

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

DAVERLYNN KINKEAD, SHIRLEY CAILLO,
and CLAUDE MATHIEU, individually and on
behalf of all others similarly situated,

Plaintiff

v.

HUMANA, INC., HUMANA AT
HOME, INC., AND SENIORBRIDGE FAMILY
COMPANIES (CT), INC.,

Defendants

CIVIL NO.: 3:15-cv-01637 (JAM)

STIPULATION AND SETTLEMENT AGREEMENT

PLAINTIFFS (on behalf of themselves and all members of the SETTLEMENT CLASSES), DEFENDANTS through their respective counsel of record enter into this SETTLEMENT AGREEMENT.¹

I. RECITALS AND BACKGROUND

A. On November 10, 2015, Plaintiff Daverlynn Kinkead commenced this LITIGATION by filing a complaint in the United States District Court for the District of Connecticut, Case Number 3:15-cv-01637 (the “*Kinkead* Action”).

B. The PLAINTIFFS in this case are home healthcare workers (HHWs) who go to the homes of elderly and disabled people to provide “companionship services.” PLAINTIFFS all worked for Humana at Home, Inc. and related company defendants.

¹ Terms that appear in all caps are defined terms. The definitions for these terms are contained in the Appendix to this SETTLEMENT AGREEMENT.

C. In November 2015, plaintiff Daverlynn Kinkead sued Defendant Humana at Home, Inc. and corporate affiliates, alleging that she had worked as a HHW for Humana in Connecticut and that new United States Department of Labor (“USDOL”) regulations entitled her to overtime pay for hours that she worked from January 2015 until May 2015. Doc. # 1. Kinkead based her claim on the Fair Labor Standards Act (“FLSA”) as well as on cognate provisions of the Connecticut Minimum Wage Act.

D. DEFENDANTS moved to dismiss Kinkead’s complaint, contending that the new USDOL regulation was not effective until the D.C. Circuit issued its mandate upholding the regulation on October 13, 2015. Doc. # 14-4 at 2. In July 2016, the Court denied DEFENDANTS’ motion, concluding that—notwithstanding the intervening court challenge to the validity of the regulation—the regulation went into effect as of its intended effective date of January 1, 2015. *See* Doc. 57.

E. In May 2017, the Court granted the PARTIES’ joint motion for conditional certification of an FLSA collective action pursuant to 29 U.S.C. § 216(b). Doc. # 114.

F. In November 2017, the Court granted leave to file an amended complaint. Doc. # 181. The amended complaint added another co-plaintiff, Claude Mathieu, who worked as a home healthcare worker in New York from approximately February 2015 to July 2016 and who would act as a class representative for Humana HHWs in New York State. Doc. # 181.

G. On March 18, 2019, the Court granted Rule 23 class certification of the New York and Connecticut “Effective Date” and “Unpaid Hours” classes and granted Plaintiffs’ motion to amend the complaint a second time to add Shirley Caillo as a representative plaintiff for the New York classes alongside Mathieu. *See Kinkead v. Humana at Home, Inc.*, 330 F.R.D. 338 (Mar. 18, 2019).

H. The PARTIES cross moved for summary judgment. On March 31, 2020, the Court denied in part and granted in part the PARTIES' motions for summary judgment. *See Kinkead v. Humana at Home, Inc.*, 450 F. Supp. 3d 162 (D. Conn. 2020).

I. The PARTIES have exchanged detailed information and numerous documents and conducted detailed legal and factual analyses of the PLAINTIFFS' claims and DEFENDANTS' defenses.

M. Throughout the LITIGATION, The PARTIES engaged in multiple arms-length attempts to resolve the LITIGATION.

N. The first mediation was an all-day mediation session in November 2018 under the direction of Charles Stohler, Esq., an experienced class and collective action mediator. The mediation did not result in settlement.

O. On July 23, 2020, the PARTIES engaged in an all-day mediation session under the direction of mediator Marc Isserles, Esq., an experienced class and collective action mediator. The PARTIES were unable to settle the HOME HEALTHCARE WORKER CLAIMS in these sessions, but continued negotiations through the mediator after the July 23, 2020 mediation.

P. The PARTIES' ongoing settlement negotiations have culminated in this SETTLEMENT AGREEMENT addressing the HOME HEALTHCARE WORKER CLAIMS asserted in the LITIGATION.

Q. It is the desire and intention of the PARTIES that this SETTLEMENT AGREEMENT shall, for each member of the FINAL SETTLEMENT CLASSES, fully, finally, and forever completely settle, compromise, release, and discharge any and all RELEASED CLAIMS (as defined below).

R. PLAINTIFFS' Counsel has conducted a thorough investigation of the HOME HEALTHCARE WORKER CLAIMS that PLAINTIFFS asserted against DEFENDANTS in the LITIGATION and/or that relate to or could have arisen out of the same facts alleged in the LITIGATION. Based on their independent investigation and evaluation, PLAINTIFFS' Counsel believe that the settlement of the RELEASED CLAIMS with DEFENDANTS for the consideration of and on the terms set forth in this SETTLEMENT AGREEMENT is fair, reasonable, and adequate, and is in the best interest of PLAINTIFFS and the members of the SETTLEMENT CLASSES in light of all known facts and circumstances, including the risk of delay, defenses asserted by DEFENDANTS in response to the HOME HEALTHCARE WORKER CLAIMS, and numerous potential certification, litigation, and appellate issues relating to the HOME HEALTHCARE WORKER CLAIMS.

S. RELEASED PERSONS expressly deny any liability or wrongdoing of any kind associated with any and all past and present matters, disputes, claims, demands, and causes of action of any kind whatsoever in this LITIGATION and claims of the PLAINTIFFS in the SECOND AMENDED COMPLAINT. RELEASED PERSONS contend they have complied with all applicable federal and state laws at all times. By entering into the SETTLEMENT AGREEMENT, RELEASED PERSONS do not admit any liability or wrongdoing and expressly deny the same. It is expressly understood and agreed by the PARTIES that the SETTLEMENT AGREEMENT is being entered into by DEFENDANTS solely for the purpose of avoiding the costs and disruption of ongoing litigation and resolving the RELEASED CLAIMS on the terms set forth herein. Nothing in the SETTLEMENT AGREEMENT, the settlement proposals exchanged by the PARTIES, or any motions filed or Orders entered pursuant to the SETTLEMENT AGREEMENT, may be construed or deemed as an admission by RELEASED PERSONS of any liability, culpability, negligence, or

wrongdoing, including that any member of the SETTLEMENT CLASSES was misclassified as exempt, and the SETTLEMENT AGREEMENT, each of its provisions, its execution, and its implementation, including any motions filed or Orders entered, shall not in any respect be construed as, offered, or deemed admissible as evidence, or referred to in any arbitration or legal proceedings for any purpose, except in an action or proceeding to approve, interpret, or enforce the SETTLEMENT AGREEMENT. Furthermore, neither the SETTLEMENT AGREEMENT, any motions filed, information and/or documents exchanged by the PARTIES in preparation for the mediation, settlement proposals exchanged by the PARTIES, nor Orders entered pursuant to the SETTLEMENT AGREEMENT, shall constitute an admission, finding, or evidence that any requirement for representative litigation or class certification has been satisfied in this LITIGATION or any other action, except for the limited settlement purposes set forth in this SETTLEMENT AGREEMENT.

T. This SETTLEMENT AGREEMENT shall automatically terminate, and any certification of the SETTLEMENT CLASSES for settlement purposes shall automatically be cancelled if this SETTLEMENT AGREEMENT is terminated pursuant to Section XVI entitled “Termination of the Settlement Agreement,” in which event this SETTLEMENT AGREEMENT shall not be offered, received, or construed as an admission of any kind concerning the merits of this action, whether any class or collective is certifiable or any other matter.

U. The PARTIES shall request the COURT approve, administer, and implement the SETTLEMENT AGREEMENT with respect to those actions and claims settled in this SETTLEMENT AGREEMENT.

II. GROSS SETTLEMENT AMOUNT

A. PLAINTIFFS and DEFENDANTS have agreed to a common fund settlement with the GROSS SETTLEMENT AMOUNT to be paid by Defendants Seventeen Million Dollars and no cents (\$17,000,000.00), inclusive of all SETTLEMENT PAYMENTS; RESERVE FUND; CLASS COUNSEL'S FEES, COSTS AND EXPENSES; SERVICE PAYMENTS; and SETTLEMENT EXPENSES paid by DEFENDANTS but not including the EMPLOYERS SHARE OF EMPLOYMENT TAXES which shall be paid by DEFENDANTS in addition to the GROSS SETTLEMENT AMOUNT. No portion of the GROSS SETTLEMENT AMOUNT shall revert to DEFENDANTS.

B. The CLAIMS ADMINISTRATOR shall set aside from the GROSS SETTLEMENT AMOUNT a RESERVE FUND equal to \$50,000 to cover the following errors or omissions:

1. Any SETTLEMENT CLASS MEMBER who seeks to challenge any alleged error or omission in the calculation of his or her SETTLEMENT PAYMENT shall submit a signed written statement to the CLAIMS ADMINISTRATOR (who shall forward copies to CLASS COUNSEL and DEFENDANTS' counsel) as to why such error or omission should be corrected, along with supporting documents, if available, no later than thirty (30) calendar days after SETTLEMENT PAYMENTS are issued. CLASS COUNSEL and the CLAIMS ADMINISTRATOR will resolve any disputes. DEFENDANTS will provide any additional documents that are reasonably needed to address any such disputes. The RESERVE FUND shall be used first to correct these errors in the calculation of damages for PARTICIPATING SETTLEMENT CLASS MEMBERS

2. To the extent funds remain available in the RESERVE FUND after correcting errors and omissions in the calculation of awards pursuant to 1 above, CLASS

COUNSEL may, in their discretion, authorize payments from the RESERVE FUND to SETTLEMENT CLASS MEMBERS who filed untimely claim forms.

3. To the extent funds remain available in the RESERVE FUND after paying errors and omissions in the calculation of awards pursuant to 1, and after making awards to omitted SETTLEMENT CLASS MEMBERS who filed untimely claim forms, the RESERVE FUND may be used to offer a SETTLEMENT PAYMENT to any person who should have been listed as a member of the SETTLEMENT CLASSES but who was omitted from the SETTLEMENT CLASS list. Such person must submit a signed written statement to the CLAIMS ADMINISTRATOR (who shall forward copies to CLASS COUNSEL and DEFENDANTS' counsel) setting forth the basis for believing he or she should have been included on the class list(s) along with supporting documents, if available, no later than thirty (30) calendar days after the SETTLEMENT PAYMENTS are issued. CLASS COUNSEL shall determine whether any such individual should have been included in the class list. No SETTLEMENT PAYMENT from the RESERVE FUND shall be made to any such person unless the individual agrees to the release applicable to SETTLEMENT CLASS MEMBERS set forth in paragraph XII. Such Individuals who decline to agree to the release shall not receive a SETTLEMENT PAYMENT from the RESEERVE FUND, in which case they will be treated as non-SETTLEMENT CLASS MEMBERS not subject to the release set forth in Paragraph XII.

4. All payments from the RESERVE FUND pursuant to Paragraph II.B.1 shall be made as soon as the Claims Administrator determines that a change in the challenged SETTLEMENT PAYMENT and in no event later than sixty (60) days after SETTLEMENT PAYMENTS are issued. Thereafter, all payments from the RESERVE FUND pursuant to Paragraphs II.B.2 and/or II.B.3 shall be made no later than ninety (90) days after SETTLEMENT

PAYMENTS are issued. Any monies remaining in the RESERVE FUND after the resolution of all alleged errors and omissions and after one hundred twenty (120) calendar days have elapsed after the mailing of SETTLEMENT PAYMENTS to members of the FINAL SETTLEMENT CLASSES shall be paid to the *cy pres* recipient.

