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Attorneys for PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

ALEXA LOWE, an individual, on behalf of herself and on behalf of all persons similarly situated, Plaintiff, v. ASH'S FIRST LLC, a California Limited Liability Company; NYRN MANAGEMENT LLC, a California Limited Liability Company; SCZZ COLLECTIVE, INC. dba UPNORTH, a California Corporation; AREA 29 LLC dba Off The Charts, a California Limited Liability Company; NORMAN YOUSIF, an individual; and DOES 1 through 50, inclusive, Defendants.	Case No.: 37-2022-00010114-CU-OE-CTL **DECLARATION OF SYDNEY CASTILLO-JOHNSON, ESQ. IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT** Date: August 8, 2025 Time: 10:30 a.m. Judge: Hon. Carolyn Caietti Dept.: 70

I, Sydney Castillo-Johnson, Esq., declare as follows:

I am over eighteen years of age and if called as a witness, I could and would competently testify to the following facts from my own personal knowledge. I am an attorney-at-law at JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am counsel of record for Plaintiff ALEXA LOWE ("Plaintiff" or "Class Representative") in this wage and hour class action filed against Defendant Ash's First LLC, Defendant NYRN Management LLC, Defendant SCZZ Collective, Inc. dba Upnorth, Defendant Area 29 LLC dba Off The Charts, and Defendant Norman Yousif (hereinafter "Defendants").

1. This declaration is being submitted in support of Plaintiffs' Motion for Final Approval of Class Action and PAGA Settlement.

2. Attached hereto as **Exhibit "1"** is a true and correct copy of the fully executed Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims (hereinafter "Settlement Agreement"). Attached thereto as **Exhibit A** is a true and correct copy of the Notice of Class Action and PAGA Settlement ("Class Notice").

3. Attached hereto as **Exhibit "2"** is a true and correct copy of the April 4, 2025, Preliminary Approval Order.

4. Attached hereto as **Exhibit "3"** is a true and correct copy of the March 11, 2025, proof of filing the proposed Settlement with the LWDA.

5. Attached hereto as **Exhibit "4"** is true and correct copy of the July 14, 2025, proof of filing this motion seeking final approval of this Settlement with the LWDA.

INTRODUCTION

6. An objective evaluation of the proposed settlement of Six Hundred, Ninety Thousand Dollars and Zero Cents ($690,000.00) ("Gross Settlement Amount") confirms that the relief negotiated on behalf of the Settlement Class Members is fair, reasonable, and valuable. The Settlement is a product of informed, adversarial, and non-collusive negotiations, between experienced counsel, and presided over by Hon. Steve R. Denton (Ret.), a retired jurist and mediator of wage and hour class and PAGA actions. After deducting any Court-approved PAGA Payment, Service Award, Class Counsel Award, and the Settlement Administration Costs, the Net Settlement Amount shall be distributed to Settlement

Class Members based on the number of Workweeks they worked while employed by Defendants during the Class Period.

7. This Settlement provides substantial recovery for Defendants' alleged wage and hour violations. Plaintiff estimates that the Settlement, if approved, would result in a Net Settlement Amount of approximately $366,010.00. This will result in an average Individual Settlement Payment of **$670.35,** a high payment of **$3,857.98**, and low payment of **$2.11**.

8. The relief offered by the Settlement is immediate and is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing similar wage and hour cases (*see infra)*. Indeed, by settling now rather than proceeding to trial, the Class will not have to wait (possibly years) for relief, nor will they have to bear the risks associated with prolonged and uncertain litigation.

9. As discussed below, the proposed Settlement satisfies all criteria for final settlement approval under California law and falls well within the range of reasonableness. Accordingly, the Class Representative and Class Counsel respectfully request this Court grant final approval of the Agreement and entry of the proposed Final Approval Order and Judgment.

OVERVIEW OF THE LITIGATION

10. Defendants produce, harvest, and operate retail stores for the sale of cannabis products throughout California, including San Diego County, where Plaintiff worked. Plaintiff was employed by Defendants from May 2021 to September 2021, as a non-exempt employee. Plaintiff alleges that she was denied legally compliant minimum wage and overtime compensation, meal and rest breaks, accurate itemized wage statements, and reimbursements at all times during her employment. Throughout her employment, Plaintiff was subject to Defendants' written policies and procedures contained in, among other documents, the "Employee Handbook."

11. Generally, Plaintiff claims that Defendants failed to provide compliant meal and rest periods, failed to pay for all time worked, failed to pay overtime and meal period premiums at the correct regular rate of pay, failed to furnish accurate itemized wage statements, failed to reimburse for mandatory business expenses, and failed to pay all wages upon separation. Defendants deny liability for each of Plaintiff's claims. Further, Defendants assert that they fully complied with all applicable employment laws and raised several other significant defenses to Plaintiff's claims, including but not

limited to, facially compliant meal and rest period policies, compliant wage statements, compliant reimbursement practices, and they timely paid all wages due upon separation of employment.

12. On January 7, 2022, Plaintiff served Defendants and the Labor and Workforce Development Agency ("LWDA") with a Notice of Violations ("PAGA Notice"). Plaintiff's PAGA Notice set forth the facts and theories supporting Defendants' alleged violations of various provisions of the California Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage Order and of her intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab. Code Sections 2698 *et seq* ("PAGA").

13. On March 16, 2022, Plaintiff filed a class action complaint in the San Diego County Superior Court, Case No. 37-2022-00010114-CU-OE-CTL ("Class Action"). The Class Action alleged nine causes of action against Defendants for: (1) Unfair Competition in violation of Cal. Bus. & Prof. Code §§ 17200, *et. seq.;* (2) Failure to Pay Minimum Wages in violation of Cal. Lab. Code §§ 1194, 1197, 1197.1; (3) Failure to Pay Overtime Wages in violation of Cal. Lab. Code §§ 510, *et seq.*; (4) Failure to Provide Required Meal Periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (5) Failure to Provide Required Rest Periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (6) Failure to Provide Accurate Itemized Wage Statements in violation of Cal. Lab Code §226; (7) Failure to Reimburse for Required Expenses in violation of Cal. Lab. Code § 2802; (8) Failure to Pay Wages When Due in violation of Cal. Lab. Code §§ 201, 202, and 203; and (9) Violation of PAGA. On May 11, 2022, Plaintiff filed a First Amended Complaint (the "Operative Complaint") adding Normal Yousif as a named Defendant.

14. On October 1, 2024, the Parties participated in a full day mediation with mediator Hon. Steven R. Denton (Ret.). The mediation concluded with a settlement after both sides agreed to a Mediator's proposal which was subsequently memorialized in the form of a Memorandum of Understanding. Thereafter, the Parties drafted and negotiated a long-form settlement agreement, which is the subject of the instant motion.

15. On April 4, 2025, this Court granted preliminary approval of the Settlement. On April 25, 2025, the Settlement Administrator mailed Notice Packets to all 546 Class Members. Apex Dec., ¶ 7. The mailing of the Notice Packets triggered a forty-five (45) day Response Deadline for the Class

to submit requests for exclusion or objections to the Settlement. The response from the Class to the Settlement was outstanding – 100% of the Class Members are participating in the Settlement.

16. The Court preliminarily approved an initial Gross Settlement Amount of Six Hundred, Ninety Thousand Dollars and Zero Cents ($690,000.00) based on a total of an estimated 24,000 Workweeks worked by the Class during the Class Period. The Gross Settlement Amount shall be used to satisfy: (1) the Individual Settlement Payments; (2) the Service Award; (3) the Class Counsel Award; (4) the PAGA Payment; and (5) the Settlement Administration Costs incurred in this action.

17. Defendants will fund the Settlement by paying the Gross Settlement Amount to the Settlement Administrator in seventeen (17) installments: (1) The First Installment in the amount of $25,000 shall be due on or before November 6, 2024; (2) The Second Installment of $10,000 shall be due on or before December 6, 2024; (3) The Third Installment of $10,000 shall be due on or before January 6, 2025; (4) The Fourth Installment of $10,000 shall be due on or before February 6, 2025; (5) The Fifth Installment of $10,000 shall be due on or before March 6, 2025; (6) The Sixth Installment of $10,000 shall be due on or before April 7, 2025; (7) The Seventh Installment of $10,000 shall be due on or before May 6, 2025; (8) The Eighth Installment of $10,000 shall be due on or before June 6, 2025; (9) The Ninth Installment of $10,000 shall be due on or before July 7, 2025; (10) The Tenth Installment of $10,000 shall be due on or before August 6, 2025; (11) The Eleventh Installment of $10,000 shall be due on or before September 8, 2025; (12) The Twelfth Installment of $10,000 shall be due on or before October 6, 2025; (13) The Thirteenth Installment of $200,000 shall be due on the later of on or before October 6, 2025, or thirty (30) days after the Court grants Final Approval; (14) The Fourteenth Installment of $50,000 shall be due on or before the last day of the fiscal quarter immediately following the funding of the Thirteenth Installment; (15) The Fifteenth Installment of $50,000 shall be due on or before the last day of the fiscal quarter immediately following the funding of the Fourteenth Installment; (16) The Sixteenth Installment of $50,000 shall be due on or before the last day of the fiscal quarter immediately following the funding of the Fifteenth Installment; and (17) The Seventeenth Installment of $205,000 shall be due on or before the last day of the fiscal quarter immediately following the funding of the Sixteenth Installment. Defendants' share of payroll taxes shall be paid separately and in addition

to the Seventeenth or Final Installment. Agreement, ¶ I(N). As of the filing of this Motion, Defendants have completed the Tenth Installment.

18. As explained in further detail below, the Settlement is fair, adequate, and reasonable to the class and should be granted final approval. This is evidenced by the high approval of the Settlement by the Class, the absence of any objections to the Settlement and the average Individual Settlement Payment of **$670.35.**

THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE

Class Counsel Conducted a Thorough Investigation

19. Months before filing the Action, Class Counsel began its pre-filing investigation into Plaintiff's complaints. Class Counsel's investigation started with several lengthy interviews with Plaintiff. As part of the interview process, Plaintiff produced documents related to her employment, including correspondence with Defendants, timekeeping records, and payroll records. At the conclusion of the interviews, Class Counsel determined that Plaintiff's complaints justified further inquiry.

20. Class Counsel subsequently requested Plaintiff's employee files from Defendants. In response, Defendants produced hundreds of pages of documents, including but not limited to, copies of Plaintiff's hiring documents, payroll and time records, various policies and performance reviews. Class Counsel reviewed and analyzed the documents and determined the documents appeared to substantiate Plaintiff's claim that Defendants failed to, among other things, pay for all time worked and to provide compliant meal and rest periods.

21. Considering the many anticipated factual disputes, the Parties agreed that it would be in the best interest of both Parties to mediate the matter. To prepare for mediation, Class Counsel requested documents and data points to further evaluate Plaintiff's claims and Defendants' liability exposure to the Class Members. In response to Class Counsel's request, Defendants produced the time records for the Class Members, aggregate workweek and pay period data for the Class Members, average hourly rate for the Class Members, and copies of applicable handbooks, policies, and agreements containing, *inter alia,* compensation, timekeeping and meal and rest period policies.

22. Class Counsel then retained the statisticians and economists at BCG to evaluate the Class Members' payroll and time data. BCG provides data analysis and damage modeling consulting services

specializing in wage and hour class actions. BCG's team of financial and data analysts are credentialed and experienced experts in their fields and have provided their expertise on thousands of cases. Stated differently, the BCG is uniquely qualified to analyze Defendants' time and payroll data.

