based. The postmark date will be deemed the exclusive means for determining the timeliness of the written objection.
- c. **Appearance at Final Approval.** Participating Class Members may appear at the Final Approval hearing, in person or through the objector's own counsel, without submitting a written objection.

4. Request for Exclusion from the Settlement ("Opt-Out").

- a. **Opting Out.** Class Members who wish to exclude themselves from the Settlement must mail a request to be excluded to the Settlement Administrator. The written request must: (a) include the Class Member's name, address, and last four digits of the social security number; (b) be addressed to the Settlement Administrator; (c) be signed by the Class Member; (d) be postmarked no later than the Response Deadline; and (e) state in substance: "I want to opt out of the Settlement of the case against Gardner Family Health Network, Inc., Santa Clara County Superior Court Case No. 20CV364033. I understand I will not receive a Settlement Payment described in the Notice of Class Action Settlement."
- b. **Defective Submissions.** If a request for exclusion is defective, the Settlement Administrator will mail the Class Member a cure letter within three (3) calendar days of receiving the defective submission to advise the Class Member the defect must be cured to render the request for exclusion valid. The Class Member will have fifteen (15) calendar days from the date of the cure letter to fax or postmark a revised request for exclusion.

9. Uncashed Checks. Participating Class Members and Aggrieved Employees must cash or deposit Individual Settlement Shares and PAGA Payments within one hundred eighty (180) calendar days after the checks are mailed. For checks uncashed or not deposited, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, pay the amount of the Individual Settlement Shares or Individual PAGA Payments to cy pres recipient, Legal Aid at Work, a non-profit provider of legal services.

10. Final Report by Settlement Administrator. Within ten (10) calendar days after disbursement of all funds, the Settlement Administrator will provide the Parties with a final report of the distribution of the Settlement.

I. Release of Claims. As of the Effective Final Settlement Date, in exchange for the consideration set forth in this Agreement, Plaintiff and Participating Class Members fully, finally, and forever release, relinquish and discharge Released Parties from any and all Released Claims during the Class Period.

J. Miscellaneous Terms

1. No Admission of Liability. Defendant makes no admission of liability or wrongdoing by entering this Agreement, and does so solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended to or will be construed as an admission by Defendant of liability or wrongdoing, and it will be inadmissible in any proceeding (other than those solely in connection with this Settlement).

2. No Effect on Employee Benefits. No payments made pursuant to this Agreement shall have any effect on the eligibility for, or calculation of, any employee benefits (*e.g.*, vacation, holiday pay, retirement plans, etc.) of Plaintiff, Participating Class Members or Aggrieved Employees.

3. Publicity. Class Counsel and Plaintiff agree to discuss the terms of this Settlement only in declarations submitted to a court to establish Class Counsel's adequacy to serve as class counsel, in declarations submitted to a court in support of motions for Preliminary and Final Approval, for attorneys' fees and costs, and any other pleading filed in relation to the Settlement, until the Preliminary Approval Order is issued. Class Counsel and Plaintiff agree to decline to respond to any media inquiries concerning the Settlement.

4. Integrated Agreement. This Agreement will constitute the entire Agreement between the Parties relating to the Settlement, and it will be deemed that no oral or written, representations have been made to any party concerning the Settlement, other than the representations expressly stated in this Agreement.

- 5. Authorization to Enter Into Settlement Agreement.** Class Counsel and Defendant's Counsel warrant and represent they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to implement the Settlement. If the Parties are unable to agree on the form or content of any document needed to implement this Agreement, the Parties will seek the assistance of the mediator and, if agreement is not reached, the Court.
- 6. Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Class Action in abeyance, except those necessary to implement and complete the Settlement, pending the Final Approval hearing.
- 7. Amendment or Modification of Agreement.** This Agreement, and any part of it, may be amended, modified, changed, or waived only by a writing signed by counsel for all Parties or their successors-in-interest.
- 8. Agreement Binding on Successors and Assigns.** This Agreement is binding upon, and inures to the benefit of, the successors and assigns of the Parties.
- 9. No Prior Assignment.** The Parties represent they have not directly or indirectly, assigned or transferred, any responsibility, obligation, liability, or claim, created or released by this Agreement.
- 10. Applicable Law.** All terms and conditions of this Agreement will be governed by the laws of the State of California.
- 11. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Class Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
- 12. Invalidity of Any Provision; Severability.** Should any provision of this Agreement be found unenforceable, the validity and enforceability of the remaining provisions shall not be affected.
- 13. Cooperation in Drafting.** The Parties cooperated in drafting this Agreement and it will not be construed against any Party based on participation in drafting.
- 14. Execution in Counterparts.** This Agreement may be executed in one or more counterparts, which together will be deemed to be one Agreement. Facsimile or PDF signatures will be accepted.

IV. EXECUTION BY PARTIES AND COUNSEL

Dated: June 29, 2022

EVA YANEZ

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Dated: 7/13, 2022

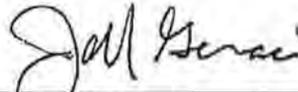
GARDNER FAMILY HEALTH NETWORK, INC.

By: Michael McCarthy
Its: Director of Human Resources

Approved as to Form:

Dated: June 30, 2022

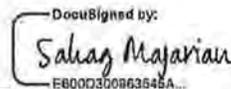
COHELAN KHOURY & SINGER



Jeff Cersei, Esq.
Attorneys for Plaintiff Eva Yanez and the Class

Dated: 6/30, 2022

LAW OFFICES OF SAHAG MAJARIAN II

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Sahag Majarian, Esq.
Attorneys for Plaintiff Eva Yanez and the Class

Dated: 7/13, 2022

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Sharon L. Hightower, Esq.
Attorneys for Gardner Family Health Network, Inc.