

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO  
ALBUQUERQUE DIVISION

CHRISTIE COFFIN; KIMBERLY WILLMOTT	)	
and BRENDA KASATY individually, on behalf	)	
of themselves and all others similarly situated,	)	Civil Action File
	)	No. 1:20-cv-00144-DHU-GJF
Plaintiffs,	)	
	)	
v.	)	
	)	
MAGELLAN HRSC, INC., an Ohio Corporation;	)	
and DOES 1 to 100, inclusive,	)	
	)	
Defendant.	)	

**CLASS ACTION SETTLEMENT AGREEMENT**

This Class Action Settlement Agreement is made and entered into by and between Named Plaintiffs Christie Coffin, Kimberly Willmott, and Brenda Kasaty (collectively, the “Named Plaintiffs”), and Defendant Magellan HRSC, Inc. (“Defendant”).

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## 1. RECITALS

These Recitals are an integral part of this Settlement Agreement.

**1.1** On June 14, 2019, the Named Plaintiffs filed a putative class action complaint in the Superior Court of California for the County of San Diego entitled *Christie Coffin, Kimberly Willmott, and Brenda Kasaty individually, on behalf of themselves and all others similarly situated v. Magellan HRSC, Inc., an Ohio corporation; and DOES 1 to 100, inclusive*. On July 17, 2019, Defendant removed this action to the United States District Court for the Southern District of California pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332, subdivision (d). On February 19, 2020, the United States District Court for the Southern District of California granted Defendant's motion and transferred this action to this Court. On September 18, 2019, plaintiff Christie Coffin filed an action entitled *Christie Coffin, on behalf of herself and all other aggrieved employees v. Magellan HRSC, Inc., an Ohio Corporation; and DOES 1 to 100, inclusive*, in the California Superior Court in and for the County of San Diego bearing case number 37-2019-00049475-CU-OE-CTL (the "PAGA Action"). On October 28, 2021, the Parties filed a Joint Motion For An Order Granting Leave to File First Amended Complaint so that the allegations in the PAGA Action could be added to the operative complaint in this action. The Court granted the Parties' motion, and the Named Plaintiffs filed a First Amended Complaint ("FAC") on November 17, 2021 [Doc. No. 75], which is the operative complaint in this action. As a result of the filing of the FAC, the PAGA Action was dismissed.

**1.2** The Named Plaintiffs alleged in the FAC that Defendant misclassified numerous California employees as exempt who worked under various job titles containing the terms "Care Manager" or "Senior Care Manager". Specifically, the Named Plaintiffs allege that Defendant: (1) failed to pay wages in violation of Cal. Labor Code, § 201, *et seq.*; (2) failed to pay overtime compensation in violation of the Cal. Labor Code, § 201, *et seq.*; (3) failed to furnish itemized wage statements in violation of Cal. Labor Code, § 226; (4) engaged in unlawful business practices in violation of Cal. Bus. Code, § 17200, *et seq.*; and (5) failed to comply with California's Private Attorneys General Act ("PAGA") in violation of Cal. Labor Code, § 2698, *et seq.* The Named Plaintiffs sought recovery of damages, interest, statutory penalties, and attorneys' fees and costs on behalf of themselves, putative class members, and allegedly aggrieved employees.

**1.3** The Parties engaged in significant written discovery; demanded and received a large number of relevant documents and data, including the employment history of putative class members, and informally investigated the facts surrounding the Claims settled by this Settlement Agreement.

**1.4** After completing substantial investigation, extensive formal and informal discovery, and pre-settlement discussions, the Parties participated in a mediation before Steven Serratore, Esq., a highly regarded employment law attorney and mediator, on February 28, 2024. The Parties did not reach a settlement at mediation, but they made progress toward a settlement and thereafter continued settlement negotiations and ultimately reached the settlement reflected in this Settlement Agreement.

**1.5** The Named Plaintiffs believe that the Claims have merit and that the evidence developed to date supports their Claims. However, the Named Plaintiffs and Class Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Claims through trial, appeals, and any ancillary proceedings. The Named Plaintiffs and Class Counsel also have accounted for the uncertain outcome and risk of any litigation, as well as the difficulties and delays inherent in such litigation. The Named Plaintiffs and Class Counsel are also mindful of the inherent problems of proof in establishing, and possible defenses to, the Claims asserted in the Action. The Named Plaintiffs and Class Counsel believe that the settlement set forth in this Settlement Agreement confers substantial benefits upon the Class Members and is a fair, reasonable, and adequate resolution of the Claims. Based upon their evaluation, the Named Plaintiffs and Class Counsel have determined that the settlement set forth in this Settlement Agreement is in the best interest of the Class.

**1.6** Defendant has denied, and continues to deny, all liability with respect to any and all of the Claims and the facts alleged in support thereof, and has denied, and continues to deny, all charges of wrongdoing or liability against it arising out of or relating to any conduct, acts, or omissions alleged or that could have been alleged in the Actions. Defendant's willingness to agree to this settlement on the terms and conditions set forth in this Settlement Agreement is based on, among other things: (1) the time and expense associated with litigating the Claims through trial and any appeals; (2) the benefits of resolving the Claims, including limiting further expense, inconvenience and distraction, disposing of burdensome and protracted litigation, and permitting Defendant to conduct its business unhampered by the distractions of continued litigation; and (3)

the uncertainty and risks inherent in any litigation.

**1.7** Based on the foregoing, and the definitions and terms and conditions set forth hereinafter, the Parties, for purposes of this settlement only, conditionally stipulate and agree that the requisites for establishing class certification are met with respect to the Class and stipulate to certification of the Class that is defined in Section 2.3 below.

**1.8** This Settlement Agreement is a result of adversarial, non-collusive, and arm's-length negotiations. Counsel for the Parties vigorously pursued their positions and the rights of their respective clients through extended legal and factual analysis, discovery, and exchanges of information over the course of the litigation. There are no undisclosed side agreements between the Parties or their counsel. This Settlement Agreement contains the entire agreement between the Parties pertaining to settlement.

**NOW, THEREFORE**, subject to the Court's approval, it is hereby agreed by the Parties that, in consideration of the promises and covenants set forth in this Settlement Agreement, and upon the entry by the Court of a final order approving the settlement and directing the implementation of the terms and conditions of the settlement as set forth in this Settlement Agreement, the Class Action and all Claims shall be settled and compromised upon the terms and conditions contained herein.

## **2. DEFINITIONS**

**2.1** “**Action**” means and refers to the Class Action, as defined in Section 2.4.

**2.2** “**Affiliates**” of Defendant means and refers to each individual or entity who: (1) during any portion of the Release Period, was Defendant's employee, subsidiary, division, parent company, sister company, predecessor or successor; and/or (2) during any portion of the Release Period, was directly or indirectly controlled or owned by Defendant, or was directly or indirectly under common control or ownership with Defendant. For purposes of this definition, “control” means and refers to the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person (or Defendant), whether through the ownership of voting securities, by contract, or otherwise, including, without limitation, the power to elect a majority of: the directors of a corporation, managers of a limited liability company, trustees of a trust, general partners of a partnership or members of any other governing body of any other type or entity; and “own” means and refers to being the holder of record or beneficially

of 10% or more of the outstanding equity securities, including, without limitation, shares of stock, limited liability company membership interests and partnership interests, of any class or series.

**2.3 “Class” and “Class Members”** mean and refer to the Named Plaintiffs and all similarly situated former and current employees of Defendant who, at any time during the Class Period, were employed in California in the capacity of a “care manager” or “senior care manager” and classified as an exempt employee.

**2.4 “Class Action”** means and refers to this lawsuit against Defendant entitled *Christie Coffin, Kimberly Willmott, and Brenda Kasaty individually, on behalf of themselves and all others similarly situated v. Magellan HRSC, Inc., an Ohio corporation; and DOES 1 to 100, inclusive*, pending in the United States District Court for the District of New Mexico, Case No. 1:20-cv-00144-DHU-GJF.

**2.5 “Class Counsel”** means and refers to Sheldon A. Ostroff of the Law Office of Sheldon A. Ostroff and Daniel R. Shinoff of Artiano Shinoff.

**2.6 “Class Counsel Costs Award”** means such litigation costs as the Court may award to Class Counsel for the costs they have actually incurred and will incur in the investigation, litigation, and resolution of the Action, and which shall not exceed Sixty Thousand Dollars (\$60,000.00).

**2.7 “Class Counsel Fees Award”** means such attorneys’ fees as the Court may award to Class Counsel for the services they have rendered and will render to the Class in the Action, and which shall not exceed One Hundred Forty-two Thousand Five Hundred Dollars (\$142,500.00).

**2.8 “Class List”** means and refers to the complete list of all Class Members that Defendant will diligently and in good faith compile from its records. The Class List shall be formatted in Microsoft Excel and include each Class Member’s full name, most recent mailing address, most recent telephone number, employee identification number, and number of Compensable Workweeks.

**2.9 “Class Notice”** means and refers to the “Notice of Class Action Settlement”, substantially in the form attached hereto as Exhibit “2”, that will be mailed to all Class Members at their last known address by U.S. Mail, first class postage prepaid. Each Class Notice will provide: (1) information regarding the nature of the Class Action; (2) a summary of the Settlement Agreement’s principal terms; (3) the definition of the Class and Class Period; (4) each Class

Member's estimated gross Individual Settlement Payment; (5) instructions on how to submit Requests for Exclusion and Notices of Objection; (6) the deadlines by which the Class Member must postmark Requests for Exclusion, or file Notices of Objection to the Settlement; and (7) the Claims to be released.

**2.10 "Class Period"** means and refers to June 14, 2015 through the date of entry of the Preliminary Approval Order.

**2.11 "Compensable Workweeks"** means and refers to every week, and any part thereof, during the Class Period in which a Class Member was employed by Defendant in California as a "care manager" or "senior care manager" and classified as an exempt employee.

**2.12 "Court"** means and refers to the United States District Court for the District of New Mexico.

**2.13 "Defendant" and "Magellan"** mean and refer to Magellan HRSC, Inc.

**2.14 "Defendant's Counsel"** means and refers to the attorneys who have appeared in the Action on behalf of Defendant, including Mark D. Temple and Sabrina L. Shadi of Baker & Hostetler LLP.

**2.15 "Effective Date"** means and refers to the date by which this settlement is finally approved as provided herein and the Court's Final Approval Order becomes binding. For purposes of this Settlement Agreement, the Final Approval Order becomes binding upon the later of: (a) the day after the last day by which a notice of appeal to the Tenth Circuit Court of Appeal of the Final Approval Order and/or of an order rejecting any motion to intervene may be timely filed, and none is filed; (b) if such an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or otherwise, the day after the last date for filing a request for further review of the Tenth Circuit's decision passes and no further review is requested; (c) if an appeal is filed and there is a final disposition by ruling, dismissal, denial, or otherwise by the Tenth Circuit and further review of the Tenth Circuit's decision is requested, the day after the request for review is denied with prejudice and/or no further review of the decision can be requested; or (d) if review is accepted, the day after the United States Supreme Court affirms the settlement. The Effective Date cannot occur, and Defendant will not be obligated to fund this settlement, until and unless this Settlement Agreement is final and binding as prescribed herein.

**2.16 "Excluded Class Member"** means and refers to any Class Member who timely returns a valid Request for Exclusion.

**2.17 “Final Approval Hearing”** means and refers to the hearing at which the Named Plaintiffs will request that the Court: (1) finally approve the fairness, reasonableness, and adequacy of the terms and conditions of this Settlement Agreement; (2) enter the Final Approval Order; (3) approve the Class Counsel Costs Award and Class Counsel Fees Award; (4) award the Named Plaintiffs the requested Service Awards; (5) authorize the payment of Individual Settlement Payments to Participating Class Members; (6) authorize the payment of Settlement Administration Costs; (7) approve the PAGA Award to the LWDA; (8) enter an order permanently enjoining all Participating Class Members from pursuing, or seeking to reopen, any of the Claims; and (9) take other appropriate or necessary action as described herein.

