

Exhibit 1

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KEILA SEVERINO, KHADY GUEYE, and :
DELSA JIMENEZ individually and on behalf of all :
other similarly situated persons, : **Case No.: 1:21-CV-10720-LGS-SDA**
:
Plaintiffs, :
:
v. :
:
AVONDALE CARE GROUP, LLC :
:
Defendant. :
:
----- X

SETTLEMENT AND RELEASE OF CLAIMS AGREEMENT

This Settlement and Release of Claims Agreement (the “**Agreement**”) is made and entered into by and between, on the one hand, Named Plaintiffs KEILA SEVERINO, KHADY GUEYE, and DELSA JIMENEZ (“**Named Plaintiffs**”), individually and on behalf of all similarly situated persons, and, on the other hand, AVONDALE CARE GROUP, LLC (“**Employer**” or “**Avondale**”) (collectively, the “**Parties**”).

RECITALS

WHEREAS, on December 15, 2021, Named Plaintiff Keila Severino commenced a class and collective action against the Employer in the United States District Court for the Southern District of New York, bearing Case No. 21-CV-10720 (the “**Action**”), by filing a complaint containing allegations of: (i) unpaid overtime wages against the Employer under the Fair Labor Standards Act (“**FLSA**”); and (ii) unpaid regular and overtime wages, unpaid spread of hours pay, wage statement violations under the New York Labor Law (“**NYLL**”);

WHEREAS, on June 2, 2022, Plaintiffs amended the Complaint to add Named Plaintiffs Khady Gueye and Delsa Jimenez (the “**Complaint**”);

WHEREAS, the purpose of this Agreement is to settle fully and finally all Released Claims (as defined below) between the Parties;

WHEREAS, Employer denies all allegations made in the Action, and denies any and all liability and damages to anyone with respect to the alleged facts or causes of action asserted in the Action;

WHEREAS, the Parties recognize and agree that the allegations contained in the Complaint constitute a *bona fide* dispute;

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WHEREAS, the Parties have agreed to settle the Action on the terms and conditions set forth in this Agreement, to avoid the burden, expense, and uncertainty of continuing to litigate the Action;

WHEREAS, Plaintiffs' Counsel (defined below) has analyzed and evaluated the merits of the claims made against Employer in the Action, and the impact of this Agreement on Named Plaintiffs and the putative class and collective, and based upon such analysis and evaluation of a number of factors, and recognizing the substantial risks of continued litigation, including the possibility that the Action, if not settled now, might not result in any recovery whatsoever, or might result in a recovery that is less favorable and that would not occur for several years, Plaintiffs' Counsel is satisfied that the terms and conditions of this Agreement are fair, reasonable, and adequate, and that this Agreement is in the best interest of Named Plaintiffs and the putative class and collective;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, as well as the good and valuable consideration provided for herein, the Parties agree to a full and complete settlement in accordance with the following terms and conditions:

1. DEFINITIONS

The defined terms set forth in this Agreement have the meanings ascribed to them below.

- 1.1 “**Action**” shall mean the class and collective action Named Plaintiffs filed against the Employer in the United States District Court for the Southern District of New York, bearing Case No. 21-CV-10720.
- 1.2 “**Agreement**” shall mean this Settlement and Release of Claims Agreement.
- 1.3 “**CAFA Notice**” refers to the notice to be sent by the Claims Administrator, on behalf of the Employer, to the appropriate federal and state officials pursuant to the requirements of the Class Action Fairness Act of 2005 (“**CAFA**”), 28 U.S.C. § 1715(b).
- 1.4 “**Class Members**” shall mean all Avondale employees who worked a 24-hour live-in shift from December 15, 2015 through the Preliminary Motion Date (defined below), as reflected in **Exhibit A**, attached hereto. Class Members do not include any former employees, who have settled any litigations or arbitrations against Avondale or have pending individual litigation against Avondale.
- 1.5 “**Claims Administrator**” shall mean Analytics LLC, which is the entity selected by the Parties to provide notice to the Class Members and administer payments under the terms of this Agreement.

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- 1.6 “Claim Form”** shall mean the form that Class Members must complete, attached hereto as **Exhibit B**. However, Named Plaintiffs and Opt-In Plaintiffs do not have to fill out Claim Forms.
- 1.7 “Class Notices”** shall mean the form of notices jointly submitted by the Parties and approved by the Court. The Class Notices are attached hereto as **Exhibits C and D**.
- 1.8 “Complaint”** shall mean the amended and operative complaint filed in this Action on June 2, 2022.
- 1.9 “Court”** shall mean the United States District Court for the Southern District of New York, the Honorable Lorna G. Schofield and Honorable Stewart D. Aaron presiding.
- 1.10 “Effective Date”** shall mean the date the Court enters a Final Approval Order (defined below), and either: (a) upon timely appeals, when the United States Court of Appeals for the Second Circuit and/or the United States Supreme Court has declined to consider, affirmed, or otherwise approved the Court’s Final Approval Order and the applicable date for seeking further appellate review has passed; or (b) the applicable date for seeking appellate review of the Final Approval Order has passed (and cannot be extended), without timely appeal or request for review having been made, which is no more than 30 days from the date of the Court’s Final Approval Order.
- 1.11 “Employer” or “Avondale”** shall mean Avondale Care Group, LLC, along with its predecessors, successors, parents, subsidiaries, assigns, agents, members, managers, managing members, directors, officers, employees, representatives, attorneys, insurers, heirs, executors, administrators, representatives, shareholders and affiliated companies, and all persons acting by and through, under or in concert with any of them.
- 1.12 “Employer’s Counsel”** shall mean Herrick, Feinstein LLP. For purposes of providing any notices required under this Agreement, Employer’s Counsel shall refer to Shivani Poddar, Esq.; Heather Robinson, Esq.; Jennifer Muller, Esq.; and Daniel Field, Esq., of Herrick, Feinstein LLP, 2 Park Avenue, New York, NY 10016.
- 1.13 “Employer Payroll Taxes”** shall mean all taxes an employer is required to pay arising out of or based upon the payment of employment compensation in this Action.
- 1.14 “Fairness Hearing”** shall mean the hearing in this Action on a motion for judgment and final approval of this Agreement. Plaintiffs’ Counsel will file such a motion under the terms of this Agreement.

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- 1.15 “Final Approval Motion”** shall mean the motion for final approval of settlement, payment of Service Awards (defined below), and payment of Plaintiffs’ Counsel’s legal fees, and which seeks a Final Approval Order (defined below).
- 1.16 “Final Approval Order”** shall mean the Order entered by the Court after the Fairness Hearing, approving the terms and conditions of this Agreement.
- 1.17 “Named Plaintiffs”** shall mean Keila Severino, Khady Gueye, and Delsa Jimenez.
- 1.18 “Net Settlement Fund”** shall mean the remainder of the Qualified Settlement Fund (as defined herein) after deductions for: (1) the Claims Administrator’s fees and costs; (2) Court-approved attorneys’ fees and costs for Plaintiffs’ Counsel; and (3) the Court-approved Service Awards to Named Plaintiffs.
- 1.19 “Objector”** means any Class Member who files an objection to this Agreement and settlement and has *not* filed an Opt-Out Statement.
- 1.20 “Opt-In Plaintiffs”** shall mean all Class Members, as of August 25, 2023, who filed notices of consent to sue in this Action and who have not filed any notice of withdrawal of consent to sue in this Action.
- 1.21 “Opt-Out Period”** shall mean the time period to opt-out of the settlement which shall be postmarked by within sixty (60) days after the day on which the Claims Administrator first mails a Class Notice.
- 1.22 “Opt-Out Statement”** shall mean the statement that is written, signed, and mailed to the Claims Administrator, and provided by any Class Member that indicates that Class Member’s request to opt-out of this Agreement.
- 1.23 “Participating Plaintiffs”** shall mean Named Plaintiffs, Opt-In Plaintiffs, and Class Members who have filed a Claim Form before the specified deadline.
- 1.24 “Parties”** shall mean Named Plaintiffs and Employer.
- 1.25 “Plaintiffs’ Counsel” or “Class Counsel”** shall mean the law firms of Getman, Sweeney & Dunn PLLC, 260 Fair Street, Kingston, NY 12401, and Bohrer Brady, LLC, 8712 Jefferson Highway, Baton Rouge, LA 70809.
- 1.26 “Preliminary Approval Motion”** shall mean the motion for preliminary settlement approval and memorandum of law in support thereof, as well as the proposed Notice to Class Members and the Proposed Order.

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- 1.27 **“Preliminary Approval Order”** shall mean the Order entered by the Court approving the terms and conditions of the Preliminary Approval Motion.
- 1.28 **“Qualified Settlement Fund”** or **“QSF”** shall mean the account established by the Claims Administrator for deposit of the Settlement Fund paid by Employer. Interest, if any, earned shall revert to Employer.
- 1.29 **“Released Claims”** are those defined in Paragraph 24 below.
- 1.30 **“Relevant Period”** shall mean the period of time from December 15, 2015 through the date the Preliminary Approval Motion is filed.
- 1.31 **“Settlement Fund”** shall mean \$5,035,000.00, which is the maximum amount Employer shall pay to settle the Action as set forth in this Agreement, exclusive of Employer Payroll Taxes.
- 1.32 **“Service Awards”** shall mean service payments to each Named Plaintiff in the amount of up to \$15,000.00.
- 1.33 **“Settlement Shares”** shall mean the individual *pro rata* monetary recoveries distributed to the Participating Plaintiffs based on an allocation formula attached as **Exhibit E** to this Agreement after costs, Service Awards, administrative costs, and attorneys’ fees are deducted from the Settlement Fund.
- 1.34 **“Settlement Checks”** shall mean the checks issued to Participating Plaintiffs for their share of the Net Settlement Fund calculated in accordance with this Agreement.
- 1.35 **“Settlement Payment”** shall mean the payment made to Participating Plaintiffs to settle the Action as set forth in this Agreement.
- 1.36 **“Term Sheet”** shall mean the term sheet relating to this Agreement executed by Plaintiffs’ Counsel and Employer’s Counsel on June 30, 2023.