C. In no event shall the total distribution and payments made by DEFENDANTS, including but not limited to SETTLEMENT PAYMENTS; RESERVE FUND; CLASS COUNSEL'S FEES, COSTS AND EXPENSES; SERVICE PAYMENTS; and SETTLEMENT EXPENSES paid by DEFENDANTS exceed the GROSS SETTLEMENT AMOUNT. DEFENDANTS may not be called upon or required to contribute additional monies above the GROSS SETTLEMENT AMOUNT except to pay the EMPLOYERS' SHARE OF PAYROLL TAXES.

D. The CLAIMS ADMINISTRATOR shall deduct the employee portion of payroll taxes from the SETTLEMENT AMOUNT of each PARTICIPATING SETTLEMENT CLASS MEMBERS and remit those taxes to the proper taxing authority. PARTICIPATING SETTLEMENT CLASS MEMBERS will be responsible for remitting to State and/or Federal taxing authorities any applicable non-payroll taxes due.

E. The CLAIMS ADMINISTRATOR shall calculate the EMPLOYERS' SHARE OF PAYROLL TAXES and notify DEFENDANTS of those amounts. DEFENDANTS shall be responsible for paying the EMPLOYERS' SHARE OF PAYROLL TAXES to the CLAIMS ADMINISTRATOR who shall remit both the employer and employee share of payroll taxes to the appropriate taxing authorities. Under no circumstances will the EMPLOYERS PORTION OF PAYROLL TAXES be paid out of the GROSS SETTLEMENT AMOUNT.

F. Within 10 days after Preliminary Approval, DEFENDANTS and CLASS COUNSEL shall pay into the Qualified Settlement Fund established by the CLAIMS ADMINISTRATOR the sum of \$17,500 each for a total of \$35,000 to pay SETTLEMENT EXPENSES which payment shall be credited toward and deducted from the GROSS SETTLEMENT AMOUNT. In the event that the SETTLEMENT is terminated, DEFENDANTS and CLASS COUNSEL shall remain responsible for the SETTLEMENT EXPENSES incurred prior to the termination of the SETTLEMENT and any unused amount of this payment shall be refunded pro rata to DEFENDANTS and CLASS COUNSEL.

III. PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT

A. Within the deadline imposed by the COURT and after the SETTLEMENT AGREEMENT is executed by PLAINTIFFS (on behalf of themselves and all members of the SETTLEMENT CLASSES), DEFENDANTS, and counsel for the PARTIES, the PLAINTIFFS shall submit this SETTLEMENT AGREEMENT (including all exhibits referenced herein) to the COURT and move the COURT for a PRELIMINARY APPROVAL ORDER. The deadline set forth above in this paragraph may be extended by mutual agreement of the PARTIES and approval by the COURT.

B. CLASS COUNSEL shall provide a proposed motion for a PRELIMINARY APPROVAL ORDER to DEFENDANTS no later than ten (10) calendar days before the deadline imposed by the Court to move for a PRELIMINARY APPROVAL ORDER. DEFENDANTS shall provide any comments to the proposed motion to CLASS COUNSEL within five (5) calendar days of receiving it. To the extent necessary, the PARTIES shall confer in good faith to regarding DEFENDANTS' comments within three (3) calendar days. Any comments that cannot, in good faith, be resolved by the PARTIES shall not prohibit CLASS COUNSEL from submitting the

PRELIMINARY APPROVAL ORDER. CLASS COUNSEL shall file the motion for a PRELIMINARY APPROVAL ORDER.

C. Except to the extent provided below with respect to the termination of this SETTLEMENT AGREEMENT, the PARTIES agree to take reasonable steps necessary to secure a PRELIMINARY APPROVAL ORDER from the COURT.

IV. SUPPLEMENTAL DATA EXCHANGE

A. To the extent the data has not already been produced, within ten (10) calendar days after the execution of the SETTLEMENT AGREEMENT, DEFENDANTS shall provide CLASS COUNSEL with all payroll data necessary to calculate the MINIMUM SETTLEMENT PAYMENTS for the SETTLEMENT CLASSES, including, but not limited to "live-in shift" information for each member of the SETTLEMENT CLASSES.

B. Within ten (10) calendar days after the motion for preliminary approval is filed, DEFENDANTS shall provide addresses, email addresses, phone numbers, and employee identification (EMPL ID) numbers) for each member of the SETTLEMENT CLASSES during the time period applicable to the FLSA COLLECTIVE, the NEW YORK STATE LAW SETTLEMENT CLASS, and the CONNECTICUT STATE LAW SETTLEMENT CLASS, to the CLAIMS ADMINISTRATOR, along with Social Security numbers. Such information is confidential, can only be used for the settlement of this action, and the phone numbers, email address, and full Social Security numbers cannot be shared with CLASS COUNSEL, except that the CLAIMS ADMINISTRATOR will share with CLASS COUNSEL the address and last four digits of the Social Security number of any the Members of the NEW YORK STATE LAW SETTLEMENT CLASS and the CONNECTICUT STATE LAW SETTLEMENT CLASS who have not filed a claim form within 30 days of mailing.

V. CALCULATION OF SETTLEMENT PAYMENTS

A. CLASS COUNSEL shall calculate the MINIMUM SETTLEMENT PAYMENTS for each member of the SETTLEMENT CLASSES pursuant to the formula set forth in Exhibit A to this Agreement. The total of all MINIMUM SETTLEMENT PAYMENTS shall equal the REVISED GROSS SETTLEMENT AMOUNT.

B. CLASS COUNSEL shall provide the MINIMUM SETTLEMENT PAYMENTS to DEFENDANTS when calculated. DEFENDANTS shall have ten (10) business days to review, verify, and comment on the MINIMUM SETTLEMENT PAYMENTS calculated by CLASS COUNSEL. CLASS COUNSEL shall revise, as necessary, the MINIMUM SETTLEMENT PAYMENT calculations within five (5) business days after receiving comments from DEFENDANTS. If there are disputes regarding the MINIMUM SETTLEMENT PAYMENTS, the parties will attempt in good faith to resolve the disputes. If the parties cannot agree on the MINIMUM SETTLEMENT PAYMENT calculations their dispute shall be submitted to the COURT for resolution.

C. No later than 10 days prior to the date of the FINAL APPROVAL HEARING, CLASS COUNSEL shall calculate the SETTLEMENT PAYMENTS for PARTICIPATING SETTLEMENT CLASS MEMBERS by reallocating the MINIMUM SETTLEMENT AMOUNTS not claimed by SETTLEMENT CLASS MEMBERS, according to the formula set forth in Ex. A. CLASS COUNSEL may include as PARTICIPATING SETTLEMENT CLASS MEMBERS individuals whose claims forms were untimely but received sufficiently in advance of the FINAL APPROVAL HEARING to be included in the calculation of the SETTLEMENT PAYMENTS for PARTICIPATING SETTLEMENT CLASS MEMBERS.

D. CLASS COUNSEL shall provide counsel for DEFENDANTS with the list of the PARTICIPATING CLASS MEMBERS SETTLEMENT PAYMENTS when those calculations are made.

VI. CERTIFICATION OF THE NEW YORK STATE LAW SETTLEMENT CLASS AND CONNECTICUT STATE LAW CLASS FOR SETTLEMENT PURPOSES ONLY

A. The PARTIES agree to request the COURT to certify, for settlement purposes only, the NEW YORK STATE LAW SETTLEMENT CLASS and CONNECTICUT STATE LAW SETTLEMENT CLASS pursuant to Rule 23 of the Federal Rules of Civil Procedure. The NEW YORK STATE LAW SETTLEMENT CLASS to be certified for settlement purposes only shall be defined as “any and all persons employed as a home healthcare worker at Humana, Inc., Humana at Home Inc., Seniorbridge Family Companies (CT), Inc. or any related entity during the period from November 10, 2009 to November 30, 2020 who worked one or more "live-in shifts" in New York State but shall not include individuals who previously opted-out of the class. The list of the NEW YORK STATE LAW SETTLEMENT CLASS members is attached hereto as Exhibit B. The CONNECTICUT STATE LAW SETTLEMENT CLASS to be certified for settlement purposes only shall be defined as “any and all persons employed in Connecticut as a home healthcare worker at Humana, Inc., Humana at Home Inc., Seniorbridge Family Companies (CT), Inc. or any related entity (1) who during the period from January 1, 2015 to November 30, 2020 who worked one or more live-in shifts OR (2) who worked more than forty hours in a workweek without proper overtime compensation between January 1, 2015 and October 13, 2015.” The class shall not include individuals, if any, who previously opted-out of the class. The list of CONNECTICUT STATE LAW SETTLEMENT CLASS MEMBERS is attached hereto as Exhibit C.

B. The SETTLEMENT AGREEMENT is contingent upon the final approval and certification by the COURT of the NEW YORK STATE LAW SETTLEMENT CLASS and CONNECTICUT STATE LAW SETTLEMENT CLASS for settlement purposes only.

C. DEFENDANTS do not waive, and instead expressly reserve their rights to challenge the propriety of collective action certification or class action certification for any purpose as if this SETTLEMENT AGREEMENT had not been entered into by the PARTIES should the COURT not approve the SETTLEMENT AGREEMENT or should counsel for a PARTY exercise their rights to terminate the SETTLEMENT AGREEMENT.

VII. NOTICE TO SETTLEMENT CLASSES

A. Within twenty (20) calendar days after the COURT has issued the PRELIMINARY APPROVAL ORDER, and after the MINIMUM SETTLEMENT PAYMENT amounts have been finalized for each member of the SETTLEMENT CLASSES, the CLAIMS ADMINISTRATOR shall mail and, where possible, email and text the COURT-approved SETTLEMENT NOTICE to each member of the SETTLEMENT CLASSES. Prior to mailing the SETTLEMENT NOTICE, the CLAIMS ADMINISTRATOR shall attempt to confirm the accuracy and, if necessary, update the addresses of the members of the SETTLEMENT CLASSES through the United States Post Office's National Change of Address ("NCOA") database and updated information provided by CLASS COUNSEL. All mailings by the CLAIMS ADMINISTRATOR shall be by first-class mail and, to the extent possible, by email and text. If a SETTLEMENT NOTICE is returned as undeliverable, the CLAIMS ADMINISTRATOR will perform appropriate computerized skip traces and resend by first-class mail and/or email or text the COURT-approved SETTLEMENT NOTICE to those members of the SETTLEMENT CLASSES for whom it obtains more recent addresses.

The CLAIMS ADMINISTRATOR and CLASS COUNSEL shall not provide information regarding the settlement of this LITIGATION, including but not limited to, the terms of the

SETTLEMENT AGREEMENT, the PRELIMINARY APPROVAL ORDER, the FINAL APPROVAL ORDER, or the SETTLEMENT NOTICE, to any third-party engaged in the business of providing public information about class action lawsuits or settlements including, but not limited to, topclassactions.com, classaction.com, classaction.org, consumer-action.org, or hustlermoneyblog.com, or link any document related to the settlement of this LITIGATION to any such online information source.

