

1 Robert S. Arns, State Bar No. 65071 (rsa@arnslaw.com)
2 Jonathan E. Davis, State Bar No. 191346 (jed@arnslaw.com)
3 Kevin M. Osborne, State Bar No. 261367 (kmo@arnslaw.com)
4 Julie C. Erickson, State Bar No. 293111 (jce@arnslaw.com)

THE ARNS LAW FIRM

5 A Professional Corporation
6 515 Folsom St., 3rd Floor
7 San Francisco, CA 94109
8 Tel: (415) 495-7800
9 Fax: (415) 495-7888

10 Kathryn A. Stebner, State Bar No. 121088
11 George Kawamoto, State Bar No. 280358

STEBNER AND ASSOCIATES

12 870 Market Street, Suite 1212
13 San Francisco, CA 94102
14 Tel: (415) 362-9800
15 Fax: (415) 362-9801
16 Attorneys for Claimants

JAMS ARBITRATION

17 SHARON WALDMAN, DAVID RAUCH,
18 and TERESA MASCOLINA, Individually
19 and on Behalf of Themselves and All Other
20 Similarly Situated Employees,
21 Claimants,

v.

22 EMPRES HEALTHCARE
23 MANAGEMENT LLC, EVERGREEN AT
24 CHICO, LLC, EVERGREEN AT
25 OROVILLE, LLC, EVERGREEN AT
26 ARVIN, LLC, EVERGREEN AT
27 BAKERSFIELD, LLC, EVERGREEN AT
28 LAKEPORT, LLC, EVERGREEN AT
HEARTWOOD AVENUE, LLC,
EVERGREEN AT SPRING ROAD, LLC,
EVERGREEN AT TRACY, LLC,
EVERGREEN AT PETALUMA, LLC
EVERGREEN AT SALINAS, LLC, AND
EVERGREEN AT FULLERTON, LLC;
AND DOE 1,
Respondents.

Ref. No. 1100088580

**[PROPOSED] AMENDED PARTIAL
FINAL AWARD**

DATE: March 1, 2018
TIME: 10:00 a.m.

Arbitrator: Hon. Robert Freedman (Ret.)

1 The Motion of Claimants SHARON WALDMAN, DAVID RAUCH, and TERESA
2 MASCOLINA for a partial final award preliminarily approving the settlement of this arbitration,
3 certifying the class for settlement purposes, approving the form of notice to the class, and setting
4 a final hearing, came on for hearing before Hon. Robert Freedman (Ret.) at JAMS San Francisco
5 on March 1, 2018 at 10:00 am.

6 Having read the motion, the memoranda and the declaration filed by the parties, and having
7 heard argument of counsel, I find that that the proposed settlement appears fair, reasonable and
8 adequate, satisfies the applicable provisions of the JAMS rules and the applicable provisions of
9 the California Rules of Court and Federal Rules of Civil Procedure, rule 23, and that a hearing
10 should be held after notice to the Class of the proposed settlement to determine if the Settlement
11 Agreement and settlement are fair, reasonable, and adequate, and if a Final Award should be
12 granted in this arbitration based upon the Settlement Agreement;

13
14 **IT IS THEREFORE ORDERED THAT:**

- 15 1. The Settlement Agreement and the settlement terms contained therein are preliminarily
16 approved as fair, reasonable and adequate.
- 17 2. The Class, as defined below, is certified for the purposes of settlement:
18 All persons in California who while an employee of a Respondent performed work
19 as hourly, non-exempt registered nurses, licensed vocational nurses, certified
20 nursing assistants, restorative nursing aides, physical, occupational and speech
21 therapists, therapy assistants, and/or therapy aides at any time during the period
22 from November 1, 2013 through Preliminary Approval. Excluded from this Class
23 are Class Counsel and the Arbitrator who has been assigned to this case.
- 24 3. Phoenix Settlement Administrators is authorized as the Settlement Administrator for the
25 purposes of this settlement.
- 26 4. Robert S. Arns and the attorneys of the Arns Law Firm, and Kathryn A. Stebner and the
27 attorneys of Stebner and Associates are designated counsel for the Settlement Class.
- 28 5. Claimants Sharon Waldman, David Rauch, and Teresa Mascolina are designated as class
representative for the Settlement Class.

- 1 6. The Class Notice and Information Form (attached as Exhibit 1 and Exhibit 2 to the
2 Settlement Agreement) collectively, "Class Notice Packet", are approved as to form and
3 content. The Class Notice Packet meets the requirements of Code of Civil Procedure § 382,
4 California Rules of Court rule 3.766, and due process.
- 5 7. The Settlement Administrator shall, as soon as practicable, cause the Class Notice to be
6 mailed by first class mail to all known members of the Settlement Class to the most recent
7 address in Respondents' business records for each known member of the Class. The
8 mailing of the Class Notices directed in this Partial Final Award constitute the best notice
9 practicable under the circumstances and sufficient notice to all members of the Settlement
10 Class.
- 11 8. The costs and expenses of printing and mailing the Class Notices shall be paid from the
12 fund established by Respondents pursuant to the Settlement Agreement. The Settlement
13 Administrator shall take necessary steps to establish bank account(s) for such a fund.
14 Within two business day of notice of the account(s) being opened by the Settlement
15 Administrator, the Respondents shall make any payments then due via wire transfer or as
16 otherwise directed by the Settlement Administrator.
- 17 9. A hearing (the "Final Hearing") shall be held on MAY 15, 2018, at
18 10:00 a.m./p.m. at JAMS San Francisco, to determine whether the proposed settlement
19 of this arbitration is fair, reasonable and adequate and should be finally approved. The
20 Arbitrator will also consider at the Final Hearing whether applications for Claimants'
21 Counsels' attorney fees and expenses and incentive award to the representative Claimants
22 should be granted and, if so, in what amounts.
- 23 10. Claimants' briefs and supporting papers in support of the proposed settlement, and
24 application for an award of fees and expenses to be filed with the Arbitrator 7 days
25 prior to the Final Hearing. (seven)
- 26 11. Any member of the Settlement Class who has not timely elected to be excluded from the
27 Settlement Class, and who objects to approval of the proposed settlement, including any
28 application for attorney fees and expenses and incentive awards to the named Claimants,

1 may elect to appear at the Final Hearing in person or through counsel to show cause why
2 the proposed settlement should not be approved as fair, reasonable and adequate.