23. BCG analyzed Defendants' time and payroll data to assist in the development of various damage models. Among other things, BCG determined the approximate number of work shifts, workweeks, pay periods, average length of shift and average number of hours worked per week and pay periods during the Class Period. BCG also estimated the number of missed, late or truncated meal and rest periods, the amount of paid missed meal period premiums paid during the Class Period, the amount of underpayment of overtime, premiums, and sick time resulting from miscalculation of the regular rate of pay, and the amount of unreimbursed business expenses incurred by Class Members during the Class Period.

24. In advance of mediation, Class Counsel created a damage model predicated on the BCG analysis. Class Counsel's model calculated Defendants' potential liability exposure while accounting for the uncertainties of continued litigation. This damage model informed and guided Class Counsel during the mediated settlement discussions.

25. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1) determining Plaintiff's suitability as a putative class representative through interviews, background investigations, and analysis of his employment files; (2) evaluating all of Plaintiff's potential claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions, and the type of employer; (4) analyzing the Settlement Class' time and payroll records; (5) analyzing Defendants' labor policies and practices; (6) researching settlements in similar cases as well as outstanding issues which could affect settlement approval; (7) evaluating Plaintiff's claims and estimating Defendants' liability for purposes of settlement; (8) drafting the mediation brief; and (9) participating in the mediation. This investigation allowed Class Counsel to fully assess the nature and magnitude of the claims being settled, as well as the impediments to recovery, such as to make an independent assessment of the reasonableness of the terms to which the Parties have agreed.

26. Class Counsel only agreed to enter the Settlement following this thorough investigation and evaluation of Plaintiff's claims. Based on its investigation of the facts, applicable law, and

marketplace for similar settlements, and considering the risk of significant delay and uncertainty associated with litigation, and the various defenses asserted by Defendant, Class Counsel firmly believe this Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair, reasonable, and adequate, the Court should preliminarily approve the Settlement.

Class Counsel's Experience

27. Plaintiff and Class Members are represented by competent and experienced counsel to pursue their claims.

28. I have been in practice as a labor and employment associate with the JCL Law Firm, APC, since May 2022, representing employees in wage and hour class and PAGA actions.

29. I am qualified to represent the Plaintiff, the State of California, and the Class Members. I have experience with wage and hour class and representative actions litigation like this matter, and employment matters in general. I can, will and have adequately represented the interests of the Plaintiff and Class Members throughout this action.

30. My primary practice has been employment law throughout my entire legal career. I have handled a number of wage and hour matters, including individual actions, class actions, and representative PAGA actions, on behalf of plaintiffs. The following is a list of wage and hour class and/or PAGA actions where I served as counsel and in which final settlement approval was granted: See generally *Chrestensen v. Northeastern Rural Health Clinics* Lassen, Superior Court Case No. 63703 (April 13, 2023); *Toler v. Total Testing Solutions, LLC,* Los Angeles Superior Court Case No. 21STCV38452 (July 27, 2023); *O'Quinn v. Laugh Factory, Inc.,* Los Angeles Superior Court Case No. 19STCV28155 (August 1, 2023); *Kneisly v. SR Machining, Inc., et al.,* Riverside Superior Court Case No. CVRI2201491 (October 5, 2023); *Anderson v. Barton Myers Associates, Inc., et al.,* Los Angeles Superior Court Case No. 21STCV43314 (October 12, 2023); *Coles v. Carefusion Resources LLC, et. al.* San Diego Supeiror Court Case No. 37-2022-00048696-CU-OE-CTL (March 25, 2024); *Thomas v. Center for Elder's Independence* Alameda Superior Court Case No. 22CV024221 (July 2, 2024); *Klein v. RedZone Security, Inc.,* Riverside Superior Court Case No. CVRI2202841 (August 15, 2024); *Nunez v. Titan AG, et. al.* Tulare Superior Court Case No. VCU296822 (February 4, 2025); *Rene v. Koch Filter Corporation* Riverside Superior Court Case No. CVRI2300700 (March 11, 2025); *Winn v. City Electric*

Supply Company San Diego Superior Court Case No. 37-2023-0004023 1-CU-OE-CTL (March 13, 2025); *Gamble v. AirX Utility Surveyors, Inc*. San Diego Superior Court Case No. 37-2022-00042178-CU-OE-CTL (March 14, 2025); *Garcia v. ConvergeOne* San Bernardino Superior Court Case No. CIVSB2305464 (May 12, 2025).

31. As counsel for Plaintiff and the proposed Class, I have been actively involved in every aspect of this case and I believe that the proposed Settlement is an excellent result for the Class.

The Strength of Plaintiff's Case and Risks of Continued Litigation

32. The reaction of the Class unequivocally supports approval of the Settlement. Significantly, after dissemination of the notice to the Class, which provided each Class Member with the terms of the Settlement, including the specific estimated Individual Settlement Payments. To date, ***none*** of the 546 Class Members opted out of the Settlement. Moreover, there are ***zero*** objections. Stated differently, **100%** of the Class chose to participate in the Settlement.

33. Here, the Settlement is clearly within the "ballpark" of reasonableness because the Settlement provides a sizeable recovery to the Settlement Class Member and need not necessarily obtain 100 percent of the damages sought to be fair, reasonable, and ultimately, meaningful. *Wershba*, 91 Cal.App.4th at 250. While the Gross Settlement Amount of Six Hundred, Ninety Thousand Dollars and Zero Cents ($690,000.00) represents a discount on Defendants' potential exposure if Plaintiff established liability on all claims and was awarded the full amount of the estimated damages at trial, this compromise is reasonable because (1) the formidable defenses raised by Defendants presented a risk that could award significantly less in damages than Plaintiff's estimate and (2) any theoretical post-trial recovery may require many more years of litigation, resulting in added fees and costs without any guarantee of recovery for the Class.

34. As detailed at the time of preliminary approval, the Gross Settlement Amount is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Class Counsel developed varied economic damages models measuring Defendants' liability exposure while accounting for the uncertainties of continued litigation. The various models were informed by Class Counsel's investigation, including the analysis of a significant sample of time and payroll data. Detailed in greater depth during the preliminary approval process,

Class Counsel projected a range of Defendants' liability exposure for the claims asserted on behalf of the Class. The Gross Settlement Amount represents between 10.82% and 22% of Defendants' *class-wide* liability exposure as estimated by Class Counsel at the time of mediation.

35. The calculation methodology used to compensate the Settlement Class Members for the alleged damages was negotiated at the time of the Settlement. More importantly, the methodology is fair, objective, and impartial. The calculation methodology is based on the number of Workweeks each Settlement Class Member worked for Defendants during the Class Period. The number of Workweeks for the Settlement Class Member is established through Defendants' data and documented compensation records. The Administrator is responsible for calculating the Individual Settlement Payments by adding up the total number of Workweeks for all Class Members. The respective Workweeks for each Class Member will be divided by the total Workweeks for all Class Members, resulting in the Payment Ratio for each Class Member. Each Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Class Member's estimated Individual Settlement Payments. Agreement, ¶ III(N)(1). This process establishes an objectively fair and reasonable procedure to compensate the Class.

36. Clearly the goal of this litigation to obtain redress for the class has been met by this Settlement. Given the amount of the Settlement, the risks of litigation and the arm's length negotiations between experienced counsel, the settlement is fair and reasonable, and is therefore entitled to final approval.

Risks of Continued Litigation

37. Although Class Counsel believes strongly in Plaintiff's claims, it would be misguided to ignore the asserted defenses. If successful on any one of its defenses, Defendants could defend the action or, at least, drastically undercut Plaintiff's claims.

38. With respect to the most immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage and hour claims are demonstrated by *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341. There, the Court of Appeal affirmed the Trial Court's denial of class certification because employees' declarations attesting to having taken meal and rest breaks demonstrated that individualized inquiries were required to show harm. *See also Campbell v. Best Buy*

Stores, L.P., (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver meal and rest period claims based on the predominance of individual issues).

39. Further, even if a class is certified, liability remains uncertain. The risks attendant to the issue of Defendant's liability in similar wage and hour actions are demonstrated by *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31. There, the Court reversed a trial verdict in favor plaintiffs in a wage and hour class action. *See also Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077, 1088 ("[T]he reason, if any, that employees might not take their breaks were predominantly individualized questions of fact not susceptible to class treatment.").

40. Finally, even if a class is certified and Defendants are found liable for the class claims alleged, post-certification risks remain, including a reversal of a favorable judgment for Plaintiff and decertification of the class. These post-certification risks are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit vacated reversed and remanded a $110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed the trial court to enter judgement in favor of the employer. *See also O'Conner v. Uber Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action).

41. Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring settlement.

42. As demonstrated by the decisions in *Magadia, supra,* 999 F.3d 668, *O'Conner v. Uber Technologies* (N.D. Cal. 2018) 82 F.Supp.3d 1133 and *Duran v. U.S. Bank National Assn.* (2014) 59 Cal.4th 1, the complexities and duration of further litigation cannot be overstated. There is little doubt that if Defendants faced a large adverse judgement, Defendants undoubtedly have the resources to post a bond and appeal. A post-judgment appeal by Defendants would have required many more years to resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh an uncertain result for three or more years in the future.

43. Class Representative and Class Counsel recognize the expense and length of a trial against Defendants through possible appeals which could take another three years. In arriving at their informed belief that the present settlement is fair and adequate, Class Counsel accounted for the uncertain outcome and risk inherent in complex actions such as this one. Class Counsel is also mindful of and recognizes the inherent problems of proof under, and alleged defenses to, the claims asserted in the litigation. Moreover, post-trial motions and appeals would have been inevitable. Costs would have increased, and recovery would have been delayed if not denied, thereby reducing the benefits of an ultimate victory. Class Representative and Class Counsel believe that the Settlement confers substantial monetary and non-monetary benefits upon the Class. Based upon their evaluation, Class Representative and Class Counsel have determined that the Settlement set forth in the Agreement is in the best interest of the Class, is fair, reasonable, and adequate, and should be granted final approval.

THE PENALTIES UNDER PAGA ARE REASONABLE

44. Here, Plaintiff and Defendants negotiated a good faith PAGA Payment in the amount of $30,000.00 which is 4.3% of the Gross Settlement Amount. As illustrated above, this amount falls well within the range of approved PAGA settlements. Seventy-Five percent (75%) of the PAGA Payment ($22,500.00) will be paid to the LWDA ("LWDA Payment") with the remaining twenty-five percent (25%) of the PAGA Payment ($7,500.00) to be distributed to the Aggrieved Employees ("Aggrieved Employee Payments"), which is within the range of PAGA Payment approved by courts and should be approved.

45. Class Counsel gave the LWDA notice of this Settlement and proposed allocation by filing a copy of the Settlement, the Motion for Preliminary Approval, and this motion seeking final approval with the LWDA.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14th day of July, at San Diego, California.