B. The SETTLEMENT NOTICE shall provide a brief summary of the terms of the settlement, including the release, and inform SETTLEMENT CLASS MEMBERS how to obtain a copy of the complete SETTLEMENT AGREEMENT and other related documents. The SETTLEMENT NOTICE shall inform SETTLEMENT CLASS MEMBERS of their right to object to the settlement within sixty (60) days of mailing of the notice as set forth in paragraph XIV. The SETTLEMENT NOTICE shall inform the members of the NEW YORK STATE LAW SETTLEMENT CLASS and CONNECTICUT STATE LAW SETTLEMENT CLASS of their obligation to file a claim form with the CLAIM ADMINISTRATOR no later than ten days prior to the scheduled FINAL APPROVAL HEARING to become a PARTICIPATING SETTLEMENT CLASS MEMBER eligible to receive a SETTLEMENT PAYMENT from the REVISED GROSS SETTLEMENT AMOUNT. (The PLAINTIFFS and members of the FLSA COLLECTIVE do not need to file claim forms and are considered PARTICIPATING SETTLEMENT CLASS MEMBERS). The SETTLEMENT NOTICE shall also inform those members of the NEW YORK STATE LAW SETTLEMENT CLASS and CONNECTICUT STATE LAW SETTLEMENT CLASS who are entitled to opt-out of the SETTLEMENT pursuant to paragraph XIV of their right to do so within sixty (60) days of the mailing of the SETTLEMENT NOTICE. The SETTLEMENT NOTICE shall also state that the ESTATE REPRESENTATIVE of any deceased SETTLEMENT

CLASS MEMBER shall have the right to seek exclusion, object and/or file a claim form to the same extent as the deceased class member, and shall also state that SETTLEMENT CLASS MEMBERS have the right to dispute their MINIMUM SETTLEMENT PAYMENT if they believe that it was not properly calculated.

C. The CLAIMS ADMINISTRATOR shall re-mail and/or email or text as email addresses and/or cell phone numbers exist within DEFENDANTS' HRIS System of record the COURT-approved SETTLEMENT NOTICE to any member of the SETTLEMENT CLASSES who contacts the CLAIMS ADMINISTRATOR during the time period between the initial mailing of the SETTLEMENT NOTICE and the end of the CLAIM PERIOD (90 days from mailing) and requests a copy of the SETTLEMENT NOTICE .

D. As soon as practicable following the end of the CLAIM PERIOD , but before the date of the FINAL APPROVAL HEARING, the CLAIMS ADMINISTRATOR shall provide CLASS COUNSEL and DEFENDANTS' counsel with a declaration of due diligence and proof of mailing, emailing, and texting with regard to the dissemination of the SETTLEMENT NOTICE, as well as a list of all SETTLEMENT CLASS MEMBERS who timely filed claim forms and are PARTICIPATING CLASS MEMBERS, all SETTLEMENT CLASS MEMBERS who timely requested to opt-out of the settlement, and all SETTLEMENT CLASS MEMBERS who timely objected to the settlement along with a copy of their objection. The CLAIMS ADMINISTRATOR shall also provide a list of any untimely claim forms. CLASS COUNSEL shall bear the responsibility of filing this declaration with the COURT prior to the date of the FINAL APPROVAL HEARING.

E. If a SETTLEMENT CLASS MEMBER files a timely claim form or opt-out form that is not in substantial compliance with the requirements of this SETTLEMENT AGREEMENT the

CLAIMS ADMINISTRATOR shall notify the individual filing a deficient claim form that the form will be provisionally accepted but that no Settlement Award will be issued to the Settlement Class Member until the claim form deficiency is cured. The CLAIMS ADMINISTRATOR shall notify Settlement Class Member's filing deficient opt-out forms that they have until 10 calendar days after the BAR DATE to cure the deficiency in an opt-out form.

VIII. FINAL APPROVAL

A. The date of the FINAL APPROVAL HEARING shall be set by the COURT but in no event shall be scheduled earlier than one-hundred (100) calendar days after the SETTLEMENT NOTICE is first disseminated and notice of such hearing shall be provided to members of the SETTLEMENT CLASSES in the SETTLEMENT NOTICE, although such hearing may be continued by the COURT without further notice to members of the SETTLEMENT CLASSES, other than those who are OBJECTORS.

B. The PARTIES shall submit a proposed FINAL APPROVAL ORDER, and a proposed FINAL JUDGMENT setting forth the terms of this SETTLEMENT AGREEMENT, by incorporation or otherwise, for execution and entry by the COURT at the time of the FINAL APPROVAL HEARING or at such other time as the COURT deems appropriate.

IX. DISTRIBUTION OF SETTLEMENT FUNDS

A. Within ten (10) business days after the FINAL EFFECTIVE DATE, DEFENDANTS shall provide the CLAIMS ADMINISTRATOR with funds equal to the GROSS SETTLEMENT AMOUNT, less any SETTLEMENT EXPENSES previously paid by DEFENDANTS to the CLAIMS ADMINISTRATOR, which shall be deposited in a non-interest bearing Qualified Settlement Fund. Once the Claims Administrator has informed Defendants of the EMPLOYERS' SHARE OF PAYROLL TAXES, Defendants shall deposit those funds in the Qualified Settlement Fund within fifteen (15) business days.

B. Within twenty (20) business days after the Qualified Settlement Fund is funded, the CLAIMS ADMINISTRATOR shall mail the SETTLEMENT PAYMENTS to PARTICIPATING SETTLEMENT CLASS MEMBERS to the most up-to-date address that the CLAIMS ADMINISTRATOR has for each PARTICIPATING SETTLEMENT CLASS MEMBER and shall cause to be paid CLASS COUNSEL'S FEES, COSTS, AND EXPENSES as approved by the Court in the FINAL APPROVAL ORDER.

C. In the event that a settlement check is returned to the CLAIMS ADMINISTRATOR as undeliverable, the CLAIMS ADMINISTRATOR shall attempt to re-mail the check by attempting to contact the PARTICIPATING SETTLEMENT CLASS MEMBER by mail and/or email or phone and/or by running a search on appropriate search software to obtain an updated address for the member of the PARTICIPATING SETTLEMENT CLASS.

G. The PARTIES agree that the SETTLEMENT PAYMENT to be issued to each PARTICIPATING SETTLEMENT CLASS MEMBER shall be separated into two amounts: thirty-four percent (34%) shall be allocated to the RELEASED CLAIMS for unpaid overtime, unpaid hours, and other wage-related damages, and the remaining sixty six percent (66%) shall be allocated to the RELEASED CLAIMS for alleged liquidated damages, state law penalties and purported interest related to the same claims. The CLAIMS ADMINISTRATOR shall deduct the employee portion of payroll taxes applicable to the 34% of the award as well as any other authorized or required deductions (*e.g.*, garnishments, tax liens, child support), but the award shall not be reduced by the EMPLOYERS SHARE OF PAYROLL TAXES, which taxes will be separately paid by DEFENDANTS. The portion allocated to liquidated and other damages shall be characterized as non-wage income to the recipient. The CLAIMS ADMINISTRATOR will

report the wage portion to each member of the FINAL SETTLEMENT CLASSES on an IRS Form W-2, and the non-wage portion on IRS Form 1099 misc.

H. The CLAIMS ADMINISTRATOR shall be responsible for issuing the SETTLEMENT PAYMENTS, less required withholdings and deductions, to each PARTICIPATING SETTLEMENT CLASS MEMBER and mailing the SETTLEMENT PAYMENTS, IRS Form W-2s and IRS Form 1099 misc. to each PARTICIPATING SETTLEMENT CLASS MEMBER. DEFENDANTS will provide the CLAIMS ADMINISTRATOR with a copy of the W-4 for PARTICIPATING SETTLEMENT CLASS MEMBERS.

I. Each PARTICIPATING SETTLEMENT CLASS MEMBER will have one hundred twenty (120) calendar days from the date on which the SETTLEMENT PAYMENTS are mailed to negotiate his or her settlement check(s). If any settlement check is not negotiated in that period of time, that settlement check will be voided, and a stop-payment will be placed on the settlement check. Any individual SETTLEMENT PAYMENTS or portions thereof which remain unclaimed for any reason one hundred twenty (120) calendar days following the mailing of the SETTLEMENT PAYMENT shall be deemed unclaimed. In such event, one hundred percent (100%) of such net unclaimed funds of those PARTICIPATING SETTLEMENT CLASS MEMBERS shall escheat to the appropriate state agency applicable to that individual one hundred twenty (120) calendar days from the date on which the settlement check expired, but the SETTLEMENT AGREEMENT and release of claims contained herein nevertheless will be binding upon them. Neither DEFENDANTS, counsel for DEFENDANTS, CLASS COUNSEL, PLAINTIFFS, nor the CLAIMS ADMINISTRATOR shall have any liability for lost or stolen settlement checks, for forged signatures on settlement checks, or for unauthorized negotiation of settlement checks.

Without limiting the foregoing, in the event a member of the FINAL SETTLEMENT CLASSES notifies the CLAIMS ADMINISTRATOR that he or she believes that a settlement check has been lost or stolen, the CLAIMS ADMINISTRATOR shall immediately place a stop payment on such check. If the settlement check in question has not been negotiated prior to the stop payment order and one hundred twenty (120) calendar days has not passed since the mailing of the settlement check, the CLAIMS ADMINISTRATOR will issue a replacement check, from which the fees associated with any stop payment order will first be deducted.

X. CLASS COUNSEL'S FEES, COSTS, AND EXPENSES

A. CLASS COUNSEL may make an application to the COURT for an award of attorneys' fees up to an amount not to exceed thirty-three and one-third percent (33 and 1/3%) of the GROSS SETTLEMENT AMOUNT. CLASS COUNSEL will also make an application for an award of costs and expenses (not including SETTLEMENT COSTS) in addition to their fee application. Such application shall be filed in connection with FINAL APPROVAL of the SETTLEMENT AGREEMENT. DEFENDANTS agree that they will not oppose CLASS COUNSEL'S application as set forth above.

B. If the COURT rules that any amount requested by CLASS COUNSEL for attorneys' fees, expenses or costs is excessive and reduces the same, only the final amount approved by the Court or on appeal will be deemed to be CLASS COUNSEL'S FEES, COSTS AND EXPENSES for purposes of this SETTLEMENT AGREEMENT. Any reduction that is finally approved will be allocated to the REVISED GROSS SETTLEMENT AMOUNT and included in the calculation of the PARTICIPATING CLASS MEMBERS SETTLEMENT PAYMENTS. The outcome of any proceeding related to CLASS COUNSEL's application for FEES, COSTS AND EXPENSES shall not terminate this SETTLEMENT AGREEMENT or

otherwise affect the Court's ruling on the Motion for issuance of the FINAL APPROVAL ORDER.

C. This SETTLEMENT AGREEMENT is not conditioned on the COURT'S approval of CLASS COUNSEL'S application for fees, costs and expenses. This SETTLEMENT AGREEMENT is not conditioned on the COURT'S approval of SERVICE AWARDS to the named plaintiffs and opt-in plaintiffs who participated in discovery.

D. Payment of CLASS COUNSEL'S FEES, COSTS AND EXPENSES to CLASS COUNSEL in the amounts approved by the COURT shall constitute full satisfaction of any and all obligations by RELEASED PERSONS to pay any person, attorney, or law firm (including but not limited to CLASS COUNSEL) for attorneys' fees, expenses, or costs (including but not limited to any fees, costs, and expenses related to testifying and non-testifying experts and consultants) incurred on behalf of all members of the SETTLEMENT CLASSES regarding the RELEASED CLAIMS and shall relieve the RELEASED PERSONS of any other claims or liability to any person for any attorneys' fees, expenses, and costs (including but not limited to any fees, costs, and expenses related to testifying and non-testifying experts and consultants) to which any person may claim to be entitled on behalf of any members of the SETTLEMENT CLASSES for this LITIGATION. Upon payment of CLASS COUNSEL'S FEES, COSTS AND EXPENSES hereunder, CLASS COUNSEL and members of the SETTLEMENT CLASSES shall be deemed to have released RELEASED PERSONS from any and all claims for attorneys' fees, expenses, and costs (including but not limited to any fees, costs, and expenses related to testifying and non-testifying experts and consultants) relating to the RELEASED CLAIMS. CLASS COUNSEL further represent and certify that they are not aware of any liens for attorneys' fees, expenses, or costs existing, filed, or asserted with respect to any of the claims asserted in this LITIGATION.

