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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

CLAUDIA NUNEZ PORCAYO,
individually and on behalf of all persons
similarly situated

Plaintiffs,

vs.

THE WHOLE CHILD – MENTAL HEALTH
& HOUSING SERVICES, a California
Corporation; and Does 1 through 50, Inclusive,

Defendants.

Case No. 21STCV25160

**DECLARATION OF JEAN-CLAUDE
LAPUYADE, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS AND PAGA ACTION
SETTLEMENT**

Date: January 9, 2023

Time: 9:00 a.m.

Judge: Hon. Maren Nelson

Dept.: 17

1 I, Jean-Claude Lapuyade, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner
4 of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am counsel of record for
5 Plaintiff CLAUDIA NUNEZ PORCAYO (hereafter "Plaintiff" or "Class Representative") in this wage
6 and hour class action filed against Defendant THE WHOLE CHILD – MENTAL HEALTH &
7 HOUSING SERVICES, a California Corporation (hereinafter "Defendant").

8 2. This declaration is being submitted in support of Plaintiff's Motion for Final Approval of
9 Class Action and PAGA Settlement.

10 3. Attached hereto as **Exhibit "A"** is a true and correct copy of the fully executed
11 [Amended] Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims
12 (hereinafter "Settlement Agreement").

13 4. Attached hereto as **Exhibit "B"** is a true and correct copy of the fully executed Stipulation
14 of Settlement of Class and PAGA Action Claims and Release of Claims.

15 5. Attached hereto as **Exhibit "C"** is a true and correct copy of the fully executed
16 Addendum to Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims dated
17 August 25, 2022.

18 6. Attached hereto as **Exhibit "D"** is a true and correct copy of the fully executed Second
19 Addendum Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims Dated
20 August 25, 2022.

21 7. Attached hereto as **Exhibit "E"** is a true and correct copy of the conformed October 18,
22 2022, Preliminary Approval Order.

23 8. Attached hereto as **Exhibit "F"** is a true and correct copy of the July 12, 2022, proof of
24 filing the proposed Settlement with the LWDA.

25 9. Attached hereto as **Exhibit "G"** is a true and correct copy of the December 14, 2022,
26 proof of filing this motion seeking final approval of this Settlement with the LWDA.

10. Attached hereto as **Exhibit “H”** is a true and correct copy of the JCL Law Firm, APC’s “Firm Resume” detailing the credentials and a summary of cases on which Counsel has been appointed Class Counsel.

I. INTRODUCTION

11. An objective evaluation of the proposed settlement of Two Hundred Six Thousand One Hundred Fifteen Dollars and Zero Cents (\$206,115.00) (“Gross Settlement Amount”) confirms that the relief negotiated on behalf of the Settlement Class is fair, reasonable, and valuable. The Settlement is a product of informed, adversarial, and non-collusive negotiations, between experienced counsel, and presided over by Jeffrey Krivis, Esq., a respected wage and hour class action mediator. After deducting any Court-approved attorneys’ fees and costs, class representative incentive payments, administration costs, and the payments to the Labor & Workforce Development Agency (“LWDA”), the net settlement fund shall be distributed to the Settlement Class based on the number of Workweeks they worked while employed by Defendant during the Class Period. *The Class greeted news of the Settlement with unanimous approval as, at the time of the filing of this motion, all 218 Class Members chose to participate in the Settlement. There are zero opt-outs and zero objections to the Settlement.*¹ There are zero opt-outs and zero objections to the Settlement. The unanimous approval by the Settlement Class evidences the clear fairness and reasonableness of the Settlement.

12. This Settlement provides substantial recovery to Settlement Class Members. Plaintiff estimates that the Settlement, if approved, would result in a Net Settlement Amount of approximately **\$94,479.00**. This will result in an average Individual Settlement Payment of **\$433.39**, a high payment of **\$1,466.41**, and a low payment of **\$6.15**. Aggrieved Employees will receive an estimated average gross payment of **\$11.47** and a high payment of **\$19.79**.

13. 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 Settlement Class will not have to wait

¹ As of the filing date of this Motion, 2 Notices were deemed undeliverable. ILYM Dec. at ¶¶ 10.

(possibly years) for relief, nor will they have to bear the risks associated with prolonged and uncertain litigation.

14. 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.

II. OVERVIEW OF THE LITIGATION

15. Defendant provides mental health, family housing, parent enrichment, and nutrition education services to families and children of vulnerable communities, including at the Los Angeles County location where Plaintiff worked. This action asserts claims on behalf of Defendant's non-exempt employees who are or previously were employed in California. Plaintiff worked for Defendant as a non-exempt employee in California between October of 2020 and February of 2021. At all times during her employment, Plaintiff earned an hourly wage and was entitled incentive compensation, and to legally compliant meal and/or rest periods, and minimum, regular and overtime wages for all hours worked. Throughout her employment, Plaintiff was subject to Defendant's written policies and procedures and unwritten policies and practices.

16. Generally, Plaintiff claims that Defendant failed to pay overtime at the correct regular rate of pay, failed to provide compliant meal and rest periods, failed to furnish accurate itemized wage statements, and failed to reimburse for required business expenses. Defendant forcefully denies liability for each of Plaintiff's claims. Further, Defendant asserts that it 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, and reimbursed for all required business expenses.

