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FEB 26 2016

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MARIN COUNTY SUPERIOR COURT
By: S. Hernandez, Deputy

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7 CORPORATION")

8 - Additional Counsel Information in Signature Block -
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF MARIN

12 MARY KNAPP-SAMET et al., Individually
And On Behalf Of Others Similarly Situated,

Case No.: CIV1400998

13 Plaintiffs,

**STIPULATION AND SETTLEMENT
AGREEMENT**

14 v.

15 MARIN GENERAL HOSPITAL
CORPORATION, A California Corporation,
16 SUTTER HEALTH CORPORATION, A
California Corporation and DOES 1 through
17 50,

18 Defendants.
19

20 Subject to Court approval, which the Parties and their counsel will ask the Court to grant,
21 Plaintiffs and proposed Class Representatives Mary Knapp-Samet, Jane Ann Middleton, Kathryn
22 Ballinger, Nora Burns, Barbara Russell, Winnie Huang, and Heather Gosliner, as well as non-party
23 proposed Class Representatives Sharon Reid and Ching M. Redmon, individually, and on behalf of
24 themselves and all others similarly situated, and Defendants Marin General Hospital (sued under the
25 name "Marin General Hospital Corporation") and Sutter Health (sued under the name "Sutter
26 Health Corporation"), enter into the below Settlement and Release Agreement and enter into the
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1 stipulations described therein. This Settlement resolves the class and representative claims asserted
2 in the above-entitled action.

3 4 SETTLEMENT AND RELEASE AGREEMENT

5 For good and valuable consideration, receipt of which is hereby acknowledged, the Parties
6 enter into this Settlement and Release Agreement (this "Settlement") on the following terms,
7 conditions, and releases:

8
9 1. **Recitals:** This Settlement resolves related wage-and-hour allegations filed in two
10 separate lawsuits:

11 1.1 The *Knapp-Samet* Litigation: Plaintiffs Mary Knapp-Samet, Jane Ann
12 Middleton, Kathryn Ballinger, Nora Burns, Barbara Russell, Winnie Huang, and Heather Gosliner
13 ("Plaintiffs") filed a purported Class Action Complaint in Marin County Superior Court, Case No.
14 CIV1400998, against Marin General Hospital and Sutter Health ("Defendants"). Plaintiffs'
15 Complaint raises allegations that the Defendants: (1) failed to pay overtime wages; (2) failed to
16 provide timely and accurate wage and hour statements; (3) failed to pay compensation due upon
17 termination; (4) failed to furnish and maintain accurate payroll records; and (5) committed unfair
18 business practices. Plaintiffs allege both class claims and representative claims under the Private
19 Attorneys' General Act ("PAGA"). Defendants filed their Answer to Plaintiffs' Class Action
20 Complaint on May 19, 2014, disputing and denying Plaintiff's material allegations and raising
21 various affirmative defenses.
22

23
24 1.2 The *Reid-Redmon* Litigation: On Sharon Reid and Ching M. Redmon filed a
25 Complaint in Marin County Superior Court, Case No. CIV 1400931, against both Defendants. The
26 *Reid-Redmon* complaint alleged various claims identical in substance to the wage-hour claims
27 alleged by Plaintiffs in the Knapp-Samet litigation. It also described various matters relating to
28

1 alleged workplace harassment and retaliation. Pursuant to a settlement with Marin General, Ms.
2 Reid and Ms. Redmon have dismissed the complaint in Case No. CIV 1400931. However, Ms.
3 Reid and Ms. Redmon dismissed the complaint in Case No. CIV 1400931 with the express
4 understanding that they would resolve their wage-hour claims through the settlement of this
5 Litigation.
6

7 1.3 Discovery: The Parties have engaged in discovery in the Litigation, including
8 the production of documents related to the hours worked and pay received by Class Members, and
9 documents related to Plaintiffs' allegations. The Parties have also engaged in legal and factual
10 analysis of the claims and defenses at issue in the Litigation. Similarly, Ms. Reid and Ms. Redmon
11 actively participated in discovery and analysis of the same claims in issues while prosecuting Case
12 No. CIV 1400931.
13

14 1.4 Mediation: On February 2, 2015 and on August 20, 2015, the Parties engaged
15 in in-person mediation sessions with Mediator Michael Loeb, Esq. As of the February 2, 2015
16 mediation, the parties were able to resolve the claims against Sutter Health. After the parties were
17 still unable to reach agreement, Mediator Loeb continued his efforts and eventually the parties
18 reached an agreement in principle regarding settlement terms as to both defendants.
19

20 1.5 Settlement: As of the date of their signatures on this Settlement, the Parties
21 wish to resolve all matters raised in Case No. CIV1400998. The Parties intend for this Settlement
22 to release all class and representative claims that were asserted, could have been asserted, or are
23 related to the claims asserted by Plaintiffs and Class Members in connection with this matter, as
24 further clarified below in Sections 12 and 13. The Parties enter into this Settlement Agreement on a
25 conditional basis until the Settlement becomes Final. This Settlement shall be deemed null and void
26 *ab initio*, should the Settlement Agreement not become Final.
27
28

1 2. **Definitions:**

2 2.1 *Class* or *Class Members* refers to members of the class the Parties agree should
3 be certified for purposes of this Settlement only, and which will be defined as “All individuals who
4 worked as Nurse Case Managers for Defendants from March 14, 2010 to March 23, 2016, the date
5 of Preliminary Approval hearing.” Membership in this class is subject to the right of any Class
6 Member to opt out pursuant to the opt-out procedure set forth in this Settlement.
7

8 2.2 *Class Counsel* refers, such to the Court’s approval, to the Jaret & Jaret law
9 firm and the Law Offices of Arthur R. Siegel.

10 2.3 *Class Counsel Expenses and Fees Payment* refers to Class Counsel’s
11 attorneys’ fees and reasonable litigation expenses.