**2.18 “Final Approval Order”** means and refers to the order and judgment entered by the Court at or contemporaneously with the Final Approval Hearing substantially in the form attached hereto as Exhibit “3”, granting final approval of this Settlement Agreement, or as may be modified by subsequent mutual agreement of the Parties in writing and approved by the Court.

**2.19** Upon entry of the Final Approval Order, the Parties agree to waive all rights to appeal.

**2.20 “Individual Settlement Payments”** means and refers to that portion of the Net Distribution Fund paid to Participating Class Members pursuant to the terms of this Settlement Agreement. Individual Settlement Payments shall be calculated pursuant to Section 4 below. The Individual Settlement Payment amount will reflect a gross amount before deductions for the Participating Class Members’ income, payroll, or other taxes, and any employer-side payroll taxes, required to be withheld and paid from the wage component of the Individual Settlement Payments. The amount that remains after subtracting the employee’s and employer’s share of applicable state and federal tax withholdings, applicable payroll deductions, and other deductions required by state and local law and social security withholdings will be paid to Participating Class Members.

**2.21 “LWDA”** means and refers to the California Labor and Workforce Development Agency.

**2.22 “Maximum Settlement Amount”** means and refers to the maximum amount of money Defendant will be required to pay pursuant to this Settlement Agreement. The Maximum Settlement Amount is Four Hundred and Seventy-Five Thousand Dollars (\$475,000.00). The

Maximum Settlement Amount shall include: (1) all Individual Settlement Payments to Participating Class Members and all related employer-side and employee-side tax obligations; (2) the Class Counsel Costs Award; (3) the Class Counsel Fees Award; (4) all Service Awards to the Named Plaintiffs; (5) the PAGA Award to the LWDA; and (6) all Settlement Administration Costs.

**2.23 “Named Plaintiffs”** means and refers to Christie Coffin, Kimberly Willmott, and Brenda Kasaty.

**2.24 “Net Distribution Fund”** means and refers to the portion of the Maximum Settlement Amount remaining after deducting the Court-approved amounts for: (1) the Class Counsel Costs Award; (2) the Class Counsel Fees Award; (3) all Settlement Administration Costs; (4) the Named Plaintiffs’ Service Awards; and (5) the portion of the PAGA Award allocated to the LWDA. The Net Distribution Fund, less all employer-side and employee-side tax withholdings, will be distributed to Participating Class Members. The amount to be deducted from the Maximum Settlement Amount currently approximates Two Hundred Forty-three Thousand Seven Hundred Fifty Dollars (\$243,750.00) and is comprised of the Class Counsel Fees Award in the amount of One Hundred Forty-two Thousand Five Hundred Dollars (\$142,500.00), the Class Counsel Costs Award in the amount of Sixty Thousand Dollars (\$60,000.00), Settlement Administration Costs in the amount of Fifteen Thousand Dollars (\$15,000.00), Service Awards in the amount of Fifteen Thousand Dollars (\$15,000.00), and the LWDA’s portion of the PAGA Award in the amount of Eleven Thousand Two Hundred Fifty Dollars (\$11,250.00). The Net Distribution Fund currently approximates Two Hundred Thirty-One Thousand Two Hundred and Fifty Dollars (\$231,250.00).

**2.25 “Opt-Out Period”** means and refers to the period of time between the date the Settlement Administrator mails the Class Notice to Class Members and the Response Deadline.

**2.26 “PAGA”** means and refers to the Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.*

**2.27 “PAGA Award”** means and refers to the amount of the Maximum Settlement Amount allocated to resolve claims for civil penalties under the PAGA for any Labor Code violations alleged in the Action. The PAGA Award, subject to Court approval, shall be in the amount of Fifteen Thousand Dollars (\$15,000.00), of which seventy-five percent (75%) shall be distributed to the LWDA, and twenty-five percent (25%) shall be distributed to Participating

Class Members as part of the Net Distribution Fund.

**2.28 “Participating Class Members”** means and refers to Class Members who do not submit a valid and timely Request for Exclusion on or before the Response Deadline.

**2.29** [Intentionally left blank]

**2.30 “Parties”** means and refers to the Named Plaintiffs, for themselves and on behalf of the Class, and Defendant.

**2.31 “Preliminary Approval Date”** means and refers to the date on which the Court enters the Preliminary Approval Order.

**2.32 “Preliminary Approval Order”** means and refers to the Order of the Court, substantially in the form attached hereto as Exhibit “1”, granting preliminary approval of this Settlement Agreement, or as may be modified by subsequent mutual agreement of the Parties in writing and approved by the Court.

**2.33 “Release Period”** means and refers to the period of June 14, 2015, through the entry of the Preliminary Approval Order.

**2.34 “Released Claims”** means and refers to each and all of the Claims that are released by this Agreement as described below.

**(i) “Released Class Claims”** means and refers to any and all claims for relief based on wage and hour provisions of state or federal law, including but not limited to statutory, regulatory and common law claims, and all related or derivative claims for penalties, including but not limited to claims for civil penalties under the PAGA, wage statement penalties under California Labor Code § 226 and waiting time penalties under California Labor Code § 203, and claims for relief based on the California Unfair Competition Law, whether suspected or unsuspected, which the Releasing Parties may have had, now have, or may have in the future against the Released Parties, or any of the Released Parties, for any acts occurring during the Class Period that are or were either or both: (1) alleged in the Complaint and/or any amended complaint filed in the Class Action and/or the PAGA Action; or (2) that could have been alleged in the original Complaint and/or any amended complaint filed in the Action and/or the PAGA Action relating to overtime pay, correct and complete itemized wage statements, and waiting time penalties arising out of the claim that “Care Managers” and/or “Senior Care Managers” were misclassified as exempt employees. This release includes the release of the same claims asserted

in the action entitled *Deakin v. Magellan Health, Inc.*, United States District Court, District of New Mexico Case No. 1:17-cv-00773-MLG-KK.

(ii) **“Complete and General Release”** means and refers to the claims set forth in the preceding subsection “(i)” above and any other claims, including without limitation claims for wage and hour law violations, attorneys’ fees or injunctive relief, and all other claims, whether sounding in contract or tort, including but not limited to, claims arising from or dependent on Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*; the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.*; the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*; the Civil Rights Act of 1991; 42 U.S.C. § 1981; Executive Order 11246; Executive Order 11141; the Rehabilitation Act of 1973; the Equal Pay Act; Federal Employee Polygraph Protection Act; the National Labor Relations Act; the Worker Adjustment and Retraining Notification Act; the California Fair Employment and Housing Act, including Government Code §§ 12900, *et seq.*; the California Family Rights Act, the California Pregnancy Disability Act; the California Labor Code; any applicable order of the California Industrial Welfare Commission, claims arising from or dependent on federal or local laws or regulations prohibiting discrimination or harassment in employment or otherwise, or enforcing express or implied contracts, requiring employers to deal fairly or in good faith, or restricting an employer’s right to terminate employees, wrongful discharge, wrongful termination in violation of public policy, constructive termination, retaliation, defamation, conspiracy, infliction of emotional distress (intentional or negligent), invasion of privacy, assault, battery, physical or personal injury, emotional distress, fraud, negligent misrepresentation, misrepresentation, or any other tort, or any law, such as California Business & Professions Code §§ 17200, *et seq.* and California Labor Code §§ 2698, *et seq.* This Complete and General Release is intended by the Parties to apply to the Named Plaintiffs only and to be all encompassing and to act as a full and total release of any employment-related claims, whether specifically enumerated herein or not, that the Named Plaintiffs might have or have had, that exist or ever have existed on or prior to the date the Named Plaintiffs sign this Settlement Agreement, and includes, without limitation, all actions, claims and grievances, whether actual or potential, known or unknown, related to, incidental to, or arising out of any action or omission committed or omitted by the Released Parties, or any of them, and/or arising out of the Named Plaintiffs’ employment relationships with Defendant, through the date the Named Plaintiffs sign

this Settlement Agreement. This Complete and General Release includes a 1542 Waiver. Notwithstanding the foregoing or any other provision herein to the contrary, nothing in this Settlement Agreement releases any claims that cannot be released as a matter of law, including claims for Workers' Compensation benefits or for benefits accrued under any pension or profit sharing plan.

**(iii)** “**1542 Waiver,**” which means an express waiver, to the fullest extent permitted by law, of the provisions, rights, and benefits of California Civil Code § 1542, or any other similar provision under federal or state law, which section provides:

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

To the fullest extent permitted by law, Named Plaintiffs waive and relinquish any and all rights or benefits they have or may have under California Labor Code § 1542, or any comparable provision of state or federal law, with regard to the Released Class Claims for the time period beginning May 2, 2014 through the date of the entry of the Preliminary Approval Order.

**2.35 “Released Parties”** means and refers to Magellan HRSC, Inc., Magellan HRSC, Inc.’s current or former Affiliates, parents, subsidiaries, holding companies, investors, divisions, employee benefit plans, or other related entities, as well as all of its and their past or present officers, directors, shareholders, partners, principals, agents, insurers, employees, attorneys, advisors, accountants, auditors, representatives, vendors, fiduciaries, insurers, reinsurers, trusts, trustees, heirs, executors, administrators, predecessors, successors or assigns of any of the foregoing, and each of them, both individually and in their official capacities.

**2.36 “Releasing Parties”** means and refers to the Named Plaintiffs and Participating Class Members, and any agents, partners, affiliates, predecessors, successors, spouses, heirs, assigns, insurers, and any other persons or entities claiming by or through any of them.

**2.37 “Response Deadline”** means and refers to the deadline by which Class Members must postmark Requests for Exclusion to the Settlement Administrator or file Notices of Objection with the Court. The Response Deadline will be sixty (60) calendar days after the initial mailing date of the Class Notice by the Settlement Administrator, unless the 60<sup>th</sup> day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next day on which

the U.S. Postal Service maintains operations. Compliance with the Response Deadline will be determined by the date of the postmark on the Request for Exclusion or Notice of Objection. To be timely and effective, a Class Member must submit a Request for Exclusion to the Settlement Administrator or file a Notice of Objection with the Court on or before the Response Deadline.

**2.38 “Request for Exclusion”** means and refers to a written request that a Class Member must timely submit to the Settlement Administrator in order to be excluded from this Settlement. The Request for Exclusion must: (1) set forth the name, address, telephone number and last four digits of the Social Security number of the Class Member requesting exclusion; (2) be signed by the Class Member; (3) be returned to the Settlement Administrator; (4) clearly state that the Class Member does not wish to be included in the Settlement; and (5) be postmarked on or before the Response Deadline.

**2.39 “Service Award”** means and refers to the payments from the Maximum Settlement Amount to the Named Plaintiffs in recognition of their service to the Class and as consideration for executing this Settlement Agreement and providing a Complete and General Release to the Released Parties. Class Counsel shall seek Court approval of the Service Awards for Named Plaintiffs in the amount of Five Thousand Dollars (\$5,000.00) each.

**2.40 “Settlement” and “Settlement Agreement”** mean and refer to this Class Action Settlement Agreement and its exhibits.

**2.41 “Settlement Account”** means and refers to the segregated account established and controlled by the Settlement Administrator, which meets the requirements of a Qualified Settlement Fund under US Treasury Regulations § 468B-1 and in which the amount constituting the Maximum Settlement Amount will be deposited and from which any amounts are paid. No other funds shall be comingled within the Settlement Account.

**2.42 “Settlement Administration Costs”** means and refers to all costs payable from the Maximum Settlement Amount to the Settlement Administrator for administering this Settlement Agreement, including, but not limited to: printing, distributing, and tracking documents for this Settlement Agreement; tax calculation and reporting; distributing the Maximum Settlement Amount, and providing necessary declarations and reports, as requested by the Parties. The Settlement Administration Costs shall not exceed the amount of Fifteen Thousand Dollars (\$15,000.00).