2. **Incorporation of Recitals.** The foregoing recitals and definitions are a material part of this Agreement.

3. **Binding Agreement.** This Agreement is a binding agreement and contains all material agreed-upon terms for the parties to seek a full and final settlement of the Action. This Agreement supersedes the Term Sheet.

4. **No Admission of Liability.** This Agreement reflects the resolution of disputes, which are denied and contested by Avondale, and nothing contained in this Agreement shall be construed as an admission of liability of any kind with respect thereto.

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5. **No Wage and Hour Actions Filed or Pending.** Participating Plaintiffs each represent and warrant that they have not filed or caused to be filed any complaints, charges, applications, actions, claims or grievances, relating to the claims alleged or that could have been alleged in the Complaint, against Employer with any local, state or federal agency, court or other body, except the Action. Avondale represents and warrants that it is not aware of any complaints, charges, applications, actions, claims or grievances, relating to the claims alleged or that could have been alleged in the Complaint, filed by any Participating Plaintiffs against Avondale.

6. **No Retaliation.** There shall be no retaliation against any Class Member for participating in this Action or Settlement.

7. **Compliance with the FLSA and NYLL.** Employer confirms that its employment practices and policies are in compliance with the law.

8. **Retention and Responsibilities of the Claims Administrator.** The Claims Administrator will be responsible for:

- (a) Conducting the claims administration process;
- (b) Copying counsel for all Parties on material correspondence and promptly notifying Plaintiffs' Counsel and Employer's Counsel of any material requests or communications;
- (c) Promptly apprising Plaintiffs' Counsel and Employer's Counsel of the activities of the Claims Administrator;
- (d) Timely responding to the communications from the Parties or their counsel;
- (e) Maintaining adequate records of its activities, including the dates of the mailing of Class Notice, returned mail, and other communications and attempted written or electronic communications with Class Members;
- (f) Preparing and disseminating the Class Notice and Claim Forms to Class Members;
- (g) Keeping track of Opt-Out Statements and objections including maintaining the original mailing envelope in which the Opt-Out Statement, and/or objection was mailed;
- (h) Keeping track of all Claim Forms received, and providing copies to Plaintiffs' and Employer's Counsel;

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- (i) Responding to the inquiries of Class Members regarding the terms of settlement and procedures for filing objections and Opt-Out Statements;
- (j) Promptly furnishing to Plaintiffs' Counsel and Employer's Counsel copies of any requests for exclusion, objections, or other written or electronic communications from Class Members which the Claims Administrator receives;
- (k) Preparing and mailing counsel's attorneys' fees, expenses, and all other required payments in accordance with this Agreement and order of the Court;
- (l) Distributing Service Awards to Named Plaintiffs;
- (m) Mailing Settlement Checks to the Participating Plaintiffs after receiving from Plaintiffs' Counsel the amount of each Participating Plaintiff's Settlement Shares;
- (n) Administering all payroll tax obligations of Employer, including issuing the W-2 and 1099 tax forms for all amounts paid to Participating Plaintiffs;
- (o) Depositing any funds unclaimed by the Participating Plaintiffs from the Settlement Fund to the Unclaimed Funds Department of the New York State Comptroller's Office;
- (p) Confirming in writing to Plaintiffs' Counsel, Employer's Counsel, and the Court, its completion of the administration of settlement;
- (q) Timely preparing and mailing CAFA notices; and
- (r) Such other tasks as the Parties mutually agree.

9. Preliminary Approval Motion

- (a) By no later than July 28, 2023, Plaintiffs' Counsel will submit to Defendant's Counsel a draft motion for preliminary settlement approval and memorandum of law in support thereof, as well as the proposed Class Notice (together, the "**Preliminary Approval Motion**"). Employer shall be allowed a reasonable opportunity, which shall be at least ten (10) business days, to review the Preliminary Approval Motion, ensure it is consistent with this Agreement, and propose changes. Employer shall not oppose the Preliminary Approval Motion filed with the Court.

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- (b) Plaintiffs' Counsel shall file the Preliminary Approval Motion with the Court by no later than September 8, 2023. The Preliminary Approval Motion will seek the setting of date(s) for Class Members to: file Claim Forms, mail Opt-Out Statements, or provide objections to this Agreement, which date will be sixty (60) days from the mailing of the Class Notice. The Preliminary Approval Motion will also request the Court to set a date for a Fairness Hearing for Final Approval of the settlement at the earliest practicable date.
- (c) In the Preliminary Approval Motion, Plaintiffs' Counsel will inform the Court of the intended process to obtain a "Final Approval Order" and a "Judgment of Dismissal" that will, among other things, seek to: (1) approve the settlement as fair, adequate, and reasonable; (2) incorporate the terms of the Agreement, as described herein; (3) dismiss the Action with prejudice; (4) award Plaintiffs' Counsel's and the Claims Administrator's fees and costs; and (5) award Service Awards to Named Plaintiffs.
- (d) If the Court denies the Preliminary Approval Motion, unless the Parties jointly agree to seek reconsideration of the ruling or to seek Court approval of a renegotiated settlement, the Action will resume as if no settlement had been attempted. In such circumstance, Employer retains the right to contest whether the Action should be maintained as a class action or collective action and to contest the merits of all claims being asserted in the Action.
- (e) The Parties will work together, diligently and in good faith, to expeditiously obtain a Preliminary Approval Order, Final Approval Order, and Final Judgment and Dismissal.

10. Notice to Class Members

- (a) Within fourteen (14) days of the filing of the Preliminary Approval Order, Employer will provide the Claims Administrator and Plaintiffs' Counsel, in Microsoft Excel format, with a list of the names, last known addresses, last known telephone number, personal email addresses (telephone and email shall be provided to the extent available to Employer), date of birth, the social security numbers during the Relevant Period, for all Class Members, to the extent that these records are available for notice purposes and so the Claims Administrator can prepare and disseminate the Class Notices to Class Members. Additionally, the Claims Administrator will send Claim Forms to all Class Members, except Named Plaintiffs and Opt-In Plaintiffs. Plaintiffs' Counsel shall provide the Claims Administrator with any updated address information they have obtained from Class Members during the Action.

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- (b) Within fourteen (14) days of Employer's provision of the information set forth in Paragraph 10(a) to the Claims Administrator, the Claims Administrator shall mail, via First-Class United States Mail, postage prepaid, the Court-approved Class Notices to all Class Members, except the Named Plaintiffs, using the last known addresses provided to the Claims Administrator. The Claims Administrator shall take reasonable steps to obtain the correct addresses of the Class Members for whom the notices are returned by the post office as "undeliverable" and shall attempt re-mailings or other methods of contact, such as texting or emailing, which may include skip trace service. The Claims Administrator shall notify Plaintiffs' Counsel and Employer's Counsel of any mail sent to Class Members that is returned as undeliverable after the first mailing as well as any such mail returned as undeliverable after any subsequent mailing(s). Employer shall have no further obligation to search for Class Members who are former employees for whom the notice is returned because the last known address on file with Employer is no longer current. The Claims Administrator shall provide all parties with information related to the administration of the settlement upon request. The Claims Administrator shall not engage or commit to pay any service that will result in any cost to the Parties without approval of the Parties' counsel.

11. Claim Forms

- (a) In order to participate in the settlement and receive Settlement Payment, Class Members, except Named and Opt-in Plaintiffs, must send a completed Claim Form to the Claims Administrator. The Claim Form is to be mailed to the Class Members with the settlement notice.
- (b) The completed Claim Form must be postmarked within sixty (60) days after the day on which the Claims Administrator first mails a Class Notice.
- (c) The completed Claim Form will also serve as a Consent to Sue, and Plaintiffs' Counsel will file a redacted version of the Claim Form with the Court.
- (d) The Claim Forms shall bear the following language:

"By my completion of this Claim Form and by accepting payment, I hereby release all of my claims as described in the Settlement Agreement and in the Class Notices served in connection with this Action; I hereby consent, agree and "opt-in" to the pending Action and to join the FLSA collective; and I agree to be bound by the

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settlement. I also represent and warrant that I have not filed or caused to be filed any complaints, charges, applications, actions, claims or grievances relating to the claims alleged or that could have been alleged in this Complaint against Avondale with any local, state or federal agency, court or other body, except the Action.”