JCL LAW FIRM, APC

By: Sydney Castillo-Johnson
Sydney Castillo-Johnson, Esq.
Attorneys for PLAINTIFF

EXHIBIT 1

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

ALEXA LOWE, an individual, on behalf of herself and on behalf of all persons similarly situated, Plaintiff, v. ASH'S FIRST LLC, a California Limited Liability Company; NYRN MANAGEMENT LLC, a California Limited Liability Company; SCZZ COLLECTIVE, INC. dba UPNORTH, a California Corporation; AREA 29 LLC dba Off The Charts, a California Limited Liability Company; NORMAN YOUSIF, an individual; and DOES 1 through 50, inclusive, Defendants.	Case No: 37-2022-00010114-CU-OE-CTL [Complaint Filed: March 16, 2022] **STIPULATION OF SETTLEMENT OF CLASS AND PAGA ACTION CLAIMS AND RELEASE OF CLAIMS**

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Attorneys for DEFENDANTS

This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is entered into by and between Plaintiff Alexa Lowe (hereinafter "Plaintiff"), an individual, on behalf of herself, and on behalf of all persons similarly situated, and Defendant Ash's First LLC, NYRN Management LLC, SCZZ Collective, Inc. dba Upnorth, Area 29 LLC dba Off The Charts, and Norman Yousif ("Defendants"):

I. <u>DEFINITIONS</u>

A. "Action" shall mean the putative class and representative action lawsuit designated *Alexa Lowe v. Ash's First LLC, et al.,* San Diego County Superior Court, Case No. 37-2022-00010114-CU-OE-CTL, filed March 16, 2022.

B. "Agreement" or "Settlement Agreement" means this Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims.

C. "Aggrieved Employees" means individuals who are or previously were employed by Defendant Ash's First and/or Defendant NYRN and/or Defendant SCZZ and/or Defendant Area 29 in California and classified as non-exempt employees at any time during the PAGA Period.

D. "Aggrieved Employee Payment" shall mean the Aggrieved Employees' pro-rata share of the portion of the PAGA Payment allocated to the Aggrieved Employees or the twenty-five (25%) or Seven Thousand Five Hundred Dollars and Zero Cents ($7,500.00) of the PAGA Payment that will be distributed to the Aggrieved Employees as described in this Agreement.

E. "Class" or the "Class Members" means all individuals who are or previously were employed by Defendant Ash's First and/or Defendant NYRN and/or Defendant SCZZ and/or Defendant Area 29 in California and classified as non-exempt employees at any time during the Class Period.

F. "Class Counsel" shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC, and Shani O. Zakay, Esq. of Zakay Law Group, APLC.

G. "Class Counsel Award" means the award of fees and expenses that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff, the Class Members and the Aggrieved Employees in the Action, consisting of attorneys' fees currently not to exceed one-third of the Gross Settlement Amount currently estimated to be $230,000.00 out of $690,000.00 plus costs of up to $40,000.00. Attorneys' fees will be divided between Class Counsel in the following percentages (50% to JCL Law Firm, APC, and 50% to Zakay Law Group, APLC). Plaintiff expressly consents to this fee division.

H. "Class Data" means information regarding Class Members that Defendants will in good faith compile from its records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include to the extent practicable: each Class Member's full name; last known address; Social Security Number; start dates and end dates of employment; and information necessary to accurately calculate the number of Workweeks and Pay Periods worked by each Class Member during the Class Period and Aggrieved Employee during the PAGA Period.

I. "Class Period" means the period beginning March 16, 2018, through January 1, 2025.

J. "Class Representative" shall mean plaintiff Alexa Lowe.

K. "Court" means the Superior Court for the State of California, County of San Diego currently presiding over the Action.

L. "Defendants" shall mean Ash's First LLC, NYRN Management LLC, SCZZ Collective, Inc. dba Upnorth, Area 29 LLC dba Off The Charts, and Norman Yousif.

M. "Effective Date" means the date of entry by the Court of an order and judgment finally approving this Settlement and either (i) the applicable date for seeking appellate review of the Court's final approval order has passed without a timely appeal or request for review having been made; or (ii) a California Court of Appeal or the California Supreme Court has rendered a final judgment affirming the Court's final approval without material modification, and the time for any further appeal has expired.

N. "Funding Date" shall mean the date by which Defendants has paid the entire Gross Settlement Amount to the Settlement Administrator in accord with the terms of this

Agreement. Defendants will pay the Gross Settlement Amount to the Settlement Administrator in seventeen (17) installments tied to the execution of the Parties' binding Memorandum of Understanding ("MOU") dated October 7, 2024, as follows:

1. The First Installment in the amount of $25,000 shall be due on or before November 6, 2024.
2. The Second Installment of $10,000 shall be due on or before December 6, 2024.
3. The Third Installment of $10,000 shall be due on or before January 6, 2025
4. The Fourth Installment of $10,000 shall be due on or before February 6, 2025.
5. The Fifth Installment of $10,000 shall be due on or before March 6, 2025.
6. The Sixth Installment of $10,000 shall be due on or before April 7, 2025, accounting for the 30th day falling on a Sunday.
7. The Seventh Installment of $10,000 shall be due on or before May 6, 2025.
8. The Eighth Installment of $10,000 shall be due on or before June 6, 2025.
9. The Ninth Installment of $10,000 shall be due on or before July 7, 2025, accounting for the 6th falling on a Sunday.
10. The Tenth Installment of $10,000 shall be due on or before August 6, 2025.
11. The Eleventh Installment of $10,000 shall be due on or before September 8, 2025, accounting for the 6th falling on a Saturday.
12. The Twelfth Installment of $10,000 shall be due on or before October 6, 2025.
13. The Thirteenth Installment of $200,000 shall be due within twelve (12) months of the execution of the MOU (on or before October 6, 2025) or within thirty (30) days after the Court grants Final Approval, whichever is later.
14. The Fourteenth Installment of $50,000 shall be due on or before the last day of the fiscal quarter immediately following the funding of the Thirteenth Installment. For example, if the Thirteenth Installment becomes due on December 1, 2025, the Fourteenth Installment shall be due on or before March 31, 2026.

15. The Fifteenth Installment of $50,000 shall be due on or before the last day of the fiscal quarter immediately following the funding of the Fourteenth Installment.

16. The Sixteenth Installment of $50,000 shall be due on or before the last day of the fiscal quarter immediately following the funding of the Fifteenth Installment.

17. The Seventeenth Installment of $205,000 shall be due on or before the last day of the fiscal quarter immediately following the funding of the Sixteenth Installment. Defendant's share of payroll taxes shall be paid separately and in addition to the Seventeenth or Final Installment.

O. "Gross Settlement Amount" means Six Hundred, Ninety Thousand Dollars and Zero Cents ($690,000.00) that Defendants must pay into the QSF in connection with this Settlement, inclusive of the sum of Settlement Administration Costs, Class Counsel Award, Service Award, and the PAGA Payment. Defendants' share of employer payroll taxes on any payments allocated as wages under this Settlement shall be paid by Defendant in addition to the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant.

P. "Individual Settlement Payments" means the amount payable from the Net Settlement Amount to each Settlement Class Member and excludes any amounts distributed to Aggrieved Employees pursuant to PAGA.

Q. "LWDA Payment" shall mean the seventy-five percent (75%) or Twenty-Two Thousand and Five Hundred Dollars and Zero Cents ($22,500.00) of the PAGA Payment that shall be paid to the California Labor and Workforce Development Agency ("LWDA").

R. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less Class Counsel Award, Service Award, PAGA Payment, and Settlement Administration Costs.

S. "Notice Packet" means the Class Notice to be provided to the Class Members by the Settlement Administrator in the form set forth as **Exhibit A** to this Agreement (other than formatting changes to facilitate printing by the Settlement Administrator).

T. "Operative Complaint" shall mean the First Amended Complaint filed by Plaintiff on May 11, 2022, in the San Diego Superior Court.

U. "PAGA" means the California Labor Code Private Attorneys General Act of 2004, Labor Code § 2698 *et seq*.

V. "PAGA Payment Ratio" means the respective Pay Periods during the PAGA Period for each Aggrieved Employee divided by the total Pay Periods for all Aggrieved Employees during the PAGA Period.

W. "PAGA Pay Periods" for purposes of calculating the distribution of the Aggrieved Employee Payment, as defined herein, means the number of pay periods of employment during the PAGA Period that each Aggrieved Employee worked in California.

X. "PAGA Period" means the period beginning January 7, 2021, through January 1, 2025.

Y. "PAGA Payment" shall mean Thirty Thousand Dollars and Zero Cents ($30,000.00) to be allocated from the Gross Settlement Amount, with 25% of the payment going to the Aggrieved Employees ("Aggrieved Employee Payment") and 75% of the payment going to the Labor and Workforce Development Agency ("LWDA Payment"). The amount of the PAGA Payment is subject to Court approval pursuant to California Labor Code section 2699(l). Any reallocation of the Gross Settlement Amount to increase the PAGA Payment will not constitute grounds by either party to void this Agreement, so long as the Gross Settlement Amount remains the same.

Z. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean either Plaintiff or Defendants, individually.

AA. "Payment Ratio" means the respective Workweeks for each Class Member divided by the total Workweeks for all Class Members.

BB. "Plaintiff" shall mean Alexa Lowe.

CC. "QSF" means the Qualified Settlement Fund established, designated, and maintained by the Settlement Administrator to fund the Gross Settlement Amount.

DD. "Released Class Claims" shall mean all class claims alleged, or reasonably could have been alleged based on the facts alleged, in the Operative Complaint in the Action which occurred during the Class Period, including statutory, contractual, or common law claims for wages, damages, penalties, liquidated damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief – whether asserted under the California Labor Code, Business and Professions Code §§ 17200 *et seq.*, the applicable wage orders at California Code of Regulations, Title 8, Section 11000 *et seq.*, or otherwise – that arise out of or are reasonably related to the factual allegations that were alleged or could have reasonably been alleged in the Operative Complaint herein, including but not limited to: (i) any and all claims for failure to pay minimum or regular wages for all hours worked; (ii) failure to pay overtime wages and the correct rates paid for same; (iii) any and all claims for failure to provide meal periods and/or pay meal premiums in lieu thereof at the correct regular rate of pay; (iv) any and all claims for failure to authorize and permit rest breaks and/or pay rest break premiums in lieu thereof at the correct regular rate of pay; (v) any and all direct and derivative claims for failure to furnish accurate itemized wage statements in accordance with Labor Code section 226, and including any associated claims for penalties under Labor Code section 226(e); (vi) any and all claims for failure to reimburse business expenses; (vii) any and all direct and derivative claims for wages owed at separation of employment under Labor Code § 203; (ix) any and all direct and derivative claims for failure to timely pay wages during employment; (x) any and all claims for unlawful deductions to wages; and (xi) any and all claims for liquidated damages, penalties (except for PAGA penalties which are separately released below), interest, attorneys' fees and costs arising from the claims released hereinabove.

EE. "Released PAGA Claims" shall mean any and all claims, rights, demands, liabilities, and causes of action arising out of the California Private Attorneys General Act of 2004, Labor Code §§2698 *et seq.,* based on any of the underlying claims and factual allegations in the Operative Complaint in the Action (described in paragraph I.DD.

above) and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period.

FF. "Released Parties" shall mean Defendants and any of their former and present parents, subsidiaries, divisions, corporate members, and affiliated companies, and their respective officers, directors, employees, partners, shareholders, agents, successors, assigns, and legal representatives.

GG. "Response Deadline" means the date forty-five (45) calendar days after the Settlement Administrator mails Notice Packets to Class Members and the last date on which Class Members may submit requests for exclusion or objections to the Settlement. Neither side shall encourage any Class Member to opt out.

HH. "Service Award" means an award in the amount of $10,000, or in an amount that the Court authorizes to be paid to the Class Representative, in addition to her Individual Settlement Payment and her individual Aggrieved Employee Payment, in recognition of her efforts and risks in assisting with the prosecution of the Action.

II. "Settlement" means the disposition of the Action pursuant to this Agreement.

JJ. "Settlement Administration Costs" shall mean the amount paid to the Settlement Administrator from the Gross Settlement Amount for administering the Settlement pursuant to this Agreement currently estimated not to exceed $13,990.00.