E. Within twenty (20) business days after the Qualified Settlement Fund is funded, the CLAIMS ADMINISTRATOR shall pay CLASS COUNSEL CLASS COUNSEL'S FEES, COSTS AND EXPENSES in the amounts approved by the COURT via electronic means. Prior to any payment of CLASS COUNSEL'S FEES, COSTS AND EXPENSES as approved by the COURT, CLASS COUNSEL shall provide the CLAIMS ADMINISTRATOR with consistent written instructions regarding how the amount shall be allocated (*e.g.*, which law firm to receive what amount) as well as all information necessary to effectuate such payments (*e.g.*, executed IRS Forms W-9). The CLAIMS ADMINISTRATOR will issue a respective IRS Form 1099 misc to each law firm receiving a portion of the award of CLASS COUNSEL'S FEES, COSTS AND EXPENSES. No portion of the award shall be reported as income to PARTICIPATING SETTLEMENT CLASS MEMBERS.

XI. SERVICE PAYMENTS

A. CLASS COUNSEL may also make an application to the COURT for one-time SERVICE PAYMENT awards to NAMED PLAINTIFFS and certain FLSA COLLECTIVE MEMBERS who participated in discovery in recognition of the risks they took as well as the work and services that said individuals contributed to the LITIGATION including, but not limited to, investigative work, meetings with CLASS COUNSEL, assumption of risks, serving as representatives of the SETTLEMENT CLASSES, and participation in mediation and related activities. The SERVICE PAYMENT(S) shall not exceed \$20,000.00 to each of the NAMED PLAINTIFFS. The SERVICE PAYMENT(S) shall not exceed \$10,000.00 to each of FLSA COLLECTIVE MEMBERS who appeared for deposition in the LITIGATION. The SERVICE PAYMENT(S) shall be determined by the COURT. DEFENDANTS do not object to these SERVICE PAYMENTS.

B. The CLAIMS ADMINISTRATOR shall mail SERVICE PAYMENTS approved by the COURT within twenty (20) business days after the Qualified Settlement Fund is funded.

D. SERVICE PAYMENTS shall be treated as non-wage income, and the CLAIMS ADMINISTRATOR shall issue a Form 1099 to SERVICE PAYMENT RECIPIENTS reflecting the amount of their respective SERVICE PAYMENT.

E. SERVICE PAYMENTS shall be paid out of the GROSS SETTLEMENT AMOUNT.

F. This SETTLEMENT AGREEMENT is not conditioned on the COURT'S approval of the COURT'S approval of SERVICE AWARDS to the SERVICE PAYMENT RECIPIENTS.

XII. RELEASE OF CLAIMS; WAIVER; ASSIGNMENT OF RIGHTS

A. Release by PLAINTIFFS and RELEASING PERSONS. Effective as of the FINAL EFFECTIVE DATE, PLAINTIFFS and all RELEASING PERSONS shall be deemed to have released all wage and hour claims and related claims which were or could have been asserted in the litigation under the New York Law and Connecticut Law including, without limitations, all state claims for unpaid overtime, regular, straight or minimum wages, and related claims for penalties, statutory notice or statement violations, interest, liquidated damages, attorneys' fees, costs, and expenses to the maximum possible extent permitted by law. PLAINTIFFS and all RELEASING PERSONS who were sent prior notice of the Rule 23 Class Action through the Court approved notices mailed on November 21, 2019 shall be deemed have release such claims that occurred at any time up to and including January 1, 2021 and PLAINTIFFS and all RELEASING PERSONS who were not sent prior notice of the Rule 23 Class Action through the Court approved notices mailed on November 21, 2019 shall be deemed have release such claims that occurred at any time up to and including November 30, 2020. In

addition, each PARTICIPATING SETTLEMENT CLASS MEMBER who was sent prior notice of the Rule 23 Class Action through the Court approved notices mailed on November 21, 2019 who cashes his or her settlement check will release all wage and hour claims which were or could have been asserted in the litigation under the FLSA, to the maximum possible extent permitted by law accruing up to and including January 1, 2021, and each PARTICIPATING SETTLEMENT CLASS MEMBER who was not sent prior notice of the Rule 23 Class Action through the Court approved notices mailed on November 21, 2019 who cashes his or her settlement check will release all wage and hour claims which were or could have been asserted in the litigation under the FLSA, to the maximum possible extent permitted by law accruing up to and including November 30, 2020. The settlement checks shall include the following or similar endorsement:

By signing this check, I consent to join the FLSA collective action against Defendants styled Daverlynn Kinkead v. Humana, Inc., et. al, 15-cv-01637 and release Defendants from all wage and hour claims under any state or federal law including but not limited to the Fair Labor Standards Act which were or could have been brought in this action, including but not limited to claims for unpaid overtime wages and statutory penalties.

B. Further Release by the SERVICE PAYMENT RECIPIENTS, but only if SERVICE PAYMENTS are approved by the Court. In addition to the RELEASED CLAIMS identified in Section XII, effective as of the FINAL EFFECTIVE DATE, SERVICE PAYMENT RECIPIENTS voluntarily and with the advice of CLASS COUNSEL, fully and forever release, acquit, and discharge the DEFENDANTS and all RELEASED PERSONS, in their personal individual, official and/or corporate capacities, from all such claims and demands directly or indirectly arising out of or in any way connected with their employment with DEFENDANTS; any and all claims for wages, paid time off, bonuses, commissions, unpaid hours, overtime, vacation pay, severance pay, or any other form of compensation of any kind, and any and all claims for failure to

reimburse business expenses, any and all claims for failure to provide wage statements, any and all claims for failure to provide any compensation-related notice, any type of penalties or damages available under any wage and hour laws; claims pursuant to any federal, state or local law, statute, regulation, or cause of action including, but not limited to, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Family and Medical Leave Act, the National Labor Relations Act (29 U.S.C. § 151, *et seq.*), the Equal Pay Act (29 U.S.C. § 206), the Civil Rights Acts (42 U.S.C. § 1981 and § 1988), the Fair Labor Standards Act (29 U.S.C. § 201, *et seq.*), the Age Discrimination in Employment Act (“ADEA”), and other state and local statute, ordinance or regulation prohibiting discrimination in employment, and all other laws and regulations relating to employment including but not limited to any and all claims for wages, paid time off, bonuses, commissions, unpaid hours, overtime, vacation pay, severance pay, or any other form of compensation of any kind, and any and all claims for failure to reimburse business expenses, any and all claims for failure to provide wage statements, any and all claims for failure to provide any compensation-related notice, any type of penalties or damages available under any wage and hour laws; tort law; contract law; wrongful discharge; retaliation; discrimination; harassment; fraud; defamation; emotional distress; and breach of the implied covenant of good faith and fair dealing that occurred at any time up to and including January 1, 2021. However, this release does not include any claims that cannot be lawfully waived or released by private agreement.

1. **Time to Negotiate and Consider The RELEASED CLAIMS For SERVICE PAYMENT RECIPIENTS Who Are 40 Years of Age or Older.** SERVICE PAYMENT RECIPIENTS who are 40 years of age or older are advised to consult with an attorney before signing this SETTLEMENT AGREEMENT. Each SERVICE PAYMENT RECIPIENT who is 40 years of age or older represents that he or she has carefully read this release and the RELEASED

CLAIMS contained herein at Section XII.A & B. and finds that it has been written in language that he or she understands. Each SERVICE PAYMENT RECIPIENT who is 40 years of age or older has been given twenty-one (21) calendar days to consider whether to accept the release and RELEASED CLAIMS contained herein at Section XII.A & B., and has signed it only after reading, considering and understanding it. If any SERVICE PAYMENT RECIPIENT who is 40 years of age or older signs this SETTLEMENT AGREEMENT before the expiration of that 21-day period, he or she is expressly waiving his or her right to consider the release and RELEASED CLAIMS contained herein at Section XII.A & B. for any remaining portion of that 21-day period. The PARTIES agree that any changes made to the release and RELEASED CLAIMS contained herein at Section XII.A & B. from the version originally presented to SERVICE PAYMENT RECIPIENTS who are 40 years of age or older, whether those changes are deemed material or nonmaterial, do not extend the 21-day period each SERVICE PAYMENT RECIPIENT who is 40 years of age or older has been given to consider the release and RELEASED CLAIMS contained herein at Section XII.A & B.

2. Waiver of Age Discrimination/Retaliation Claims and Revocation For SERVICE PAYMENT RECIPIENTS who Are 40 Years of Age or Older. As to the waiver of any and all potential age discrimination and/or retaliation claims under the Age Discrimination in Employment Act (“ADEA”), each SERVICE PAYMENT RECIPIENT who is 40 years of age or older further understands and acknowledges that he or she have seven (7) calendar days following the execution of this SETTLEMENT AGREEMENT to revoke the release and RELEASED CLAIMS contained herein at Section XII.B. to waive potential age discrimination and/or retaliation claims under the ADEA. Each SERVICE PAYMENT RECIPIENT who is 40 years of age or older acknowledges that the portion of the release and RELEASED CLAIMS contained herein at Section XII.B. that waives such potential age discrimination and/or retaliation claims shall not become

effective or enforceable until the revocation period has expired and he or she has not exercised his or her right to revoke.

Each SERVICE PAYMENT RECIPIENT who is 40 years of age or older further understands that in order to revoke the waiver of age discrimination and/or retaliation claims under the ADEA contained in the release and RELEASED CLAIMS in Section XII.B., he or his attorney or she or her attorney must deliver a written and signed statement of revocation to Jackson Lewis, c/o David Golder at Jackson Lewis P.C., 90 State House Square, 8th Floor, Hartford, CT 06103 within seven (7) days following their execution of this SETTLEMENT AGREEMENT. In either case, a SERVICE PAYMENT RECIPIENT who is 40 years of age or older agrees to keep written documentation proving that he or she revoked this the release and RELEASED CLAIMS in Section XII.B. as provided in this paragraph. If such revocation of the release and waiver of potential age discrimination and/or retaliation claims occurs, the consideration for the SERVICE PAYMENT will be reduced by fifty (50%) percent. The remaining provisions of the release and RELEASED CLAIMS in Section XII.A. & B. will remain in full force and effect.

Each SERVICE PAYMENT RECIPIENT who is 40 years of age or older understands that once he or she signs below, this SETTLEMENT AGREEMENT will become a legally enforceable agreement under which he or she will be giving up rights and claims he or she may have, on the terms stated in this SETTLEMENT AGREEMENT.

Each SERVICE PAYMENT RECIPIENT who is 40 years of age or older has been given the opportunity to consult with an attorney prior to execution of this SETTLEMENT AGREEMENT. Each SERVICE PAYMENT RECIPIENT who is 40 years of age or older acknowledges that he or she has consulted with his or her attorneys and signs this SETTLEMENT AGREEMENT knowingly, freely and voluntarily.

C. PLAINTIFFS and RELEASING PERSONS further covenant and agree that, since they are settling disputed claims, they will not accept, recover or receive any back pay, liquidated damages, other damages or any other form of relief based on any RELEASED CLAIMS which may arise out of, or in connection with any other individual, union representative, class or any administrative or arbitral remedies pursued by any individual, class/collective, union or federal, state or local governmental agency against the RELEASED PERSONS. PLAINTIFFS and RELEASING PERSONS further acknowledge that they may not pursue any RELEASED CLAIMS they have, had, might have or might have had against the RELEASED PERSONS.

D. PLAINTIFFS' Counsel and PLAINTIFFS represent and warrant that nothing which would otherwise be released herein has been assigned, transferred, or hypothecated or purportedly assigned, transferred, or hypothecated to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the LITIGATION, or any related action. Upon the FINAL EFFECTIVE DATE of this SETTLEMENT AGREEMENT, members of the FINAL SETTLEMENT CLASSES shall be deemed to have given this warranty.

XIII. MEDIA AND CONFIDENTIALITY OBLIGATIONS

A. To the extent permissible under governing ethical rules or laws, CLASS COUNSEL agrees not to disclose, publicize or disseminate the terms of the settlement beyond what is required to obtain COURT approval and the requirements to effectuate the terms of the settlement, and communications with SETTLEMENT CLASS MEMBERS regarding their rights under the settlement agreement and the settlement process.