**2.43 “Settlement Administrator”** refers to American Legal Claim Services, LLC, the

third party selected jointly by the Parties to administer the terms of this Settlement, subject to the Court's approval.

**2.44 “Settlement Orders”** means and refers to any orders entered to implement the terms of this Agreement, including, but not limited to, the Preliminary Approval Order in the form attached hereto as Exhibit “1”.

**2.45 “Void Date”** means and refers to the date by which any checks issued to Participating Class Members shall become void, *i.e.*, on the 181st day after mailing.

### **3. PAYMENTS FROM THE MAXIMUM SETTLEMENT FUND**

**3.1 Duties of the Settlement Administrator.** The Settlement Administrator's duties will include preparing, printing, and mailing the Class Notice as required by this Agreement; calculating each Class Member's estimated Individual Settlement Payment to be included in the Class Notice; setting up a website for Class Members to review the settlement terms; receiving, reviewing for validity and processing completed Requests for Exclusion and requests to be included in the Class; providing the Parties with weekly status reports about the delivery of Class Notices and receipt of completed; providing the parties with a report on the results of the notice procedure; calculating final Individual Settlement Payments; issuing the checks to effectuate the payments due under the settlement; issuing the tax reports and payments required under this settlement; and otherwise administering the settlement pursuant to this Agreement. The Settlement Administrator will have the final authority to resolve all disputes concerning the calculation of a Class Member's Individual Settlement Payment, subject to the dollar limitations and calculations set forth in this Agreement. The Settlement Administrator's reasonable fees and expenses, including the cost of printing and mailing the Class Notice and Individual Settlement Payments, will be paid out of the Gross Settlement Amount.

**3.2 Funding Source.** Defendant shall make a one-time deposit in the amount of the Maximum Settlement Amount to the Settlement Administrator on or before the tenth (10<sup>th</sup>) business day after the Effective Date. The Maximum Settlement Amount shall be deposited into the Settlement Account and shall remain in that segregated account until disbursed, pursuant the terms of this Settlement Agreement.

**3.3 Class Counsel Fees Award.** Class Counsel shall file a motion for approval of an award of attorneys' fees in an amount not to exceed One Hundred Forty-two Thousand Five Hundred Dollars (\$142,500.00), which represents thirty percent (30%) of the Maximum

Settlement Amount, with the motion for final approval. Subject to Court approval and the occurrence of the Effective Date, the Settlement Administrator shall pay from the Maximum Settlement Amount the sum of Two Hundred Thirty-one Thousand and Two Hundred Fifty Dollars (\$231,250.00), or such lesser amount as may be awarded by the Court, within fourteen (14) calendar days after receipt of the Maximum Settlement Amount from Defendant. The Settlement Administrator shall disburse such amount to Class Counsel by wire transfer. Any attorneys' fees awarded by the Court to Class Counsel shall be remitted to the firms of the Law Office of Sheldon A. Ostroff and Artiano Shinoff (the "Firm" or "Firms") c/o Sheldon A. Ostroff, the Law Office of Sheldon A. Ostroff. The Firms shall distribute such attorneys' fees to Class Counsel in such proportions as the Firms shall in good faith determine represents each such counsel's contribution to the prosecution and resolution of the Action. The Law Office of Sheldon A. Ostroff agrees to provide the Settlement Administrator with an executed IRS Form W-9 before the Class Counsel Fees Award is issued. The Settlement Administrator shall issue an IRS Form 1099 to The Law Office of Sheldon A. Ostroff for the payments made pursuant to this Section. Class Counsel agree that the amount of attorneys' fees awarded by the Court shall constitute all attorneys' fees to which Class Counsel shall be entitled in the Action, and Class Counsel shall not make any further application for an award of attorneys' fees. This settlement is not contingent on the Court awarding Class Counsel any particular amount in attorneys' fees.

**3.4 Class Counsel Costs Award.** Class Counsel shall also request approval in its motion for attorneys' fees of an award of actual and reasonable costs in an aggregate amount that does not exceed Sixty Thousand Dollars (\$60,000.00). Subject to Court approval and the occurrence of the Effective Date, the Settlement Administrator shall pay from the Maximum Settlement Amount the sum of Sixty Thousand Dollars (\$60,000.00), or such lesser amount as may be awarded by the Court, as compensation for Class Counsel's actual and reasonable costs, within fourteen (14) calendar days after receipt of the Maximum Settlement Amount from Defendant. Class Counsel agree that the amount of costs awarded by the Court shall constitute all litigation costs to which Class Counsel shall be entitled in the Action, and Class Counsel shall not make any further application for an award of costs. This settlement is not contingent on the Court awarding Class Counsel any particular amount in litigation costs. Any litigation costs awarded by the Court to Class Counsel shall be remitted to the Firms (as defined in the preceding Section) c/o Sheldon A. Ostroff, the Law Office of Sheldon A. Ostroff. The Firms shall distribute such

costs to Class Counsel in such proportions as such costs were incurred by the Firms. The Law Office of Sheldon A. Ostroff agrees to provide the Settlement Administrator with an executed IRS Form W-9 before the Class Counsel Costs Award is issued. The Settlement Administrator shall issue an IRS Form 1099 to The Law Office of Sheldon A. Ostroff for the payment made pursuant to this Section.

**3.5 Settlement Administration Costs.** The costs of administration are currently estimated to be and shall not exceed Fifteen Thousand Dollars (\$15,000.00). The Settlement Administration Costs approved by the Court will be paid from the Maximum Settlement Amount. The Settlement Administrator shall pay itself from the Maximum Settlement Amount an amount not to exceed Fifteen Thousand Dollars (\$15,000.00) or such lesser amount as may be approved by the Court, within fourteen (14) calendar days after receipt of the Maximum Settlement Amount from Defendant, for settlement administration work performed, and to be performed, by the Settlement Administrator in carrying out its duties to administer the settlement. Other than the amount described in this Section, no Party, Class Member, or Counsel shall be responsible for the payment of any additional cost of administration.

**3.6 Service Awards.** Class Counsel shall request Service Awards payable to the Named Plaintiffs, in the amount of Five Thousand Dollars (\$5,000.00) each. The Service Awards shall compensate the Named Plaintiffs for the efforts that they undertook on behalf of and for the benefit of all Class Members and are in addition to any Individual settlement Payments they may receive pursuant to this Agreement. The Settlement Administrator shall pay from the Maximum Settlement Amount an amount not to exceed Five Thousand Dollars (\$5,000.00) each, or such lesser amount as may be awarded by the Court, for payment of the Service Awards to Named Plaintiffs no later than fourteen (14) calendar days after receipt of the Maximum Settlement Amount from Defendant. Service Awards approved by the Court shall be made payable to the Named Plaintiffs and provided to Class Counsel, Attn: Sheldon A. Ostroff, for delivery to the Named Plaintiffs. The Settlement Administrator shall report the Service Awards as non-wage income on IRS Form 1099s. Other than any reporting of this payment as required by this Settlement Agreement or applicable law, the Named Plaintiffs shall be solely responsible for the reporting and payment of any federal, state and/or local income or other form of tax on any payment made pursuant to this Section.

**3.7 Employment Taxes.** All Individual Settlement Payments paid to Participating

Class Members will be paid in a net amount after deducting that individual's applicable state and federal tax withholdings, applicable payroll deductions, any other deductions required by state and local law, and social security withholdings, and any employer-side payroll taxes owed.

**3.8 Tax Allocation.** For income and payroll tax purposes, the Parties agree that Individual Settlement Payments shall be allocated as 1/3 wages, 1/3 penalties, and 1/3 interest. Other than withholding and reporting responsibilities to be completed by the Settlement Administrator as to the wage component of the Individual Settlement Payments, Participating Class Members shall be solely responsible for the payment of any federal, state and/or local income or other taxes on their respective Individual Settlement Payments, and Named Plaintiffs shall be solely responsible for the payment of any federal, state and/or local income or other taxes on their respective Service Awards.

**3.9 PAGA Award.** The LWDA was duly notified of the Labor Code violations alleged in the Actions as required by the PAGA, and the LWDA did not respond within the specified time limits. Subject to review and approval by this Court as required by California Labor Code § 2699(l)(2), the Parties have agreed that the sum of Fifteen Thousand Dollars (\$15,000.00) from the Maximum Settlement Amount shall be allocated in satisfaction of any and all claims for civil penalties pursuant to the PAGA, and that seventy-five percent (75%) of this amount, or Eleven Thousand Two Hundred Fifty Dollars (\$11,250.00), shall be paid to the LWDA. The Settlement Administrator shall distribute this payment to the LWDA no later than fourteen (14) calendar days after receipt of the Maximum Settlement Amount from Defendant. The remaining Three Thousand Seven Hundred and Fifty Dollars (\$3,750.00) will be included in the Net Distribution Fund and distributed as part of the Individual Settlement Payments to Participating Class Members.

#### **4. PLAN OF ALLOCATION**

**4.1 General Requirements.** Each Participating Class Member shall receive an Individual Settlement Payment from the Net Distribution Fund which will be calculated based on the number of Compensable Workweeks worked during the Class Period. Participating Class Members are not required to submit a claim, or take any action, to receive an Individual Settlement Payment.

**4.2 Plan of Allocation Calculation.** Each Participating Class Member shall be allocated a share of the Net Distribution Fund and such amounts shall be known as the Individual

Settlement Payments. The Individual Settlement Payments are determined as follows:

- The Parties have estimated the Net Distribution Fund to be Two Hundred Thirty-one Thousand Two Hundred and Fifty Dollars (\$231,250.00).
- A work week valuation will be computed by dividing the Net Distribution Fund by the Total Compensable Workweeks worked by Participating Class Members.
- The Individual Settlement Payments will be computed for each Participating Class Member by multiplying the number of Compensable Workweeks he/she worked during the Class Period by the work week valuation.

**4.3 Final Calculation of Compensable Workweeks.** A final calculation for the total Compensable Workweeks by the Participating Class Members during the Class Period shall be calculated pursuant to Section 4.2 above, through the date of the Preliminary Approval Order. The final calculation of the total Compensable Workweeks shall be the denominator for the calculations to be performed pursuant to the Plan of Allocation.

## **5. COURT APPROVAL**

**5.1 Preliminary Approval.** Named Plaintiffs shall move the Court for an order granting preliminary approval of this Settlement Agreement, including the proposed Class Notice, with the mutually acceptable proposed Preliminary Approval Order substantially in the form attached hereto as Exhibit “1

**5.2 Objections, Requests for Exclusion and Claims.** The Preliminary Approval Order shall specify, among other things, that Class Members shall have sixty (60) calendar days from the date the Class Notice is mailed to Class Members to file a Notice of Objection to the approval of this Settlement Agreement or to submit to the Settlement Administrator a Request for Exclusion.

**5.3 Final Approval.** If the Agreement has not been terminated in accordance with Section 10.26 below, Named Plaintiffs shall, within thirty (30) calendar days of the Response Deadline, file a motion for final approval with a mutually acceptable proposed Final Approval Order substantially in the form attached hereto as Exhibit “3”.

## **6. CLASS NOTICE**

**6.1 Class List.** No more than fourteen (14) calendar days after entry of the

Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the Class List for purposes of mailing the Class Notice to Class Members. At the same time, Defendant shall provide Class Counsel with the total number of Class Members and the total number of Compensable Workweeks worked by Class Members during the Class Period. Because Class Members' sensitive personal information is included in the Class List, the Settlement Administrator shall maintain the Class List securely and in confidence. Access to such Class List shall be limited to employees of the Settlement Administrator with a need to use the Class List for administration of the settlement.