KK. "Settlement Administrator" means Apex Class Action LLC, located at 18 Technology Drive, Suite 164 Irvine, CA 92618; Tel: (800) 355-0700. The Settlement Administrator establishes, designates, and maintains, as a QSF under Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1, into which the amount of the Gross Settlement Amount is deposited for the purpose of resolving the claims of Settlement Class Members. The Settlement Administrator shall maintain the funds until distribution in an account(s) segregated from the assets of the Parties and any person related to the Parties. Any interest accrued will be added to the NSA and distributed to the Settlement Class Members except that if final approval is reversed on appeal, then Defendants are entitled to prompt return of the principal and all interest accrued.

LL. "Settlement Class Members" or "Settlement Class" means all Class Members who have not submitted a timely and valid request for exclusion as provided in this Agreement.

MM. "Workweeks," shall mean any seven (7) consecutive days beginning on Sunday and ending on Saturday, in which a Class Member was employed by Defendants during the Class Period in California. The Settlement Administrator will calculate the Workweeks based on the Class Data and will be presumed to be correct unless a particular Class Member proves otherwise to the Settlement Administrator by credible written evidence. All Workweek disputes will be resolved and decided by the Settlement Administrator, and the Settlement Administrator's decision on all Workweek disputes will be final and non-appealable.

II. RECITALS

A. On January 7, 2022, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency (LWDA) and served the same on Defendants.

B. On March 16, 2022, Plaintiff filed a Class Action complaint in the San Diego Superior Court, Case No. 37-2022-00010114-CU-OE-CTL, alleging claims for:

1. Unfair Competition in Violation of Cal. Bus. & Prof. Code §17200 *et seq*;
2. Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197 & 1197.1;
3. Failure to Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510, *et seq*;
4. Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order;
5. Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order;
6. Failure to Provide Accurate Itemized Statements in Violation of Cal. Lab. Code § 226;

7. Failure to Reimburse Employees for Required Expenses in Violation of Cal. Lab. Code § 2802;

8. Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 and 203; and

9. Violation Of The Private Attorneys General Act in Violation of Cal. Lab. Code §§ 2698 *et seq*.

C. On May 11, 2022, Plaintiff filed the Operative Complaint adding Norman Yousif as a named Defendant.

D. On October 1, 2024, the Parties participated in a full day mediation with mediator Hon. Steven R. Denton (Ret.). The mediation concluded with a settlement after both sides agreed to a Mediator's proposal, which was subsequently memorialized in the form of a Memorandum of Understanding ("MOU").

E. The Class Representative believes she has claims based on alleged violations of the California Labor Code, and the Industrial Welfare Commission Wage Orders, and that class certification is appropriate because the prerequisites for class certification can be satisfied in the Action, and this action is manageable as a PAGA representative action.

F. Defendants deny any liability or wrongdoing of any kind associated with the claims alleged in the Action, dispute any wages, damages and penalties claimed by the Class Representative, alleged in the Operative Complaint, and/or alleged in the Class Representative's PAGA notices to the LWDA are owed, and further contend that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment. Defendants contend, among other things, that at all times they complied with the California Labor Code and the Industrial Welfare Commission Wage Orders.

G. The Class Representative is represented by Class Counsel. Class Counsel investigated the facts relevant to the Action, including conducting an independent investigation as to the allegations and reviewing documents and information exchanged through formal discovery, and reviewing documents and information provided by Defendants informally to prepare for mediation. Defendants produced for the purpose of settlement negotiations certain employment data concerning the Class, which Class Counsel reviewed and analyzed with the assistance of an expert. Based on their own independent investigation and evaluation, Class Counsel are of the opinion that the Settlement with Defendants is fair, reasonable, and adequate, and is in the best interest of the Class considering all known facts and circumstances, including the risks of significant delay, defenses asserted by Defendants, uncertainties regarding class certification, and numerous potential appellate issues. Although they deny any liability, Defendants agree to this Settlement solely to avoid the inconveniences and cost of further litigation. The Parties and their counsel have agreed to settle the claims on the terms set forth in this Agreement.

H. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants that the claims in the Action of Plaintiff or the Class Members have merit or that Defendants bear any liability to Plaintiff or the Class or the State of California (including the LWDA) or the Aggrieved Employees on those claims or any other claims, or as an admission by Plaintiff that Defendants' defenses in the Action have merit.

I. The Parties believe that the Settlement is fair, reasonable, and adequate. The Settlement was arrived at through arm's-length negotiations, considering all relevant factors. The Parties recognize the uncertainty, risk, expense, and delay attendant to continuing the Action through trial and any appeal. Accordingly, the Parties desire to settle, compromise and discharge all disputes and claims arising from or relating to the Action fully, finally, and forever.

J. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendants reserve the right to contest certification of any class for any reason and reserve all available defenses to the claims in the Action. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on and will not be admissible in connection with any litigation.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. TERMS OF AGREEMENT

A. Settlement Consideration and Settlement Payments by Defendants.

1. Settlement Consideration. In full and complete settlement of the Action, and in exchange for the releases set forth below, pursuant to the funding schedule set forth in Section I(N), Defendants will pay the sum of Six Hundred Ninety Thousand Dollars and Zero Cents ($690,000.00). The Gross Settlement Amount will be used to pay the Individual Settlement Payments, the Service Award, the Class Counsel Award, PAGA Payment, and the Settlement Administration Costs, as specified in this Agreement of. The Parties agree that this is a non-reversionary Settlement and that no portion of the Gross Settlement Amount shall revert to Defendants. Other than the Defendants' share of employer payroll taxes and as provided in Section III.A.2 below, Defendants shall not be required to pay more than the Gross Settlement Amount.

2. Class Size and Escalator Clause. The Parties negotiated the Settlement based on data provided by Defendants showing that the Class was comprised of approximately 572 individuals who collectively worked approximately 24,000 Workweeks through September 30, 2024. In regard hereto, within ten (10) days prior to filing of the Motion for Preliminary Approval, Defendants will provide the Settlement Administrator with updated Class Data in order to administer the Settlement, which Defendants will in good faith compile from

their records. If the actual number of Workweeks worked during the Class Period exceeds the above number by more than 10%, there will be a proportional increase of the settlement amount, as to the workweeks which exceed 10% above the current work week numbers. However, Defendants may, in their sole discretion, adjust the length of the Class and PAGA Periods by moving the end date of the Class Period and PAGA Period to the date on which the total workweeks amounted to 24,000 so as to avoid triggering the Escalator Clause.

3. Settlement Payment. Defendant shall deposit the Gross Settlement Amount into the QSF, through the Settlement Administrator in accordance with section I(N) above. Within fifteen (15) calendar days after Defendants fully fund the Gross Settlement Amount in accordance with Section I(N) above or within fifteen (15) calendar days after Effective Date, whichever is later, the Settlement Administrator will mail checks for all Individual Settlement Payments and all Aggrieved Employees Payments, the LWDA Payment, the Class Counsel Award, the Settlement Administration Costs, the Service Award. However, Disbursement of the Class Counsel Award and the Settlement Administration Costs shall not precede disbursement of Individual Settlement Payments and Individual Aggrieved Employee Payments. Any interest accrued will be added to the NSA and distributed to the Settlement Class Members except that if final approval is reversed on appeal, then Defendants are entitled to prompt return of the principal and all interest accrued.

4. Defendants' Share of Payroll Taxes. Defendants' share of employer-side payroll taxes is due separately and in addition to the Gross Settlement Amount and shall be paid together with the Gross Settlement Amount on the Funding Date with the Seventeenth or Final Installment.

B. Release by Settlement Class Members. As of the occurrence of the Effective Date and the Funding Date, in exchange for the consideration set forth in this Agreement, Plaintiff and the Settlement Class Members release the Released Parties from the Released Class Claims for the Class Period.

C. Release by the Plaintiff, the LWDA, the State of California, and Aggrieved Employees. As of the occurrence of the Effective Date and the Funding Date, in exchange for the consideration set forth in this Agreement, the Plaintiff as agent and proxy of the State of California (including the LWDA), , and the State of California (including the LWDA and all individuals who seek to serve as agent and proxy of the State of California in bringing PAGA claims) shall be deemed to release the Released Parties from the Released PAGA Claims for the PAGA Period. Because future PAGA claims are subject to claims preclusion as of the release date defined in Section I(X),, from that day forward, the State of California cannot bring any Released PAGA Claims against Defendants, nor can any individual bring any of the Released PAGA claims in the future as agent and proxy of the State of California against Defendants.

D. General Release by Plaintiff. As of the occurrence of the Effective Date and the Funding Date, for the consideration set forth in this Agreement, Plaintiff waives, releases, acquits and forever discharges the Released Parties from any and all claims, whether known or unknown, which exist or may exist on either Plaintiff's behalf as of the date of this Agreement, including but not limited to any and all tort claims, contract claims, wage claims, wrongful termination claims, disability claims, benefit claims, public policy claims, retaliation claims, statutory claims, personal injury claims, emotional distress claims, invasion of privacy claims, defamation claims, fraud claims, quantum meruit claims, and any and all claims arising under any federal, state or other governmental statute, law, regulation or ordinance, including, but not limited to claims for violation of the Fair Labor Standards Act, the California Labor Code, the Wage Orders of California's Industrial Welfare Commission, other state wage and hour laws, the Americans with Disabilities Act, the Age Discrimination in Employment Act

(ADEA), the Employee Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, the California Family Rights Act, the Family Medical Leave Act, California's Whistleblower Protection Act, California Business & Professions Code Section 17200 et seq., and any and all claims arising under any federal, state or other governmental statute, law, regulation or ordinance. Plaintiff also waives and relinquishes any and all claims, rights or benefits that he may have under California Civil Code § 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Thus, notwithstanding the provisions of section 1542, and to implement a full and complete release and discharge of the Released Parties, Plaintiff expressly acknowledges this Settlement Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of signing this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such claims. Plaintiff warrants that Plaintiff has read this Settlement Agreement, including this waiver of California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff's choosing about this Settlement Agreement and specifically about the waiver of section 1542, and that Plaintiff understands this Settlement Agreement and the section 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition to those Plaintiff now knows or believes to be true regarding the matters released or described in this Settlement Agreement, and even so Plaintiff agrees that the releases and agreements contained in this Settlement Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection with the true facts involved in the matters, disputes, or controversies released or described in this Settlement Agreement or with regard to any facts now unknown to Plaintiff relating thereto.

E. <u>Conditions Precedent</u>: This Settlement will become final and effective only upon the occurrence of all of the following events:

1. The Court enters an order granting preliminary approval of the Settlement;
2. The Court enters an order granting final approval of the Settlement and a Final Judgment;
3. If an objector appears at the final approval hearing, the time for appeal of the Final Judgment and Order Granting Final Approval of Class Action Settlement expires; or, if an appeal is timely filed, there is a final resolution of any appeal from the Judgment and Order Granting Final Approval of Class Action Settlement; and
4. Defendants fully fund the Gross Settlement Amount.

F. <u>Nullification of Settlement Agreement</u>. If the Court does not preliminarily or finally approve this Settlement Agreement, fails to become effective, or is reversed, withdrawn, or materially modified by the Court, or in any way prevents or prohibits Defendants from obtaining a complete resolution of the Released Class Claims and Released PAGA Claims, or if Defendants fail to fully fund the Gross Settlement Amount:

1. This Settlement Agreement shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural;

2. The conditional class certification (obtained for any purpose) shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and

3. None of the Parties to this Settlement will be deemed to have waived any claims, objections, defenses, or arguments in the Action, including with respect to the issue of class certification.