12 2.4 *Class Period* refers to the period of time beginning March 14, 2010 and
13 continuing through the date of the Preliminary Approval hearing.
14

15 2.5 *Court* refers to the Court having jurisdiction of this Litigation, presently the
16 Superior Court of the State of California for the Court of Marin.

17 2.6 *Defendants* refer to the defendants in this matter, Marin General Hospital
18 (“Marin General”) and Sutter Health (“Sutter Health”).

19 2.7 *Final Approval* refers to the Court’s order granting Final Approval of the
20 Settlement and “Final Approval Date” means the date that the Defendants’ counsels receive the
21 Court’s Final Approval order.
22

23 2.8 *Final Settlement Class* or *Final Settlement Class Members* refers to all
24 members of the Settlement Class who do not exclude themselves from the class in compliance with
25 the exclusion procedures set forth in this Settlement Agreement.

26 2.9 *Litigation* refers to *Mary Knapp-Samet, Jane Ann Middleton, Kathryn*
27 *Ballinger, Nora Burns, Barbara Russell, Winnie Huang, and Heather Gosliner, individually and on*
28

1 *behalf of others similarly situated, v. Marin General Hospital Corporation and Sutter Health*
2 *Corporation*, Case No. CIV1400998, originally filed March 14, 2014, and currently pending before
3 Judge Roy O. Chernus in Marin County Superior Court. Except where otherwise clear from
4 context, *Litigation* also refers to Sharon Reid and Ching M. Redmon v. *Marin General Hospital*
5 *Corporation and Sutter Health Corporation*, Case No. CIV1400998 in Marin County Superior
6 Court.
7

8 2.10 *Maximum Payment* means the gross sum of \$850,000 payable by Defendants
9 pursuant to this Settlement, which will cover all Settlement Shares paid to Class Members who do
10 not opt out of the Settlement; the California Labor and Workforce Development Agency (“LWDA”)
11 Payment for its share of the Settlement; the Class Representative Payments; the Class Counsel
12 Expenses and Fees Payment; and the Settlement Administrator Payment for the Settlement
13 Administrator’s fees and expenses. The Maximum Payment includes payment for all unpaid wages,
14 unpaid overtime, waiting time penalties, other civil and statutory penalties, interest, and taxes,
15 excluding the Defendants’ payroll tax obligations, which shall be paid separately and in addition to
16 the Maximum Payment, and one half of the costs of settlement administration. The Maximum
17 Payment shall be allocated between Defendants as follows: \$750,000 from Marin General and
18 \$100,000 from Sutter Health.
19

20 2.11 *Parties* refers to Plaintiffs Mary Knapp-Samet, Jane Ann Middleton, Kathryn
21 Ballinger, Nora Burns, Barbara Russell, Winnie Huang, and Heather Gosliner and Defendants
22 Marin General and Sutter Health. Unless otherwise clear from context, the definition of *Parties* also
23 includes Sharon Reid and Ching M. Redmon.
24

25 2.12 *Party* refers to either Plaintiffs Mary Knapp-Samet, Jane Ann Middleton,
26 Kathryn Ballinger, Nora Burns, Barbara Russell, Winnie Huang, and Heather Gosliner or
27
28

1 Defendants Marin General and Sutter Health. Unless otherwise clear from context, the definition of
2 *Party* also includes Sharon Reid or Ching M. Redmon.

3 2.13 *Plaintiffs* or *Named Plaintiffs* refers to named Plaintiffs Mary Knapp-Samet,
4 Jane Ann Middleton, Kathryn Ballinger, Nora Burns, Barbara Russell, Winnie Huang, and Heather
5 Gosliner. Unless otherwise clear from context, the definition of *Plaintiffs* and *Named Plaintiffs* also
6 includes Sharon Reid and Ching M. Redmon.
7

8 2.14 *Preliminary Approval* refers to the Court order granting Preliminary Approval
9 of this Settlement Agreement.

10 2.15 *Released Persons* refers to the Defendants and their past, present, or future
11 officers, directors, shareholders, owners, partners, limited partners, assignees, entity owners, interest
12 holders, employees, agents, principals, heirs, representatives, accountants, auditors, attorneys,
13 consultants, insurers, their successors and predecessors in interest, subsidiaries, affiliates, parents,
14 and their company-sponsored benefit programs, and all of their respective officers, directors,
15 owners, employees, partners, limited partners, administrators, fiduciaries, trusts, and agents.
16

17 2.16 *Releasing Persons* refers to Plaintiffs Mary Knapp-Samet, Jane Ann
18 Middleton, Kathryn Ballinger, Nora Burns, Barbara Russell, Winnie Huang, Heather Gosliner, and
19 all members of the Final Settlement Class (including Sharon Reid and Ching M. Redmon).
20

21 2.17 *Settlement* refers to the Settlement described in this Settlement and Release
22 Agreement.

23 2.18 *Settlement Agreement* refers to this Settlement and Release Agreement.

24 2.19 *Settlement Share* refers to the payment to which a qualifying Final Settlement
25 Class Member becomes entitled pursuant to this Settlement; the Settlement Share to which each
26 class member is entitled depends upon the number of weeks the Class Member worked for the
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1 Defendants as a Nurse Case Manager both before and after the reclassification of the position to
2 non-exempt, as well as the Case Manager's FTE status number.

3 3. **Net Settlement Amount:** The Net Settlement Amount is the amount from the
4 Maximum Payment that is available for distribution to Class Members after deductions for the
5 LWDA Payment, the Class Representative Payments, the Class Counsel Expenses and Fees
6 Payment, and one half of the Settlement Administrator Payment.
7

8 4. **Class Members:** All Class Members other than those who timely and properly opt-
9 out of the Settlement will be bound by the Settlement and entitled to receive Settlement Shares.