XIV. BINDING EFFECT; EXCLUSION, OPT-OUT AND OBJECTION RIGHTS

A. Rights of new members of NEW YORK STATE LAW SETTLEMENT CLASS and CONNECTICUT STATE LAW SETTLEMENT CLASS to OPT-OUT: Members of the NEW

YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS who were not sent prior notice of the action through the Court approved notices mailed on November 21, 2019, may OPT-OUT of such class by sending a Request for Exclusion to the CLAIMS ADMINISTRATOR via U.S. Mail, overnight delivery service, facsimile, scanned copy of the Request for Exclusion via email, expressing his/her desire to be excluded from the FINAL NEW YORK STATE LAW SETTLEMENT CLASS and/or FINAL CONNECTICUT STATE LAW SETTLEMENT CLASS, including his/her name (and former names, if any), current address, telephone number, and Social Security number,. The Request for Exclusion must be signed by the individual who is electing to OPT-OUT, and any such Request for Exclusion must be received by the CLAIMS ADMINISTRATOR on or before the BAR DATE in order to be considered timely and to exclude themselves from the FINAL NEW YORK STATE LAW SETTLEMENT CLASS or FINAL CONNECTICUT STATE LAW SETTLEMENT CLASS. Requests for Exclusion that are not received by the CLAIMS ADMINISTRATOR during the OPT-OUT PERIOD, will be deemed null, void, and ineffective. If a timely Request for Exclusion is received that does not include the required information, the CLAIMS ADMINISTRATOR shall notify the individual seeking to be excluded of the deficiency and such individuals shall have until 10 calendar days after the end of the OPT-OUT PERIOD to cure the deficiency. Members of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS may not exclude themselves by filing a Request for Exclusion as a group or class, but must in each instance individually and personally execute a Request for Exclusion and timely return it to the CLAIMS ADMINISTRATOR. By opting out, any member of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS who previously filed a consent form to join the FLSA COLLECTIVE

shall be deemed to have withdrawn that consent and will no longer be a member of the FLSA COLLECTIVE for any purpose, including this SETTLEMENT AGREEMENT. Any member of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS who is an OPT-OUT, including but not limited to those who are also members of the FLSA COLLECTIVE, shall not: (i) have any rights under this SETTLEMENT AGREEMENT; (ii) be entitled to receive a SETTLEMENT PAYMENT; (iii) have a right to object to the SETTLEMENT AGREEMENT; and (iv) be bound by this SETTLEMENT AGREEMENT, the FINAL APPROVAL ORDER, or the FINAL JUDGMENT.

B. Rights of members of the SETTLEMENT CLASSES to Object: Any member of the SETTLEMENT CLASSES who does not opt-out may object to this SETTLEMENT AGREEMENT, however, any such objections must be received by the CLAIMS ADMINISTRATOR on or before the BAR DATE in order to be timely. Such objection shall include the name and address of the OBJECTOR, and a statement of the basis for each objection asserted. If the OBJECTOR is represented by counsel, the name and address of counsel shall be provided. If counsel is appearing on behalf of more than one OBJECTOR, counsel must identify each such OBJECTOR and each such OBJECTOR must individually comply with the requirements of this paragraph. No member of the SETTLEMENT CLASSES may be heard at the FINAL APPROVAL HEARING who has not previously filed an objection in writing, and any member of the SETTLEMENT CLASSES who fails to file a written objection by the BAR DATE will be deemed to have waived any right to object and any objection to the SETTLEMENT AGREEMENT.

D. Any member of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS who does not elect to be excluded from the SETTLEMENT AGREEMENT may, but need not, enter an appearance through his or her

own attorney. Members of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS who do not enter an appearance through their own attorneys will be represented by CLASS COUNSEL. No later than ten (10) calendar days before the date of the FINAL APPROVAL HEARING, the CLAIMS ADMINISTRATOR shall certify jointly to CLASS COUNSEL and DEFENDANTS' counsel: (1) a list of all members of the SETTLEMENT CLASSES who filed a timely objection; (2) the percentage and list of all members of the NEW YORK STATE LAW SETTLEMENT CLASS and CONNECTICUT STATE LAW SETTLEMENT CLASS who timely and properly requested to OPT-OUT at any time during the OPT-OUT PERIOD; and (3) a list of all individual members of the SETTLEMENT CLASSES who disputed the amounts allocated to them, or individuals who came forward after the mailing of the SETTLEMENT NOTICE and alleged that they should have been included in one or more of the SETTLEMENT CLASSES. Based on this information CLASS COUNSEL shall calculate the SETTLEMENT PAYMENTS for PARTICIPATING SETTLEMENT CLASS MEMBERS and provide that information to DEFENDANTS' counsel and the CLAIMS ADMINISTRATOR on a CD or by any secure file transfer method.

E. Binding Effect on members of FINAL SETTLEMENT CLASSES: Upon the FINAL EFFECTIVE DATE all members of the FINAL SETTLEMENT CLASSES will be bound by the terms and conditions of this SETTLEMENT AGREEMENT, the FINAL APPROVAL ORDER, the FINAL JUDGMENT, and the releases set forth herein; and will be deemed to have waived all objections and opposition to the fairness, reasonableness, and adequacy of the settlement.

XV. DUTIES OF CLAIMS ADMINISTRATOR

A. The PARTIES agree that Settlement Services, Inc., Post Office Drawer 1657, Tallahassee, Florida, 32308 is the entity that will serve as the CLAIMS ADMINISTRATOR.

B. The SETTLEMENT EXPENSES are to be paid from the GROSS SETTLEMENT AMOUNT as specified in Paragraph IIA.

C. By agreeing to serve as the CLAIMS ADMINISTRATOR, the CLAIMS ADMINISTRATOR voluntarily agrees subject itself to the jurisdiction of the COURT and waives any jurisdictional objections.

D. The CLAIMS ADMINISTRATOR will perform all of the administrative duties assigned herein, including: (1) submitting a budget to counsel for the PARTIES for their approval before performing any claims services; (2) calculating the REVISED GROSS SETTLEMENT AMOUNT; (3) formatting and printing the SETTLEMENT NOTICE and mailing, emailing and texting the SETTLEMENT NOTICE to members of the SETTLEMENT CLASSES as required in the SETTLEMENT AGREEMENT; (4) creating and maintaining a settlement website that allows SETTLEMENT CLASS MEMBERS to view and obtain the complete SETTLEMENT AGREEMENT and related documents, and other important pleadings, to electronically file claim forms, change of address forms, W-4 forms, and forms allowing individuals to claim as ESTATE REPRESENTATIVES or legal guardians and to obtain updates regarding the settlement process; (5) maintaining a toll-free telephone number staffed by knowledgeable individuals to handle questions from SETTLEMENT CLASS MEMBERS;(6) copying counsel for all PARTIES on material correspondence and promptly notifying counsel for the PARTIES of any material requests or communications made by any PARTY; (7) requesting additional information from members of the SETTLEMENT CLASSES in accordance with the terms of Section IX above; (8) maintaining the original mailing envelope in which requests to OPT-OUT or objections, and other correspondence is received; (9) promptly furnishing to CLASS COUNSEL and DEFENDANTS' counsel copies of any requests to OPT-OUT and/or objections which the CLAIMS

ADMINISTRATOR receives; (10) mailing a SETTLEMENT PAYMENT and SERVICE PAYMENT (if applicable) in accordance with the terms of Section IX above, to PARTICIPATING SETTLEMENT CLASS Members; (11) electronically transferring CLASS COUNSEL'S FEES, COSTS AND EXPENSES in accordance with the SETTLEMENT AGREEMENT; (12) attempting to confirm the accuracy and, if necessary, updating the addresses of the members of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS through the United States Post Office's NCOA and ascertaining current address and addressee information for each SETTLEMENT NOTICE returned as undeliverable and conducting a second mailing to the current address, if ascertained; (13) responding to inquiries of members of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS regarding the terms of settlement and procedures for submitting objections and requests to OPT-OUT; (14) referring to CLASS COUNSEL all inquiries by members of the SETTLEMENT CLASSES regarding matters not within the CLAIMS ADMINISTRATOR'S duties specified herein, (15) promptly apprising counsel for the PARTIES of the activities of the CLAIMS ADMINISTRATOR; (16) maintaining adequate records of its activities, including the dates of the mailing of SETTLEMENT NOTICE(s) to members of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS, the mailing of SETTLEMENT PAYMENTS to members of the PARTICIPATING CLASS MEMBERS, returned mail and other communications and attempted written or electronic communications with members of the SETTLEMENT CLASSES; (17) confirming in a declaration its completion of the administration of the SETTLEMENT AGREEMENT; (18) timely responding to communications from the PARTIES or their counsel; (19) distributing any residual balance under this SETTLEMENT AGREEMENT to the court-approved *cy pres*; (18) calculating and advising DEFENDANTS of the

EMPLOYERS' SHARE OF PAYROLL TAXES (20) performing all payroll tax reporting duties required by federal, state, or local law or this SETTLEMENT AGREEMENT; (21) calculating and remitting to the proper taxing authority PARTICIPATING CLASS MEMBERS' withholding taxes and deductions; (22) ensuring that PARTICIPATING CLASS MEMBERS and CLASS COUNSEL are provided with IRS FORM W-2s and IRS 1099 misc. forms as appropriate; (23) opening and administering a qualified settlement fund, to which DEFENDANTS shall electronically transfer an amount equal to the GROSS SETTLEMENT AMOUNT less any previously paid SETTLEMENT EXPENSES paid pursuant to the SETTLEMENT AGREEMENT, as well as the EMPLOYERS SHARE OF PAYROLL TAXES in such a manner as to qualify and maintain it as a "Qualified Settlement Fund" under Section 468B of the Code and Treas. Reg. Section 1.468B-1 ("QSF") -- the QSF shall be non-interest bearing, to the extent permitted by applicable law or regulations; (24) opening the QSF at least five (5) business days prior to the date on which the QSF is to be funded; (25) protecting the personal data of members of the SETTLEMENT CLASS, including Social Security numbers, from public disclosure; (26) maintaining reasonable administrative, physical, and technical controls that will protect the confidentiality, security, integrity, and availability of personal data of the members of the SETTLEMENT CLASSES pursuant to the terms of Sections XV.E and XV.F below; (27) delivering to DEFENDANTS' counsel a CD or another file type sent by any secure file transfer method approved by CLASS COUNSEL and DEFENDANTS' counsel information to which they are entitled under the SETTLEMENT AGREEMENT; (28) maintaining all records, electronic or otherwise, relating to the administration of this SETTLEMENT AGREEMENT, for a period of six (6) years after the date of FINAL JUDGMENT; (29) setting aside a RESERVE FUND equal to \$50,000 in accordance with Section II.B; (30) distributing any remaining funds in the RESERVE FUND in accordance with Section II.B.7; (31) performing the remaining tasks

identified in Section II.B and, to the extent applicable, in this Section, with respect to individuals who allege they should be included in one or both of the FLSA COLLECTIVE, the CONNECTICUT STATE LAW SETTLEMENT CLASS, and/or the NEW YORK STATE LAW SETTLEMENT CLASS and whom the PARTIES agree are properly included; (32) such other tasks contained in the SETTLEMENT AGREEMENT; and (33) such other tasks as the PARTIES mutually agree.

E. CLASS COUNSEL and DEFENDANTS' counsel have the right to review and approve any SETTLEMENT DOCUMENT forms to be mailed by the CLAIMS ADMINISTRATOR prior to their mailing, and the CLAIMS ADMINISTRATOR may not mail any documents without authority provided in this SETTLEMENT AGREEMENT or first receiving written approval to send the documents from CLASS COUNSEL and DEFENDANTS' counsel.