12. Class Member Opt-Outs

- (a) Any Class Member may request exclusion from this Agreement by “opting out.” Class Members who choose to opt-out of the settlement as set for in this Agreement must mail a written, signed statement to the Claims Administrator that he or she is opting out of this Agreement (“**Opt-Out Statement**”).
- (b) The Opt-Out Statement must be postmarked by within sixty (60) days after the day on which the Claims Administrator first mails a Class Notice (“**Opt-Out Period**”).
- (c) Named Plaintiffs cannot opt-out of this Agreement and settlement.
- (d) The Claims Administrator will notify Plaintiffs’ Counsel and Employer’s Counsel by email of the date of the end of the Opt-Out Period on the date the Claim Administrator first mails the Class Members the Class Notice.
- (e) The Claims Administrator shall serve copies of each Opt-Out Statement on Plaintiffs’ Counsel and Defendant’s Counsel not later than three (3) business days after receipt thereof. The Claims Administrator will, within two (2) business days of the end of the Opt-Out Period, send a final list of all Opt-Out Statements to Plaintiffs’ Counsel and Employer’s Counsel by email. The Claims Administrator will retain the stamped originals of all Opt-Out Statements and originals of all envelopes accompanying Opt-Out Statements in its files until such time as the Claims Administrator is relieved of its duties and responsibilities under this Agreement.
- (f) The Claims Administrator will provide a list of all Class Members who provided Opt-Out Statements to the Court as part of the Claims Administrator’s declaration that will be submitted with the Final Approval Motion.

13. Objections to Settlement

- (a) Class Members who wish to present objections to the proposed settlement at the Fairness Hearing must first do so in writing. To be considered, such statement must be mailed to the Claims

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Administrator via First-Class United States Mail, postage prepaid, and be postmarked by the Claims Administrator within sixty (60) days after the Claims Administrator first mails Class Notice to such Class Member. The statement must include any and all reasons for the objection as well as any supporting documents. Reasons not included will not be considered. The statement must also include the name, address, and telephone numbers for the Class Member making the objection. The Claims Administrator will send copies of each objection to Plaintiffs' Counsel and Employer's Counsel by email no later than three (3) business days after receipt thereof. Plaintiffs' Counsel will file copies of any and all objections with the Court with the Final Approval Motion, provided that the Objector did not withdraw his or her objection.

- (b) Any Class Member who files objections to the settlement ("**Objector**") also has the right to appear at the Fairness Hearing either in person or through counsel hired by the Objector. An Objector who wishes to appear at the Fairness Hearing must state his or her intention to do so in writing on his or her written objections at the time he or she submits his or her written objection. No Class Member may present an objection at the Fairness Hearing based on a reason not stated in his or her written objections unless the Court allows it. A Class Member who has submitted an Opt-Out Statement may not submit objections to the Settlement.
- (c) An Objector may withdraw his or her objections at any time.
- (d) The Parties may file with the Court written responses to any filed objections no later than three (3) days before the Fairness Hearing unless otherwise directed by the Court.

14. Fairness Hearing and Motion for Final Approval and Dismissal

- (a) Plaintiffs' Counsel will prepare a motion which seeks final approval of settlement, payment of Service Awards, and payment of Plaintiffs' Counsel's legal fees, and which also seeks a Final Approval Order (collectively, the "**Final Approval Motion**"). Employer shall be allowed ten (10) business days to review the Final Approval Motion, to ensure it is consistent with this Agreement, and propose changes. Plaintiffs' Counsel will file the Final Approval Motion with the Court.
- (b) At the Fairness Hearing and in the Motion for Final Approval of Settlement, the Parties will request that the Court, among other things: (1) certify the Class Members for purposes of settlement; (2) approve the settlement and this Agreement as fair, reasonable, adequate, and binding on all Class Members who have not timely opted out of the

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settlement; (3) order the Claims Administrator to distribute Settlement Checks to Participating Plaintiffs and Service Awards to the Named Plaintiffs as described in this Agreement; (4) order the attorneys' fees and costs to be paid to Plaintiffs' Counsel; (5) order Claims Administrator fees and costs to be paid to the Claims Administrator; (6) order the dismissal, with prejudice, of this Action and the release of the Released Claims; (7) order entry of a final judgment in accordance with this Agreement; and (8) retain jurisdiction as necessary for other relief as deemed appropriate by the Court.

- (c) Upon entry of the Final Approval Order, Plaintiffs shall file a proposed order dismissing this Action, with prejudice, and permanently barring and enjoining all Class Members, who have not opted-out from commencing, prosecuting or continuing any of the Released Claims (the "**Proposed Order**"). The Proposed Order is attached as **Exhibit F**.
- (d) If the Court fails to enter a Final Approval Order in accordance with this Agreement, or if the Final Approval Order is set aside by appeal, the Parties will resume the Action unless the parties jointly agree to: (1) seek reconsideration or appellate review of the decision denying Final Approval; or (2) attempt to renegotiate the settlement and seek Court approval of the renegotiated settlement.
- (e) If any reconsideration and/or appellate review is denied, or a mutually agreed upon settlement is not approved, the Action will proceed as if no settlement had been attempted.
- (f) If the Court fails to enter a Final Approval Order, and the Parties proceed with the Action, the Claims Administrator will provide notice to Class Members that the Agreement did not receive Final Approval and that, as a result, no payments will be made to the Participating Plaintiffs under the Agreement. The contents of such notice shall be agreed to by the Parties and such notice shall be mailed by the Claims Administrator via First-Class United States Mail, postage prepaid, to the addresses used by the Claims Administrator in mailing the Class Notices. The Parties will equally share the costs of the Claims Administrator under this sub-paragraph 14(f).
- (g) The Final Approval Order will order the Claims Administrator to: (1) provide verification to Plaintiffs' Counsel and Employer's Counsel that it has distributed the Settlement Checks; and (2) provide counsel with the originals or copies of Claim Forms.
- (h) The Claims Administrator will mail Settlement Checks to Participating Plaintiffs within fourteen (14) days of the Effective Date.

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15. Cashing Settlement Checks and Unclaimed Funds

- (a) Participating Plaintiffs will have one hundred eighty (180) days from the date of the mailing of the Settlement Checks to cash their Settlement Checks.
- (b) Any Participating Plaintiff who does not cash his or her Settlement check on or within one hundred eighty (180) days of their receipt of a Settlement Check will have their funds sent to the Unclaimed Funds Department of the New York State Comptroller's Office.

16. Termination of Agreement

- (a) **Grounds for Termination.** Employer shall have the right to terminate and revoke this Agreement if ten percent (10%) or more of the Class Members timely file an Opt-Out Statement during the Opt-Out Period. If Employer terminates this Agreement, then the Action will proceed as if there was no attempt at settlement. In that event, Employer may contest whether this Action should be maintained as a class action or a collective action and may contest the merits of the claims being asserted in the Action.
- (b) **Procedures for Termination.** To terminate this Agreement, Employer shall give written notice to Plaintiffs' Counsel no later than ten (10) business days after the Claims Administrator gives notice that the ten percent (10%) Opt-out threshold has been reached.
- (c) **Effect of Termination.** Termination shall have the following effects:
 - 1. The Agreement and the Term Sheet shall be terminated and shall have no force or effect, and no Party shall be bound by any of their terms.
 - 2. In the event the settlement is terminated, Employer shall have no obligation to make any payments to any party, Class Member, or attorney. Amounts deposited in the QSF, if any, shall be returned to Employer with all accrued interest. The Parties will equally share the costs of the Claims Administrator under this sub-paragraph 16(c).

17. Settlement Fund

- (a) Employer agrees to pay the Settlement Fund of \$5,035,000.00, which is all inclusive, including, but not limited to, any and all attorneys' fees and costs approved by the Court, any and all amounts to be paid to Class

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Members (whether they file a Claim Form or not), any Court-approved Service Awards, and the Claims Administrator's fees and costs. Employer will not be required to pay more than Five Million Thirty-Five Thousand Dollars, and Zero Cents (\$5,035,000.00), under the terms of this Agreement, except that Employer shall be responsible for paying the employer share of Employer Payroll Taxes, as set forth in this Agreement.

- (b) There is no reversion of any of the Settlement Fund to Avondale under any circumstances, with the exception of any interest accrued on the Settlement Fund. Avondale will be responsible for the taxes, if any, on the interest accrued on the Settlement Fund.
- (c) Employer shall cause the Settlement Fund to be funded on the later of: (1) December 15, 2023; or (2) the Effective Date.

18. Attorneys' Fees and Costs

- (a) Plaintiffs' Counsel will petition the Court for an award of attorneys' fees at up to their lodestar or up to one-third of the Settlement Fund, and for reimbursement of their litigation costs, which is included in the Settlement Fund. Employer will not contest the amount sought as attorneys' fees and costs.
- (b) The Claims Administrator will pay Plaintiffs' Counsel, via wire transfer, the court-approved attorneys' fees and costs within fourteen (14) days of the Effective Date.

19. Service Awards

- (a) In return for services rendered to Class Members, each Named Plaintiff will apply to the Court to receive no more than Fifteen Thousand Dollars and Zero Cents (\$15,000.00) as a Service Award. Employer will not contest the amounts sought as Service Awards.
- (b) The outcome of the Court's ruling on the application for the Service Awards shall not terminate this Agreement. Should all or part of any Service Awards sought not be approved by the Court, the sum shall revert to the QSF.
- (c) Named Plaintiffs agree to the general release in Paragraph 24 in consideration for receipt of the Service Awards.

20. Claims Administration Fees and Costs: If the Court approves the Settlement, the fees and costs of Claim Administration will be deducted from the Settlement Fund.

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21. Net Settlement Fund and Allocation to Participating Plaintiffs: The allocation to Participating Plaintiffs for Settlement Checks will be made from the remainder of the QSF after deductions for: (1) the Claims Administrator's fees and costs; (2) Court-approved attorneys' fees and costs for Plaintiffs' Counsel; and (3) the Court-approved Service Awards to Named Plaintiffs.