G. In the event that Defendants fail to fully fund the Gross Settlement Amount, Defendants shall bear the sole responsibility for any cost to issue or reissue any curative notice to the Settlement Class Members and all Settlement Administration Costs incurred to the date of nullification.

H. Certification of the Class. The Parties stipulate to conditional class certification of the Class for the Class Period for purposes of settlement only. In the event that this Settlement is not approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court, or in any way prevents or prohibits Defendants from obtaining a complete resolution of the Released Class Claims and Released PAGA Claims, the conditional class certification (obtained for any purpose) shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural. Defendants expressly reserve their right to oppose class certification in the Action or any other action should this Settlement not become effective.

I. Tax Liability. The Parties make no representations as to the tax treatment or legal effect of the payments called for, and Plaintiff, the Class Members and/or Aggrieved Employees are not relying on any statement or representation by the Parties in this regard. Plaintiff, Class Members and/or Aggrieved Employees understand and agree that they will be responsible for the payment of any taxes and penalties assessed on any Service Award, the Individual Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved Employee Payment described and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of the Service Award, Individual Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved Employee Payment.

J. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section, the "acknowledging party" and each Party to this Agreement other than the acknowledging party, an "other party") acknowledges and agrees that: (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department circular 230 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party, and (3) no attorney or adviser to any other Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

K. Preliminary Approval Motion. As soon thereafter as practicable after the execution of this Agreement, Plaintiff shall file with the Court a Motion for Order Granting Preliminary Approval and supporting papers, which shall include this Settlement Agreement. Plaintiff will provide Defendants with a draft of the Motion at least three (3) business days prior to the filing of the Motion to give Defendants an opportunity to review and comment upon the Motion.

L. Settlement Administrator. The Settlement Administrator shall be responsible for: establishing and administering the QSF; calculating, processing and mailing payments to the Class Representative, Class Counsel, LWDA, Aggrieved Employees, and Class Members; printing and mailing the Notice Packets to the Class Members as directed by the Court; receiving and reporting the objections and requests for exclusion; calculating, deducting and remitting all legally required taxes from Individual Settlement Payments and distributing tax forms for the Wage Portion, the Penalties Portion and the Interest Portion of the Individual Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved Employee Payment; processing and mailing tax payments to the appropriate state and federal taxing authorities; providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; and other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities by among other things, sending a weekly status report to the Parties' counsel stating the date of the mailing, the of number of opt outs from the Settlement it receives (including the numbers of valid and deficient), and number of objections received.

M. Notice Procedure.

1. Class Data. No later than ten (10) business before the Preliminary Approval Hearing Date, Defendants shall provide the Settlement Administrator with the Class Data for purposes of preparing and mailing Notice Packets to the Class Members.

2. Notice Packets.

a) The Notice Packet shall contain the Notice of Class and PAGA Representative Action Settlement in a form substantially similar to the form attached as **Exhibit A**. The Notice of Class and PAGA Representative Action Settlement shall inform Class Members and

Aggrieved Employees that they need not do anything in order to receive an Individual Settlement Payment and/or Aggrieved Employees' individual shares of the Aggrieved Employee Payment and to keep the Settlement Administrator apprised of their current mailing address, to which the Individual Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved Employee Payment will be mailed following the Funding Date. The Notice of Class Action Settlement shall set forth the release to be given by all members of the Class who do not request to be excluded from the Settlement Class and/or Aggrieved Employees in exchange for an Individual Settlement Payment and/or Aggrieved Employees' individual shares of the Aggrieved Employee Payment, the number of Workweeks worked by each Class Member during the Class Period, and number of PAGA Periods worked by each Aggrieved Employee during the PAGA Period, if any, and the estimated amount of their Individual Settlement Payment if they do not request to be excluded from the Settlement and each Aggrieved Employees' share of the Aggrieved Employee Payment, if any. The Settlement Administrator shall use the Class Data to determine Class Members' Workweeks and PAGA Pay Periods. The Notice will also advise the Aggrieved Employees that they will be deemed to release the Released PAGA Claims and will receive their share of the Aggrieved Employee Payment regardless of whether they request to be excluded from the Settlement.

b) The Notice Packet's mailing envelope shall include the following language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE ENTITLED TO PARTICIPATE IN A CLASS AND PAGA ACTION SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR

ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED NOTICE."

3. <u>Notice by First Class U.S. Mail</u>. Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. No later than twenty-one (21) calendar days after preliminary approval of the Settlement, the Settlement Administrator shall mail copies of the Notice Packet to all Class Members via regular First-Class U.S. Mail and electronic mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member.

4. <u>Undeliverable Notices</u>. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to any forwarding address provided within seven (7) days of receiving the returned notice. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address by lawful use of skip-tracing, or other search using the name, address and/or Social Security number of the Class Member involved, and shall then perform a re-mailing, if another mailing address is identified by the Settlement Administrator. In addition, if any Class Member who is currently employed by Defendants, is returned to the Settlement Administrator, as non-delivered and no forwarding address is provided, the Settlement Administrator shall notify Defendants. Defendants will request that the currently employed Class Member provide a corrected address and transmit to the Settlement Administrator any corrected address provided by the Class Member. Class Members who receive a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) days from the original Response Deadline.

5. Disputes Regarding Individual Settlement Payments. Class Members will have the opportunity, should they disagree with Defendants' records regarding the start and end dates of employment, to provide documentation and/or an explanation to show contrary dates. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be binding upon the Class Member and the Parties.

6. Disputes Regarding Administration of Settlement. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Before any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

7. Exclusions. The Class Notice contained in the Notice Packet shall state that Class Members who wish to exclude themselves from the Settlement must submit a written request for exclusion by the Response Deadline. The written request for exclusion must state that the Class Member wishes to exclude himself or herself from the Settlement and (1) must contain the name, address, and the last four digits of the Social Security number of the person requesting exclusion; (2) must be signed by the Class Member; (3) must be postmarked or fax stamped by the Response Deadline and returned to the Settlement Administrator at the specified address or fax telephone number; and (4) contain a typewritten or handwritten notice stating in substance: "I wish to opt out of the settlement of the class action lawsuit entitled *Lowe v. Ash's First, LLC, et al.*, currently pending in the San Diego Superior Court, Case

No. 37-2022-00010114-CU-OE-CTL. I understand that by requesting to be excluded from the settlement, I will receive no money from the Settlement described in this Notice." The request for exclusion will not be valid if it is not timely submitted, if the Class Member does not sign it, or if it does not contain the name and address and last four digits of the Social Security number of the Class Member. The date of the postmark on the mailing envelope or fax stamp on the request for exclusion shall be the exclusive means used to determine whether the request for exclusion was timely submitted. Any Class Member who requests to be excluded from the Settlement Class will not be entitled to an Individual Class Payment and will not be otherwise bound by the terms of the Settlement or have any right to object, appeal or comment thereon. However, any Class Member that submits a timely request for exclusion that is also an Aggrieved Employee will still receive his/her pro rata share of the PAGA Payment, as specified below, and in consideration, will be bound by the Release by the Aggrieved Employees as set forth herein. Settlement Class Members who fail to submit a valid and timely written request for exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any final judgment entered in this Action if the Court approves the Settlement. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a final list of the Class Members who have timely submitted written requests for exclusion. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the Class to submit requests for exclusion from the Settlement.

8. Objections. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to object to the Settlement may submit to the Settlement Administrator a written statement of objection ("Notice of Objection") by the Response Deadline. The postmark date of

mailing shall be deemed the exclusive means for determining that a Notice of Objection was served timely. The Notice of Objection, if in writing, must be signed by the Settlement Class Member and state: (1) the case name and number; (2) the name of the Settlement Class Member; (3) the address of the Settlement Class Member; (4) the last four digits of the Settlement Class Member's Social Security number; (5) the basis for the objection; and (6) if the Settlement Class Member intends to appear at the Final Approval/Settlement Fairness Hearing. Settlement Class Members who fail to make objections in writing in the manner specified above may still make their objections orally at the Final Approval/Settlement Fairness Hearing with the Court's permission. Settlement Class Members will have a right to appear at the Final Approval/Settlement Fairness Hearing to have their objections heard by the Court regardless of whether they submitted a written objection. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to file or serve written objections to the Settlement or appeal from the Order and Final Judgment. Class Members who submit a written request for exclusion may not object to the Settlement. Class Members may not object to the PAGA Payment.

N. <u>Funding and Allocation of the Gross Settlement Amount</u>. Defendants are required to pay the Gross Settlement Amount plus any employer's share of payroll taxes as mandated by law within the time specified hereinabove on the Funding Date as described in I(N).

1. <u>Calculation of Individual Settlement Payments</u>. Individual Settlement Payments shall be paid from the Net Settlement Amount and shall be paid pursuant to the formula set forth herein. Using the Class Data, the Settlement Administrator shall add up the total number of Workweeks for all Class Members. The respective Workweeks for each Class Member will be divided by the total Workweeks for all Class Members, resulting in the Payment Ratio

for each Class Member. Each Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Class Member's estimated Individual Settlement Payment. Each Individual Settlement Payment will be reduced by any legally mandated employee tax withholdings (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class Members who submit valid and timely requests for exclusion will be redistributed to Settlement Class Members who do not submit valid and timely requests for exclusion on a pro rata basis based on their respective Payment Ratios.

2. Calculation of Individual Payments to the Aggrieved Employees. Using the Class Data, the Settlement Administrator shall add up the total number of PAGA Pay Periods for all Aggrieved Employees during the PAGA Period. The respective PAGA Pay Periods for each Aggrieved Employees will be divided by the total PAGA Pay Periods for all Aggrieved Employees, resulting in the "PAGA Payment Ratio" for each Aggrieved Employee. Each Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the Aggrieved Employee Payment to calculate each Aggrieved Employee's estimated share of the Aggrieved Employee Payment.

3. Allocation of Individual Settlement Payments. For tax purposes, Individual Settlement Payments shall be allocated and treated as 15% wages ("Wage Portion") and 85% penalties ("Penalties and Interest Portion"). The Wage Portion of the Individual Settlement Payments shall be reported on IRS Form W-2 and the Penalty and Interest Portion of the Individual Settlement Payments shall be reported on IRS Form 1099 issued by the Settlement Agreement.

4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved Employee Settlement Payments shall be allocated and treated as 100% penalties and shall be reported on IRS Form 1099.

5. No Credit Toward Benefit Plans. The Individual Settlement Payments and individual shares of the PAGA Payment made to Settlement Class Members and/or Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members and/or Aggrieved Employees may be entitled under any benefit plans.

6. All monies received by Plaintiff and the Settlement Class Members under the Settlement which are attributable to wages shall constitute income to Plaintiff and such Settlement Class Members solely in the year in which such monies are received by Plaintiff and the Settlement Class Members. It is the intent of the Parties that Individual Settlement Payments and individual shares of the PAGA Payment provided for in this Settlement agreement are the sole payments to be made by Defendants to Plaintiff, the Settlement Class Members and/or Aggrieved Employees in connection with this Settlement Agreement and that Plaintiff, the Settlement Class Members and/or Aggrieved Employees are not entitled to any new or additional compensation or benefits as a result of having received the Individual Settlement Payments and/or their shares of the Aggrieved Employee Payment.