F. The PARTIES shall be permitted to conduct a risk assessment of the CLAIMS ADMINISTRATOR to verify that the CLAIMS ADMINISTRATOR has in place an effective information and data security program capable of protecting the personal information of the members of the SETTLEMENT CLASSES. The CLAIMS ADMINISTRATOR must agree to be bound to an "Agreed Protective Order and Protective Order Addendum Regarding Class Member Information and Settlement Notice Administrator Duties," confirming that the CLAIMS ADMINISTRATOR agrees to be subject to the jurisdiction of the COURT and the CLAIMS ADMINISTRATOR has sufficient safeguards in place to protect information of the members of the SETTLEMENT CLASSES. The CLAIMS ADMINISTRATOR must agree to the same in writing no later than seven (7) calendar days after the execution of this SETTLEMENT AGREEMENT. Either PARTY may object to the selection of a CLAIMS ADMINISTRATOR

which does not pass the assessment process or which will not agree to reasonable contractual commitments regarding the security of member information.

XVI. TERMINATION OF THE SETTLEMENT AGREEMENT

A. Grounds for Settlement Termination: This SETTLEMENT AGREEMENT may be terminated on the following grounds:

1. The SETTLEMENT AGREEMENT shall terminate automatically in the event the FINAL APPROVAL of the SETTLEMENT AGREEMENT is denied after any appeals taken have been exhausted.

2. PLAINTIFFS or DEFENDANTS may terminate the SETTLEMENT AGREEMENT if the COURT declines to enter an APPROVAL ORDER, or judgment substantially in the form submitted by the PARTIES.

3. If ten percent (10%) or more of the members of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS, exercise their rights to OPT-OUT and be excluded from the FINAL NEW YORK STATE LAW SETTLEMENT CLASS and/or FINAL CONNECTICUT STATE LAW SETTLEMENT CLASS and this SETTLEMENT AGREEMENT, DEFENDANTS shall have the right, notwithstanding any other provisions of this SETTLEMENT AGREEMENT, to withdraw from this SETTLEMENT AGREEMENT, whereupon the SETTLEMENT AGREEMENT will be null and void for all purposes and may not be used or introduced in further LITIGATION or any other proceeding of any kind.

4. The Court revises or limits the scope of the release as contemplated herein.

5. Any NAMED PLAINTIFF refuses to sign the SETTLEMENT AGREEMENT.

B. Procedures for Termination: Termination of the SETTLEMENT AGREEMENT shall be automatic in the event specified in A. (1) above. To terminate this SETTLEMENT AGREEMENT on grounds A. (2), (3), or (4) specified above, the terminating Counsel (*i.e.*, CLASS COUNSEL or counsel for DEFENDANTS) shall give written notice to the opposing counsel no later than seven (7) business days after receiving notice of the event permitting termination.

C. Effect of Termination: In the event that this SETTLEMENT AGREEMENT is canceled, rescinded, terminated, voided, or nullified, however that may occur, or the settlement of the LITIGATION is barred by operation of the law, is invalidated, is not approved or otherwise is ordered not to be carried out by any COURT:

1. The SETTLEMENT AGREEMENT shall be terminated and shall have no force or effect, and no PARTY shall be bound by any of its terms;

2. In the event the SETTLEMENT AGREEMENT is terminated or not approved by the COURT, DEFENDANTS shall have no obligation to make any payments to any PARTY, PLAINTIFF, member of the SETTLEMENT CLASSES, or CLASS COUNSEL except for the SETTLEMENT EXPENSES of the CLAIMS ADMINISTRATOR for services rendered through the date of termination shall be borne equally by DEFENDANTS and CLASS COUNSEL.

3. The PRELIMINARY APPROVAL ORDER, FINAL APPROVAL ORDER, and/or judgment, including any conditional order of class certification for settlement purposes, shall be vacated;

4. The SETTLEMENT AGREEMENT and all negotiations, statements and proceedings relating thereto shall be void without prejudice to the rights of any of the PARTIES,

all of whom shall be restored to their respective positions in the LITIGATION prior to the settlement; and

5. Neither this SETTLEMENT AGREEMENT, nor any ancillary documents, actions, statements or filings in furtherance of settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the LITIGATION or any other action for any purpose whatsoever.

6. DEFENDANTS reserve the right to move to decertify the New York and Connecticut classes and the FLSA collective action, should the SETTLEMENT AGREEMENT not become final.

7. In the event the Settlement Agreement is terminated the Parties shall each be liable for 1/2 of the expenses incurred by the Settlement Administrator.

XVII. LIMITATION ON PARTIES' USE OF THE SETTLEMENT TO SUPPORT CLAIMS, INCLUDING MOTIONS FOR CLASS OR CONDITIONAL CERTIFICATION, IN OTHER LITIGATION

None of the PLAINTIFFS or members of the FINAL SETTLEMENT CLASSES, CLASS COUNSEL, DEFENDANTS or DEFENDANTS' counsel shall use: (1) the fact of this settlement of the RELEASED CLAIMS; (2) the terms of this SETTLEMENT AGREEMENT; or (3) any information, data or documents exchanged in connection with this settlement of the RELEASED CLAIMS, to support or oppose any claims against DEFENDANTS, including with respect to a Section 216(b) Motion For Conditional Certification under the FLSA or any Federal Rule of Civil Procedure 23 Motion For Class Certification, asserted in any other action. Specifically, PLAINTIFFS, members of the FINAL SETTLEMENT CLASSES, and CLASS COUNSEL agree that they will not argue, in seeking conditional certification of an FLSA collective or the Federal Rule of Civil Procedure 23 certification of a putative state law class on other claims asserted in any other such action, that a putative collective is similarly situated or appropriate for class or collective

treatment because DEFENDANTS agreed to settle the RELEASED CLAIMS on a collective and/or class basis.

XVIII. PARTIES' AUTHORITY

A. The signatories hereby represent that they are fully authorized to enter into this SETTLEMENT AGREEMENT and bind the PARTIES hereto to the terms and conditions hereof.

B. PLAINTIFFS acknowledge that they will, together with CLASS COUNSEL, seek COURT approval of this SETTLEMENT AGREEMENT such that it will bind themselves and members of the FINAL SETTLEMENT CLASSES to all terms set forth in this SETTLEMENT AGREEMENT.

C. It is agreed that because the members of the SETTLEMENT CLASSES are so numerous, it is impossible or impractical to have each member of the SETTLEMENT CLASSES execute the SETTLEMENT AGREEMENT. The SETTLEMENT NOTICE will advise all members of the SETTLEMENT CLASSES of the binding nature of the SETTLEMENT and release as of the FINAL EFFECTIVE DATE and that, upon the FINAL EFFECTIVE DATE the release will have the same force and effect upon all members of the FINAL SETTLEMENT CLASSES, regardless of whether they file claim forms to be PARTICIPATING CLASS MEMBERS.

XIX. MUTUAL FULL COOPERATION

The PARTIES agree to fully cooperate with each other to accomplish the terms of the SETTLEMENT AGREEMENT, including, but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of the SETTLEMENT AGREEMENT. The PARTIES to the SETTLEMENT AGREEMENT shall use reasonable efforts, including all efforts contemplated by the SETTLEMENT AGREEMENT and other reasonable efforts that may become necessary by order of the COURT, or otherwise, to effectuate the

SETTLEMENT AGREEMENT and the terms set forth herein. PLAINTIFFS and CLASS COUNSEL shall, with the assistance and cooperation of DEFENDANTS and DEFENDANTS' counsel, take reasonable steps to secure the COURT'S final approval of the SETTLEMENT AGREEMENT.

XX. RETURN OR DESTRUCTION OF MATERIAL PRODUCED IN THIS ACTION

The Parties shall return and/or destroy all material produced in this action in conformity with the Standing Protective Order entered in the LITIGATION. Doc. 4 ¶ 16.

XXI. NOTICES

Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To PLAINTIFFS and members of the SETTLEMENT CLASSES:

Philip Bohrer
Bohrer Brady, LLC
8712 Jefferson Highway, Ste. B
Baton Rouge, LA 70809
P: (225) 925-5297
F: (225) 231-7000
phil@bohrerbrady.com

Michael J.D. Sweeney
Getman, Sweeney & Dunn, PLLC
260 Fair Street
Kingston, NY 12401
P: (845) 255-9370
F: (845) 255-8649
msweeney@getmansweeney.com

[Edward Tuddenham](#)
[23 Rue du Laos](#)

[75015 Paris. France](mailto:etudden@prismnet.co)
[P: +33.6.84.79.89.30](tel:+33684798930)
etudden@prismnet.co

To DEFENDANTS:

David R. Golder (ct 27941)
golderd@jacksonlewis.com
Noel Tripp (*pro hac vice*)
trippn@jacksonlewis.com
Jackson Lewis P.C.
90 State House Square, 8th Floor
Hartford, CT 06103
P: (860) 522-0404
F: (860) 247-1330

XXII. CONSTRUCTION AND INTERPRETATION

A. The PARTIES hereto agree that the terms and conditions of the SETTLEMENT AGREEMENT are the result of lengthy, intensive, arms-length negotiations among the PARTIES, and the SETTLEMENT AGREEMENT shall not be construed in favor of or against any PARTY by reason of the extent to which any PARTY or his, her, or its counsel participated in the drafting of the SETTLEMENT AGREEMENT.

B. Section titles are inserted as a matter of convenience for reference, and in no way define, limit, extend, or describe the scope of this SETTLEMENT AGREEMENT or any of its provisions. Each term of this SETTLEMENT AGREEMENT is contractual and not merely a recital.

C. This SETTLEMENT AGREEMENT shall be subject to and governed by the laws of the State of Connecticut and subject to the continuing jurisdiction of the United States District Court for the District of Connecticut. The PARTIES agree that the COURT shall retain jurisdiction over the Parties and over this Agreement for all purposes. The Court shall retain jurisdiction regardless of dismissal.

XXII. FORM AND CONTENT RESOLUTION

A. The PARTIES agree they must reach agreement on the form and content of the SETTLEMENT AGREEMENT and its exhibits, the SETTLEMENT NOTICE, the CAFA NOTICE, the PRELIMINARY APPROVAL ORDER, and the FINAL APPROVAL ORDER.

B. The PARTIES agree that in the event they disagree as to the meaning or interpretation of the terms of the SETTLEMENT AGREEMENT or its exhibits, any and all such disputes will be resolved by the Court.

XXIII. INTEGRATION CLAUSE

This SETTLEMENT AGREEMENT sets forth the entire agreement between the PARTIES hereto.

XXIV. BINDING ON ASSIGNS

This SETTLEMENT AGREEMENT shall be binding upon and inure to the benefit of the PARTIES, the RELEASING PERSONS, the RELEASED PERSONS, and their respective agents, heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, exclusive bargaining agents, successors-in-interest, and assigns.

XXV. MODIFICATION

The PARTIES reserve the right to modify the terms of this Agreement by mutual agreement through the date the Settlement is submitted for Final Approval. No rights hereunder may be waived or modified except in a writing signed by duly authorized representatives of the PARTIES.

XXVI. ENFORCEMENT OF THE SETTLEMENT AGREEMENT

A. In the event a PARTY seeks to enforce the terms of this SETTLEMENT AGREEMENT or to collect on any payments due under the terms of this SETTLEMENT

AGREEMENT, notice must be mailed to opposing counsel as provided in Section XX. After receipt of notice, the PARTIES shall meet and confer in a good faith attempt to resolve the matter for ten (10) calendar days. In the event those efforts are unsuccessful and one or more of the PARTIES attempts to institute any legal action or other proceeding to enforce the terms of this SETTLEMENT AGREEMENT, or to declare rights and/or obligations under this SETTLEMENT AGREEMENT, or to collect on any payments due under the terms of this SETTLEMENT AGREEMENT, the prevailing party in such an enforcement action may be awarded reasonable attorneys' fees, expenses, and costs.