**6.2 Mailed Notice.** The Settlement Administrator will verify the most recent mailing address information contained in the Class List by: (i) processing the information contained in the Class List through the United States Postal Service's National Change of Address ("NCOA") database; and (ii) performing address searches using Accurant, or a similar search engine or database. Within fifteen (15) calendar days of its receipt of the Class List from Defendant, the Settlement Administrator shall send by U.S. First Class Mail, postage prepaid, the Class Notice approved by the Court to each Class Member.

**6.3 Returned Mail.** Any Class Notice returned to the Settlement Administrator as non-deliverable shall be sent to the forwarding address, if any, provided with the returned Class Notice. If there is no forwarding address provided, the Settlement Administrator shall utilize commercially reasonable means to obtain a current address and, if a current address is located, promptly re-mail the Class Notice. Compliance with the notice procedures specified in this Settlement Agreement shall constitute due and sufficient notice to Class Members of this settlement and shall satisfy the requirements of due process. Nothing else shall be required, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement. If the procedures in this Section are followed, and the Class Notice is still returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall be deemed to have satisfied its obligation to provide the Class Notice to the Class Member, and the intended recipient shall nevertheless be deemed a Participating Class Member and will be bound by all the terms of the Settlement Agreement and Final Approval Order.

## **7. OBJECTIONS, REQUESTS FOR EXCLUSION, ADMINISTRATION, AND OTHER DUTIES OF THE SETTLEMENT ADMINISTRATOR**

**7.1 Objections.** The Class Notice shall inform Class Members that if they wish

to object to the Settlement Agreement, they must provide a written statement to the Court and serve it on Counsel for the Parties on or before the Response Deadline. To object to the Settlement Agreement, a Class Member must file a valid Notice of Objection with the Court and serve it on the Parties on or before the Response Deadline. The Notice of Objection must be signed by the Class Member and must contain all the information listed in Section 2.37 of this Settlement Agreement. The filing date will be deemed the exclusive means for determining whether the Notice of Objection is timely. No Class Member shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) or to object to the Settlement Agreement, and no written objections or briefs submitted by any Class Member shall be received or considered by the Court at the Final Approval Hearing, unless written notice of the Class Member's intention to appear at the Final Settlement Hearing, and copies of any written objections or briefs, have been filed with the Court on or before the Response Deadline. Class Members who fail to file timely written objections as required by this Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement Agreement or the Final Approval Order. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement Agreement or appeal from the Final Approval Order and Judgment.

**7.2 Request for Exclusion (Opt Out).** The Class Notice shall inform Class Members that they may exclude themselves from the Settlement Agreement. If a Class Member elects to opt out, the Class Member must submit to the Settlement Administrator a timely, written Request for Exclusion on or before the Response Deadline. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine if a Request for Exclusion is timely. Any Class Member who submits a valid and timely Request for Exclusion will not be entitled to any Individual Settlement Payment, will not be bound by the Settlement Agreement, and will not have any right to object, appeal or comment on the settlement. Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Agreement and the Final Approval Order. If a complete and properly executed Request for Exclusion is not timely received by the Settlement Administrator, then that Class Member will have forever waived their right to opt out of this settlement.

**7.3 Request for Inclusion in Class.** If an individual does not receive the Class Notice

but communicates with Class Counsel and/or the Settlement Administrator on or before the Response Deadline to inquire about whether they are a Class Member, or asserts that they are a Class Member, Class Counsel or the Settlement Administrator shall notify Defendant's Counsel about the communication within three (3) business days of the communication. Defendant shall review its records to determine whether the employee is or is not a Class Member and inform Class Counsel and the Settlement Administrator within five (5) business days of its determination and the reasons for its decision. If the Parties are unable to reach agreement on whether the employee is a Class Member, the Settlement Administrator shall make the final binding determination based on information provided by Defendant, Class Counsel, and the employee.

**7.4 Settlement Administration.** The Settlement Administrator shall administer this settlement as follows:

**7.4.1 Direct Payment of Settlement Awards to Participating Settlement Class Members.** Participating Settlement Class Members are not required to submit a claim, or take any action, to receive a Settlement Award.

**7.4.2 Disputed Settlement Payments.** Each Class Notice will specify the amount of the Class Member's estimated gross Individual Settlement Payment. If the Class Member disagrees with the estimated amount, he or she will be required to provide documentation to the Settlement Administrator supporting their assertion by the Response Deadline. If the Class Member does not submit documentation to support their assertion, it shall be conclusively presumed that the estimated Individual Settlement Payment on the Class Notice prepared by the Settlement Administrator is correct. If the Class Member provides documentation to support their contention that the estimated Individual Settlement Payment is incorrect, the Settlement Administrator shall examine records maintained by Defendant with regard to the Class Member and decide the dispute. The Settlement Administrator's decision will be final.

**7.4.3 Report of Requests for Exclusion.** Within fourteen (14) calendar days after the Response Deadline, the Settlement Administrator shall provide: (1) Defendant's Counsel with a complete list of all Class Members who have submitted timely and valid Requests for Exclusion, including their name and Social Security number; and (2) Class Counsel with a summary report that includes only the number of timely and valid Requests for Exclusion received by the Settlement Administrator.

**7.4.4 Settlement Accounting.** Within ten (10) calendar days after the Effective

Date, the Settlement Administrator will provide the Parties with an accounting of all anticipated payments from the Settlement Account as specified in this Settlement Agreement and approved by the Court, including: (1) Named Plaintiffs' Service Awards; (2) the Class Counsel Fees Award; (3) the Class Counsel Costs Award; (4) the combined total amount of Individual Settlement Payments and all related taxes thereon; and (5) the PAGA Award to the LWDA.

**7.4.5 Payment of Individual Settlement Payments.** Individual Settlement Payments shall be mailed by the Settlement Administrator to Participating Class Members no later than fourteen (14) calendar days after Defendant deposits the Maximum Settlement Amount in the Settlement Account. The Individual Settlement Payments shall be mailed by First Class U.S. Mail. The Settlement Administrator is not required to mail an Individual Settlement Payment to any Participating Class Member whose Class Notice was returned as undeliverable after complying with Section 6 above. If any Individual Settlement Payments are returned as undeliverable, the Settlement Administrator shall comply with the procedure set forth in Section 6 above. Any Individual Settlement Payments that remain undeliverable shall be treated the same as a "failure to cash" after the expiration of one hundred eighty (180) calendar days from the date of issuance.

**7.4.6 Failure to Cash.** A Participating Class Member must present their Settlement Award check for payment within one hundred eighty (180) calendar days from the date the Settlement Payment check was issued. The amount of any Settlement Payment checks that are not negotiated within 180 days of being issued shall go by way of *cy pres* to the California Labor and Workforce Development Agency and be paid by the Settlement Administrator no later than eighteen (18) calendar days after the expiration of the one hundred and eightieth calendar day after the Settlement Payments were issued. Thereafter, the Settlement Administrator shall terminate the Settlement Fund.

**7.4.7 Tax Liability, Withholding, Payment and Reporting.** The Settlement Administrator shall calculate the employer's portion of the payroll tax due on the Individual Settlement Payments, and shall also calculate each Participating Class Member's portion of the payroll and other tax withholdings and deductions (Federal income taxes, State income taxes, employee's share of FICA taxes and other State-specific statutory deductions) from the wage component of the Settlement Payments, deduct such amounts from the gross Individual Settlement Payments, and pay such amounts to the appropriate federal, state, and/or local authorities in

connection with those Individual Settlement Payments that are cashed by Participating Class Members. The Settlement Administrator shall timely report each Individual Settlement Payment on an IRS Form W-2 and IRS Form 1099 to each Participating Class Member who cashes their Individual Settlement Payment. The Settlement Administrator shall also timely report on IRS Form 1099s any non-wage payments, including the Service Award and Class Counsel's attorneys' fees and costs. Other than withholding and reporting responsibilities to be completed by the Settlement Administrator, Participating Class Members shall be solely responsible for the reporting and payment of their share of any federal, state and/or local income or other taxes on non-wage payments received pursuant to this settlement.

**7.4.8 Final Accounting.** No later than sixty (60) calendar days after the Void Date, the Settlement Administrator shall submit to the Parties for filing with the Court a final written accounting under oath of all monies paid from the Maximum Settlement Amount to certify the completion of the administration of the settlement.

**7.4.9 Maintenance of Records.** In addition to any other specific requirement in this Settlement Agreement, the Settlement Administrator shall maintain complete, accurate, and detailed records regarding the administration of the Maximum Settlement Amount, including, but not limited to, requests for correction or supplementation, dispute resolutions, employee and withholding tax calculations, IRS and state tax forms, including W-2s and 1099s, and any and all receipts by and disbursements from the Maximum Settlement Amount. The Settlement Administrator shall make such records available to Defendant's Counsel or to their designee upon reasonable request and at reasonable times. Upon request, the Settlement Administrator shall provide such records to Defendant's Counsel in electronic form. The Settlement Administrator shall provide counsel for the Parties with weekly reports of the number of valid Requests for Exclusion and Objections to the settlement. The Settlement Administrator shall maintain all records for a period of not less than four (4) years following the expiration of the Effective Date.

## **8. RELEASES**

**8.1 Exception.** The releases in this Agreement do not apply to the obligations and rights created by this Agreement.

**8.2 Participating Class Members.** All Class Members who do not file a Request for Exclusion by the Response Deadline release on behalf of themselves and each of their heirs, representatives, successors, assigns, and attorneys, and forever discharge the Released Parties

from the Released Class Claims.

## **9. NOTICES**

**9.1 Designated Recipients.** Unless otherwise specified in this Settlement Agreement or agreed to in writing by the Party receiving such communication, all notices, requests, or other required communications hereunder shall be in writing and shall be sent by one of the following methods: (a) first class mail, postage prepaid; (b) by facsimile, with the original by first class mail; or (c) by personal delivery (including by Federal Express or other courier service). All such communications shall be sent to the Parties through their counsel of record using the contact information on file with the Court in this case.

## **10. MISCELLANEOUS TERMS**

**10.1 Admissibility.** This Settlement Agreement, any negotiations or proceedings related hereto, the implementation hereof, and any papers submitted in support of the motions for preliminary and/or final approval of this Settlement Agreement, shall not be construed as, nor deemed to be evidence of, any admission or concession by any of the Parties or any other person regarding liability, defenses, or the appropriateness of class treatment, and shall not be offered or received in evidence in any action or proceeding for any purpose whatsoever other than to obtain the Settlement Orders or to implement or enforce this Settlement Agreement, or any of the terms of this Settlement Agreement.

**10.2 Assignment.** The Named Plaintiffs represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein released and discharged, except as set forth in this Settlement Agreement.

**10.3 Authority.** Counsel for the Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all action required or permitted to be taken by such Parties pursuant to this Settlement Agreement and to execute any other documents to effectuate the terms of this Settlement Agreement. The person signing this Settlement Agreement on behalf of Defendant represents and warrants that they are authorized to sign this Settlement Agreement on behalf of Defendant.

**10.4 Beneficiaries.** This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto.

**10.5 CAFA Notice.** Pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. §

1715 (“CAFA”), within ten (10) calendar days after the filing of the Preliminary Approval Motion, the Settlement Administrator will provide notice of this settlement to the Attorney General of the United States and the appropriate State official(s). The Parties intend to and believe that the notice pursuant to the procedures described in this Section complies with the requirements of CAFA, and the Parties will request that the Court adjudicate the validity of the notice in the motion for Final Approval of the Settlement.

**10.6 LWDA Notice.** Pursuant to California Labor Code § 2699(*l*), Named Plaintiffs will provide a copy of this Settlement Agreement to the LWDA concurrently with their filing of the Preliminary Approval Motion. Class Counsel will also file a declaration in support of the Preliminary Approval Motion confirming that Named Plaintiffs have submitted the Settlement Agreement to the LWDA in compliance with California Labor Code § 2699(*l*). The Parties intend to and believe that the notice pursuant to the procedures described in this Section complies with the requirements of the PAGA, and the Parties will request that the Court adjudicate the validity of the notice in the motion for Final Approval of the settlement.