22. No Other Payments Due and Owing.

- (a) The Participating Plaintiffs each acknowledge that the Settlement Payment is a fair and reasonable resolution of the Participating Plaintiffs' Released Claims, after receipt of their Settlement Payment as provided under this Agreement, they have been properly paid for the Released Claims and that they are not entitled to, and will not directly or indirectly seek or accept, any other form of compensation from the Employer with respect to any Released Claims.
- (b) Class Members are not entitled to and will not directly or indirectly seek or accept any form of compensation from Employer, other than the payments specifically contemplated by this Agreement, with respect to the Released Claims.
- (c) In the event any Class Member is deemed to be part of a class action with respect to any Released Claims, Avondale and the Class Member shall work together in good faith to take any action required, including filing requisite documents or Opt-Out Statements, to ensure that the Class Member is not a part of the class.

23. Taxability of Settlement Fund.

- (a) Each Participating Plaintiff acknowledges and agrees that they have not relied upon any advice from Employer, Employer's Counsel, or Plaintiffs' Counsel as to the taxability of the Settlement Payment whether pursuant to federal, state or local income tax statutes or regulations or otherwise, of the payments made, actions taken, or consideration transferred hereunder.
- (b) It is agreed and understood that fifty percent (50%) of the Settlement Payment issued to the Participating Plaintiff shall cover the Participating Plaintiff's claim for wages ("**Wages Payment**") and shall be subject to tax withholding and/or reporting as required by federal, state, and local law. Employer shall withhold these mandatory taxes based on the Participating Plaintiffs' Form W-4 on file at Avondale. Employer shall issue a Form W-2 to Participating Plaintiff for their Wages Payment.
- (c) It is agreed and understood that fifty percent (50%) of the Settlement Payment issued to the Participating Plaintiff shall cover the Participating Plaintiff's claim for interest, liquidated damages, and all

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other non-wage related claims (“**Non-Wage Payment**”) and shall be made without tax withholding. Employer shall issue a Form 1099 to Participating Plaintiff for this amount. The Participating Plaintiff shall be solely responsible for all taxes due with respect to their Non-Wage Payments.

- (d) It is agreed and understood that one hundred percent (100%) of the Service Awards issued to Named Plaintiffs shall be considered a Non-Wage Payment. Employer shall issue a Form 1099 to Named Plaintiffs for this amount. Named Plaintiffs shall be solely responsible for all taxes due with respect to their Service Awards.
- (e) It is agreed and understood that payments received by Plaintiff’s Counsel pursuant to this Agreement that are characterized as attorneys’ fees, costs, or expenses shall be made without tax withholding. Employer shall issue a Form 1099 to Plaintiffs’ Counsel for these amounts. The Employer shall have no responsibility for payment of any taxes due with respect to these amounts.

24. Released Claims

24.1 Class Members’ Released Claims. Upon execution of this Agreement, Class Members, on behalf of themselves and their dependents, heirs, executors, administrators, agents, successors, assigns, legal and/or personal representatives each agree to forever waive, release, acquit, relinquish, and fully discharge the Employer, its predecessors, successors, parents, subsidiaries, assigns, agents, members, managers, managing members, directors, officers, employees, representatives, attorneys, insurers, heirs, executors, administrators, representatives, shareholders and affiliated companies, and all persons acting by and through, under or in concert with any of them (the “**Releasees**”), from any and all claims, complaints, demands, causes of actions, lawsuits, damages, covenants, contracts, agreements, promises, back wages, benefits, and expenses (inclusive of attorneys’ fees) of any kind whatsoever, whether known or unknown, discovered or undiscovered (“**Claims**”), that the Class Members have, or ever had against the Releasees, by reason of any actual or alleged act, omission, transaction, practice, conduct, occurrence, or other matter from the beginning of time through the date of their respective execution of the Agreement, relating to the following:

- (a) New York Labor Law wage and hour claims alleged in the Complaint or that could have been alleged in the Complaint related to the Class Member’s employment and/or engagement with the Employer, including but not limited to (by way of example only), any wage and hour violations arising under state and/or local law or related regulations, for unpaid regular or straight wages, improper deductions, travel time, bonuses, penalties, wage parity payments,

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on-call or canceled shift payments, failure to maintain records and furnish employees with proper pay or wage notices and statements, time rounding or time shaving practices, compensation or payments related to benefits, including but not limited to, disability insurance, sick leave, paid family leave, other employer-provided plans or programs, or vacation or other leave time, and related liquidated damages, punitive damages, penalties, interest, and attorneys' fees, costs, and expenses (collectively, the "**Class Members' Released Claims**").

- (b) For the avoidance of doubt, any Class Member who does not submit an Opt-Out Statement pursuant to this Agreement will be deemed to have accepted the settlement, the terms of this Agreement, and the Class Member will release the Class Members' Released Claims, whether or not the Class Member files a Claim Form and/or cashes a Settlement Check.

24.2 Participating Plaintiffs' Released Claims. In addition to the release in Paragraph 24.1, upon execution of this Agreement, Participating Plaintiffs, on behalf of themselves and their dependents, heirs, executors, administrators, agents, successors, assigns, legal and/or personal representatives each agree to forever waive, release, acquit, relinquish, and fully discharge the Releasees from any and all Claims that the Participating Plaintiffs have, or ever had against the Releasees, by reason of any actual or alleged act, omission, transaction, practice, conduct, occurrence, or other matter from the beginning of time through the date of their respective execution of the Agreement, relating to the following:

- (a) Fair Labor Standards Act claims alleged in the Complaint or that could have been alleged in the Complaint related to the Participating Plaintiff's employment and/or engagement with the Employer, including but not limited to (by way of example only), any wage and hour violations arising under federal law or related regulations, for unpaid regular or straight wages, improper deductions, travel time, bonuses, penalties, wage parity payments, on-call or canceled shift payments, failure to maintain records and furnish employees with proper pay or wage notices and statements, time rounding or time shaving practices, compensation or payments related to benefits, including but not limited to, disability insurance, sick leave, paid family leave, other employer-provided plans or programs, or vacation or other leave time, and related liquidated damages, punitive damages, penalties, interest, and attorneys' fees, costs, and expenses (collectively, the "**Participating Plaintiffs' Released Claims**").
- (b) For the avoidance of doubt, any Participating Plaintiff who is issued a Settlement Check will be deemed to have accepted the settlement and

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the terms of this Agreement, whether or not that Settlement Check is deposited or cashed.

24.3 Named Plaintiffs' Released Claims. In addition to the releases in Paragraphs 24.1 and 24.2, if the Named Plaintiffs are awarded Service Awards by the Court, upon execution of this Agreement, Named Plaintiffs, on behalf of themselves and their dependents, heirs, executors, administrators, agents, successors, assigns, legal and/or personal representatives, each agree to forever waive, release, acquit, relinquish, and fully discharge the Releasees from any and all Claims that the Named Plaintiffs have, or ever had against the Releasees, by reason of any actual or alleged act, omission, transaction, practice, conduct, occurrence, or other matter from the beginning of time through the date of their respective execution of the Agreement, relating to the following:

- (a) claims arising directly from the actions or inactions of the Employer;
- (b) all claims arising under Title VII of the Civil Rights Act of 1964, as amended; the Reconstruction Era Civil Rights Act, as amended; the Rehabilitation Act of 1973, as amended; the False Claims Act, as amended; the Employee Retirement Income Security Act of 1974, as amended (except for any vested benefits under any tax qualified benefit plan); the Age Discrimination in Employment Act of 1967, as amended; the Americans with Disabilities Act of 1990, as amended; the Family and Medical Leave Act, as amended; the Equal Pay Act, as amended; Sections 1981 through 1988 of U.S.C. Title 42; the Worker Adjustment and Retraining Notification Act, as amended; the National Labor Relations Act, as amended; the Uniform Services Employment and Reemployment Rights Act, as amended; the Genetic Information Nondiscrimination Act of 2008; the New York State Human Rights Laws; the New York State Civil Rights Law, as amended; the New York State Wage Payment Laws, as amended; the NYLL (including without limitation Sections 740 and 741); New York Code of Rules and Regulations; New York Minimum Wage Order for Miscellaneous Industries and Occupations; the New York State Department of Labor and the New York Department of Health orders, opinions or rulings regarding home health care; New York Wage Theft Prevention Act; the New York State Worker Adjustment and Retraining Notification Act; Section 125 of the New York Workers' Compensation Law; the New York Whistleblower Law; the New York Fair Credit Reporting Act, as amended; the New York City Human Rights Law; as amended; the New York City Administrative Code and Charter, as amended; the New York City Earned Sick Time Act, as amended; and any and all federal, state or local law regarding employment, or civil rights, including any claims

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arising from or related to, each Employee's employment with, association with, or separation from, Employer;

- (c) any claims arising under tort, contract, or quasi-contract law, including but not limited to claims of breach of an express or implied contract, tortious interference with a contract or prospective business advantage, breach of the covenant of good faith and fair dealing, promissory estoppel, detrimental reliance, invasion of privacy, nonphysical injury, personal injury or sickness, or any other harm, wrongful or retaliatory discharge, fraud, defamation, false imprisonment, and negligent or intentional infliction of emotional distress;
- (d) any and all claims for monetary or equitable relief, including but not limited to, attorneys' fees, costs and expenses, back pay, front pay, reinstatement, experts' fees, medical fees or expenses, costs and disbursements, punitive damages, liquidated damages, penalties, and interest (collectively, the "**Named Plaintiffs' Released Claims,**" together with the Class Members' Released Claims and the Participating Plaintiffs' Released Claims, the "**Released Claims**").
- (e) If Named Plaintiffs are not awarded Service Awards, they will release only the claims enumerated under the Participating Plaintiffs' Released Claims Paragraph 24.2.
- (f) Each Named Plaintiff hereby specifically acknowledges, if she receives her Service Award under this Agreement, the Service Award she receives represents a fair and reasonable resolution of the Named Plaintiffs' Released Claims.