10 5. **Settlement Administration:** In connection with their motion for Preliminary
11 Approval, the Parties will propose a Settlement Administrator to deliver notice of the Settlement to
12 Class Members, distribute Settlement Shares to Class Members, resolve disputes in connection with
13 the calculation of Settlement Shares in accordance with the Settlement, and otherwise administer
14 the Settlement.
15

16 6. **Treatment of Settlement Shares:** Each Settlement Share will be treated as a
17 payment in settlement of the Class Member's claim for civil and statutory penalties under the
18 California Labor Code and interest; as well as a payment for settlement of the Class Member's
19 claim for wages.
20

21 6.1 **Apportionment:** 75% of each Settlement Share shall be considered wages, and
22 25% of each Settlement Share shall be considered interest and penalties.

23 6.2 **Taxes on Wages:** The percent of the Settlement Share paid to Class Members
24 and designated as wages will be paid to Class Members less standard and appropriate withholdings
25 and deductions, for which IRS Forms W-2 will be issued. The Settlement Administrator shall be
26 responsible for issuing to each Class Member an IRS Form W-2 for the amount paid as wages.
27
28

1 6.3 Taxes on Penalties (including Waiting Time Penalties) and Interest: No tax
2 deductions and withholdings will be taken from the percent of Settlement Share allocated to Class
3 Members' claims for civil and statutory penalties (including waiting time penalties) and interest,
4 and IRS Forms 1099 will be issued with respect to that portion of the Settlement Shares. Each
5 Class Member will be solely responsible for paying all applicable taxes associated with this portion
6 of the Settlement Share. The Settlement Administrator shall be responsible for issuing to each
7 Class Member an IRS Form 1099 for the amount paid as penalties and interest.

9 6.4 No Warranty: It is understood that no Party, nor attorney for any Party, makes
10 any representation or warranty regarding taxability of said payments to Final Settlement Class
11 Members. The Parties represent and agree that none of them has received and/or relied on any
12 advice and/or representations from the other Party and/or its attorneys as to the necessity for
13 withholding or the taxability of the consideration paid pursuant to this Settlement Agreement,
14 whether pursuant to federal, state or local income tax statutes.

16 6.5 No Effect on Employee Benefits: Payments pursuant to this Settlement
17 Agreement are not and shall not be deemed to constitute an addition to, a modification of, or a
18 change in any previously credited hours of service, compensation, or wages under any employee
19 benefit plan or employment policy of, or sponsored by, the Defendants, or an of their present or
20 former parent corporations or affiliates to any jointly trusted benefit plans. Payments pursuant to
21 this Settlement Agreement shall not be deemed to form the basis of any additional contributions to,
22 additional benefits under, or any other additional entitlements under any employee benefit plan or
23 employment policy of, or sponsored by, the Defendants or any of their present or former parent
24 corporations or any jointly trusted plans.

26 7. **Apportionment of Maximum Payment:** Subject to Court approval, the Maximum
27 Payment will be apportioned as follows:
28

1 7.1 LWDA Payment: The LWDA will receive its settlement share the amount of
2 \$7,500 which is 75% of the \$10,000 allocated to PAGA penalties. This share will account for all
3 causes of action Plaintiffs allege, or could have alleged, under PAGA. The remaining \$2,500 of the
4 portion allocated to PAGA penalties will remain in the Net Settlement Amount for distribution to
5 Final Settlement Class Members.
6

7 7.2 Class Representative Payments: Plaintiffs Mary Knapp-Samet, Jane Ann
8 Middleton, Kathryn Ballinger, Nora Burns, Barbara Russell, Winnie Huang, and Heather Gosliner
9 will each receive a Class Representative Payment in the amount of \$7,500. Sharon Reid and Ching
10 Redmon will also receive a payment in the amount of \$7,500 as de facto Class Representatives.
11 This Class Representative Payment is subject to Court approval and the execution of a general
12 release, described below in Section 12. If the Court approves a representative payment of less than
13 the amount sought, the remainder will be retained in the Net Settlement Amount for distribution to
14 Final Settlement Class Members. Plaintiffs will receive IRS Forms 1099 from the Settlement
15 Administrator along with these payments and will be solely responsible for reporting and paying all
16 applicable federal, state, and local tax.
17

18 7.3 Class Counsel Expenses and Fees: Class Counsel will receive an amount not
19 to exceed 33.33 % of the Maximum Payment (\$283,050) in attorneys' fees. Class Counsel will also
20 receive an amount not to exceed \$35,000 for reimbursement of reasonable litigation expenses.
21 Amounts paid as costs and attorneys' fees shall be paid to Class Counsel and Class Counsel will be
22 issued an IRS Form 1099 by the Settlement Administrator for whatever is paid to them. To the
23 extent the Court awards less than the amount of attorneys' fees and costs requested by Class
24 Counsel, the remaining amount will remain in the Net Settlement Amount for distribution to Final
25 Settlement Class Members.
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1 7.4 Settlement Administrator Payment: The Settlement Administrator will receive
2 payment for reasonable costs incurred in connection with administering the Settlement, estimated
3 not to exceed \$15,000. To the extent that the Court approves a payment to the Settlement
4 Administrator of less than the amount sought, the remainder will remain in the Net Settlement
5 Amount for distribution to Final Settlement Class Members.
6

7 7.5 Class Member Settlement Shares: The Parties recognize and agree that the
8 claims in the Litigation are extremely difficult to determine with any certainty and are subject to
9 differing calculations and formulas. The Parties hereby agree that the formula for allocating sums
10 provided herein is reasonable and that the payments provided therein are designed to provide a fair
11 settlement to the persons within the definition of the Class, despite the uncertainties of the amounts
12 alleged to be owed to the Final Settlement Class Members and the calculation of them. After
13 deducting the sums described in 7.1 - 7.4 from the Maximum Payment, all remaining funds (the
14 “Net Settlement Amount”) will be distributed among Final Settlement Class Members pro rata
15 based on the “Settlement Share” calculated based on “Adjusted Compensable Workweeks,” as
16 follows:
17

18 (a) Adjusted Compensable Workweeks: Each Class Member shall be
19 assigned a number of “Compensable Workweeks,” which is calculated in two steps:
20

21 (i) First, Marin General will report the number of weeks during
22 which a Class Member performed work as a Hospital employee during the Class Period,
23 except that weeks during which the Class Member worked as an acknowledged non-exempt
24 (i.e., hourly) employee shall be counted as one-tenth (1/10th) of a week. This reduction is
25 based on the small number of alleged violations of these employees’ right to overtime pay as
26 well as the difficulties of maintaining and substantiating such claims on a class basis. For
27 purposes of this step (i), weeks during which the Class Member received only paid time off
28

1 benefits (such as vacation or sick pay) or was, for the entire week, on an unpaid leave of
2 absence, will not be counted.