- 3 12. Objections to the settlement shall be heard, and any papers or briefs submitted in support
4 of said objections shall be considered by the Arbitration Forum only if, on or before forty-
5 five (45) calendar days after the Notice mailing date said objectors: (1) provide JAMS
6 written notice of their intention to object, together with supporting papers stating the
7 objector's name, address, telephone number, signature, and specifically the factual basis
8 and legal grounds of the objection and identifying exhibits and/or witnesses, if any, that
9 the objecting Class Member intends to present at the final approval hearing; and, (2) serve
10 copies thereof together with proof of service on or before said date upon each of the
11 following:

ARBITRATOR	CLASS COUNSEL	RESPONDENTS' COUNSEL
14 Hon. Robert Freeman (ret.) 15 JAMS 16 Two Embarcadero Center Suite 1500 San Francisco, CA 94111	17 Robert S. Arns 18 The Arns law Firm 19 515 Folsom St. 3rd Floor 20 San Francisco, CA 94105 (415)495-7800 21 Kathryn A. Stebner 22 Stebner and Associates 23 870 Market Street, Suite 1212 24 San Francisco, CA 94102 25 (415) 362-9800	26 Laura K. Sitar 27 Pleiss Sitar McGrath Hunter & Hallack 28 5510 Trabuco Road Irvine, CA 92620

21 No objection shall be considered unless these requirements are satisfied.

- 22
- 23 13. Any Class Member who does not timely elect to be excluded from the Settlement Class
24 and who does not make an objection to the settlement in the manner provided herein shall
25 be deemed to have waived any such objection by appeal, collateral attack or otherwise.
- 26 14. All deadlines and other proceedings are stayed and suspended until further order, except
27 such actions as may be necessary to implement the Settlement Agreement and this Award.
28

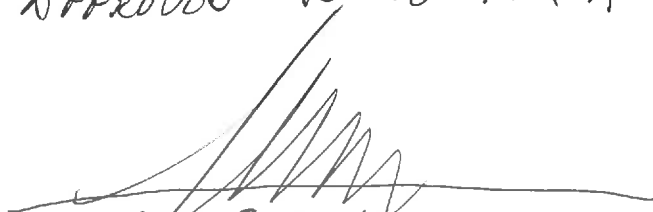
1 15. In the event that the proposed settlement as provided in the Settlement Agreement is not
2 approved by the Arbitrator, or for any reason the parties fail to obtain a Final Award as
3 contemplated in the Settlement Agreement, or the Settlement Agreement is terminated
4 pursuant to its terms, the Settlement Agreement and all orders entered in connection
5 therewith shall become null and void and of no further force and effect, and shall not be
6 used or referred to for any purpose whatsoever. In such event, the Settlement Agreement
7 and all negotiations and proceedings relating thereto shall be withdrawn without prejudice
8 as to the rights of any and all parties thereto.

9
10 IT IS SO ORDERED.

11
12 Dated: March 1, 2018

13 
14 Honorable Robert B. Freedman (Ret.)

15
16 APPROVED AS TO FORM

17 
18
19 ROBERTA S. ANNIS

20 DATED: 3/1/18

21
22 DATED: 3/1/18

23 Lawa Jelaw for Defendants
24
25
26
27
28

PROOF OF SERVICE BY E-MAIL & U.S. MAIL

Re: Waldman, Sharon, et al. vs. EmpRes Healthcare Management, LLC, et al.
Reference No. 1100088580

I, Ross Cummings, not a party to the within action, hereby declare that on March 1, 2018, I served the attached Amended Partial Final Award on the parties in the within action by E-mail and by depositing true copies thereof enclosed in sealed envelopes with postage thereon fully prepaid, in the United States Mail, at San Francisco, CALIFORNIA, addressed as follows:

Robert S. Arns Esq.
Arns Law Firm
515 Folsom Street
3rd Floor
San Francisco, CA 94105
Phone: 415-495-7800
rsa@arnslaw.com

Parties Represented:
David Rauch
Sharon Waldman


Kathryn A. Stebner Esq.
George Kawamoto Esq.
Stebner & Associates
870 Market St.
Suite 1212
San Francisco, CA 94102
Phone: 415-362-9800
kathryn@stebnerassociates.com
george@stebnerassociates.com

Parties Represented:
David Rauch
Sharon Waldman
Theresa Mescelana

Laura K. Sitar Esq.
Pleiss Casey Sitar & Ross
5510 Trabuco Road
Irvine, CA 92620
Phone: 949-788-1790
lsitar@pcsrllaw.com

Parties Represented:
EmpRes Healthcare Management, LLC

I declare under penalty of perjury the foregoing to be true and correct. Executed at San Francisco, CALIFORNIA on March 1, 2018.



Ross Cummings
RCummings@jamsadr.com