24.4 If the Court finds that the release contained in this Paragraph 24 is invalid, too broad, or unenforceable in any way and strikes the offending paragraph or part of paragraph, the Parties will comply with the Court's directive. If Avondale finds that the stricken language eviscerates the purpose of Paragraph 24 in having Plaintiffs release their claims connected to NYLL and FLSA, then Avondale may move the Court to allow Parties to revise that part of the release. If the Court directs the Parties to revise that part of the release, then the Parties will work in good faith to do so. The remaining portions of this Paragraph 24 and Agreement will remain in full force and effect.

24.5 The Parties agree that if the Court's directive narrows the Plaintiffs' releases in 24.1, 24.2, and 24.3, or the Parties revise the release in accordance with Paragraph 24.4, then the Parties do not need to sign the amended Settlement Agreement, and the Parties agree to be bound by the terms of the amended Agreement.

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25. Notice of Sale. If Avondale shall be sold before the payment of the Settlement Fund, Avondale must give the purchaser of Avondale sixty (60) days or reasonable advance notice of this settlement and a copy of this Agreement before entry into any definitive sale agreements, which effectuate the sale. Avondale must give Plaintiffs' Counsel notice of the sale, immediately upon the effective date of the sale.

26. CAFA Notice. The Administrator will timely serve, on behalf of Avondale, a CAFA Notice in compliance with 28 U.S.C. § 1715(b) of the Class Action Fairness Act. Employer's Counsel shall provide Plaintiffs' Counsel proof of compliance with the CAFA Notice requirements no later than thirty (30) days before the Fairness Hearing.

27. Cooperation Between the Parties; Further Acts. The Parties shall reasonably cooperate with each other and shall use their reasonable best efforts to obtain the Court's approval of this Agreement and all of its terms. Each party, upon the request of any other party, agrees to perform such further acts and to execute and deliver such other documents as are reasonably necessary to carry out the provisions of this Agreement.

28. No Assignment. Plaintiffs' Counsel and Participating Plaintiffs represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the Action, or any related action.

29. Entire Agreement. This Agreement constitutes the complete understanding of the Parties and Class Members. No other promises or agreements shall be binding unless agreed to in writing and signed by the Parties and Class Counsel.

30. Binding Effect. This Agreement shall be binding upon the Parties and Class Members and, with respect to the Class Members, their representatives, heirs, administrators, executors, beneficiaries, conservators, attorneys, and assigns.

31. Arms' Length Transaction; Materiality of Terms. The Parties, Participating Plaintiffs and Class Counsel have negotiated all terms and conditions of this Agreement at arms' length. All terms and conditions of this Agreement in the exact form set forth in this Agreement are material to this Agreement and have been relied upon by the Parties in entering into this Agreement, unless otherwise expressly stated.

32. Captions. The captions or headings of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.

33. Construction. The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each Party participated jointly in the drafting of this Agreement, and therefore the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any party by virtue of draftsmanship.

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34. Severability. If any provision of this Agreement (other than Paragraph 24, whose severability shall be governed by Paragraph 24.4) is held by a court of competent jurisdiction to be void, voidable, unlawful, or unenforceable, the remaining portions of this Agreement will remain in full force and effect.

35. Governing Law. This Agreement shall be construed and enforced in accordance with, and shall be governed by, the laws of the State of New York, without regard to principles of conflict of laws. The Parties consent that the United States District Court, Southern District of New York, where the Action was originally filed, will retain jurisdiction over any question or dispute arising out of or pursuant to this Settlement Agreement. However, if the United States District Court should refuse or decline to accept jurisdiction over the instant settlement for any reason, this Agreement may be enforced in a court of competent jurisdiction located in New York County, New York. The United States District Court's refusal to retain jurisdiction over this settlement shall not void or otherwise affect this Agreement.

36. Execution in Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

37. Representation on Authority of Signatories. Each Party signing this Agreement represents and warrants that they are duly authorized and have legal capacity to execute and deliver the Agreement.

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates indicated below.

Avondale Care Group, LLC

Signature: _____



Name: PETER CARROLL

Signature: _____

Name: LORNA GRAZIO

Title: _____

President, Manuscript Member

Title: _____

Date: _____

9/8/23

Date: _____

Named Plaintiffs

Signature: _____

Name: KEILA SEVERINO

Signature: _____

Name: KHADY GUEYE

Date: _____

Date: _____

Signature: _____

Name: DELSA JIMENEZ

Date: _____

EXECUTION COPY

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates indicated below.

Avondale Care Group, LLC

Signature: _____

Name: PETER CARROLL

Title: _____

Date: _____

Signature: Lorna Grazio

Name: LORNA GRAZIO

Title: CEO

Date: 9/8/2023

Named Plaintiffs

Signature: _____

Name: KEILA SEVERINO

Date: _____

Signature: _____

Name: KHADY GUEYE

Date: _____

Signature: _____

Name: DELSA JIMENEZ

Date: _____

EXECUTION COPY

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates indicated below.

Avondale Care Group, LLC

Signature: _____

Name: PETER CARROLL

Title: _____

Date: _____


Signature: _____

Name: LORNA GRAZIO

Title: _____

Date: _____

Named Plaintiffs

Signature: 
Keila Severino (Sep 8, 2023 13:36 EDT)

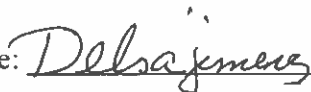
Name: KEILA SEVERINO

Date: Sep 8, 2023

Signature: 

Name: KHADY GUEYE

Date: 09/12/23

Signature: 

Name: DELSA JIMENEZ

Date: 9-12-2023

Exhibit A

HHA Employee ID		
ACG-1004	ACG-1279	ACG-2531
ACG-1013	ACG-1282	ACG-2533
ACG-1015	ACG-1287	ACG-2542
ACG-1018	ACG-1295	ACG-2545
ACG-1021	ACG-1297	ACG-2554
ACG-1024	ACG-1301	ACG-2559
ACG-1028	ACG-1303	ACG-2560
ACG-1032	ACG-1305	ACG-2580
ACG-1045	ACG-1306	ACG-2583
ACG-1057	ACG-1310	ACG-2584
ACG-1060	ACG-1316	ACG-2587
ACG-1078	ACG-1317	ACG-2589
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ACG-1158	ACG-2054	ACG-2677
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	ACG-2525	ACG-2785

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EXECUTION COPY

EXHIBIT B

EXECUTION COPY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**KEILA SEVERINO, KHADY GUEYE, and
DELSA JIMENEZ individually and on behalf of
all other similarly situated persons,**

Plaintiffs,

v.

AVONDALE CARE GROUP, LLC

Defendant.

Case No. 1:21-cv-10720-LGS-SDA

CLAIM FORM AND CONSENT TO SUE

I worked for the Avondale Care Group, LLC as a live-in home health aide between December 15, 2015 and [date of filing for preliminary approval]. I hereby consent to sue Defendant in this case and to participate in the settlement proposed in this case.

By my completion of this Claim Form and by accepting payment, I hereby release all of my claims as described in the Settlement Agreement and in the Class Notices served in connection with this Action; I hereby consent, agree and “opt-in” to the pending Action and to join the FLSA collective; and I agree to be bound by the settlement. I also represent and warrant that I have not filed or caused to be filed any complaints, charges, applications, actions, claims or grievances relating to the claims alleged or that could have been alleged in this Complaint against Avondale with any local, state or federal agency, court or other body, except the Action.

Signature: _____ Date: _____

Name (printed): _____

Mailing Address: _____

City, State and Zip Code: _____

Phone: _____

Email: _____

Return this form to [settlement administrator info] by [60 days from date of notice mailing]

Please Note: Within two weeks of submitting your claim form, you should receive a letter from Class Counsel confirming that your form has been received. If you do not receive a confirmation letter, please call the Claims Administrator to find out if your form was received, and to arrange to re-submit it if it has not.

<<Settlement Administrator to insert class member unique identifier number here>>

EXECUTION COPY

EXHIBIT C

EXECUTION COPY

**UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK**

This is a court-authorized notice. This is not a solicitation from a lawyer.

NOTICE OF COLLECTIVE AND CLASS ACTION SETTLEMENT

<<**Name and Address of Class Member**>>

To current and former 24-hour live-in Home Health Aides who worked for Avondale Care Group, LLC between December 15, 2015, and [date of filing for preliminary approval]:

A settlement has been reached in the case of *Severino, et al. v. Avondale Care Group, LLC*, 21-CV-10720, which will affect your rights. Under the terms of the settlement, if it is approved by the Court, you will be eligible to receive a settlement share of at least \$ <<**pro rata share settlement amount**>>. Your final settlement amount may be more, depending on how many class members participate in the settlement.