**10.7 Captions and Interpretations.** Section titles or captions contained in this Agreement are a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision.

**10.8 Class Counsel Signatories.** The Class Members are so numerous it is impossible or impractical to have each Class Member execute this Settlement Agreement. Instead, the Class Notice will advise all Class Members of the binding nature of this Settlement Agreement and the releases being provided by Participating Class Members as set forth in this Settlement Agreement. Excepting only the Excluded Class Members, the Class Notice shall have the same force and effect as if this Settlement Agreement was executed by each Class Member.

**10.9 Confidentiality.** Defendant, Defendant’s Counsel, the Named Plaintiffs, and Class Counsel shall not issue, authorize, or contribute to the preparation or dissemination of any press release or statement to anyone other than the Court or Class Members concerning the Actions or this Settlement Agreement, or any of its terms, other than as necessary to effectuate the terms of this Settlement Agreement or as required by law, without the prior written approval of counsel for the other Party.

**10.10 Construction.** Each of the Parties has cooperated in the drafting and preparation of this Settlement Agreement. Hence, any construction of this Settlement Agreement shall not be

construed against any of the Parties. Before declaring any provision of this Settlement Agreement invalid, the Court shall first attempt to construe the provisions as valid to the fullest extent possible, consistent with applicable precedent so as to render all provisions of this Settlement Agreement valid and enforceable.

**10.11 Continuing Jurisdiction.** The Court shall retain jurisdiction to interpret, implement and enforce the terms of this Settlement Agreement, and all orders and judgments entered in connection therewith.

**10.12 Continuing Liability.** No Participating Class Member shall have any claim against Defendant or any of the Released Parties, Defendant's Counsel, the Named Plaintiffs, Class Members, or Class Counsel based on distributions or payments made in accordance with this Settlement Agreement.

**10.13 Counterparts.** This Settlement Agreement may be executed in one or more counterparts without affecting its enforceability. A facsimile or scanned signature shall have the same effect as an original signature and shall not affect the enforceability of this Settlement Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that Counsel for the Parties to this Settlement Agreement shall exchange among themselves signed counterparts.

**10.14 Data Reasonably Accurate.** The computation of claims and Individual Settlement Payments is based on the Data supplied by Defendant. Defendant represents that, to the best of its knowledge and belief, all data supplied is reasonably accurate, and Defendant further understands and acknowledges that this representation is a material term of this Settlement Agreement.

**10.15 Effect of Settlement Payments and Service Awards.** Neither the terms of this Settlement Agreement, nor any of the Individual Settlement Payments or Service Awards paid to the Named Plaintiffs and/or any Participating Class Members, to the extent permitted by law, shall create any credit or otherwise affect the calculation of or eligibility for any compensation, bonus, deferred compensation or benefit under any compensation, deferred compensation, pension or other benefit plan, nor shall any such Individual Settlement Payment or Service Award be considered as "compensation" under any pension, retirement, profit sharing, incentive or deferred compensation benefit or plan, nor shall any such payment or award require any contribution or award under any such plan, or otherwise modify any benefits, contributions or coverage under any

other employment compensation or benefit plan or program.

**10.16 Entire Agreement.** This Settlement Agreement supersedes and replaces any and all other prior agreements and all negotiations leading up to the execution of this Settlement Agreement, whether oral or in writing, between the Parties with respect to the Released Claims. The Parties acknowledge that no representations, inducements, promises, or statements, oral or otherwise, have been made or relied upon by any of the Parties, or by anyone acting on behalf of the Parties, which are not embodied or incorporated by reference herein, and further agree that no covenant, representation, inducement, promise or statement not set forth in this Settlement Agreement shall be of any force or effect.

**10.17 Exhibits.** The terms of this Settlement Agreement include the terms set forth in any of the attached Exhibits “1”, “2”, and “3” which are incorporated by this reference as though fully set forth herein. The Exhibits to this Settlement Agreement are an integral part of the Settlement Agreement. In the event of any conflict between the Settlement Agreement and the Exhibits, the terms of the Settlement Agreement shall control.

**10.18 Fair, Adequate, and Reasonable Settlement.** The Parties agree that, considering all of the facts and procedural and legal issues, the Settlement Agreement is fair, adequate, and reasonable, and the Parties will so represent to the Court.

**10.19 Further Acts.** The Parties and their respective counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement Agreement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the Mediator or Court to resolve such disagreement.

**10.20 Nullification of Settlement Agreement.** In the event: (1) the Court does not enter the Preliminary Approval Order as provided herein; (2) the Court does not enter a Final Approval Order as provided herein; or (3) the settlement does not become final for any other reason, this Settlement Agreement shall be null and void and any order entered by the Court in furtherance of this settlement shall be treated as void from the beginning. In such case, any funds to be awarded under this settlement shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed, except that any Settlement

Administration Costs already incurred by the Settlement Administrator shall be paid by the Parties in equal shares, except that if Defendant exercises its option to terminate the Settlement pursuant to Section 10.27, any Settlement Administration Costs already incurred by the Settlement Administrator prior to the termination shall be paid by Defendant. In the event an appeal is filed from the Court's Final Approval Order or from an order rejecting any motion to intervene under Rule 24 of the Federal Rules of Civil Procedure, or any other appellate review is sought, the administration of the settlement shall be stayed pending final resolution of the appeal and Defendant will not be required to fund this settlement until and unless the Effective Date is reached.

**10.21 Liability.** Nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed as, or deemed to be, an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Each of the Parties has entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, risk, and expense. This Settlement Agreement is a settlement document and shall be inadmissible as evidence in any proceeding except in an action or proceeding to approve, interpret, or enforce this Settlement Agreement.

**10.22 Modifications.** This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties and approved by the Court. No rights under this Settlement Agreement may be waived except in writing. However, if the Court refuses to enter orders granting Preliminary or Final Approval of this Settlement Agreement, the Parties will meet and attempt in good faith to reach an agreement to resolve the issues identified by the Court as the basis for withholding any such approval. If the Parties are unable to reach an agreement that is acceptable to the Court, this Settlement Agreement shall become void and shall be of no further effect, and Defendant shall not be required to fund the Maximum Settlement Amount.

**10.23 Named Plaintiffs' Duties.** The Named Plaintiffs agree to: (1) sign this Settlement Agreement and by signing this Settlement Agreement are bound by its terms; (2) not file a Request for Exclusion; and (3) not object to any of the terms of this Settlement Agreement. Any violation of these duties shall be void and of no force and effect.

**10.24 Right of Appeal.** Class Members may not appeal from any Settlement Order

unless a timely Notice of Objection to this Settlement Agreement is filed. In addition, Defendant and Class Counsel agree to waive the right to appeal from any Settlement Order.

**10.25 Defendant's Costs.** All of Defendant's attorney's fees and costs incurred in the Actions shall be borne by Defendant from Defendant's separate funds and not paid from the Maximum Settlement Amount, by any Class Member, the Named Plaintiffs, or by Class Counsel.

**10.26 Settlement Termination.** Defendant, at its sole discretion, shall have the right but not the obligation, to revoke this Settlement Agreement if five percent (5%) or more of the Class Members timely submit Requests for Exclusion from the settlement. If Defendant elects to terminate this Settlement Agreement, it must notify Class Counsel and the Settlement Administrator by 5:00 p.m. Pacific Standard Time on the tenth (10th) business day after it receives the final list of Excluded Class Members from the Settlement Administrator. If Defendant does not provide the written notice required by this Section, Defendant shall be deemed to have conclusively and forever waived the option to terminate this Settlement Agreement.

**10.27 Publicity.** Named Plaintiffs and Class Counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any inquiry from the press about this case, or otherwise publicize the Actions, the facts of the Actions, or the outcome of the mediation or settlement. With the exception of a general description of the case and total settlement amount, with no Party identifying information, Named Plaintiffs and Class Counsel also agree not to publish the terms of the settlement or any related information on their website(s), for advertising purposes, and/or in publication materials generally available to the public. This provision shall not prevent Class Counsel from referring to this settlement in court-filed "adequacy of counsel" showings in other class and representative action.

**10.28 No Pending Lawsuits By Named Plaintiffs.** Other than the Class Action, Named Plaintiffs represent that they do not have any pending lawsuits, administrative complaints, or charges against Defendant or any of the Released Parties in any local, state, or federal court or administrative agency. Named Plaintiffs further acknowledge that all claims raised therein, if any, shall be fully and finally extinguished by virtue of this Settlement Agreement and the Court's Final Approval Order.

**10.29 Stay.** The Parties agree to stay all proceedings, except such proceedings as may be necessary to implement and complete the Settlement Agreement, pending the Final Approval Hearing.

**10.30 Tax Advice.** The Parties warrant, represent and agree that no Party has provided tax advice to another Party regarding responsibility or liability for any tax matters relating to any payments made under this Settlement Agreement including, but not limited to, the withholding of, or reporting of income.

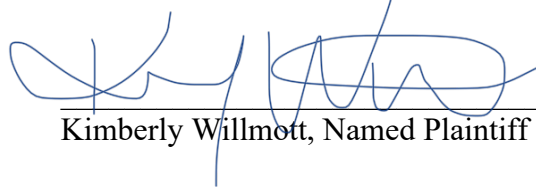
**10.31 Judgment and Continued Jurisdiction.** Upon final approval of the settlement by the Court, the Parties will present the Judgment to the Court for its approval. The Judgment will dismiss the Class Action with prejudice. After entry of the Judgment, the Court will have continuing jurisdiction solely for the purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement Agreement; (ii) settlement administration matters; and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

**AGREED TO AND ACCEPTED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Christie Coffin, Named Plaintiff

Dated: 11/3/2024

  
\_\_\_\_\_  
Kimberly Willmott, Named Plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
Brenda Kasaty, Named Plaintiff

Dated: 11/6/2023

MAGELLAN HRSC, INC.

By:   
\_\_\_\_\_

Its: Erik Daugherty, Chief Financial Officer

**10.30 Tax Advice.** The Parties warrant, represent and agree that no Party has provided tax advice to another Party regarding responsibility or liability for any tax matters relating to any payments made under this Settlement Agreement including, but not limited to, the withholding of, or reporting of income.