XXVIII. COUNTERPARTS

The SETTLEMENT AGREEMENT, which shall be executed with wet or electronic signatures, may be executed in counterparts, and when each PARTY has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one SETTLEMENT AGREEMENT, which shall be binding upon and effective as to all PARTIES once executed by all PARTIES.

IN WITNESS WHEREOF, the undersigned have duly executed this SETTLEMENT AGREEMENT on:

PLAINTIFFS

PLAINTIFF DAVERLYNN KINKEAD

Date: _____

By: _____
Daverlynn Kinkead

PLAINTIFF SHIRLEY CAILLO

Date: _____

By: _____
Shirley Caillo

PLAINTIFF CLAUDE MATHIEU

Date: _____

By: _____
Claude Mathieu

DEFENDANTS

Date: _____

By: _____
[NAME]

APPENDIX

DEFINITIONS TO STIPULATION AND SETTLEMENT AGREEMENT

A. “HOME HEALTHCARE WORKER CLAIMS” refers to those claims asserted in the LITIGATION alleging that, during the respective class periods, DEFENDANTS and related entities failed to pay PLAINTIFFS and other similarly situated employees properly, including minimum, straight and overtime wage and wage-related claims in violation of the FLSA, New York Labor Law and/or Connecticut law; and (3) allegedly misclassified home healthcare workers as overtime exempt and/or failed to properly pay home healthcare workers at Humana, Inc., Humana at Home Inc. and Seniorbridge Family Companies (CT), Inc., and related entities, and failed to pay them wages, including minimum wage and overtime and related wage and wage-related claims in violation of the Connecticut Law.

B. “HOME HEALTHCARE WORKER POSITION” refers to the home healthcare worker positions, collectively.

C. “BAR DATE” is the date that is sixty (60) calendar days after the date on which the CLAIMS ADMINISTRATOR mails the SETTLEMENT NOTICE to the members of the SETTLEMENT CLASSES.

D. “CAFA NOTICE” refers to the notice, subject to review by CLASS COUNSEL, to be sent by DEFENDANTS to appropriate federal and state officials pursuant to the requirements of the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1715(b). Counsel for DEFENDANTS shall provide CLASS COUNSEL proof of compliance with the CAFA NOTICE requirements no later than thirty (30) days before the FINAL APPROVAL HEARING.

E. “CLAIMS ADMINISTRATOR” is the third-party claims administration firm mutually agreed upon by the PARTIES, jointly retained by the PARTIES and to be appointed by the

COURT, which will perform all of the administrative duties assigned by the PARTIES. The Parties agree that SETTLEMENT SERVICES INC. (SSI) shall act as CLAIMS ADMINISTRATOR.

F. “CLAIM PERIOD” shall mean ninety (90) calendar days from the date on which the CLAIMS ADMINISTRATOR mails the COURT-approved SETTLEMENT NOTICE.

G. “CLASS COUNSEL” refers to Philip Bohrer, Bohrer Brady, LLC, 8712 Jefferson Highway, Ste. B, Baton Rouge, LA 70809, P: (225) 925-5297, F: (225) 231-7000, phil@bohrerbrady.com and Michael J.D. Sweeney and Artemio Guerra, Getman, Sweeney & Dunn, PLLC, 260 Fair Street, Kingston, NY 12401, P: (845) 255-9370, F: (845) 255-8649, msweeney@getmansweeney.com, aguerra@getmansweeney.com; and Edward Tuddenham, 23 Rue du Laos, 75015 Paris, France, etudden@prismnet.com.

H. “CLASS COUNSEL’S FEES, COSTS AND EXPENSES” means the total amount of CLASS COUNSEL’S attorneys’ fees, costs, and expenses approved by the COURT upon application by CLASS COUNSEL. CLASS COUNSELS' attorneys fees' application will be for an amount not to exceed thirty-three and one-third percent (33 and 1/3%) of the GROSS SETTLEMENT AMOUNT. COSTS and EXPENSES will be in addition to that amount.

I. “CORE PERIOD PAYMENT” means a payment for RELEASED CLAIMS arising during the period from November 9, 2011 through January 25, 2016.

J. “CORE PERIOD SHARE” is the amount that is multiplied by the quotient of the NET SETTLEMENT AMOUNT divided by the aggregate CORE PERIOD SHARES of all SETTLEMENT CLASS MEMBERS to determine a CORE PERIOD PAYMENT.

K. “COURT” means the COURT having jurisdiction of the LITIGATION, at any stage, presently the United States District Court for the District of Connecticut

L. “CY PRES RECIPIENT” means the entity or entities agreed to by the PARTIES and approved by the COURT to receive an *cy pres* payment. In the event the PARTIES do not or cannot agree upon a *cy pre recipient(s)*, the PARTIES agree that the COURT shall determine such recipient(s). _____.

M. “DEFENDANTS” are Humana, Inc., Humana at Home Inc. and Seniorbridge Family Companies (CT), Inc.

N. “EMPLOYERS’ SHARE OF PAYROLL TAXES” refers to all employer-paid payroll taxes including FUTA and the employers’ share of FICA and state unemployment, as required by law with respect to SETTLEMENT PAYMENTS to PARTICIPATING CLASS MEMBERS. The EMPLOYERS SHARE OF PAYROLL TAXES will be paid by DEFENDANTS, in addition to the GROSS SETTLEMENT AMOUNT by depositing said amount into the Qualified Settlement Fund within fifteen (15) business days after notification by the CLAIMS ADMINISTRATOR of the amount owed.

O. “ESTATE REPRESENTATIVE” shall mean the court appointed representative of any deceased Settlement Class Member or, in the absence of a court appointed representative, the surviving spouse, or, in the absence of a surviving spouse, the surviving children, or in the absence of a surviving spouse or children, the surviving parents of the Settlement Member.

P. “FINAL APPROVAL ORDER” refers to the order of the COURT: (i) granting FINAL JUDGMENT on the RELEASED CLAIMS; (ii) adjudging the terms of the SETTLEMENT AGREEMENT to be fair, reasonable and adequate, and directing consummation of its terms and provisions; (iii) approving CLASS COUNSEL’S application for an award of CLASS COUNSEL’S fees, costs, and expenses; (iv) finally certifying the SETTLEMENT CLASSES for purposes of settlement only; (v) dismissing the RELEASED CLAIMS from the LITIGATION on

the merits and with prejudice; and (vi) asserting and retaining jurisdiction over the claims alleged, the PARTIES in the LITIGATION, and the implementation and administration of this SETTLEMENT AGREEMENT.

Q. “FINAL APPROVAL HEARING” means the hearing contemplated by the PARTIES, at which the COURT will approve, in final, the SETTLEMENT AGREEMENT and make such other final rulings as are contemplated by this SETTLEMENT AGREEMENT.

R. “FINAL EFFECTIVE DATE” refers to the first date after all of the following events and conditions have been met or have occurred: (1) the COURT enters a PRELIMINARY APPROVAL ORDER; (2) the BAR DATE passes; (3) the COURT enters a FINAL APPROVAL ORDER; (4) the deadline passes without action by counsel for the PARTIES to terminate the SETTLEMENT AGREEMENT; and (5) the time to appeal from the FINAL APPROVAL ORDER expires and no Notice of Appeal has been filed or, in the event that an appeal is filed, the appellate process is exhausted and the FINAL APPROVAL ORDER has remained intact in all material respects, however an appeal of the award of CLASS COUNSEL’S fees, costs, and expenses shall not delay the FINAL EFFECTIVE DATE.

S. “FINAL JUDGMENT” refers to the judgment entered by the COURT in conjunction with the FINAL APPROVAL ORDER dismissing the RELEASED CLAIMS from the LITIGATION on the merits and with prejudice and permanently enjoining all members of the FINAL SETTLEMENT CLASSES from prosecuting against DEFENDANTS and the RELEASED PERSONS, any RELEASED CLAIMS.

T. “FINAL SETTLEMENT CLASSES” refers to the following separate classes:

U. “FINAL FLSA SETTLEMENT CLASS” refers to all members of the FLSA COLLECTIVE in this LITIGATION who, if they are also a member of the NEW YORK STATE

LAW SETTLEMENT CLASS, do not timely and validly exclude themselves from the NEW YORK STATE LAW SETTLEMENT CLASS in compliance with the OPT-OUT and exclusion procedures set forth in this SETTLEMENT AGREEMENT.

V. “FINAL NEW YORK STATE LAW SETTLEMENT CLASS” refers to any and all members of the NEW YORK STATE LAW SETTLEMENT CLASS who do not timely and validly exclude themselves from the class in compliance with the OPT-OUT and exclusion procedures set forth in this SETTLEMENT AGREEMENT. Class members who previously opted-out of the class pursuant to the initial notice are not members of the class.

W. “FINAL CONNECTICUT STATE LAW SETTLEMENT CLASS” refers to any and all members of the CONNECTICUT STATE LAW SETTLEMENT CLASS who do not timely and validly exclude themselves from the class in compliance with the OUT-OUT and exclusion procedures set forth in this SETTLEMENT AGREEMENT.

X. “FLSA COLLECTIVE” refers to individuals who: (1) were home healthcare workers at Humana, Inc., Humana at Home Inc. and Seniorbridge Family Companies (CT), Inc.; (2) timely and properly opted in to this LITIGATION as party-plaintiffs; (3) were not subsequently dismissed from this LITIGATION by the COURT; and (4) are members of the conditionally certified FLSA collective in this LITIGATION. The names of the FLSA COLLECTIVE Members are set forth in Ex E to this Agreement. The FLSA COLLECTIVE includes ESTATE REPRESENTATIVES of deceased members of the FLSA COLLECTIVE.

Y. “FLSA RELEASING PERSONS” means each and every member of the FINAL FLSA SETTLEMENT CLASS and his or her respective agents, attorneys, heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal

representatives, exclusive bargaining agents, successors-in-interest, and assigns, as well as any Class Member who negotiates his or her settlement check.

Z. “LITIGATION” means the legal action pending in the United States District Court for the District of Connecticut captioned *Daverlynn Kinkead, et al. v. Humana, Inc., et al.*, Case No. 1:15-cv-01637.

AA. “GROSS SETTLEMENT AMOUNT” is \$17,000,000. The GROSS SETTLEMENT AMOUNT represents the maximum amount that DEFENDANTS would pay pursuant to this SETTLEMENT AGREEMENT inclusive of SETTLEMENT PAYMENTS; RESERVE FUND; CLASS COUNSEL’S FEES, COSTS AND EXPENSES; SERVICE PAYMENTS; and SETTLEMENT EXPENSES paid by DEFENDANTS. The EMPLOYERS’ SHARE OF PAYROLL TAXES is not included in the GROSS SETTLEMENT AMOUNT. If the SETTLEMENT receives FINAL APPROVAL no portion of the GROSS SETTLEMENT AMOUNT shall revert to DEFENDANTS.

BB. “NET SETTLEMENT AMOUNT” equals the REVISED GROSS SETTLEMENT AMOUNT less the RELATION BACK PERIOD PAYMENTS and POST PERIOD PAYMENTS paid to PARTICIPATING SETTLEMENT CLASS MEMBERS.

CC. “NEW YORK STATE LAW SETTLEMENT CLASS” refers to any and all persons employed in New York in a HOME HEALTHCARE WORKER POSITION at a Humana, Inc., Humana at Home Inc. and Seniorbridge Family Companies (CT), Inc. during the period from November 10, 2009 to November 30, 2020 who worked at least one 24-hour live-in shift and who did not exclude themselves pursuant to the initial class notice. The names of these class members are set forth in Ex. B to this Agreement. The Class also includes the ESTATE REPRESENTATIVES of deceased class members listed on Ex B, if any.

DD. “CONNECTICUT STATE LAW SETTLEMENT CLASS” refers to any and all persons employed in Connecticut as a HOME HEALTHCARE WORKER POSITION at a Humana, Inc., Humana at Home Inc. and Seniorbridge Family Companies (CT), Inc. who (1) during the period from January 1, 2015 to November 30, 2020 worked at least one 24-hour live-in shift, or (2) who worked more than 40 hours in a workweek without proper overtime compensation between January 1, 2015 and October 13, 2015. The names of these class members are set forth in Ex. C to this Agreement. The Class also includes the ESTATE REPRESENTATIVES of deceased class members listed on Ex C, if any.