YOUR OPTIONS

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
PARTICIPATE IN THE SETTLEMENT AND RECEIVE A PAYMENT	If you wish to participate in the settlement and receive payment, you must fill out and sign the enclosed Claim Form and Consent to Sue and return it to the Settlement Administrator before [60 days from date notice was mailed]. If the settlement is finally approved by the Court, you will receive a check in the mail.
EXCLUDE YOURSELF	By excluding yourself, you give up any right to receive a payment from this settlement. You won't give up any legal rights.
OBJECT	Write to the Court to object to the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.

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BASIC INFORMATION

1. What is the purpose of this notice?

The Court has ordered that this Notice be sent to you because you worked 24-hour live-in shifts as a Home Health Aide for Avondale between December 15, 2015, and [insert date]. The purpose of this Notice is to inform you of your rights and options **and the deadlines to exercise them** under the terms of the settlement agreement. The Court still has to decide whether to finally approve the settlement as fair. Payments will be made if the Court approves the settlement and the time for any further appeal has passed. Payments can take some time. Please be patient.

2. What is this Lawsuit about?

Keila Severino, Delsa Jimenez, and Khady Gueye brought this action against Avondale, on behalf of themselves and other current and former Home Health Aides. The lawsuit claims that Avondale failed to pay overtime wages to Home Health Aides who work, or have worked, 24-hour live-in shifts for Avondale and seeks unpaid overtime wages and liquidated damages under the Fair Labor Standards Act (“FLSA”) and New York Labor Law (“NYLL”) for work done during meal breaks and sleep periods. The lawsuit also alleges claims for wage statement and spread of hours violations under the NYLL. Avondale denies any wrongdoing or violations of the FLSA and NYLL and maintains that it paid Home Health Aides appropriately.

3. Why is there a settlement?

The Court did not decide in favor of the Plaintiffs or Avondale. Both sides believe they would have won at trial, but instead, both sides agreed to a settlement. That way the parties avoid the cost and risk of losing at a trial. The Plaintiffs and their attorneys think the settlement is in the best interest of the class.

THE SETTLEMENT BENEFITS - WHAT YOU GET

4. What does the settlement provide?

Avondale has agreed to pay a total of **\$5,035,000** for settlement payments to the Named Plaintiffs, the Opt-In Plaintiffs, and the Participating Class Members, attorneys’ fees and costs, service awards to the Named Plaintiffs, and the cost of administering the settlement. Each participating Class Member will receive a share of the settlement based on a formula approved by the Court. The formula will be based on the number of 24-hour live-in shifts you worked, according to Avondale’s pay records, from December 15, 2015 until [insert date].

Plaintiffs will also ask the Court to approve Service Awards for the Named Plaintiffs up to \$15,000 each to compensate Named Plaintiffs for initiating the Litigation, performing work in support of, and otherwise participating in, the Litigation, and undertaking the risk of harm to their career and reputation.

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If the Court approves the settlement, all Class Members who do not opt out of the settlement using the procedure described below will be deemed to have released all NYLL wage and hour claims against Avondale in accordance with the provisions of the settlement agreement.

5. Who is the Settlement Administrator?

The Settlement Administrator in this case is [insert name]. You may contact the settlement administrator at: [insert contact information]

HOW YOU WILL GET A PAYMENT

6. How can I get my payment?

If you want to receive your share of the settlement, you must fill out, sign, and mail or email the enclosed “**Claim Form and Consent to Sue**” to the Settlement Administrator at the address above, no later than [60 days from notice mailing]. If you file a timely claim form and the court approves the settlement, you will receive a check for your share of the settlement. In exchange for the money you receive, you agree to give up (release) all wage and hour claims you may have against Avondale prior to [insert date]. It is very important that you notify the Settlement Administrator of any changes in your address to ensure that you receive your settlement check.

7. When will I get my settlement payment?

The Court will hold a fairness hearing on [INSERT DATE] at [INSERT TIME] to decide whether to approve the settlement. If the Court approves the settlement and there are no appeals, then your payment will be mailed to you within [INSERT DAYS] of the Court’s approval order.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the potential right to sue Avondale on your own about the legal issues in this case or you don’t want to accept the settlement share described in this notice, then you must exclude yourself from the class. The process of excluding yourself is also sometimes referred to as “opting out.”

8. How do I exclude myself from the settlement?

To exclude yourself from the settlement, you must send by First Class U.S. mail a written, signed statement to the Settlement Administrator that includes your name, mailing address, telephone number, and the last four digits of your social security number and states, “I opt out of the *Severino v. Avondale* wage and hour settlement”. To be effective, your opt-out statement must be postmarked no later than **[INSERT DATE 60 DAYS FROM DATE OF MAILING OF NOTICE]** and must be mailed to the Settlement Administrator at the address above.

If you ask to be excluded from the settlement, you will not receive a settlement payment, and you cannot object to the settlement. You won’t be legally bound by anything that happens in this lawsuit. You may

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also be able to sue Avondale in the future. Any such claim may need to be filed within strict legal time limits, which you must determine.

OBJECTING TO THE SETTLEMENT

If you remain in the class, you can tell the Court that you don't agree with the settlement or some part of it.

9. How do I tell the Court that I object to the settlement?

You can object to the settlement agreement if you don't like any part of it. You can tell the Court why you think the Court should not approve it. To be considered, your objection must be mailed to the Settlement Administrator (contact information listed above), by First Class United States Mail, postage prepaid, and postmarked no later than **[INSERT DATE 60 DAYS FROM THE DATE SETTLEMENT ADMINISTRATOR MAILED THE NOTICE]** and must be received by the Settlement Administrator no later than **[INSERT DATE ONE DAY PRIOR TO FINAL APPROVAL MOTION DUE]**. The statement must include all reasons for the objection. Any reasons not included in the statement won't be considered. The statement must also include your name, mailing address, and telephone number. Failure to specify your objections in writing following the specified time and procedures shall be deemed to be a waiver of all objections.

10. What's the difference between objecting to the settlement and excluding myself from it?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you do not exclude yourself from the class. Excluding yourself is telling the Court that you don't want to be part of the class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE LAWYERS REPRESENTING YOU

11. Do I have a lawyer in this case?

Yes. The Court has determined that the lawyers at the law firms of Getman, Sweeney & Dunn, PLLC, and Bohrer Brady, LLC are qualified to represent you and all of the other Class Members. These lawyers have been designated as "Class Counsel" in this lawsuit. More information about the law firms, their practices, and their lawyers' experience is available at:

Getman, Sweeney & Dunn, PLLC
260 Fair Street
Kingston, NY 12401
(845) 255-9370
www.getmansweeney.com
[insert email]

Bohrer Brady, LLC
8712 Jefferson Highway
Baton Rouge, LA 70809
(225) 925-5297
www.bohrerbrady.com
[insert email]

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12. How will the lawyers be paid?

Named Plaintiffs have entered into a retainer agreement with Class Counsel. Under the agreement, Class Counsel has the right to ask the Court to approve up to one-third (33.33%) of the settlement amount as their attorneys' fees, \$1,666,666 (plus costs of \$[INSERT COSTS]) for their work in the case. The fees will compensate Class Counsel for their time investigating the facts, litigating the case, and negotiating the settlement, along with bearing the risk that the case might never succeed and they would be paid nothing, and for conferring a benefit upon all Class Members.

THE COURT'S FAIRNESS HEARING

The Court will hold a fairness hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to.

13. When and where will the Court decide whether to approve the settlement?

The Court will hold a fairness hearing at [INSERT TIME] on [INSERT DATE] at United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street New York, NY 10007-1312 before Judge XX in Courtroom [INSERT COURTROOM].

At the fairness hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are any objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the settlement. We do not know how long the Court's decision will take.

14. Do I have to come to the fairness hearing?

No, Class Counsel will represent you at the hearing to speak in favor of the settlement. Of course, you are welcome to attend (at your own expense) if you so desire. The Court will consider any objections received in a timely manner, even if the individual who sent in the objection does not appear at the fairness hearing. You may also pay to have your own, different, lawyer to attend the fairness hearing, but it is not necessary.

15. May I speak at the fairness hearing?

You may ask the Court for permission to speak at the fairness hearing if you filed an objection. If you wish to appear and speak at the Fairness Hearing, you must state your intention to do so in writing as part of your objection. If you don't state in writing that you wish to speak, it will be deemed that you have waived your right to speak. As explained above, to raise an objection at the hearing, you must have mailed an objection to the Settlement Administrator, not later than [INSERT DATE 60 DAYS FROM THE DATE SETTLEMENT ADMINISTRATOR MAILED THE NOTICE].

Remember, you cannot speak at the hearing if you exclude yourself from the settlement.

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GETTING MORE INFORMATION

16. Are there more details about the settlement?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement, which you may find here: [insert URL]. If you have other questions, you may contact the Settlement Administrator or you can also contact the Plaintiffs' attorneys listed above.

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EXHIBIT D

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UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

This is a court-authorized notice. This is not a solicitation from a lawyer.

NOTICE OF COLLECTIVE AND CLASS ACTION SETTLEMENT

<<**Name and Address of Opt-In**>>

You are receiving this Notice because you filed a consent to sue form, and you are a current Plaintiff in the case of *Severino, et al. v. Avondale Care Group, LLC*, 21-CV-10720, which is pending in the U.S. District Court for the Southern District of New York.

A settlement has been reached in your case, which will affect your rights. Under the terms of the settlement, if it is approved by the Court, you will be eligible to receive a settlement share of at least \$ <<**pro rata share settlement amount**>>. Your final settlement amount may be more, depending on how many class members participate in the settlement.