7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments shall be mailed by regular First-Class U.S. Mail to Settlement Class Members' and/or Aggrieved Employees' last known mailing address no later than fifteen (15) business days after the funding of the Seventeenth or Final Installment or the Effective Date, whichever is later.

8. Expiration. Any checks issued to Settlement Class Members and Aggrieved Employees shall remain valid and negotiable for one hundred and eighty (180) days from the date of their issuance. If a Settlement Class Member and/or Aggrieved Employee does not cash his or her settlement check within ninety (90) days, the Settlement Administrator will send a letter to such persons, advising that the check will expire after the 180th day, and invite that Settlement Class Member and/or Aggrieved Employees to request reissuance in the event the check was destroyed, lost, or misplaced. In the event an Individual Settlement Payment and/or Aggrieved Employee's individual share of the PAGA Payment check has not been cashed within one hundred and eighty (180) days, all funds represented by such uncashed checks, plus any interest accrued thereon, shall be paid to the Community Law Project, a Cy Pres, in accordance with California Code of Civil Procedure section 384. The Parties agreed that under this procedure, there is no residue as the entire Gross Settlement Amount will be distributed.

9. Service Award. In addition to the Individual Settlement Payment as a Settlement Class Member and her individual share of the Aggrieved Employee Payment, Plaintiff will apply to the Court for an award of not more than $10,000.00, as the Service Award. Defendants will not oppose a Service Award of not more than $10,000.00 for Plaintiff. The Settlement Administrator shall pay the Service Award, either in the amount stated herein if approved by the Court or some other amount as approved by the Court, to Plaintiff from the Gross Settlement Amount no later than fifteen (15) calendar days after the Funding Date or the Effective Date, whichever is later. Any portion of the requested Service Award that is not awarded to the Class Representative shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Plaintiff

for her Service Award. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on her Service Award and shall hold harmless the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of the Service Award. Approval of this Settlement shall not be conditioned on Court approval of the requested amount of the Service Award. If the Court reduces or does not approve the requested Service Award, Plaintiff shall not have the right to revoke the Settlement, and it will remain binding.

10. Class Counsel Award. Defendants understand, and will not oppose, a motion for attorneys' fees not to exceed one-third of the Gross Settlement Amount currently estimated to be Two Hundred, Thirty Thousand Dollars and Zero Cents ($230,000.00) ***and*** attorneys' expenses supported by declaration not to exceed Forty Thousand Dollars and Zero Cents ($40,000.00). Any awarded Class Counsel Award shall be paid from the Gross Settlement Amount. Any portion of the requested attorneys' fees and/or attorneys' expenses that are not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall allocate and pay the attorneys' fees to Class Counsel from the Gross Settlement Amount no later than fifteen (15) calendar days after the Funding Date or the Effective Date, whichever is later. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to this paragraph. If the Court reduces or does not approve the requested attorneys' fees, Plaintiff and Class Counsel shall not have the right to revoke the Settlement, or to appeal such order, and the Settlement will remain binding.

11. PAGA Payment. Thirty Thousand Dollars and Zero Cents ($30,000.00) shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the Private Attorneys General Act of 2004 ("PAGA Payment"). The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Payment ($22,500.00) to the California Labor and Workforce Development Agency (hereinafter "LWDA Payment") no later than fifteen (15) calendar days after the Funding Date or the Effective Date, whichever is later. Twenty-five percent (25%) of the PAGA Payment ($7,500.00) will be distributed to the Aggrieved Employees as described in this Agreement (hereinafter "Aggrieved Employee Payment"). For purposes of distributing the PAGA Payment to the Aggrieved Employees, each Aggrieved Employee shall receive their pro-rata share of the Aggrieved Employee Payment using the PAGA Payment Ratio as defined above.

12. Settlement Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Amount. The estimate of the Settlement Administration Costs is $13,990.00. The Settlement Administrator shall be paid the Settlement Administration Costs no later than fifteen (15) calendar days after the Funding Date or Effective Date, whichever is later.

O. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Service Award, the Class Counsel Award, the PAGA Payment, and the Settlement Administration Costs. Plaintiff will provide Defendants with a draft of the Motion at least three (3) business days prior to the filing of the Motion to give Defendants an opportunity to propose changes or additions to the Motion.

1. Declaration by Settlement Administrator. No later than seven (7) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the full names of any Class Members who opt out of the Settlement, the number of objections received, the amount of the average, lowest, and highest Individual Settlement Payments, the amount of the average, lowest, and highest Aggrieved Employee Payments, the Settlement Administration Costs, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

2. Final Approval Order and Judgment. Class Counsel shall present an Order Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment thereon, at the time Class Counsel files the Motion for Final Approval.

P. Review of Motions for Preliminary and Final Approval. Class Counsel will provide an opportunity for Counsel for Defendants to review the Motions for Preliminary and Final Approval, including the Order Granting Final Approval of Class Action Settlement, and Judgment at least three (3) business days in advance of filing with the Court. The Parties and their counsel will cooperate with each other and use their best efforts to affect the Court's approval of the Motions for Preliminary and Final Approval of the Settlement, and entry of Judgment.

Q. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts to implement the Settlement.

R. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval/Settlement Fairness Hearing to be conducted by the Court.

S. Amendment or Modification. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

T. Entire Agreement. This Agreement and any attached Exhibit constitute the entire Agreement among these Parties, and no oral or written representations, warranties or inducements have been made to any Party concerning this Agreement or its Exhibit other than the representations, warranties and covenants contained and memorialized in this Agreement and its Exhibit.

U. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate actions required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The persons signing this Agreement on behalf of Defendants represents and warrants that he/she is authorized to sign this Agreement on behalf of Defendants. Plaintiff represents and warrants that she is authorized to sign this Agreement and that she has not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

V. No Public Comment: The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, or have any communication with the press about the fact, amount, or terms of the Settlement Agreement. Class Counsel further agrees not to use the Settlement Agreement or any of its terms for any marketing or promotional purposes. Nothing herein will restrict Class Counsel from including publicly available information regarding this settlement in future judicial submissions regarding Class Counsel's qualifications and experience. Further, Class Counsel will not include, reference, or use the Settlement Agreement for any marketing or promotional purposes, either before or after the Motion for Preliminary Approval is filed.

/ / /

W. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties, as previously defined.

X. California Law Governs. All terms of this Agreement and the Exhibit and any disputes shall be governed by and interpreted according to the laws of the State of California.

Y. Counterparts. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement shall exchange among themselves copies or originals of the signed counterparts.

Z. This Settlement Is Fair, Adequate, and Reasonable. The Parties believe this Settlement is a fair, adequate, and reasonable settlement of this Action and have arrived at this Settlement after extensive arms-length negotiations, considering all relevant factors, present and potential.

AA. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement and all orders and judgments entered in connection with this Agreement.

BB. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

CC. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently intend to pursue any claims against the Released Parties, including, but not limited to, any and all claims relating to or arising from Plaintiff's employment with Defendants, regardless of whether Class Counsel is currently aware of any facts or legal theories upon which any claims or causes of action could be brought against Released Parties, including those facts or legal theories alleged in the Operative Complaint in this

Action. The Parties further acknowledge, understand, and agree that this representation is essential to the Agreement and that this Agreement would not have been entered into were it not for this representation.

DD. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this settlement only.

EE. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the Released Class Claims and Released PAGA Claims have merit and give rise to liability on the part of Defendants. Defendants claim that the Released Class Claims and Released PAGA Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no documents referred to and no action taken to carry out this Agreement may be construed or used as an admission by or against the Defendants or Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other than as may be specifically set forth herein, each Party shall be responsible for and shall bear their own attorney's fees and costs.

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IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: 10/22/2024

Alexa T Lowe
Alexa T Lowe (Oct 22, 2024 08:10 PDT)

ALEXA LOWE

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

DATED: October 22, 2024 | 9:17 AM PDT

DocuSigned by:
Norman Yousif
B9309D0A3DF5465...

Defendant Ash's First LLC

Norman Yousif
Printed Name

Owner/CEO
Title

DATED: October 22, 2024 | 9:17 AM PDT

DocuSigned by:
Norman Yousif
B9309D0A3DF5465...

Defendant NYRN Management LLC

Norman Yousif
Printed Name

Owner/CEO
Title

DATED: October 22, 2024 | 9:17 AM PDT

DocuSigned by:
Norman Yousif
B9309D0A3DF5465...

Defendant SCZZ Collective, Inc. *dba* Upnorth

Norman Yousif
Printed Name

Owner/CEO
Title

DATED: October 22, 2024 | 9:17 AM PDT

DocuSigned by:
Norman Yousif
B9309D0A3DF5465...

Defendant Area 29 LLC *dba* Off The Charts

Norman Yousif
Printed Name

Owner/CEO
Title

DATED: October 22, 2024 | 9:17 AM PDT

DocuSigned by:
Norman Yousif
B9309D0A3DF5465...

Defendant Norman Yousif

Norman Yousif
Printed Name

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: October 22, 2024

JCL LAW FIRM, A.P.C.

By: ______________________

Jean-Claude Lapuyade, Esq.
Attorneys for Plaintiff and the Settlement Class Members

DATED: October 22, 2024

ZAKAY LAW GROUP, APLC

By: ______________________

Shani O. Zakay, Esq.
Attorneys for Plaintiff and the Settlement Class Members

DATED: October 22, 2024 | 9:31 AM PDT

GORDON REES SCULLY MANSUKHANI, LLP

Signed by:

By: Leslie Joyner

912394C52A514DE...

Leslie Joyner, Esq.
Attorneys for Defendants

EXHIBIT A

NOTICE OF PENDENCY OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT AND FINAL HEARING DATE

(*Alexa Lowe v. Ash's First LLC, et al*, San Diego County Superior Court Case No. 37-2022-00010114-CU-OE-CTL)

YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE READ THIS NOTICE CAREFULLY.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	**To receive a cash payment from the Settlement, you do not have to do anything. You will receive compensation but lose rights to sue separately.** If you do nothing, you will be considered a Settlement Class Member and will receive a proportionate share of the Settlement. You will be bound by the terms of the Settlement and also give up any rights to pursue a separate legal action against Defendant and/or any of the Released Parties, as defined below, for the same or similar legal claims as those alleged in this lawsuit, as detailed in the Released Class Claims and Released PAGA Claims in Section 4 below.
Exclude Yourself	**If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below.** If you request exclusion from the Class and Settlement, you will not be a member of the Settlement Class, you will receive **no money from the Settlement**, and you will not be able to make an objection to the Settlement, whether in writing, orally, by appeal or otherwise. However, you will retain the right to file a separate legal action. Please be aware that there are time limits for you to file a separate legal action. As discussed in Section 7, below, please also be aware that one of the claims in the Action is a claim for civil penalties under the Private Attorneys General Act ("PAGA"). If the Court approves this Settlement and you are a member of the PAGA Group, as defined below, you may not opt out of the PAGA portion of the Settlement. If you are in the PAGA Group, you will still receive your PAGA payment, and you will not be permitted to assert PAGA claims as an agent and proxy of the State of California against Defendants and the Released Parties based on the facts alleged in this Action, even if you ask to be excluded from the Settlement.
Object	**You may write to the Court about why you believe the settlement should not be approved.** If you believe the Settlement is unfair or you do not agree with the Settlement in any respect, you may object to the Settlement by submitting a written objection to the Settlement Administrator as explained below. You must remain a member of the Settlement Class to object to the Settlement. This means you cannot object to the Settlement if you also are asking to opt-out of the Settlement.