3 (ii) Second, the number generated in step (i) will be multiplied by
4 the employee's FTE status number (e.g., "1.0" for a full-time employee or "0.8" for a part-
5 time employee assigned a 32-hour workweek). For purposes of this calculation, Class
6 Members in "per diem" positions will be assigned an FTE status number of "0.1." If Class
7 Members were assigned multiple FTE statuses during the Class Period, the Adjusted
8 Compensable Workweeks will be calculated separately for each FTE status.

9
10 (b) Enhancement of Compensable Workweeks. Prior to calculating
11 Class Members' individual Settlement Shares, the number of Compensable Workweeks will be
12 enhanced by 10% for each Class Member who experienced a termination of employment with the
13 Hospital on or since April the last three years of the Class Period, in reflection of those Class
14 Members' alleged claims for "willful" violations of their right to a complete and timely final
15 paycheck (Labor Code § 203). After this calculation is performed, each Class Member will have a
16 number of "Adjusted Compensable Workweeks" (which will be the number of Compensable
17 Workweeks subject, where applicable, to the enhancement provided in this paragraph (b).
18
19

20
21 (c) Resolution of Disputes: If a Class Member wishes to dispute the
22 number of Compensable Workweeks that has been calculated for him or her, the Class Member
23 may so notify the Settlement Administrator and must produce supporting evidence to the Settlement
24 Administrator for the dates the Class Member contends he or she worked as a Nurse Case Manager.
25 Defendants will review their personnel and payroll records, and provide information to the
26 Settlement Administrator in response to such disputed claims. Defendants' records will be
27 presumed determinative, but the Settlement Administrator will evaluate the evidence submitted by
28

1 the Class Member and make the decision as to how many Compensable Workweeks the Class
2 Member is entitled. The Settlement Administrator shall also notify all counsel of the details of any
3 such dispute, in order that they may submit their views regarding such dispute to the Settlement
4 Administrator. The determination by the Settlement Administrator will be final, subject to final
5 review by the Court, if necessary.
6

7 (d) Aggregate Adjusted Compensable Workweeks: All Class Member's
8 Adjusted Compensable Workweeks, added together, represent the Class's "Aggregate Adjusted
9 Compensable Workweeks."

10 (e) Distribution Formula: The Class Members' distribution dollars-per-
11 week amount will be calculated by dividing the Net Settlement Amount by the Aggregate Adjusted
12 Compensable Workweeks. The Settlement Administrator will then calculate the amount due to
13 each Final Settlement Class Member by multiplying the appropriate dollars-per-week amount by
14 that Class Member's individual Adjusted Compensable Workweeks.
15

16 7.6 Non-Opposition: The Defendants will not oppose the amounts sought as stated
17 in Paragraph 7.1 (LWDA Payment), Paragraph 7.2 (Class Representative Payments), and Paragraph
18 7.3 (Class Counsel Expenses and Fees Payment).

19 7.7 Modification of Apportionment: Should the Court condition Final Approval of
20 the Settlement on a modification of the apportionment of the Maximum Payment, as described
21 above, the Maximum Payment will nevertheless remain \$850,000.
22

23 8. **Distribution of Payments:** The Settlement Shares, the Class Representative
24 Payments, the Class Counsel Expenses and Fees, and the payment to the LWDA will be paid within
25 four weeks after the Settlement becomes Final as defined below:

26 8.1 "Final": "Final" means that Settlement has been fully approved by the Court
27 and either (i) the California Court of Appeals or California Supreme Court has rendered a final
28

1 judgment affirming the Court's Final Approval without material modification, or (ii) the applicable
2 date for seeking appellate review of the Court's Final Approval of the Settlement has passed
3 without a timely appeal or request for review having been made.

4 8.2 Calculation of Payments to Settlement Class Members: Within 5 days of Final
5 Approval by the Court, the Settlement Administrator shall provide counsel for the Parties with a list
6 of all Final Settlement Class Members, the payout to each Final Settlement Class Member, and the
7 Defendants' share of payroll taxes on such payouts. The parties may request, and the Settlement
8 Administrator shall provide, preliminary calculations at any time.

9 8.3 Release of Funds to Settlement Administrator: Within 14 days of Final
10 Approval by the Court, Defendants will deposit with the Settlement Administrator a total of
11 \$850,000, plus the full amount necessary to pay the employer's share of the payroll taxes on
12 settlement payments, as estimated by the Settlement Administrator. The amount necessary to pay
13 the employer's share of the payroll taxes on settlement payments will be provided by Defendants in
14 accordance with Defendants' own arrangement between themselves.

15 8.4 Checks Mailed: Within 30 days after the Settlement becomes Final, the
16 Settlement Administrator shall mail the Settlement payments to the Final Settlement Class
17 Members, the Court-approved service payment to the Class Representatives, the Court-approved
18 payment to the LWDA, and the Court-approved payments to Class Counsel for their Class Counsel
19 Expenses and Fees. Final Settlement Class Members will not be required to submit a claim form.
20 Checks sent to Final Settlement Class Members shall contain a legend on the reverse side of the
21 claim that states: "By not opting out, you are waiving and releasing all claims that were brought, or
22 any other claims that could have been brought based on the facts alleged in the pleadings, in the
23 case of in *Mary Knapp-Samet, et al. v. Marin General Hospital and Sutter Health.*". However,
24 regardless of whether a Settlement Class Member negotiates a settlement check, any Settlement
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1 Class Member who has failed to timely opt-out shall be deemed to have released such claims, as
2 more fully described in Section 13 of this Settlement Agreement.