YOUR OPTIONS

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
PARTICIPATE IN THE SETTLEMENT AND RECEIVE A PAYMENT	If you wish to participate in the settlement and receive payment, you don't have to do anything at this time, unless your address has changed. If the settlement is finally approved by the Court, you will receive a check in the mail. If your address has changed, it's your responsibility to inform the settlement administrator using the attached form, otherwise your settlement payment may not reach you or will be delayed.
EXCLUDE YOURSELF	By excluding yourself, you give up any right to receive a payment from this settlement. You won't give up any legal rights.
OBJECT	Write to the Court to object to the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.

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BASIC INFORMATION

17.What is the purpose of this notice?

The Court has ordered that this Notice be sent to you because you worked 24-hour live-in shifts as a Home Health Aide for Avondale between December 15, 2015 and [insert date of filing of preliminary approval motion], and you filed a consent to sue form in this case. The purpose of this Notice is to inform you of your rights and options **and the deadlines to exercise them** under the terms of the settlement agreement. The Court still has to decide whether to finally approve the settlement as fair. Payments will be made if the Court approves the settlement and the time for any further appeal has passed. Payments can take some time. Please be patient.

18.What is this Lawsuit about?

Keila Severino, Delsa Jimenez, and Khady Gueye brought this action against Avondale, on behalf of themselves and other current and former Home Health Aides. The lawsuit claims that Avondale failed to pay overtime wages to Home Health Aides who work, or have worked, 24-hour live-in shifts for Avondale and seeks unpaid overtime wages and liquidated damages under the Fair Labor Standards Act (“FLSA”) and New York Labor Law (“NYLL”) for work done during meal breaks and sleep periods. The lawsuit also alleges claims for wage statement and spread of hours violations under the NYLL. Avondale denies any wrongdoing or violations of the FLSA and NYLL and maintains that it paid Home Health Aides appropriately.

19.Why is there a settlement?

The Court did not decide in favor of the Plaintiffs or Avondale. Both sides believe they would have won at trial, but instead, both sides agreed to a settlement. That way the parties avoid the cost and risk of losing at a trial. The Plaintiffs and their attorneys think the settlement is in the best interest of the class.

THE SETTLEMENT BENEFITS - WHAT YOU GET

20.What does the settlement provide?

Avondale has agreed to pay a total of **\$5,035,000** for settlement payments to the Named Plaintiffs, the Opt-In Plaintiffs, and the Participating Class Members, attorneys’ fees and costs, service awards to the Named Plaintiffs, and the cost of administering the settlement. Each participating Class Member will receive a share of the settlement based on a formula approved by the Court. The formula will be based on the number of 24-hour live-in shifts you worked, according to Avondale’s pay records, from December 15, 2015 until [insert date].

Plaintiffs will also ask the Court to approve Service Awards for the Named Plaintiffs up to \$15,000 each to compensate Named Plaintiffs for initiating this lawsuit, performing work in support of, and otherwise participating in the lawsuit, and undertaking the risk of harm to their career and reputation.

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If the Court approves the settlement, all Opt-Ins who do not opt out of the settlement using the procedure described below will be deemed to have released all of the FLSA and NYLL wage and hour claims against Avondale in accordance with the provisions of the settlement agreement.

21. Who is the Settlement Administrator?

The Settlement Administrator in this case is [inset name]. You may contact the settlement administrator at: [insert contact information]

HOW YOU WILL GET A PAYMENT

22. How can I get my payment?

Because you filed a consent to sue form, if you wish to receive a distribution from the settlement fund and your address hasn't changed, you don't need to do anything at this time. If the settlement is finally approved by the Court, you will receive a check in the mail. If your address has changed, it's your responsibility to inform the settlement administrator using the attached form, otherwise your settlement payment may not reach you or will be delayed.

23. When will I get my settlement payment?

The Court will hold a fairness hearing on [INSERT DATE] at [INSERT TIME] to decide whether to approve the settlement. If the Court approves the settlement and there are no appeals, then your payment will be mailed to you within [INSERT DAYS] of the Court's approval order.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the potential right to sue Avondale on your own about the legal issues in this case or you don't want to accept the settlement share described in this notice, then you must exclude yourself from the class. The process of excluding yourself is also sometimes referred to as "opting out."

24. How do I exclude myself from the settlement?

To exclude yourself from the settlement, you must send by First Class U.S. mail a written, signed statement to the Settlement Administrator that includes your name, mailing address, telephone number, and the last four digits of your social security number and states, "I opt out of the *Severino v. Avondale* wage and hour settlement". To be effective, your opt-out statement must be postmarked no later than [INSERT DATE 60 DAYS FROM DATE OF MAILING OF NOTICE] and must be mailed to:

[INSERT SETTLEMENT ADMINISTRATOR ADDRESS]

If you ask to be excluded from the settlement, you will not receive a settlement payment, and you cannot object to the settlement. You won't be legally bound by anything that happens in this lawsuit. You may also be able to sue Avondale in the future. Any such claim may need to be filed within strict legal time limits, which you must determine.

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OBJECTING TO THE SETTLEMENT

If you remain in the class, you can tell the Court that you don't agree with the settlement or some part of it.

25. How do I tell the Court that I object to the settlement?

You can object to the settlement agreement if you don't like any part of it. You can tell the Court why you think the Court should not approve it. To be considered, your objection must be mailed to the Settlement Administrator (contact information listed above), by First Class United States Mail, postage prepaid, and postmarked no later than **[INSERT DATE 60 DAYS FROM THE DATE SETTLEMENT ADMINISTRATOR MAILED THE NOTICE]** and must be received by the Settlement Administrator no later than **[INSERT DATE ONE DAY PRIOR TO FINAL APPROVAL MOTION DUE]**. The statement must include all reasons for the objection. Any reasons not included in the statement won't be considered. The statement must also include your name, mailing address, and telephone number. Failure to specify your objections in writing following the specified time and procedures shall be deemed to be a waiver of all objections.

26. What's the difference between objecting to the settlement and excluding myself from it?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you do not exclude yourself from the class. Excluding yourself is telling the Court that you don't want to be part of the class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE LAWYERS REPRESENTING YOU

27. Do I have a lawyer in this case?

Yes. The Court has determined that the lawyers at the law firms of Getman, Sweeney & Dunn, PLLC, and Bohrer Brady, LLC are qualified to represent you and all of the other Class Members. These lawyers have been designated as "Class Counsel" in this lawsuit. More information about the law firms, their practices, and their lawyers' experience is available at:

Getman, Sweeney & Dunn, PLLC
260 Fair Street
Kingston, NY 12401
(845) 255-9370
www.getmansweeney.com
[insert email]

Bohrer Brady, LLC
8712 Jefferson Highway
Baton Rouge, LA 70809
(225) 925-5297
www.bohrerbrady.com
[insert email]

28. How will the lawyers be paid?

Named Plaintiffs have entered into a retainer agreement with Class Counsel. Under the agreement, Class Counsel has the right to ask the Court to approve up to one-third (33.33%) of the settlement amount as their

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attorneys' fees, \$1,666,666 (plus costs of \$[INSERT COSTS]) for their work in the case. The fees will compensate Class Counsel for their time investigating the facts, litigating the case, and negotiating the settlement, along with bearing the risk that the case might never succeed and they would be paid nothing, and for conferring a benefit upon all Class Members.

THE COURT'S FAIRNESS HEARING

The Court will hold a fairness hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to.

29. When and where will the Court decide whether to approve the settlement?

The Court will hold a fairness hearing at [INSERT TIME] on [INSERT DATE] at United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street New York, NY 10007-1312 before Judge XX in Courtroom [INSERT COURTROOM].

At the fairness hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are any objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the settlement. We do not know how long the Court's decision will take.

30. Do I have to come to the fairness hearing?

No, Class Counsel will represent you at the hearing to speak in favor of the settlement. Of course, you are welcome to attend (at your own expense) if you so desire. The Court will consider any objections received in a timely manner, even if the individual who sent in the objection does not appear at the fairness hearing. You may also pay to have your own, different, lawyer to attend the fairness hearing, but it is not necessary.

31. May I speak at the fairness hearing?

You may ask the Court for permission to speak at the fairness hearing if you filed an objection. If you wish to appear and speak at the Fairness Hearing, you must state your intention to do so in writing as part of your objection. If you don't state in writing that you wish to speak, it will be deemed that you have waived your right to speak. As explained above, to raise an objection at the hearing, you must have mailed an objection to the Settlement Administrator, not later than [INSERT DATE 60 DAYS FROM THE DATE SETTLEMENT ADMINISTRATOR MAILES THE NOTICE].

Remember, you cannot speak at the hearing if you exclude yourself from the settlement.

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GETTING MORE INFORMATION

32. Are there more details about the settlement?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement, which you may find here: [insert URL]. If you have other questions, you may contact the Settlement Administrator or you can also contact the Plaintiffs' attorneys listed above.

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CHANGE OF ADDRESS FORM

We need to be sure we can contact you; in the past **some people have missed getting their settlement check** because they did not keep their contact information up to date. Please complete the form below if your address has changed.