EE. “OBJECTION PERIOD” refers to the period beginning with the date SETTLEMENT NOTICE is mailed to members of the SETTLEMENT CLASSES and ending sixty (60) calendar days thereafter during which members of the SETTLEMENT CLASSES may file an objection to the SETTLEMENT AGREEMENT.

FF. “OBJECTOR” is a member of the SETTLEMENT CLASSES who has timely and properly objected to the SETTLEMENT AGREEMENT during the OBJECTION PERIOD.

GG. “OPT-OUT” refers to any member of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS who was not previously sent notice of the action through the Court approved notices mailed on November 21, 2019, and who timely and properly files a Request for Exclusion during the OPT-OUT PERIOD.

HH. “OPT-OUT PERIOD” refers to the period beginning with the date the SETTLEMENT NOTICE is mailed to members of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS and ending sixty (60) calendar days thereafter.

II. PARTICIPATING SETTLEMENT CLASS MEMBERS refers to PLAINTIFFS and all members of the FINAL FLSA SETTLEMENT CLASS, as well as the members of the FINAL NEW YORK STATE LAW SETTLEMENT CLASS and the FINAL CONNECTICUT STATE LAW SETTLEMENT CLASS who timely file claim forms within the CLAIMS PERIOD with the CLAIMS ADMINISTRATOR. PARTICIPATING SETTLEMENT CLASS MEMBERS shall also include the ESTATE REPRESENTATIVES who file a timely claim form on behalf of their deceased.

JJ. "PARTIES" refers to PLAINTIFFS and members of the FLSA COLLECTIVE, who have timely asserted claims that they were misclassified as home healthcare workers, and DEFENDANTS, and, in the singular, refers to any of them, as the context makes apparent.

KK. "NAMED PLAINTIFFS" refers to named plaintiffs Daverlynn Kinhead, Shirley Caillo and Claude Mathieu.

LL. POST PERIOD PAYMENT means a payment for RELEASED CLAIMS arising during the period from January 26, 2016 to November 30, 2020.

MM. "MINIMUM SETTLEMENT PAYMENT" refers to the amount each Plaintiff, FLSA Collective member, NEW YORK STATE LAW SETTLEMENT CLASS member, and CONNECTICUT STATE LAW SETTLEMENT CLASS member would be entitled to from the REVISED GROSS SETTLEMENT AMOUNT if all members of the SETTLEMENT CLASSES who are required to file timely claim forms were to do so. The total of all MINIMUM SETTLEMENT PAYMENTS will equal the REVISED GROSS SETTLEMENT AMOUNT. The MINIMUM SETTLEMENT PAYMENT will be the amount listed on each individual's CLASS NOTICE.

NN. “PRELIMINARY APPROVAL ORDER” refers to the order of the COURT: (1) asserting jurisdiction over the HOME HEALTHCARE WORKER CLAIMS, the PARTIES in the LITIGATION, and the implementation and administration of the SETTLEMENT AGREEMENT; (2) adjudging the terms of the SETTLEMENT AGREEMENT to preliminarily be fair, reasonable and adequate, and in the best interests of PLAINTIFFS and members of the SETTLEMENT CLASSES, and directing consummation and implementation of its terms and provisions; (3) conditionally certifying the NEW YORK STATE LAW SETTLEMENT CLASS and CONNECTICUT STATE LAW SETTLEMENT CLASS pursuant to Fed. R. Civ. P. 23 for settlement purposes only; (4) conditionally appointing Daverlynn Kinkead, Shirley Caillo and Claude Mathieu as PLAINTIFFS who, together with PLAINTIFFS’ Counsel, shall be authorized to act on behalf of all members of the SETTLEMENT CLASSES with respect to the HOME HEALTHCARE WORKER CLAIMS; (5) conditionally appointing PLAINTIFFS’ Counsel as CLASS COUNSEL for the SETTLEMENT CLASSES pursuant to Section 216(b) of the Fair Labor Standards Act and Fed. R. Civ. P. 23; (6) approving the content of the SETTLEMENT NOTICE, authorizing the first-class mailing, and emailing and texting where possible, of the SETTLEMENT NOTICE to all members of the SETTLEMENT CLASSES within twenty (20) calendar days after the entry of the PRELIMINARY APPROVAL ORDER, and finding that the method of dissemination of the SETTLEMENT NOTICE is the best practicable means of distributing the SETTLEMENT NOTICE to members of the NEW YORK STATE LAW SETTLEMENT CLASS and CONNECTICUT STATE LAW SETTLEMENT CLASS; (7) approving and appointing the CLAIMS ADMINISTRATOR in accordance with the terms of the SETTLEMENT AGREEMENT; (8) setting a sixty (60) calendar day deadline for the submission of Requests for Exclusion or objections by members of the NEW YORK STATE LAW

SETTLEMENT CLASS and CONNECTICUT STATE LAW SETTLEMENT CLASS; (9) approving the Request for Exclusion process set forth in the SETTLEMENT AGREEMENT; (10) ordering that any member of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS who is also a member of the FLSA COLLECTIVE and OPTS-OUT shall be deemed to have withdrawn that consent and shall no longer be a member of the FLSA COLLECTIVE for any purpose; (11) ordering that any member of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS who does not properly and timely OPT-OUT shall be bound by all the terms and provisions of the SETTLEMENT AGREEMENT, the FINAL APPROVAL ORDER, the FINAL JUDGMENT, and the releases set forth therein; (12) ordering that any member of the NEW YORK STATE LAW SETTLEMENT CLASS or CONNECTICUT STATE LAW SETTLEMENT CLASS who validly and timely becomes an OPT-OUT shall not: (i) have any rights under the SETTLEMENT AGREEMENT; (ii) be entitled to receive a SETTLEMENT PAYMENT; (iii) have a right to object to the SETTLEMENT AGREEMENT; and (iv) be bound by the SETTLEMENT AGREEMENT, any FINAL APPROVAL ORDER, or the FINAL JUDGMENT; (13) approving the objection process set forth in the SETTLEMENT AGREEMENT; and (14) setting the FINAL APPROVAL HEARING for a date no earlier than one-hundred (100) calendar days after the motion for preliminary approval is filed.

OO. “RELATION BACK PERIOD PAYMENT” means a payment for RELEASED CLAIMS during the period from November 11, 2009 to November 8, 2011.

PP. “RELEASED CLAIMS” refers to the released claims set forth in Section XII.

QQ. “RELEASED PERSONS” refers to Humana, Inc., Humana at Home Inc. and Seniorbridge Family Companies (CT), Inc. as well as to each of their past, present, and future parent companies,

affiliates, subsidiaries, divisions, predecessors, successors, partners, owners, joint venturers, affiliated organizations, shareholders, insurers, reinsurers and assigns, and each of its/their past, present and future officers, directors, trustees, agents, employees, attorneys, contractors, representatives, plan fiduciaries and/or administrators, benefits plans sponsored or administered by Humana, Inc., Humana at Home Inc. and Seniorbridge Family Companies (CT), Inc., divisions, units, branches and any other persons or entities acting on their behalf, including any entity that was a related entity of Humana, Inc., Humana at Home Inc. and Seniorbridge Family Companies (CT), Inc., for which any member of the SETTLEMENT CLASSES performed work or services during their employment with Humana, Inc., Humana at Home Inc. and Seniorbridge Family Companies (CT), Inc.

RR. “RELEASING PERSONS” refers to each and every FLSA RELEASING PERSON and STATE LAW RELEASING PERSON, his or her respective agents, attorneys, heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, exclusive bargaining agents, successors-in-interest, and assigns.

SS. “RESERVE FUND” refers to the portion of the GROSS SETTLEMENT AMOUNT set aside by the CLAIMS ADMINISTRATOR in case of error or omission to be paid and corrected by the CLAIMS ADMINISTRATOR via the mechanisms outlined in Section II.B.

TT. “REVISED GROSS SETTLEMENT AMOUNT” means the GROSS SETTLEMENT AMOUNT minus the RESERVE FUND; the amounts approved by the COURT for CLASS COUNSEL’S FEES, COSTS AND EXPENSES; the amounts approved by the COURT for SERVICE PAYMENTS; and SETTLEMENT EXPENSES.

UU. “SERVICE PAYMENT” refers to the amount that may be approved by the COURT for payment to: (1) each of the PLAINTIFFS in an amount not to exceed \$20,000.00, less applicable

taxes and deductions; and (2) each of the following FLSA COLLECTIVE members, Maxwell Antwi, Ruth Ann Shaw, Jeanne Keller, and Joan Morant, who appeared for deposition in the LITIGATION in an amount not to exceed \$10,000.00, less applicable taxes and deductions.

VV. "SERVICE PAYMENT RECIPIENTS" refers to PLAINTIFFS and FLSA COLLECTIVE members Maxwell Antwi, Ruth Ann Shaw, Jeanne Keller, and Joan Morant who receive SERVICE PAYMENTS, approved by the COURT, in connection with this SETTLEMENT AGREEMENT.

WW. "SETTLEMENT AGREEMENT" refers to this Stipulation and Settlement Agreement as executed by the PARTIES.

XX. "SETTLEMENT CLASSES" refers to the NEW YORK STATE LAW SETTLEMENT CLASS, the CONNECTICUT STATE LAW SETTLEMENT CLASS, and the FLSA COLLECTIVE.

YY. "SETTLEMENT EXPENSES" means the reasonable fees, costs, and expenses incurred by the CLAIMS ADMINISTRATOR in performing the services authorized in this SETTLEMENT AGREEMENT.

ZZ. "SETTLEMENT NOTICE" refers to the notices that will be directed to members of the SETTLEMENT CLASSES. The Notices have been agreed upon by the PARTIES and attached to this SETTLEMENT AGREEMENT as Exhibit E. SETTLEMENT NOTICE includes the Claim Form and Change of Address/Estate Representative Form attached to the NOTICE.

AAA. "SETTLEMENT PAYMENT" refers to any payment to which PARTICIPATING SETTLEMENT CLASS MEMBERS may become entitled pursuant to this SETTLEMENT AGREEMENT, as set forth more fully in Section IX.B of the SETTLEMENT AGREEMENT.

BBB. "STATE LAW RELEASING PERSONS" means each and every member of the NEW YORK STATE LAW SETTLEMENT CLASS and CONNECTICUT STATE LAW SETTLEMENT CLASS who does not timely and validly exclude themselves from the class in compliance with the OPT-OUT and exclusion procedures set forth in this SETTLEMENT AGREEMENT, and his or her respective agents, attorneys, heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, exclusive bargaining agents, successors-in-interest, and assigns.

CCC. "SECOND AMENDED COMPLAINT" refers to the Complaint filed on March 19, 2019 as referred to in Section I.I above.

DDD. "TOLLING DATE" refers to, for each member of FLSA COLLECTIVE, the date that is three years before the date the consent to join form was filed by that individual plus any applicable tolling period

EEE. "SETTLEMENT DOCUMENTS" means this AGREEMENT, the CLASS NOTICES and the MOTION PAPERS FOR PRELIMINARY AND FINAL APPROVAL.

FFF. "CLAIMS PERIOD" is the period beginning on the date of mailing of the Notice and ending 10 days before the date of the FINAL APPROVAL HEARING (which period shall not be less than ninety (90) days during which NEW YORK SETTLEMENT CLASS MEMBERS and CONNECTICUT SETTLEMENT CLASS MEMBERS may file claim forms to be PARTICIPATING CLASS MEMBERS.

GGG. "24-HOUR LIVE-IN SHIFT" means a shift of 24 hours during which the worker was required to remain at the client's home.