**10.31 Judgment and Continued Jurisdiction.** Upon final approval of the settlement by the Court, the Parties will present the Judgment to the Court for its approval. The Judgment will dismiss the Class Action with prejudice. After entry of the Judgment, the Court will have continuing jurisdiction solely for the purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement Agreement; (ii) settlement administration matters; and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

**AGREED TO AND ACCEPTED.**

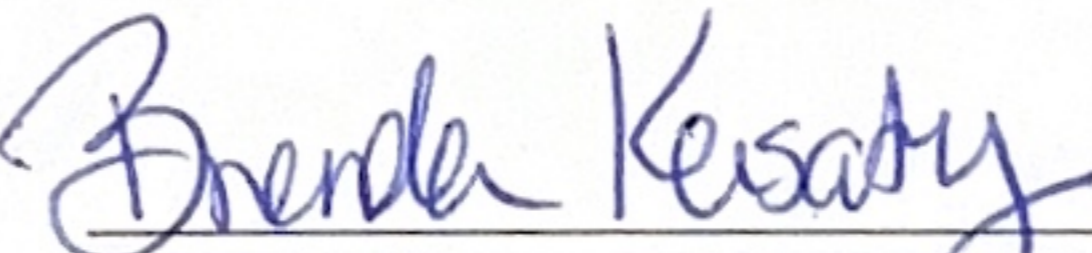
Dated: \_\_\_\_\_

\_\_\_\_\_  
Christie Coffin, Named Plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
Kimberly Wilmott, Named Plaintiff

Dated: 10/29/24

  
\_\_\_\_\_  
Brenda Kasaty, Named Plaintiff

MAGELLAN HRSC, INC.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

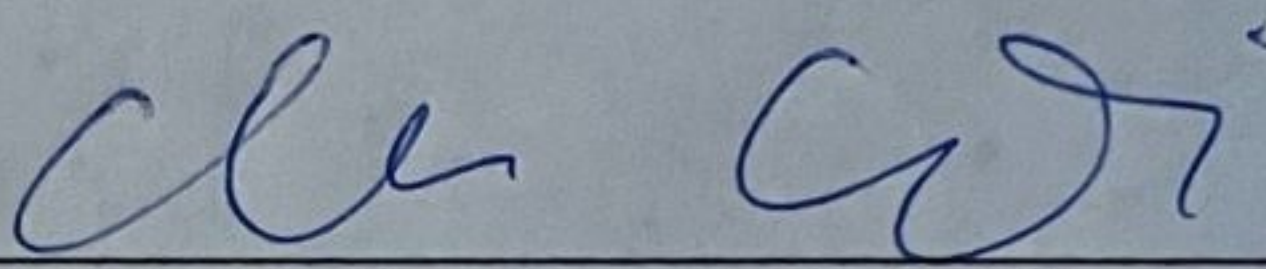
Its: \_\_\_\_\_

**10.30 Tax Advice.** The Parties warrant, represent and agree that no Party has provided tax advice to another Party regarding responsibility or liability for any tax matters relating to any payments made under this Settlement Agreement including, but not limited to, the withholding of, or reporting of income.

**10.31 Judgment and Continued Jurisdiction.** Upon final approval of the settlement by the Court, the Parties will present the Judgment to the Court for its approval. The Judgment will dismiss the Class Action with prejudice. After entry of the Judgment, the Court will have continuing jurisdiction solely for the purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement Agreement; (ii) settlement administration matters; and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

**AGREED TO AND ACCEPTED.**

Dated: 11/3/24

  
Christie Coffin, Named Plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
Kimberly Wilmott, Named Plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
Brenda Kasaty, Named Plaintiff

MAGELLAN HRSC, INC.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**APPROVED AS TO FORM:**

BAKER & HOSTETLER LLP

Dated: 11/6/24

*Sabrina L. Shadi*

\_\_\_\_\_  
Sabrina L. Shadi, Esq.  
Mark D. Temple, Esq.  
[sshadi@bakerlaw.com](mailto:sshadi@bakerlaw.com)  
[mtemple@bakerlaw.com](mailto:mtemple@bakerlaw.com)  
**Attorneys for Defendant**  
**MAGELLAN HRSC, INC.**

LAW OFFICE OF SHELDON A. OSTROFF

Dated: 11/7/24

*/s/ Sheldon A. Ostroff*

\_\_\_\_\_  
Sheldon A. Ostroff, Esq.  
[sostrofflaw@gmail.com](mailto:sostrofflaw@gmail.com)  
**Attorneys for Plaintiffs**  
**CHRISTIE COFFIN, KIMBERLY**  
**WILLMOTT and BRENDA KASATY**

ARTIANO SHINOFF

Dated: 11/7/24

*/s/ Lauren J. Cambroner*

\_\_\_\_\_  
Daniel R. Shinoff, Esq.  
Lauren J. Cambroner, Esq.  
[dshinoff@as7law.com](mailto:dshinoff@as7law.com)  
[lcambronero@as7law.com](mailto:lcambronero@as7law.com)  
**Attorneys for Plaintiffs**  
**CHRISTIE COFFIN, KIMBERLY**  
**WILLMOTT and BRENDA KASATY**

# **EXHIBIT 1**

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

CHRISTIE COFFIN, KIMBERLY WILLMOTT, and BRENDA KASATY individually, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

MAGELLAN HRSC, INC., an Ohio Corporation; and DOES 1 to 100, inclusive,

Defendant.

Case No.: 1:20-cv-00144-DHU-GJF

**[PROPOSED] ORDER  
PRELIMINARILY APPROVING  
SETTLEMENT, SCHEDULING  
HEARING FOR FINAL APPROVAL,  
AND APPROVING PROPOSED  
CLASS NOTICE**

WHEREAS, Plaintiffs Christie Coffin, Kimberly Willmott and Brenda Kasady (the “Named Plaintiffs”) have made application (the “Application”) for an order preliminarily approving the Settlement of this Class Action as identified and defined in the Class Action Settlement Agreement (“Settlement Agreement”), which, together with the exhibits attached thereto, sets forth the terms and conditions for a proposed settlement of the Class Action and for dismissal of the Class Action upon the terms and conditions set forth therein;

WHEREAS, the Application is unopposed by Defendant Magellan HRSC, Inc. (“Magellan”) (the Named Plaintiffs and Magellan are referred to collectively as the “Parties”);

1           WHEREAS, the Court has read and considered the Settlement Agreement, the  
2 exhibits attached thereto, and the briefing and declarations submitted in support of  
3 preliminary approval of the Settlement Agreement;

4           NOW, THEREFORE, IT IS HEREBY ORDERED:

5           1.     The definitions contained in the Settlement Agreement attached to the  
6 Declaration of Sheldon A. Ostroff as Exhibit 2 in support of the motion for preliminary  
7 approval of the Settlement in this Class Action are incorporated herein by reference.

8           2.     The Court hereby preliminarily approves the Settlement Agreement and  
9 the Settlement set forth therein as being fair, reasonable and adequate. The Settlement  
10 Agreement is the result of arm's-length negotiations between experienced attorneys  
11 who are familiar with class action litigation in general and with the legal and factual  
12 issues presented in the instant Class Action in particular.

13           3.     The Court finds, solely and exclusively for the purposes of the proposed  
14 Class, that with regard to the Claims asserted by the Named Plaintiffs: (i) the number  
15 of Class Members is so numerous that joinder is impracticable; (ii) common questions  
16 of fact and law exist; (iii) the Named Plaintiffs' claims are typical of the Class Members'  
17 claims, and (iv) the Named Plaintiffs and Class Counsel adequately represent the  
18 interests of the Class Members. In addition, the Court finds that with regard to the Class  
19 Members, questions of law or fact common to the Class predominate over questions  
20 affecting individual members, and a class action is superior to other available methods.  
21 Certification of the Named Plaintiffs' claims for settlement purposes is the best means  
22 for protecting the interests of all the Class Members.

23           4.     The Court has considered the pleadings and arguments made by the Parties  
24 in support of the motion for preliminary approval of the Settlement Agreement, as well  
25 as the declarations and exhibits submitted in support thereof, and finds that the proposed  
26 Class defined in the Settlement Agreement is proper and should be certified for  
27 settlement purposes as defined herein below. Solely for purposes of the proposed  
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1 Settlement, the Class is hereby conditionally certified pursuant to Fed. R. Civ. Proc. 23  
2 as follows:

3 All former and current employees of Magellan HRSC, Inc. who, at any  
4 time during the period between June 14, 2015 and the date of the entry of  
5 this Order were employed in California in the capacity of a “care manager”  
6 or “senior care manager” and classified as an exempt employee.

7 5. After reviewing the qualifications of the applicants for appointment of  
8 Class Counsel, the Court does hereby approve Sheldon A. Ostroff of the Law Office of  
9 Sheldon A. Ostroff and Daniel R. Shinoff of Artiano Shinoff as Class Counsel.

10 6. The Court is satisfied that the Named Plaintiffs do not have any conflicts  
11 of interest with the absent Class Members and will be able to fairly and adequately  
12 protect the interests of the Class Members. The Court therefore preliminarily approves  
13 Christie Coffin, Kimberly Willmott and Brenda Kasady as class representatives for the  
14 Class.

15 7. The Court appoints American Legal Claim Services, LLC, as Settlement  
16 Administrator. The costs of settlement administration shall be paid out of the Maximum  
17 Settlement Amount pursuant to the terms of the Settlement Agreement.

18 8. The Court approves, as to form and content, the Class Notice attached as  
19 Exhibit 2 to the Settlement Agreement and finds that the distribution of the Class Notice  
20 as set forth in Section 6 of the Settlement Agreement: (a) meets the requirements of  
21 federal law and due process; (b) is the best notice practicable under the circumstances;  
22 and (c) shall constitute due and sufficient notice to all individuals entitled thereto.  
23 Notice of the proposed Settlement shall be provided in accordance with the Settlement  
24 Agreement. Non-substantive changes may be made to the Class Notice by agreement  
25 of the Parties without further order of this Court.

26 9. All Class Members who do not opt out of the Class as described in the  
27 Class Notice shall be bound by all determinations and the judgment in this Class Action  
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1 concerning the Settlement, whether favorable or unfavorable to the Class Members.

2 10. Class Members shall not be required to submit a claim form to participate  
3 in the Settlement and receive an Individual Settlement Payment.

4 11. Within sixty (60) calendar days of the mailing of the Class Notice, Class  
5 Members objecting to the terms of the Settlement Agreement must do so in writing in  
6 accordance with the Settlement Agreement. The written objection must be served on  
7 the Parties' counsel of record and filed with the Clerk of the Court in accordance with  
8 the Settlement Agreement and the directions in the Class Notice.

9 12. Within sixty (60) calendar days of the mailing of the Class Notice, Class  
10 Members who wish to exclude themselves from the Settlement must submit a written  
11 Request for Exclusion to the Settlement Administrator in accordance with the  
12 Settlement Agreement and the directions in the Class Notice.

13 13. Any Class Member who does not exclude himself or herself from the Class  
14 may enter an appearance in the Class Action, at his or her own expense, individually or  
15 through counsel of his or her own choice. Any Class Member who does not enter an  
16 appearance or opt out of the Class will be represented by Class Counsel.

17 14. A Final Approval Hearing, for purposes of determining whether the  
18 Settlement Agreement should be finally approved, shall be held before this Court on  
19 \_\_\_\_\_, 2025, at \_\_\_\_\_.m., in Courtroom \_\_\_\_\_ of the United States District  
20 Court of New Mexico, 333 Lomas Boulevard NW, Albuquerque, NM 87102. At the  
21 hearing, the Court will hear arguments concerning whether the proposed Settlement of  
22 the Class Action on the terms and conditions provided for in the Settlement Agreement  
23 is fair, reasonable and adequate and should be finally approved by the Court. The Court  
24 will also hear at that time any objections submitted by Class Members. The Court will  
25 also consider Class Counsels' request for an award of attorneys' fees and costs, the  
26 Service Awards to be paid to the Named Plaintiffs, and the payment of Settlement  
27 Administration Costs to the Settlement Administrator.

1           15. Any Class Member who does not exclude himself or herself from the Class  
2 may appear at the Final Approval Hearing and show cause, if any, why: (a) the proposed  
3 Settlement of the Class Action should or should not be approved as fair, reasonable, and  
4 adequate; (b) a judgment should or should not be entered thereon; (c) attorneys' fees  
5 and/or costs should or should not be awarded to Class Counsel; and/or (d) the Named  
6 Plaintiffs should or should not receive Service Awards. However, no Class Member,  
7 or any other person, shall be heard or entitled to contest the approval of the terms and  
8 conditions of the proposed Settlement Agreement, or, if approved, the Judgment to be  
9 entered thereon approving the same, or, if awarded, compensation for the Named  
10 Plaintiffs, and/or attorneys' fees and/or costs awarded to Class Counsel, unless that  
11 person has, no later than sixty (60) days after the mailing of the Class Notice to the  
12 Class Members, filed a Notice of Objection with the Court and served that Notice of  
13 Objection on counsel for the Parties, and copies of any papers and briefs in support  
14 thereof explaining the basis of the objection in accordance with the Settlement  
15 Agreement. All timely filed and served objections shall be considered and ruled upon  
16 by the Court at the Final Approval Hearing. Any Class Member who does not timely  
17 file and serve his or her Notice of Objection in accordance with the Settlement  
18 Agreement shall be deemed to have waived such objection and shall forever be  
19 foreclosed from making any objection to the fairness, reasonableness or adequacy of  
20 the proposed Settlement contained in the Settlement Agreement, any award of  
21 attorneys' fees and costs awarded to Class Counsel, and any Service Award to the  
22 Named Plaintiffs, unless otherwise ordered by the Court.