NAME: _____

CURRENT MAILING ADDRESS: _____

CITY: _____

STATE: _____ ZIP: _____

PHONE NUMBER: _____

EMAIL ADDRESS: _____

Please return this sheet to **[INSERT SETTLEMENT ADMINISTRATOR CONTACT INFORMATION, INCLUDING MAILING AND EMAIL ADDRESSES]**

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EXHIBIT E

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The formula for allocating the Settlement Payment shall be as follows:

- I. Allocations will be calculated for the Class Members two times.
 - a. First, a calculation will be made that includes all Class Members for the purpose of notifying each Class Member her minimum damage award, using the steps outlined in Section 2.
 - b. Second, after the notice period, a calculation will be completed for the Participating Plaintiffs. This step will result in a definitive award amount for each Participating Plaintiff.

The calculation steps for Section 1 (a) and (b) are identical, with the exception being the number of employees included.

- II. The pool of available funds to be allocated is the Settlement Fund of Five Million Thirty-Five Thousand Dollars (\$5,035,000.00), less attorneys' fees ($1/3^{\text{rd}}$ of Five Million (\$5,000,000)), costs, service awards, and the costs of the Claims Administrator. The final amounts of attorney fees, costs, and costs of the Claims Administrator that may be subtracted from the Settlement Fund are subject to the Court's approval.
- III. Each Settlement Share consists of a base payment of \$50 and the monetary recovery, on a pro rata basis, based on claims of each Class Member or Participating Plaintiff. The pro rata share of monetary recovery will be calculated in the following manner:
 - a. After the base payment is accounted for, the remaining pool of available funds will be divided among the Class Members on a pro rata basis using the following calculation steps:
 - i. Plaintiffs' Counsel will use the payroll data provided by Viventium, the payroll provider for Avondale, to determine the number of "24-hour Live-In" shifts worked in a workweek.
 - ii. Damages are calculated on a weekly basis.
 - iii. Unpaid regular and overtime damages are calculated by multiplying 6.6 hours per 24-hour Live-In shift by that week's applicable minimum wage rate.
 - iv. Spread of hours damages, for each 24-hour Live-In shift where the Class Member was not paid more than the minimum wage, are calculated by multiplying the applicable minimum wage by each 24-hour Live-In shift in the workweek.
 - v. Liquidated damages are calculated by adding an equal amount of unpaid regular and overtime work damages, in addition to the unpaid spread of hours damages, as calculated in paragraph iii and iv above.
 - vi. Pre-Judgement Interest is calculated at 9% from the last date of each work week to August 25, 2023.

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- vii. For each employee, damages from (ii) through (vi) are added together for each week worked. Once the employee's weekly damages are calculated, the damages for each week are added together.
- viii. The pro-rata share is calculated for each employee from the remaining funds based on their share of the summarized damages.
- ix. To calculate the pro-rata share for each Participating Plaintiff, the calculations for the opt-outs and Class Members who did not file a Claim Form are removed.

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EXHIBIT F

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**KEILA SEVERINO, KHADY GUEYE, and
DELSA JIMENEZ individually and on behalf of
all other similarly situated persons,**

Plaintiffs,

v.

AVONDALE CARE GROUP, LLC

Defendant.

Case No. 1:21-cv-10720-LGS-SDA

**[PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS SETTLEMENT
AND PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS COUNSEL'S
FEES AND COSTS AND SERVICE AWARDS**

On _____, 2023, the Court heard a motion for final approval of a settlement for a class and collective action by Plaintiffs Keila Severino, Khady Gueye, and Delsa Jimenez (“**Named Plaintiffs**”), individually and on behalf of all other similarly situated persons, and Avondale Care Group, LLC (“**Avondale**”). The Court has considered the Motion for Final Approval of Class Action Settlement and other related materials submitted by the parties, and otherwise being fully informed, hereby finds and orders as follows:

1. Except as otherwise specified herein, for purposes of this Order, the Court adopts the definitions of all capitalized terms used herein as set forth in the Settlement Agreement.
2. This Court has jurisdiction over the subject matter of this Action pursuant to 28 U.S.C. 1331 and 1367, including jurisdiction over all members of the settlement class certified by order dated _____, 2023 (ECF No. ____).
3. The Court finds that the settlement class satisfies the requirements of Fed. R. Civ. P. 23(a) and is maintainable under Rule 23(b)(3) for purposes of settlement of this Action only.

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The class that has been certified is defined as Avondale employees who worked a 24-hour live-in shift from December 15, 2015 through the Preliminary Motion Date, excluding any former employees, who have settled any litigations or arbitrations against Avondale or have pending individual litigation against Avondale.

4. The Court confirms the appointments of: (a) Named Plaintiffs as Class Representatives of the settlement class; (b) the law firms of Getman, Sweeney & Dunn PLLC and Bohrer Brady, LLC, as Class Counsel; and (c) Analytics, LLC as the Claims Administrator.

5. Pursuant to Fed R. Civ. P. 23(e)(2), the Court finds that the settlement memorialized in the Settlement Agreement filed with the Court, including the settlement of FLSA and NYLL claims, is fair, reasonable, and adequate, and in the best interest of the Class Members in all respects under *City of Detroit v. Grinnell Corp.*, 495 F. Supp 2d 448 (2d Cir. 1974), and *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015), and any other applicable law that is binding on Class Members. The Court specifically finds that: (a) the strength of the Named Plaintiff's and Class Member's claims, the defenses of Defendants and the complexity, length, and expense of further litigation, support approval of the settlement; (b) the Settlement Fund in the amount of \$5,035,000.00 as set forth in the Settlement Agreement is a fair, reasonable, and adequate settlement of Named Plaintiffs' individual claims and the claims of the Class Members; (c) the settlement was reached pursuant to arms-length negotiations between experienced counsel who have significant experience representing the interests of parties in complex class actions, including those involving wage and hour claims; and (d) the Parties had sufficient information such that the Parties and the Court could evaluate the merits of the case, potential damages, and the probable course of future litigation.

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6. For the same reasons that the Court finds the Settlement Agreement is fair, reasonable, and adequate under Fed. R. Civ. P. 23(e)(2), the Court likewise finds that the resolution of the FLSA claims represent a fair and reasonable resolution of a *bona fide* dispute.

7. The Court finds that the proposed plan of allocation is rationally related to the relative strengths and weaknesses of the respective claims asserted. The mechanisms and procedures set forth in the Agreement by which payments are to be calculated and made to Class Members are fair, reasonable, and adequate, and payment shall be made according to those allocations and pursuant to the procedures as set forth in the Agreement (Exhibit E to the Settlement Agreement).

8. The Court approves of the release of the Released Claims, as defined in the Agreement in Paragraph 24. The Court finds all of these releases to be fair, reasonable, and enforceable under the FLSA, Fed. R. Civ. P. 23, and all other applicable law.

9. The Class Notice sent to the Class Members via First Class mail adequately informed the Class Members of the terms of the Settlement Agreement, their estimated recovery if the settlement was approved, the process available to obtain monetary relief, their right to request exclusion from the Class and pursue their own remedies, and their opportunity to file written objections and appear and be heard at the Final Approval Hearing. The Class Notice also adequately informed the Class Members of the contact information for the Settlement Administrator and Class Counsel. Thus, the Court finds that the Class Notice provided to Class Members satisfied the requirements of Fed. R. Civ. P. 23(e)(1).

10. As identified by the Claims Administrator in Exhibit ____ to its representative's declaration filed in support of Plaintiff's Motion for Final Approval of the Settlement, the Court finds that ____ individuals have timely requested exclusion from the Class. These individuals are:

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(a) excluded from the Class previously certified; (b) are not bound by the terms of the Settlement Agreement; (c) do not release or discharge the Class Members' Released Claims; and (d) are not entitled to participate in the settlement.

11. The Service Payments in the amount of \$15,000 each are approved and shall be awarded and paid to each respective Named Plaintiff according to the procedures set forth in the Settlement Agreement. Such Service Awards are in addition to the amounts these individuals will otherwise be eligible to receive as Settlement Shares and shall be paid from the Settlement Amount.

12. The Claims Administrator is directed to distribute Settlement Checks to Participating Plaintiffs according to the procedures set forth in the Settlement Agreement.

13. Plaintiffs' application for an award of attorneys' fees in the amount of \$1,666,667 (33.1% of the Settlement Fund), is approved and shall be paid to Class Counsel according to the procedures set forth in the Settlement Agreement.

14. Plaintiffs' application for an award of costs in the amount of \$_____, is approved and shall be paid to Class Counsel according to the procedures set forth in the Settlement Agreement.

15. The Claims Administrator's costs of _____, are approved and shall be paid to the Claims Administrator according to the procedures set forth in the settlement Agreement.

16. The Court finds that the notices to government officials of this settlement have been transmitted as required under the Class Action Fairness Action.

17. This Court grants final approval of the Settlement.

18. The Parties and Settlement Administrator shall proceed with the administration of the settlement in accordance with the terms of the Agreement.

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19. This Action is dismissed in its entirety with prejudice, without any cost to any of the Parties except as otherwise provided in the Settlement Agreement.

20. By operation of the entry of this Order and the Judgment, all Released Claims are fully, finally, and forever released, relinquished, and discharged pursuant to the terms of the release set forth in Paragraph 24, as to all Class Members.

21. Without affecting the finality of this Order, the Court will retain jurisdiction over the case after Final Approval solely for purposes of (i) enforcing the Agreement, (ii) addressing settlement administration disputes, and (iii) addressing such post-judgment matters as may be appropriate under Court rules or applicable law. The parties shall abide by all terms of the Agreement and this Order.

22. The Clerk is directed to enter judgment in accordance with this Order.

IT IS SO ORDERED.

Dated:

Stewart D. Aaron
United States Magistrate Judge