3 **9. Process for Preliminary and Final Approval:** The Parties propose the following
4 process for Preliminary and Final Approval:

5 9.1 Preliminary Approval Motion: Within 30 days after this Settlement
6 Agreement and Release is signed by the Parties, the Parties will jointly move the Court for
7 Preliminary Approval of the Settlement. The motion shall seek the following: Preliminary
8 Approval of this Settlement as fair, reasonable, and adequate; preliminary appointment and
9 approval of Plaintiffs as Class Representatives; preliminary appointment and approval of Class
10 Counsel; preliminary appointment and approval of the Settlement Administrator; approval of
11 procedure for sending notices to Class Members; approval of notice to be sent to
12

13 9.2 Settlement Administrator: Within 15 days after the Court grants
14 Preliminary Approval, the Defendants will provide to the Settlement Administrator the name,
15 employee identification number, last known address, telephone number and email address, Social
16 Security number, and which weeks within the Class Period each Class Member worked as a Nurse
17 Case Manager (the "Class Member Information"), which information the Settlement Administrator
18 will keep confidential except as to the extent the Settlement provides for disclosure. Defendants
19 will at the same time provide Class Member Information to Plaintiff's counsel, except for last
20 known address, telephone number, email address, and Social Security number.
21

22 9.3 Notice: Within 15 days after receiving the Class Member Information from
23 the Defendants, the Settlement Administrator will send notice of the Settlement to each Class
24 Member by first class mail and by email using each Class Member's last known contact
25 information. In the event of returned or non-deliverable notices that were sent by mail, the
26 Settlement Administrator will make reasonable efforts to locate the Class Members and re-send the
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1 notices by mail. A copy of the proposed Notice, and the proposed Settlement Share Form are
2 attached hereto as Exhibits A and B, respectively. Both the Notice and Settlement Share Form are
3 subject to Court approval. In addition, in the event that a Notice has been returned by mail, the
4 Class Administrator will contact the Class Member by phone, at the last known phone number
5 available to the Defendants. The Class Administrator will use reasonable efforts to obtain current
6 addresses for Class Members.
7

8 9.4 Opt-Out: In order to opt-out of the Settlement, a Class Member must send a
9 letter, by mail, stating that she wants to opt-out, or be excluded from, the Settlement to the
10 Settlement Administrator by not later than 45 days after notice of the Settlement was mailed.
11

12 9.5 Voiding the Settlement Agreement: If 9 or more of the Class Members validly
13 opt-out of the Settlement, the Defendants will have the right to rescind the Settlement and all
14 actions taken in furtherance will be null and void. The Defendants must exercise this right within
15 14 days after the Settlement Administrator notifies the Parties of the valid opt-outs received, which
16 the Settlement Administrator will do within 14 days after the deadline for submission of the
17 elections not to participate. If the Defendants exercise the right to rescind, they will be responsible
18 for the costs of administration of the Settlement incurred through that time.
19

20 9.6 Objections: In order to object to the Settlement, a Class Member must file
21 his or her objection, and serve it on the Parties, not later than 45 days after notice of the Settlement
22 was mailed. The objection must include a written statement indicating whether the Class Member
23 intends to appear and object to the Settlement at the Final Approval Hearing. The failure to so
24 indicate will constitute a waiver of the right to appear at the hearing, unless the Court rules
25 otherwise. A Class Member who does not submit an objection in the manner and by the deadline
26 specified above will be deemed to have waived all objections and will be foreclosed from making
27 any objection to the Settlement, whether by appeal or otherwise absent a contrary order of the
28

1 Court. Class Members who wish to object to the Plaintiffs' or Class Counsel's request for
2 attorneys' fees and costs may do so by following the same procedure as described above.

3 9.7 Final Approval: If the Defendants do not exercise the right to rescind the
4 Settlement based on the number of Class Members who opt-out of the Settlement, or if fewer than 9
5 of the Class Members validly opt-out of the Settlement, the Parties will jointly move for Final
6 Approval of the Settlement. The Parties will move for Final Approval within 30 days after the
7 deadline for the Defendants to exercise the right to rescind or, if fewer than 9 of the Class Members
8 validly opt-out of the Settlement, within 30 days of receiving notice from the Settlement
9 Administrator of the valid opt-outs received. In conjunction with the Motion for Final Approval,
10 the Settlement Administrator shall provide a final report providing details regarding the execution
11 of the notice process, the rate (if any) of opt-outs and objections, and other information vital to the
12 Court's assessment of the fairness of the Settlement Agreement.
13
14

15 9.8 Court's Determination: If the Court does not grant Final Approval of the
16 Settlement, or if the Court's Final Approval of the Settlement is reversed or materially modified on
17 appellate review, then this Settlement will be null and void.

18 10. **Encouragement:** Both parties shall encourage each Class Members to participate in
19 the Settlement, and neither Party will do anything to disrupt the Settlement.
20

21 11. **No Liability or Precedent:** In agreeing to this Settlement Agreement, the Defendants
22 do not concede any liability or wrongdoing. Without limiting the generality of any of the foregoing,
23 Defendant Sutter Health does not concede that it, at any time, employed the Class Members (either
24 directly or under any theory of co-employment liability such as "joint employer," "single
25 employer," or "integrated enterprise") nor does it concede that it is, or ever has been, liable as the
26 co-employer of any other person employed by the Hospital or any other entity affiliated with Sutter
27 Health except for Sutter Health itself. Neither the fact of this Settlement Agreement, the existence
28