1. Why did I get this Notice?

A proposed class action settlement (the "Settlement") of this lawsuit (the "Action") pending in the Superior Court for the State of California, County of San Diego (the "Court") has been reached between Plaintiff Alexa Lowe ("Plaintiff") and Defendants Ash's First LLC, NYRN Management LLC, SCZZ Collective, Inc. dba Upnorth, Area 29 LLC dba Off The Charts, and Norman Yousif. The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

> All individuals who are or previously were employed by Defendant Ash's First and/or Defendant NYRN and/or Defendant SCZZ and/or Defendant Area 29 ("Defendants") in California and classified as non-exempt employees at any time during the period beginning March 16, 2018, through January 1, 2025 ("Class Period").

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On January 7, 2022, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency (LWDA) and served the same on Defendants. On March 16, 2022, Plaintiff filed a Class Action complaint in the San Diego Superior Court, Case No. 37-2022-00010114-CU-OE-CTL ("Class Action"), alleging claims for: (1) Unfair Competition in Violation of Cal. Bus. & Prof. Code §17200 *et seq*; (2) Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197 & 1197.1; (3) Failure to Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510, *et seq*; (4) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (5) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (6) Failure to Provide Accurate Itemized Statements in Violation of Cal. Lab. Code § 226; (7) Failure to Reimburse Employees for Required Expenses in Violation of Cal. Lab. Code § 2802; (8) Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 and 203; and (9) Violation Of The Private Attorneys General Act in Violation of Cal. Lab. Code §§ 2698 *et seq*.

Defendants expressly deny any liability or wrongdoing of any kind associated with the claims alleged in the Action, dispute any wages, damages and penalties claimed by the Class Representative are owed, and further contend that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment. Defendants contend, among other things, that at all times they complied with the law, including the California Unfair Competition law, the California Labor Code and the Industrial Welfare Commission Wage Orders at all times relevant to the action.

On October 1, 2024, the Parties participated in a full day mediation with mediator Hon. Steven R. Denton (Ret.). At the conclusion of the full-day mediation, the Parties were able to reach an agreement for settlement. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC, and Zakay Law Group, APLC, to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an "all in" amount of Six Hundred Ninety Thousand Dollars and Zero Cents ($690,000.00) (the "Gross Settlement Amount") to fund the settlement. The Gross Settlement Amount includes the payment of all Individual Settlement Payments, Settlement Administration Costs, Class Counsel Award, Service Award, and the PAGA Payment.

Prior to and after the Judgment becomes Final, Defendants will make payments to fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. "Final" means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed, and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Costs. Payment to the Settlement Administrator, estimated not to exceed $13,990.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.

- Class Counsel Award. Payment to Class Counsel of an award of attorneys' fees of no more than 1/3 of the Gross Settlement Amount (currently $230,000.00) and actually incurred litigation expenses of not more than $40,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been advancing all litigation costs and expenses.

- Service Award. A Service Award of up to Ten Thousand Dollars and Zero Cents ($10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate her for services on behalf of the Class in initiating and prosecuting the Action, and for the risks she undertook.

- PAGA Payment. A payment of $30,000.00 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), $22,500.00 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining $7,500.00 will be distributed to Aggrieved Employees as the Aggrieved Employee Payment.

- Calculation of Payments to Settlement Class Members. After all the above payments of the court-approved Class Counsel Award, the Service Award, the PAGA Payment, and the Settlement Administration Costs are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Individual Settlement Payment for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member's workweeks that occurred during the Class Period. A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendants' records, a member of the class worked at least one-day during any such workweek.

- Calculation of Aggrieved Employees Payments to Aggrieved Employees. The PAGA Payment shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out. The PAGA Payment will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. "Aggrieved Employee" means individuals who are or previously were employed by Defendant Ash's First and/or Defendant NYRN and/or Defendant SCZZ and/or Defendant Area 29 in California and classified as non-exempt employees at any time during the period beginning January 7, 2021, through January 1, 2025 ("PAGA Period").

If the Court approves the Settlement, unless you opt out, you will automatically be mailed a check for your Individual Settlement Payment to the same address as this Class Notice. You do not have to do anything

to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Fifteen percent (15%) of each Individual Settlement Payment is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. Eighty-five percent (85%) of each Individual Settlement Payment is allocated to penalties and pre-judgment interest ("Penalty and Interest Portion"). Each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for Penalty Portion and Interest Portion of the Individual Settlement Payments. In addition, no taxes will be withheld from the PAGA Payment paid to Aggrieved Employees, and each Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendants' counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

No Credit Toward Benefit Plans. The Individual Settlement Payments and Aggrieved Employee Payments made to Settlement Class Members and/or Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. As of the Effective Date and funding in full of the Gross Settlement Amount by Defendants, Plaintiff and the Settlement Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. Released Class Claims means all class claims alleged, or reasonably could have been alleged based on the facts alleged, in the Operative Complaint in the Action which occurred during the Class Period, including statutory, contractual, or common law claims for wages, damages, penalties, liquidated damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief – whether asserted under the California Labor Code, Business and Professions Code §§ 17200 *et seq.*, the applicable wage orders at California Code of Regulations, Title 8, Section 11000 *et seq.*, or otherwise – that arise out of or are reasonably related to the factual allegations that were alleged or could have reasonably been alleged in Plaintiff's Complaint herein, including but not limited to: (i) any and all claims for failure to pay minimum or regular wages for all hours worked; (ii) failure to pay overtime wages and the correct rates paid for same; (iii) any and all claims for failure to provide meal periods and/or pay meal premiums in lieu thereof at the correct regular rate of pay; (iv) any and all claims for failure to authorize and permit rest breaks and/or pay rest break premiums in lieu thereof at the correct regular rate of pay; (v) any and all direct and derivative claims for failure to furnish accurate itemized wage statements in accordance with Labor Code section 226, and including any associated claims for penalties under Labor Code section 226(e); (vi) any and all claims for failure to reimburse business expenses; (vii) any and all direct and derivative claims for wages owed at separation of employment under Labor Code § 203; (ix) any and all claims based on the failure to provide suitable seating; (x) any and all direct and derivative claims for failure to timely pay wages during employment; (xi) any and all claims for unlawful deductions to wages; and (xii) any and all claims for liquidated damages, penalties (except for PAGA penalties which are separately released below), interest, attorneys' fees and costs. The Released Parties include Defendants and any of their former and present parents, subsidiaries, divisions, corporate members, and affiliated companies, and their respective officers, directors, employees, partners, shareholders, agents, successors, assigns, and legal representatives. As of the Effective Date and upon funding of the Gross Settlement Amount by Defendants, all Aggrieved Employees not be permitted to assert PAGA claims as agents and proxies of the State of California against Defendants and the Released Parties based on the facts alleged in this Action,, irrespective of whether they opted-out of the class settlement. Accordingly, subject to Court approval of the Settlement, the Settlement will bind Plaintiff and the State of California to its terms relating to PAGA. This includes all potentially "aggrieved employees," even those not a party to the proceeding, with respect to civil penalties alleged in the action. This means that the Aggrieved Employees will be prevented from filing future PAGA claims based on the same alleged violations for the same time period. (the "PAGA Release"). "Released PAGA Claims" means any and all claims, rights, demands, liabilities, and causes of action arising out of the California Private Attorneys General Act of 2004, Labor Code §§2698 *et seq.,* based on any of the underlying claims and factual allegations in the Operative Complaint in the Action and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendants' records reflect that you have <<_____>> Workweeks worked during the Class Period March 16, 2018, through January 1, 2025).

Based on this information, your estimated Individual Settlement Payment is <<_______>>.

Defendants' records reflect that you have <<_____>> Pay Periods worked during the PAGA Period (January 7, 2021, through January 1, 2025).

Based on this information, your estimated Aggrieved Employee Payment is <<_______>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _______________ [forty-five (45) days after the Notice or fifteen (15) days after the re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: Apex Class Action LLC.

The Court will hold a hearing on __________________ to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www.__________________.com.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows**. Please be aware that there will be a time limit to bring your claims in a separate action, which may expire if the action is not filed within that time limit. Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the PAGA Payment.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than ______________. The address for the Settlement Administrator is 18 Technology Drive, Suite 164 Irvine, CA 92618; Tel: (800) 355-0700. The request for exclusion must state in substance that the Class Member has read the Class Notice and that he or she wishes to be excluded from the settlement of the class action lawsuit entitled *Alexa Lowe v. Ash's First LLC, et al.,* currently pending in Superior Court of San Diego, Case No. 37-2022-00010114-CU-OE-CTL. The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after _____________, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is ***Alexa Lowe v. Ash's First LLC, et al.*, San Diego County Superior Court, Case No. 37-2022-00010114-CU-OE-CTL**. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than ______________. The address for the Settlement Administrator is 18 Technology Drive, Suite 164 Irvine, CA 92618; Tel: (800) 355-0700.

The addresses for the Parties' counsel are as follows:

Class Counsel:
Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
E-Mail: jlapuyade@jcl-lawfirm.com

Class Counsel:
Shani O. Zakay, Esq.
Zakay Law Group, APLC
5440 Morehouse Drive, Suite 3600 San Diego, CA 92121
Tel: (619) 599-8292
Email: shani@zakaylaw.com

Counsel for Defendants:
Leslie Joyner, Esq.
Emilie MacLean, Esq.
Gordon Rees Scully Mansukhani, LLP
633 West Fifth Street, 52nd Floor
Los Angeles, CA 90071
Tel: 213-576-5000
ljoyner@grsm.com

emaclean@grsm.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at 00:00 AM/PM on ________________, at the San Diego County Superior Court, Department C-70, located at 330 West Broadway, San Diego, CA 92101 before Judge Carolyn Caietti. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at 1-800-355-0700 or write to ***Alexa Lowe v. Ash's First LLC, et al.*****, San Diego County Superior Court, Case No. 37-2022-00010114-CU-OE-CTL**, Settlement Administrator, 18 Technology Drive, Suite 164 Irvine, CA 92618 c/o ___________________.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to JCL Law firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121 or by visiting the administrator's website at www.___________________.com.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.

- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks will be paid to the Community Law Project, a Cy Pres, in accordance with California Code of Civil Procedure section 384. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 2

JCL LAW FIRM, APC
Jean-Claude Lapuyade (State Bar #248676)
Sydney Castillo-Johnson (State Bar #343881)
John L. Nitti (State Bar #330752)
5440 Morehouse Drive, Suite 3600
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ZAKAY LAW GROUP, APLC
Shani O. Zakay (State Bar #277924)
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Attorneys for PLAINTIFF

FILED
San Diego Superior Court
APR 04 2025
Clerk of the Superior Court
By: A. Shirley, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

ALEXA LOWE, an individual, on behalf of herself and on behalf of all persons similarly situated, Plaintiff, v. ASH'S FIRST LLC, a California Limited Liability Company; NYRN MANAGEMENT LLC, a California Limited Liability Company; SCZZ COLLECTIVE, INC. dba UPNORTH, a California Corporation; AREA 29 LLC dba Off The Charts, a California Limited Liability Company; NORMAN YOUSIF, an individual; and DOES 1 through 50, inclusive, Defendants.	Case No: 37-2022-00010114-CU-OE-CTL **~~[PROPOSED]~~ ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT** Date: April 4, 2025 Time: 10:30 a.m. Judge: Hon. Carolyn M. Caietti Dept.: C-70

This matter having come before the Honorable Judge Carolyn M. Caietti of the Superior Court of the State of California, in and for the County of San Diego, at 10:30 a.m. on April 4, 2025, with Jean-Claude Lapuyade, Esq., of the JCL Law Firm, APC, and Shani O. Zakay, Esq. of the Zakay Law Group, APLC, as counsel for Plaintiff Alexa Lowe ("Plaintiff"), and Emilie Maclean, Esq. of Gordon Rees Scully Mansukhani, LLP, appearing for Defendant Ash's First LLC, Defendant NYRN Management LLC, Defendant SCZZ Collective, Inc. dba Upnorth, Defendant Area 29 LLC dba Off The Charts, and Defendant Norman Yousif (hereinafter "Defendants"). The Court, having carefully considered the briefs, argument of counsel and all the matters presented to the Court, and good cause appearing, hereby GRANTS Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Action Settlement.