23           16. The Parties shall file all papers in support of final approval of the  
24 Settlement no later than twenty-eight (28) calendar days prior to the Final Approval  
25 Hearing.

26           17. Class Counsel shall file their motion for an award of attorneys' fees and  
27 costs as part of the motion for final approval of the Settlement no later than twenty-  
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1 eight (28) calendar days prior to the Final Approval Hearing.

2 18. At the Final Approval Hearing, the Court shall determine whether the  
3 proposed Settlement, any application for attorneys' fees or reimbursement of costs, the  
4 Named Plaintiffs' Service Awards, and the Settlement Administration Costs shall be  
5 approved.

6 19. The Court reserves the right to adjourn the date of the Final Approval  
7 Hearing without further notice to the Class Members and retains jurisdiction to consider  
8 all further applications arising out of or connected with the proposed Settlement.

9 20. As of the date of this Order, all dates and deadlines associated with the  
10 Class Action shall be stayed, other than those pertaining to the administration of the  
11 Settlement.

12 21. In the event the proposed Settlement is not finally approved by the Court,  
13 or for any reason the Effective Date does not occur, then the Settlement and all orders  
14 entered in connection therewith shall be null and void and of no effect, and shall not be  
15 used or referred to for any purposes whatsoever. In such event, the Settlement shall be  
16 withdrawn without prejudice as to the rights of any and all Parties hereto.

17  
18 **IT IS SO ORDERED.**

19  
20 Dated: \_\_\_\_\_

\_\_\_\_\_   
Hon. David Herrera Urias  
DISTRICT COURT JUDGE

## **EXHIBIT 2**

## **NOTICE OF CLASS ACTION SETTLEMENT: MAGELLAN HRSC, INC.**

**If you worked for Magellan HRSC, Inc. in California and were classified as “Care Manager” or “Senior Care Manager” from June 14, 2015 through the date of the entry of the Preliminary Approval Order, a class action settlement may affect your rights.**

### **THIS NOTICE MAY AFFECT YOUR RIGHTS – PLEASE READ IT CAREFULLY**

**YOU ARE NOT REQUIRED TO APPEAR IN COURT OR TO MAKE A CLAIM TO RECEIVE THE BENEFITS OF THE SETTLEMENT.**

Pursuant to the order of the United States District Court for the District of New Mexico (the “Court”) entered on \_\_\_\_\_, 2024, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

A settlement has been proposed in a class action lawsuit filed by Christie Coffin, Kimberly Willmot and Brenda Kasaty (the “Named Plaintiffs”) against Magellan HRSC, Inc. (“Magellan”) (the “Settlement”). The lawsuit, entitled *Coffin, et al., v. Magellan HRSC, Inc.*, is pending in the Court, Case No 1:20-cv-00144-DHU-GJF (the “Action”) and alleges that Magellan violated the California Labor Code by misclassifying “Care Managers” and “Senior Care Managers” as exempt employees. Magellan denies all liability relating to this lawsuit.

You are receiving this notice because Magellan’s records reflect that you were employed in California and were classified as “Care Manager” or “Senior Care Manager” from June 14, 2015 through the date of the entry of the Preliminary Approval Order (the “Class Period”). Magellan denies all liability but has agreed to make funds available to settle the Action, and you are entitled to a share of that settlement amount. The Court has preliminarily approved the Settlement, conditionally certified the Class for Settlement purposes only, and authorized this notice. Before any money is paid, the Court will have a hearing to decide whether to grant final approval of the Settlement.

#### **What Is A Class Action?**

A class action is a type of lawsuit in which one or a few named plaintiffs bring suit on behalf of all the members of a similarly situated group(s) to recover damages for all members of the group(s) without the necessity of each member filing an individual lawsuit or appearing as an individual plaintiff. Class actions are used by the courts where claims raise issues of law or facts that are common to all members of the class, thereby making it fair to bind all class members to the orders and judgments in the case, without the necessity of hearing essentially the same claims over and over. Use of the class action eliminates the necessity of filing multiple lawsuits and assures that all class members are bound by the results in a single lawsuit.

#### **Who Is Included In the Settlement?**

This class action settlement includes all persons employed by Magellan as an exempt employee “Care Manager” or “Senior Care Manager” in California during the Class Period (the “Class Members”).

#### **What Is this Lawsuit About?**

The lawsuit claims that Magellan failed to pay persons employed as “Care Manager” or “Senior Care Manager” overtime pay and provide accurate wage statements. The Named Plaintiffs also

pursued derivative claims for unfair competition, wage statement penalties, waiting time penalties, and civil penalties.

You can ask questions about the lawsuit or review the Settlement Agreement by contacting Class Counsel, the Law Office of Sheldon A. Ostroff, 3636 Fourth Avenue, Ste. 200, San Diego, CA 92103, or by contacting the Court-appointed Settlement Administrator, **American Legal Claim Services, LLC**, at **[insert address] [insert phone number]**, or at **info@ [insert] .com**. You may also review the Settlement Agreement on-line at **www. [insert website].com**.

Magellan denies all of the Named Plaintiffs’ allegations. Specifically, Magellan contends, among other things, that it lawfully classified “Care Managers” and/or “Senior Care Managers” as exempt employees, did properly/lawfully compensate “Care Managers” and “Senior Care Managers” under California law or any other law, and that it provided “Care Managers” and “Senior Care Managers” with California compliant wage statements; that the Named Plaintiffs’ derivative claims for unfair competition, wage statement penalties, waiting time penalties, and civil penalties must fail because the Named Plaintiffs cannot demonstrate any violation of the California Labor Code; that a class could not be appropriately certified in the Action; and if a class were certified, Magellan’s defenses to the Named Plaintiffs’ claims would be applicable to the claims of the Class Members.

After good-faith negotiations presided over by a private mediator, in which both sides recognized the substantial risk of an uncertain outcome, the parties in the Action (the “Parties”) agreed to settle the Action pursuant to the terms and conditions outlined in the Settlement Agreement.

#### **What Does the Settlement Provide?**

Magellan will pay a Maximum Settlement Amount of \$475,000.00 to fund all payments under the Settlement. The Parties estimate that, after subtracting attorneys’ fees and costs, settlement administration costs, Private Attorneys General Act penalties, and the Named Plaintiffs’ Service Awards, approximately **\$231,250.00** will be available for distribution to Class Members on a pro rata basis.

**Attorneys’ fees and costs.** Class Counsel will seek approval from the Court for payment of attorneys’ fees in the amount of 30% of the Maximum Settlement Amount, or \$142,500.00, and reasonable litigation costs in an amount not to exceed \$60,000.00. All the attorneys representing the Named Plaintiffs believe the amount for

attorneys' fees and costs is fair and reasonable, and Magellan will not oppose their request for these amounts.

**Service Awards.** In addition to their share as Class Members participating in the Settlement, each of the Named Plaintiffs will each receive a Service Award in the amount of \$5,000.00 for their services as class representatives as well as their willingness to accept the risk of paying Magellan's fees and costs in the event of an unsuccessful outcome.

**Payroll tax obligations.** All payroll taxes and withholdings attributable to the wage component of the Individual Settlement Payments shall be paid from the Maximum Settlement Amount.

**Settlement administration costs.** The costs of administering the Settlement are estimated at this time to be approximately \$15,000 and will be paid from the Maximum Settlement Amount.

**Payment to the California Labor and Workforce Development Agency.** The sum of \$11,250.00 will be allocated to the California Labor and Workforce Development Agency, which sum represents its share of the Maximum Settlement Amount, and is attributable to the civil penalties provided for in the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.*

**Your estimated Individual Settlement Payment is \$ [REDACTED]. One-third of this amount is designated as wages from which payroll taxes and other required withholdings will be deducted.** Your estimated payment was calculated using Magellan's employee records. For a full explanation of how the payments are calculated, call Class Counsel or the Settlement Administrator, American Legal Claim Services, LLC, at [insert address], [insert phone number], or review Section 4 of the Settlement Agreement online at [insert web address].

### Release of Claims

In exchange for the benefits described above, each Class Member who has not provided timely notice to the Settlement Administrator that he/she wishes to be excluded from the Settlement ("the Releasing Parties") shall fully release and discharge Magellan and its current or former affiliates, parents, subsidiaries, holding companies, investors, divisions, employee benefit plans, or other related entities, as well as all of its and their past or present officers, directors, shareholders, partners, principals, agents, insurers, employees, attorneys, advisors, accountants, auditors, representatives, vendors, fiduciaries, insurers, reinsurers, trusts, trustees, heirs, executors, administrators, predecessors, successors or assigns of any of the foregoing, and each of them, both individually and in their official capacities, collectively called the "Released Parties," from any and all claims for relief based on wage and hour provisions of state or federal law, including but not limited to statutory, regulatory and common law claims, and all related or derivative claims for penalties, including but not limited to claims for civil penalties under the PAGA, wage statement penalties under California Labor Code section 226 and waiting time penalties under California Labor Code section 203, and claims for relief based on the California Unfair Competition Law, whether suspected or unsuspected, which the Releasing Parties may have had or now have against the Released Parties for any acts occurring

during the Class Period that are either or both: (1) alleged in the Complaint and/or any amended complaint filed in the Action; or (2) that could have been alleged in the original Complaint and/or any amended complaint filed in the Action relating to overtime pay, correct and complete itemized wage statements, and waiting time penalties arising out of the claim that "Care Managers" and/or "Senior Care Managers" were misclassified as exempt employees. (collectively "Released Class Claims"). This Release of Claims include the release of the same claims asserted in the action entitled *Deakin v. Magellan Health, Inc.*, pending in the United States District Court for the District of New Mexico, case number 1:17-cv-00773-MLG-KK. . The plaintiffs in *Deakin v. Magellan Health, Inc.* are represented by Travis Hedgpeth, The Hedgpeth Law Firm, PC, 3050 Post Oak Blvd., Suite 510, Houston, Texas 77056, (281) 572-0727.

If the Court grants final approval to the Settlement, the Court will enter a final judgment and dismiss all such claims with prejudice.

### What Are My Options?

**YOU ARE NOT REQUIRED TO MAKE A CLAIM TO RECEIVE THE BENEFITS OF THE SETTLEMENT.** If the Court grants final approval of the Settlement and you do not request to be excluded from the Settlement, you will be mailed your Individual Settlement Payment and will not incur any legal fees.

If you do not want to be legally bound by the Settlement, you must exclude yourself by [insert Response Deadline]. To do so, you must mail a written Request for Exclusion to the Settlement Administrator and counsel for the Parties at the addresses below that states, in effect: "I worked for Magellan as a "Care Manager" and/or "Senior Care Manager" from [insert date of PAO], during the Class Period. I request to be excluded from the Settlement in *Coffin, et al., v. Magellan HRSC, Inc.*, Case No 1:20-cv-00144-DHU-GJF, U.S. District Court for the District of New Mexico." The request must also include your full name, mailing address, last four digits of your Social Security number, and telephone number, and you must personally sign the request. If you exclude yourself, you will not receive money from this Settlement, but you will retain your legal rights regarding any claims that you may have for allegedly unpaid rest breaks.

You may also object to the Settlement by [insert Response Deadline]. If you want to object to the Settlement, you must file a written statement with the Court by [insert Response Deadline]. No Class Member shall be entitled to be heard at the Final Approval hearing or to object to the Settlement unless written notice of the Class Member's objection and intention to appear has been filed with the Court and served on counsel for the Parties by the deadline listed above.