1 of this Settlement Agreement, the terms of this Settlement Agreement, nor any order or action
2 pursuant thereto may be referred to, relied upon, cited, or used as precedent in any case involving
3 the Defendants, the Class Representatives, or the Class Members, except to enforce the terms of this
4 Settlement Agreement or as a bar or defense to any claims that have been released pursuant to this
5 Settlement Agreement. Further, in the event that the terms of this Settlement Agreement do not
6 receive Final Approval from the Court (or if a Final Approval order is reversed on appeal), no part
7 of this Settlement Agreement nor any order or action pursuant thereto shall be operable or
8 admissible for any purpose whatsoever in the Litigation or in any other action or proceeding.
9

10 **12. Plaintiffs' General Release of Claims:** In consideration of the terms and conditions
11 of the Settlement, effective as of the date of Final Approval of the Settlement, Plaintiffs hereby
12 forever completely release and discharge Defendants Marin General and Sutter Health, and any of
13 their former and present parents, subsidiaries, and affiliates, whatever their current or formal legal
14 names or legal entity status, any of their respective officers, directors, employees, partners,
15 shareholders and agents, and any other successors, assigns, or legal representatives (collectively the
16 "Released Parties"), from any and all claims, causes of action, rights, liabilities, expenses,
17 demands, damages, penalties, and losses of any kind or nature, known or unknown, that Plaintiffs
18 had or might have against Defendants Marin General, Sutter Health, or any of the Released Parties
19 at any time prior to the date of Final Approval of the Settlement under any federal, state, or local
20 statute, law, regulation, or ordinance. Sutter Health was the sole member of Marin General Hospital
21 (a nonprofit entity organized as a public benefit corporation under the laws of the State of
22 California) until 2010, when it transferred its membership interest to the Marin Healthcare District
23 (a state-chartered agency) in 2010. Sutter Health's alleged liability is solely for the period in which
24 Sutter Health was the sole member of Marin General Hospital.
25
26
27

28 12.1 Includes Release of Claims Related to The Present Litigation: Without

1 limiting the generality of the above release, this release includes, but is not limited to, all claims and
2 causes of action asserted in the Class Action Complaint, all claims and causes of action arising out
3 of, related in any way to, or in connection with the facts, claims, and causes of action alleged in this
4 Litigation, even if presently unknown or unasserted, and all claims and causes of action that could
5 have been pled in this Litigation. The matters released include, but are not limited to, any claims or
6 causes of action against under tort, contract, state and federal wage-and-hour laws or other laws
7 affecting working conditions, the California Labor Code, all applicable Welfare Commission Wage
8 Orders (including Wage Order 10-2001), the California Business & Professions Code, or the Private
9 Attorneys General Act, Labor Code Section 2698, et seq.

11 12.2 Includes Release of Unknown Claims: Plaintiffs acknowledge that they each
12 may have claims or causes of action within the description of Paragraph 12 and its subparts that are
13 presently unknown and that the release contained in this Settlement Agreement is intended to and
14 will fully, finally, and forever discharge even such claims, whether now asserted or unasserted,
15 known or unknown. ACCORDINGLY, PLAINTIFFS EXPRESSLY UNDERSTAND AND
16 AGREE TO WAIVE THE PROVISIONS OF, AND RELINQUISH ALL RIGHTS AND
17 BENEFITS AFFORDED BY, CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES
18 IN FULL AS FOLLOWS:

20 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
21 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
22 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN
23 BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER
SETTLEMENT WITH THE DEBTOR.

24 In giving this waiver, Plaintiffs acknowledge that they may hereafter discover facts in
25 addition to or different from those which they now believe to be true with respect to the subject
26 matter released herein, but agree that they have taken that possibility into account in reaching this
27 Settlement Agreement and that, notwithstanding the discovery or existence of any such additional
28

1 or different facts, as to which the Plaintiffs expressly assume the risk, they freely and voluntarily
2 give the release set forth above.

3
4 12.3 Waiver of California Labor Code Section 206.5: Plaintiffs acknowledge and
5 agree that their claims, described above in Paragraph 12.1, are disputed and that California Labor
6 Code section 206.5 is therefore not applicable to the Parties hereto. That section provides in
7 pertinent part as follows:

8 No employer shall require the execution of any release of any claim or right
9 on account of wages due or to become due, or made as an advance on wages to be
10 earned, unless payment of such wages has been made.

11 12.4 Representation of No Assignment: Plaintiffs represent and warrant that
12 nothing which would otherwise be released herein has been assigned or transferred, or purportedly
13 assigned or transferred.

14 13. **Class Members' Release of Claims:** In consideration of the terms and conditions of
15 the Settlement, effective as of the date of Final Approval of the Settlement, the Final Settlement
16 Class Members hereby forever completely release and discharge Defendants Marin General and
17 Sutter Health, and any of the Released Parties from , any and all claims and causes of action
18 asserted in the Class Action Complaint, all claims and causes of action arising out of, or in
19 connection with the facts, claims, and causes of action alleged in this Litigation, even if presently
20 unknown or unasserted, and all claims and causes of action that could have been plead in this
21 Litigation, based on the facts recited in the Class Action Complaint. The matters released include,
22 but are not limited to, any claims or causes of action that could have been pled under tort, contract,
23 state and federal wage-and-hour laws or other laws affecting working conditions, the California
24 Labor Code, all applicable Welfare Commission Wage Orders (including Wage Order 10-2001), the
25 California Business & Professions Code, or the Private Attorneys General Act, Labor Code Section
26 2698, et seq.
27
28

1 13.1 Waiver of California Labor Code Section 206.5: Class Members acknowledge
2 and agree that their claims, described above in Paragraph 13, are disputed and that California Labor
3 Code section 206.5 is therefore not applicable to the Parties hereto. That section provides in
4 pertinent part as follows:

5 No employer shall require the execution of any release of any claim or right
6 on account of wages due or to become due, or made as an advance on wages to be
7 earned, unless payment of such wages has been made.

8 13.2 Representation of No Assignment: Class Members represent and warrant that
9 nothing which would otherwise be released herein has been assigned or transferred or purportedly
10 assigned or transferred.