IT IS HEREBY ORDERED:

1. The Court preliminarily approves the Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims ("Settlement Agreement" or "Agreement"), a true and correct copy of which is attached to the Declaration of Jean-Claude Lapuyade as **Exhibit "1".** This is based on the Court's determination that the Settlement Agreement is within the range of possible final approval, pursuant to the provisions of Section 382 of the California Code of Civil Procedure and California Rules of Court, rule 3.769.

2. This Order incorporates by reference the definitions in the Agreement, and all terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that Defendants shall pay is Six Hundred, Ninety Thousand Dollars and Zero Cents ($690,000.00). Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that Defendants shall pay is Six Hundred, Ninety Thousand Dollars and Zero Cents ($690,000.00). The Gross Settlement Amount shall be paid in seventeen (17) installments. Five of the Installments have been funded as follows: (1) The First Installment in the amount of $25,000 was completed on November 5, 2024, (2) The Second Installment of $10,000 was completed on December 5, 2024, (3) The Third Installment of $10,000 was completed on January 6, 2025, (4) The Fourth Installment of $10,000 was completed on February 6, 2025, and (5) The Fifth Installment of $10,000 was completed on March 7, 2025. The payment schedule

on the remaining installments is as follows:

- The Sixth Installment of $10,000 shall be due on or before April 7, 2025, accounting for the 30th day falling on a Sunday.
- The Seventh Installment of $10,000 shall be due on or before May 6, 2025.
- The Eighth Installment of $10,000 shall be due on or before June 6, 2025.
- The Ninth Installment of $10,000 shall be due on or before July 7, 2025, accounting for the 6th falling on a Sunday.
- The Tenth Installment of $10,000 shall be due on or before August 6, 2025.
- The Eleventh Installment of $10,000 shall be due on or before September 8, 2025, accounting for the 6th falling on a Saturday.
- The Twelfth Installment of $10,000 shall be due on or before October 6, 2025.
- The Thirteenth Installment of $200,000 shall be due within twelve (12) months of the execution of the MOU (on or before October 6, 2025) or within thirty (30) days after the Court grants Final Approval, whichever is later.
- The Fourteenth Installment of $50,000 shall be due on or before the last day of the fiscal quarter immediately following the funding of the Thirteenth Installment. For example, if the Thirteenth Installment becomes due on December 1, 2025, the Fourteenth Installment shall be due on or before March 31, 2026.
- The Fifteenth Installment of $50,000 shall be due on or before the last day of the fiscal quarter immediately following the funding of the Fourteenth Installment.
- The Sixteenth Installment of $50,000 shall be due on or before the last day of the fiscal quarter immediately following the funding of the Fifteenth Installment.
- The Seventeenth Installment of $205,000 shall be due on or before the last day of the fiscal quarter immediately following the funding of the Sixteenth Installment. Defendant's share of payroll taxes shall be paid separately and in addition to the Seventeenth or Final Installment.

4. It appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate, and reasonable as to all Class Members when balanced against the probable outcome of

further litigation relating to certification, liability, and damages issues. It further appears that investigation and research have been conducted such that counsel for the Parties are able to reasonably evaluate their respective positions. It further appears to the Court that settlement at this time will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the litigation. It further appears that the Settlement has been reached as the result of intensive, serious, and non-collusive arms-length negotiations.

5. The Court preliminarily finds that the Settlement appears to be within the range of reasonableness of a settlement that could ultimately be given final approval by this Court. The Court has reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily finds that the monetary settlement awards made available to the Class Members are fair, adequate, and reasonable when balanced against the probable outcome of further litigation relating to certification, liability, and damages issues.

6. Plaintiff seeks a Class Counsel Award in the amount of up to Two Hundred Seventy Thousand Dollar and Zero Cents ($270,000.00), comprised of up to one-third of the Gross Settlement Amount for attorney's fees, or $230,000.00, ***and*** litigation expenses of up to $40,000.00, to be paid to Class Counsel, as well as a proposed Service Award to the Class Representative, Alexa Lowe, in an amount of not more than Ten Thousand Dollars and Zero Cents ($10,000.00). While these awards appear to be within the range of reasonableness, the Court will not approve the Class Counsel Award or Service Award until the Final Approval Hearing.

7. The Court recognizes that Plaintiff and Defendants stipulate and agree to certification of a class for settlement purposes only. This stipulation will not be deemed admissible in this, or any other proceeding should this Settlement not become final. For settlement purposes only, the Court conditionally certifies the following Class:

> "All individuals who are or previously were employed by Defendant Ash's First and/or Defendant NYRN and/or Defendant SCZZ and/or Defendant Area 29 in California and classified as non-exempt employees ("Class") during the period beginning May 16, 2018, through January 1, 2025 ("Class Period").

8. For settlement purposes only, Aggrieved Employees are defined as follows:

"Individuals who are or previously were employed by Defendant Ash's First and/or Defendant NYRN and/or Defendant SCZZ and/or Defendant Area 29 in California and classified as non-exempt employees at any time during the period beginning January 7, 2021, through January 1, 2025 ("PAGA Period")."

9. The Court concludes that, for settlement purposes only, the Class meets the requirements for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class is ascertainable and so numerous that joinder of all members of the Class Members is impracticable; (b) common questions of law and fact predominate, and there is a well-defined community of interest amongst the Class Members with respect to the subject matter of the litigation; (c) the claims of the Class Representative are typical of the claims of the Class Members; (d) the Class Representative will fairly and adequately protect the interests of the Class Members; (e) a class action is superior to other available methods for the efficient adjudication of this controversy; and (f) Class Counsel are qualified to act as counsel for the Class Representative in his individual capacity and as the representative of the Class Members.

10. The Court provisionally appoints Plaintiff Alexa Lowe as the representatives of the Class.

11. The Court provisionally appoints Jean-Claude Lapuyade, Esq., of JCL Law Firm, APC, and Shani O. Zakay, Esq. of Zakay Law Group, APLC, as Class Counsel for the Class Members.

12. The Court hereby approves, as to form and content, the Proposed Notice of Pendency of Class and PAGA Representative Action Settlement and Final Hearing Date ("Notice Packet") attached to the Agreement as Exhibit "A". The Court finds that the Notice Packet appears to fully and accurately inform the Class Members and Aggrieved Employees of all material elements of the proposed Settlement, including the right of any Class Member to be excluded from the Class by submitting a written request for exclusion, and of each Class Member's right and opportunity to object to the Settlement. The Court further finds that the distribution of the Notice Packets substantially in the manner and form set forth in the Agreement and this Order meets the requirements of due process, is the most reasonable notice under the circumstances, and shall constitute due and sufficient notice to all

persons entitled thereto. The Court orders the mailing of the Notice Packets by first class mail, pursuant to the terms set forth in the Agreement.

13. The Court hereby appoints Apex Class Action LLC, as Settlement Administrator. Defendants have provided the Settlement Administrator with the Class Data, including information regarding Class Members that Defendants will in good faith compile from its records, including each Class Member's full name, last-known address, Social Security number, start dates and end dates of employment; and information necessary to accurately calculate the number of Workweeks and Pay Periods worked by each Class Member during the Class Period and Aggrieved Employee during the PAGA Period. No later than twenty-one (21) calendar days after preliminary approval of the Settlement, the Settlement Administrator shall mail and email copies of the Notice Packet to all Class Members via first class U.S. Mail.

14. The Court hereby preliminarily approves the proposed procedure for exclusion from the Settlement. Any Class Member may individually choose to opt out of and be excluded from the Settlement as provided in the Notice Packet by following the instructions for requesting exclusion from the Settlement as set forth in the Notice Packet. All requests for exclusion must be postmarked or received by the Response Deadline which is sixty (60) calendar days after the Settlement Administrator mails the Notice Packets to Class Members or, in the case of re-mailed Notice Packet, not more than fourteen (14) days from the original Response Deadline. Any such person who chooses to opt out of and be excluded from the Settlement will not be entitled to an Individual Class Payment under the Settlement and will not be bound by the Settlement, or have any right to object, appeal or comment thereon. Class Members who have not requested exclusion shall be bound by all determinations of the Court, the Agreement, and Judgment.

15. Any Class Member who has not opted out may appear at the final approval hearing and may object or express the Class Member's views regarding the Settlement and may present evidence and file briefs or other papers that may be proper and relevant to the issues to be heard and determined by the Court as provided in the Notice Packet. Class Members will have sixty (60) calendar days from the date the Settlement Administrator mails the Notice Packet to postmark their written objections to the Settlement Administrator.

16. A Motion for Final Approval and the Motion for Class Counsel Award and Service Award shall both be held before this Court on **August 8, 2025, at 10:30 a.m.** in Department C-70 of the San Diego County Superior Court to determine all necessary matters concerning the Settlement, including: whether the proposed settlement of the Action on the terms and conditions provided for in the Agreement is fair, adequate and reasonable and should be finally approved by the Court; whether an Order Granting Final Approval should be entered herein; whether the plan of allocation contained in the Agreement should be approved as fair, adequate and reasonable to the Class; and to finally approve the Class Counsel Award, Service Award, and the Settlement Administration Costs. All papers in support of the Motion for Final Approval and the Motion for Class Counsel Award and Service Award shall be filed with the Court and served on all counsel within twenty-eight (28) days following the expiration of the Response Deadline.

17. In the event the Settlement does not become effective in accordance with the terms of the Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to become effective for any reason, this Settlement Agreement shall be rendered null and void and shall be vacated, and the Parties shall revert to their respective positions as of before entering into the Agreement. In such an event, the Court's orders regarding the Settlement, including this Preliminary Approval Order, shall not be used or referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the Settlement Agreement with respect to the effect of the Settlement Agreement if it is not approved.

18. The Court reserves the right to adjourn or continue the date of the final approval hearing and all dates provided for in the Agreement without further notice to Class Members and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

Dated: 4/4/25

Carolyn Caietti

JUDGE OF THE SUPERIOR COURT

Carolyn M. Caietti, Judge

EXHIBIT 3

Esbeidy Campos

From: DIR PAGA Unit <no-reply@formassembly.com>
Sent: Tuesday, March 11, 2025 2:38 PM
To: Esbeidy Campos
Subject: Thank you for your Proposed Settlement Submission

03/11/2025 02:36:44 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement
If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:
https://nam02.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=05%7C02%7Cecampos%40jcl-lawfirm.com%7Cdcf9300f50174a2419c308dd60e4f5b3%7C1f72d94e1dff4b9e9f45bdb37d49a25e%7C0%7C0%7C638773258681036271%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIwLjAuMDAwMCIsIlAiOiJXaW4zMiIsIkFOIjoiTWFpbCIsIldUIjoyfQ%3D%3D%7C0%7C%7C%7C&sdata=engdysrw1gTji%2B7RBsH8I5WZr%2FY8MNL7R4kz9Z7AjH0%3D&reserved=0

EXHIBIT 4