Objections shall be filed with the Court either by mailing the objection to the Clerk of the Court or delivering the objection in person to United States District Court, District of New Mexico, 333 Lomas Boulevard, 2<sup>nd</sup> Floor, Albuquerque, NM 87102. Objections shall also be served on Class Counsel, the Law Office of Sheldon A. Ostroff, 3636 Fourth Avenue, Suite 200, San Diego, CA 92103, and on counsel for Magellan, Mark D. Temple and Sabrina L. Shadi of Baker & Hostetler, LLP, 1900 Avenue of the Stars, Suite 2700, Los Angeles, CA 90067.

### **How Do I Update My Address?**

You must notify the Settlement Administrator of any changes to your mailing address so that your Individual Settlement Payment will be sent to the correct address. To update your mailing address, contact the Settlement Administrator, American Legal Claim Services, LLC, at [insert P.O. Box], Jacksonville, FL 32241, [insert phone number] or Class Counsel, the Law Office of Sheldon A. Ostroff, 3636 Fourth Avenue, Suite 200, San Diego, CA 92103, (619) 232-3122 or (619) 881-1254.

### **When Is the Final Approval Hearing?**

The Court will hold a hearing in this case on [insert date], at [insert time], in Courtroom 4C, United States District Court for the District of New Mexico, 333 Lomas Boulevard, 2<sup>nd</sup> Floor, Albuquerque, NM 87102. At that time, the Court will consider whether: (1) to approve the Maximum Settlement Amount in the amount of \$475,000.00; (2) to approve a request for Service Awards for Named Plaintiffs Christie Coffin, Kimberly Willmott and Brenda Kasaty for their service to the Class Members in the amount of \$5,000.00 each; (3) to approve a request by Class Counsel for an award of attorneys' fees of \$142,500.00 and reasonable costs of no more than \$60,000.00 incurred in litigating the Class Action; (4) to approve Settlement Administration Costs of \$15,000.00; and (5) to approve Private Attorneys General Act penalties of \$15,000.00, of which \$11,250.00 is to be paid to the California Labor and Workforce Development Agency, with the remaining balance of \$231,250.00 to be distributed to Participating Class Members as part of the Individual Settlement Payments. You may appear at the hearing, but you are not required to do so.

**EXCEPT AS PROVIDED ABOVE, PLEASE DO NOT CONTACT THE COURT, DEFENDANT, OR DEFENDANT'S COUNSEL ABOUT THIS NOTICE.**

# **EXHIBIT 3**

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

CHRISTIE COFFIN, KIMBERLY WILLMOTT, and BRENDA KASATY individually, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

MAGELLAN HRSC, INC., an Ohio Corporation; and DOES 1 to 100, inclusive,

Defendant.

Case No.: 1:20-cv-00144-DHU-GJF

**[PROPOSED] JUDGMENT, FINAL ORDER AND DECREE GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

This Court, having granted Preliminary Approval of the Settlement of the Claims asserted in the above-captioned matter on [insert date] (ECF No. [insert]), having reviewed all filings in connection with the Named Plaintiffs’ Motion for Final Approval of Settlement Agreement of Class Action Claims, and For an Award of Attorneys’ Fees and Costs and other related materials submitted by the Parties, as well as the presentation of Named Plaintiffs Christie Coffin, Kimberly Willmott and Brenda Kasaty (the “Named Plaintiffs”) and Defendant Magellan HRSC, Inc. (“Defendant”) (collectively, the “Parties”) at the Hearing on Final Approval, and being fully informed and good cause appearing therefore,

///

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

2 1. The definitions contained in the Settlement Agreement are incorporated  
3 herein by reference.

4 2. This Court has jurisdiction over the subject matter of this action and over  
5 all Parties to this action pursuant to 28 U.S.C. § 1332(d)(2), including all Class  
6 Members of the Class preliminarily certified for settlement purposes only by the  
7 Preliminary Approval Order dated [insert] (ECF No. [insert]), and defined as follows:

8 All former and current employees of Magellan HRSC, Inc.  
9 who, at any time during the period between June 14, 2015 and  
10 [insert date] were employed in California in the capacity of a  
11 “care manager” or “senior care manager” and classified as an  
exempt employee.

12 3. The Court finds that the Class satisfies the requirements of Rule 23(a) and  
13 Rule 23(b)(3) of the Federal Rules of Civil Procedure. The Court certifies the Class  
14 defined hereinabove and in Section 2.3 of the Parties’ Settlement Agreement for  
15 purpose of settling this Class Action.

16 4. The Court finds that the Notice of Class Action Settlement (“Class  
17 Notice”) satisfies Rules 23(c)(2)(B) and 23(e)(1) of the Federal Rules of Civil  
18 Procedure. The Class Notice, sent to the Class Members via First Class U.S. Mail,  
19 adequately informed the Class Members: (a) of the terms of the Settlement Agreement;  
20 (b) of their estimated recovery; (c) that no action was required of them to receive an  
21 Individual Settlement Payment; (d) of their right to request exclusion from the  
22 Settlement and pursue their own remedies; and (e) of their opportunity to file written  
23 objections and to appear and be heard at the Final Approval Hearing. The Class Notice  
24 also adequately informed the Class Members of additional resources available for  
25 further information, including the telephone numbers of Class Counsel and the  
26 Settlement Administrator, as well as a website from which Class Members could obtain  
27 additional information and view documents regarding this Class Action and the  
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1 Settlement.

2 5. The Settlement was reached pursuant to arm's-length negotiations between  
3 the Parties facilitated by an experienced wage and hour mediator, and has the support  
4 of Class Counsel and Defendant's Counsel, each of whom have significant experience  
5 representing parties in complex class actions. The absence of any objections to the  
6 Settlement by the Class Members likewise supports approval of the Settlement. Finally,  
7 the litigation has progressed to a stage where the Court and the Parties could evaluate  
8 the merits of the case, potential damages, and the probable course of future litigation,  
9 and thus warrants approval of the Settlement.

10 6. The Maximum Settlement Fund in the amount of \$475,000.00, as set forth  
11 in the Settlement Agreement, is a fair, reasonable and adequate settlement of the settled  
12 and Released Claims.

13 7. The Court finds that the Settlement is fair, reasonable, and adequate to all  
14 Class Members and hereby grants final approval of the Settlement Agreement. The  
15 Court further finds that the strength of the Named Plaintiffs' case on the merits weighed  
16 against Defendant's defenses, and the complexity, length, and expense of further  
17 litigation, support final approval of the Settlement Agreement at this time.

18 8. Within ten (10) business days of the Effective Date, Defendant shall  
19 transfer the Maximum Settlement Fund of \$475,000.00 to the Settlement Administrator.

20 9. Within thirty (30) calendar days after receipt of the Maximum Settlement  
21 Fund, the Settlement Administrator shall mail all Participating Class Members their  
22 Individual Settlement Payments from the Net Distribution Fund (the amount that  
23 remains after subtracting Court-awarded Class Counsel Fees Award and Class Counsel  
24 Costs Award, the Settlement Administration Costs, Named Plaintiffs' Service Awards,  
25 and the portion of the PAGA Award allocated to the LWDA). Pursuant to the terms of  
26 the Settlement Agreement, one-third (1/3) of each Individual Settlement Payment shall  
27 be allocated as wages, one-third (1/3) shall be allocated as penalties, and one-third (1/3)

1 shall be allocated as interest.

2 10. The deadline for the Named Plaintiffs and Participating Class Members to  
3 cash settlement checks shall be one-hundred eighty (180) calendar days from the date  
4 of the settlement checks.

5 11. Class Counsel is awarded \$142,500.00, representing thirty percent (30%)  
6 of the Maximum Settlement Fund, for attorneys' fees, and not to exceed \$60,000.00 for  
7 reasonable costs incurred. The Settlement Administrator shall pay the Class Counsel  
8 Fees Award and Class Counsel Costs Award within thirty (30) calendar days after  
9 receipt of the Maximum Settlement Fund from Defendant in accordance with the terms  
10 of Settlement Agreement.

11 12. The Court approves Service Awards to Named Plaintiffs Christie Coffin,  
12 Kimberly Willcott and Brenda Kasady in the amount of \$5,000.00 each, for assisting  
13 Class Counsel with the prosecution of this Class Action, including conferring with Class  
14 Counsel, answering written discovery, producing documents, and providing sworn  
15 declarations. Within thirty (30) calendar days after receipt of the Maximum Settlement  
16 Fund, the Settlement Administrator shall mail checks to Class Counsel payable to  
17 Christie Coffin, Kimberly Willcott and Brenda Kasady for their Service Awards in  
18 accordance with the terms of the Settlement Agreement.

19 13. The Court approves the costs of administration incurred by American  
20 Legal Claim Services, LLC, the Settlement Administrator appointed by the Court, in  
21 the amount of \$15,000. Within thirty (30) calendar days after receipt of the Maximum  
22 Settlement Fund, the Settlement Administrator is authorized to pay itself the sum of  
23 \$15,000 for the cost of administering this Settlement in accordance with the terms of  
24 the Settlement Agreement.

25 14. The Court further orders that all Participating Class Members hereby fully  
26 release and discharge the Released Parties as set forth in the Settlement Agreement from  
27 any and all Released Class Claims as defined in the Settlement Agreement.

1           15. In response to the Class Notice, \_\_\_\_\_ Class Members requested  
2 exclusion from the Class. The Court finds that the \_\_\_\_\_ Class Members who  
3 requested exclusion from the Class is/are excluded from the Class certified herein, is/are  
4 not bound by the terms of the Settlement Agreement and is/are not entitled to receive  
5 any payment as a result of this Settlement. The timely Requests for Exclusion represent  
6 [insert %] of the Class Members.

7           16. The Court finds that no objections [or number of objections and disposition  
8 if applicable] were filed.

9           17. The Court hereby finds that the Parties' notice of the proposed Settlement  
10 submitted to the Attorney General of the United States and the appropriate State  
11 official(s) fully and adequately complied with the notice requirements set forth in the  
12 Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

13           18. The Court hereby finds that the Parties' notice of the proposed Settlement  
14 submitted to the Labor and Workforce Development Agency fully and adequately  
15 complied with the notice requirements of PAGA, California Labor Code § 2699(1).

16           19. The Court grants final approval of the Settlement. This Court retains  
17 jurisdiction for the purpose of interpreting, implementing, and enforcing the Settlement  
18 Agreement consistent with its terms.

19           20. Notwithstanding the certification of the foregoing Class and appointment  
20 of Named Plaintiffs as the Class representatives for purposes of effectuating the  
21 Settlement, if the Effective Date, as defined in the Settlement Agreement, does not  
22 occur for any reason, the foregoing certification of the Class and appointment of Named  
23 Plaintiffs as the Class representatives shall be void and of no further effect, and the  
24 Parties to the proposed Settlement shall be returned to the status each occupied before  
25 entry of this Order without prejudice to any legal argument that any of the Parties to the  
26 Settlement Agreement might have asserted but for the Settlement Agreement.

27           21. After Settlement administration has been completed in accordance with the  
28

1 Settlement Agreement, Defendant shall file a report with this Court certifying  
2 compliance with the terms of the Settlement.

3 22. A compliance hearing is set for \_\_\_\_\_, 2025 at \_\_\_\_  
4 \_\_\_\_\_.

5 23. The Court hereby enters judgment in the Class Action for the reasons set  
6 forth above, and upon the terms set forth in the Settlement Agreement.

7  
8 IT IS SO ORDERED, ADJUDGED AND DECREED.

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10  
11 Dated: \_\_\_\_\_  
12 \_\_\_\_\_  
13 Hon. David Herrera Urias  
14 DISTRICT COURT JUDGE  
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