11 14. **Stipulation for Class Certification for Settlement:** For purposes of this Settlement
12 *only*, the Parties stipulate that a class may be certified, as described in this Settlement. The Parties
13 stipulate and agree that should, for whatever reason, the Settlement not become final and effective
14 as herein provided, the class certification shall immediately be set aside and the stipulated
15 settlement class shall immediately be decertified, and this stipulation shall not be admissible in
16 connection with the issue of whether or not certification would be appropriate in a non-settlement
17 context.
18

19 15. **Fair, Adequate, and Reasonable Settlement:** The Parties agree that the Settlement
20 is fair and reasonable, and will so represent to the Court.
21

22 16. **Disposition of Uncashed Settlement Checks:** If a Class Member fails to cash the
23 check for her Settlement Share within 150 days after it is mailed to the Class Member, all such
24 checks shall be voided, and the unclaimed funds represented by the checks shall be forwarded, in
25 the name of the Final Settlement Class Member, to the State of California, Controller - Unclaimed
26 Property Division, for further handling on behalf of the Participating Class Member.

27 Administration of the Settlement shall be completed no later than 180 days after the Settlement
28

1 becomes Final. Upon completion of administration of the Settlement, the Settlement Administrator
2 shall provide written certification of such completion to Class Counsel and Defendants' Counsel.

3 **17. Dispute Resolution:** Except as otherwise set forth herein, all disputes concerning the
4 interpretation, calculation or payment of Settlement Shares, or other disputes regarding compliance
5 with this Settlement Agreement shall be resolved as follows:
6

7 17.1 If the Representative Plaintiffs or Class Counsel, on behalf of the
8 Representative Plaintiffs or any Final Settlement Class Member, or either Defendant at any time
9 believe that another party has breached or acted contrary to the terms of the Settlement Agreement,
10 that Party shall notify the other Party in writing of the alleged violation.

11 17.2 Upon receiving notice of the alleged violation or dispute, the responding party
12 shall have ten (10) days to correct the alleged violation and/or respond to the notifying party with
13 the reasons why the responding party disputes all or part of the allegation.
14

15 17.3 If the response does not resolve the dispute, the Parties shall negotiate in good
16 faith for no fewer than ten (10) days to resolve their differences.

17 17.4 If the Parties are still unable to resolve their differences after the negotiation
18 period referenced in paragraph 18.3, either party may file an appropriate motion for enforcement
19 with the Court.
20

21 **18. Waiver of Appeals:** The Parties waive all appeals from the Court's Final Approval of
22 the Settlement unless the Court materially modifies the Settlement. An award by the Court of lesser
23 amounts than those sought for the Class Representative Payments or the Class Counsel Expenses
24 and Fees Payment will not be a material modification of the Settlement.

25 **19. Binding on Successors and Assigns:** This Settlement Agreement shall be binding
26 upon and inure to the benefit of the successors or assigns of the Parties hereto.

27 **20. Choice of Law:** All terms of this Settlement Agreement shall be governed by and
28

1 interpreted according to the laws of the State of California.

2 21. **Construction:** This Settlement Agreement is entered into freely and voluntarily, with
3 each Party having been represented by counsel in the settlement negotiations leading up to, and in
4 connection with the preparation and execution of, this Settlement Agreement. The Parties
5 acknowledge and agree that all Parties had an equal hand in drafting this Settlement Agreement so
6 that it shall not be deemed to have been prepared or drafted by one Party or another. All Parties
7 waive the provisions of California Civil Code section 1654, which provides, in pertinent part, that
8 “the language of a contract should be interpreted most strongly against the Party who caused the
9 uncertainty to exist.”
10

11 22. **Severability:** If any of the above provisions are found null, void, or inoperative for
12 any reason, the remaining provisions will remain in full force and effect. Notwithstanding, the
13 invalidation of any material term of this Settlement Agreement, including but not limited to all the
14 terms and provisions specified in the Release of Claims, will invalidate this Settlement Agreement
15 in its entirety unless the Parties subsequently agree in writing that the remaining provisions will
16 remain in force and effect.
17

18 23. **Amendment or Modification:** Unless otherwise provided herein, this Agreement
19 may be amended or modified only by a written instrument signed by counsel for all Parties or their
20 successors in interest.
21


22 24. **Entire Agreement:** This Settlement Agreement and any supplemental written
23 agreement signed by the Parties, if any, constitute the sole, exclusive, and entire agreement among
24 the Parties, and no oral or written representations, warranties, or inducements have been made to
25 any party concerning this Settlement Agreement other than the representations, warranties, and
26 covenants contained and memorialized here. This Settlement Agreement, once it is fully executed,
27 supersedes any and all prior agreements between the Parties, whether written or verbal.
28

SO STIPULATED.

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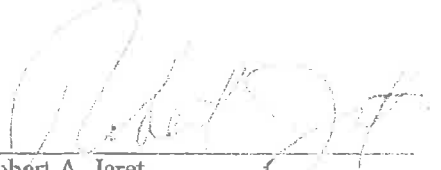
Dated: February 6th, 2016

ARNOLD & PORTER LLP

By: 
Christopher T. Scanlan
with David J. Reis and Matthew Diton
Attorneys for Defendant MARIN
GENERAL HOSPITAL (sued herein as
"MARIN GENERAL HOSPITAL
CORPORATION")

Dated: February _____, 2016

JARET & JARET

By: 
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with Philip A. Jaret
1016 Lincoln Ave.
San Rafael, CA 94901
Tel: (415) 455-1010
Fax: (415) 455-1050

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SAMET, JANE ANN MIDDLETON,
KATHRYN BALLINGER, NORA BURNS,
BARBARA RUSSELL, WINNIE HUANG,
and HEATHER GOSLINER; and for
SHARON REID and CHING M. REDMON

Dated: February 26th, 2016

ARTHUR R. SIEGEL, ESQ.

By: 
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Attorney for Plaintiffs MARY KNAPP-
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KATHRYN BALLINGER, NORA BURNS,
BARBARA RUSSELL, WINNIE HUANG,
and HEATHER GOSLINER; and for
SHARON REID and CHING M. REDMON

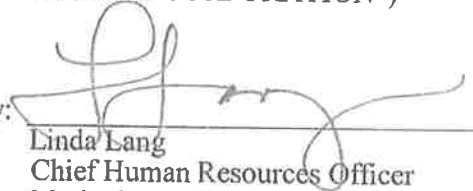
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Dated: February _____, 2016

FOX ROTHSCHILD LLP

By: _____
Alexander Hernaez
345 California Street
Suite 2200
San Francisco CA 94104-2670
Tel: (415) 364-5566
Fax: (415) 391-4436
Attorneys for Defendant SUTTER
HEALTH (sued herein as "SUTTER
HEALTH CORPORATION")

Dated: February 16, 2016

By: 
Linda Lang
Chief Human Resources Officer
Marin General Hospital

Dated: February _____, 2016

By: _____
Sutter Health Corporation

Dated: February _____, 2016

By: _____
Mary Knapp-Samet

Dated: February _____, 2016

By: _____
Jane Ann Middleton

Dated: February _____, 2016

By: _____
Kathryn Ballinger

San Francisco, CA 94104

Tel: (415) 395-9335

Attorney for Plaintiffs MARY KNAPP-SAMET, JANE ANN MIDDLETON, KATHRYN BALLINGER, NORA BURNS, BARBARA RUSSELL, WINNIE HUANG, and HEATHER GOSLINER; and for SHARON REID and CHING M. REDMON

Dated: February _____, 2016

FOX ROTHSCHILD LLP

By:

Alexander Hernaez

345 California Street

Suite 2200

San Francisco CA 94104-2670

Tel: (415) 364-5566

Fax: (415) 391-4436

Attorneys for Defendant SUTTER HEALTH (sued herein as "SUTTER HEALTH CORPORATION")

Dated: February _____, 2016

By: _____

Linda Lang

Chief Human Resources Officer

Marin General Hospital

Dated: February _____, 2016

By: _____

Sutter Health Corporation

Dated: February 9, 2016

By: 

Mary Knapp-Samet

1 Dated: February _____, 2016

FOX ROTHSCHILD LLP

2
3
4 By: _____
Alexander Hernaez
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Tel: (415) 364-5566
Fax: (415) 391-4436
Attorneys for Defendant SUTTER
HEALTH (sued herein as "SUTTER
HEALTH CORPORATION")

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10 Dated: February _____, 2016

By: _____
Linda Lang
Chief Human Resources Officer
Marin General Hospital

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14 Dated: February _____, 2016

By: _____
Sutter Health Corporation

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18 Dated: February _____, 2016

By: _____
Mary Knapp-Samet

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21 Dated: February 9, 2016

By: Jane Ann Middleton
Jane Ann Middleton

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23
24
25
26 Dated: February _____, 2016

By: _____
Kathryn Ballinger

1 Dated: February _____, 2016

FOX ROTHSCHILD LLP

4 By: _____

Alexander Hernaez
345 California Street
Suite 2200
San Francisco CA 94104-2670
Tel: (415) 364-5566
Fax: (415) 391-4436
Attorneys for Defendant SUTTER
HEALTH (sued herein as "SUTTER
HEALTH CORPORATION")

10 Dated: February _____, 2016

By: _____

Linda Lang
Chief Human Resources Officer
Marin General Hospital

14 Dated: February _____, 2016

By: _____

Sutter Health Corporation

18 Dated: February _____, 2016

By: _____

Mary Knapp-Samet

22 Dated: February _____, 2016

By: _____

Jane Ann Middleton


26 Dated: February 17 _____, 2016

By: _____

Katherine M Ballinger
Kathryn Ballinger

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Dated: February 2/9, 2016

By: 
Nora Burns

Dated: February _____, 2016

By: _____
Barbara Russell

Dated: February _____, 2016

By: _____
Winnie Huang

Dated: February _____, 2016

By: _____
Heather Gosliner

Dated: February _____, 2016

By: _____
Sharon Reid

Dated: February _____, 2016

By: _____
Ching M. Redmon

Dated: February _____, 2016

Linda Lang
Chief Human Resources Officer
Marin General Hospital

By:

Sutter Health Corporation

Dated: February _____, 2016

By:

Mary Knapp-Samet

Dated: February _____, 2016

By:

Jane Ann Middleton

Dated: February _____, 2016

By:

Kathryn Ballinger

Dated: February _____, 2016

By:

Nora Burns

Dated: February _____, 2016

By: *Barbara Russell*

Barbara Russell

Dated: February 18, 2016

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Dated: February _____, 2016

By: _____
Nora Burns

Dated: February _____, 2016

By: _____
Barbara Russell

Dated: February 18th, 2016

By:  _____
Winnie Huang

Dated: February _____, 2016

By: _____
Heather Gosliner

Dated: February _____, 2016

By: _____
Sharon Reid

Dated: February _____, 2016

By: _____
Ching M. Redmon

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Dated: February _____, 2016

By: _____
Nora Burns

Dated: February _____, 2016

By: _____
Barbara Russell

Dated: February _____, 2016

By: _____
Winnie Huang

Dated: February 9, 2016

By: Heather Gosliner
Heather Gosliner

Dated: February 9, 2016

By: Sharon Reid
Sharon Reid

Dated: February _____, 2016

By: _____
Ching M. Redmon

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Dated: February _____, 2016

By: _____
Nora Burns

Dated: February _____, 2016

By: _____
Barbara Russell

Dated: February _____, 2016

By: _____
Winnie Huang

Dated: February _____, 2016

By: _____
Heather Gosliner

Dated: February _____, 2016

By: _____
Sharon Reid

Dated: February 18, 2016

By: 
Ching M. Redmon