17. On April 30, 2021, Plaintiff served Defendant 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 Defendant's 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”).

18. On July 8, 2021, Plaintiff filed a class action complaint in the Los Angeles Superior Court, Case Number 21STCV25160 (the “Action”). The Action alleged ten causes of action against Defendant for: (1) Unfair Competition in Violation of California Business and Professions Code §§ 17200; (2) Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197 and 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 and 512; (5) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (6) Failure to Provide Accurate Itemized Wage Statements in Violation of Cal. Lab. Code § 226; (7) Failure to Reimburse Employees for Required Business 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; (9) Unpaid Sick Pay in Violation of Cal. Lab. Code § 246; (“Class Claims”) and (10) Violations of the Private Attorney General Act at Lab. Code §§ 2698 *et. seq.* (“PAGA Claims”).

19. After the Action was commenced, the Parties agreed to mediate the Action. To prepare for mediation, the Parties agreed to informally produce documents and data points subject to the mediation privilege, including but not limited to, a 25% sample of the Class Members’ time data and certain payroll data points. As discussed *infra*, Plaintiff’s counsel retained the forensic consultants at Berger Consulting Group (“BCG”) to analyze Defendant’s time and payroll data.

20. On March 15, 2022 the Parties participated in a full day mediation with highly regarded wage and hour mediator Jeffrey Krivis, Esq. After arms-length negotiations and bargaining, the Parties reached an agreement to settle and signed a Memorandum of Understanding. After reaching an agreement in principle, the Parties drafted and negotiated a long-form settlement agreement, which is the subject of the instant motion.

III. THE SETTLEMENT BEFORE THE COURT

21. The Court preliminarily approved an initial Gross Settlement Amount of One Hundred Ninety-Five Thousand Dollars and Zero Cents (\$195,000.00) based on a total of an estimated 13,211

1 Workweeks worked by the Class during the Class Period. The Gross Settlement Amount shall be used:
2 (1) to satisfy Individual Settlement Payments; (2) to satisfy the Class Representative Service Award;
3 (3) to satisfy the Class Counsel Award; (4) to satisfy the PAGA Settlement; and (5) to satisfy the
4 Settlement Administration Costs incurred in this action.

5 22. After this Court granted Preliminary Approval of the Agreement on September 12, 2022,
6 Defendant produced the Class Data to the Settlement Administrator. Upon production of the Class Data
7 to the Settlement Administrator, it was discovered that the actual number of Class Members increased
8 from 195 to 218 Class Members and the actual number of Workweeks worked by Class Members during
9 the Class Period increased to 15,360. The increased number of Class Members and Workweeks
10 triggered an escalator provision in the Settlement Agreement, thereby increasing the Gross Settlement
11 Amount by \$11,115.00 dollars. The new Gross Settlement Amount in this matter is **\$206,115.00**.

12 23. As explained in further detail below, the Settlement is fair, adequate, and reasonable to
13 the class and should be granted final approval. This is evidenced by the unanimous approval of the
14 Settlement by the Settlement Class, the absence of any objections to the Settlement and the average
15 Individual Settlement Payment of \$433.39.

16 **IV. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

17 **A. Class Counsel Conducted a Thorough Investigation**

18 24. Months before filing any one of the Actions, Class Counsel began its pre-filing
19 investigation into the Plaintiff's complaints. Class Counsel's investigation started with several lengthy
20 interviews with Plaintiff. As part of the interview process, the Plaintiff produced documents related to
21 her employment, including time and payroll records. At the conclusion of the interviews, Class Counsel
22 determined that each of Plaintiff's complaints appeared to substantiate Plaintiff's claim that Defendant's
23 failed to, among other things, pay for all time worked and to provide compliant meal and rest periods.

24 25. Considering the many anticipated factual disputes, the Parties agreed, relatively early in
25 the litigation, that it would be in the best interest of both Parties to mediate the matter.

26 26. To prepare for mediation, Class Counsel requested documents and data points to further
27 evaluate Plaintiff's claims and Defendant's liability exposure to the Class Members. In response to
28

1 Class Counsel's request, Defendant produced the time records for the Class Members, aggregate
2 workweek and pay period data for the Class Members, wage statements for the Class Members, and
3 copies of applicable handbooks, policies, and agreements containing, *inter alia*, compensation,
4 timekeeping and meal and rest period policies. In total, Defendant produced approximately 1,000 pages
5 of pertinent policy documents, time records for Class Members, and thousands of unique cells of payroll
6 and time data for Class Counsel to analyze.

7 27. Class Counsel then retained the statisticians and economists at BCG to evaluate the Class
8 Members' payroll and time data. BCG provides data analysis and damage modeling consulting services
9 specializing in wage and hour class actions. BCG's team of financial and data analysts are credentialed
10 and experienced experts in their fields and have provided their expertise on thousands of cases. Stated
11 differently, the BCG is uniquely qualified to analyze Defendant's time and payroll data.

12 28. BCG analyzed Defendant's time and payroll data to assist in the development of various
13 damage models. Among other things, BCG determined the approximate number of work shifts,
14 workweeks, pay periods, average length of shift and average number of hours worked per week and pay
15 periods during the Class Period. BCG also estimated the number of missed, late or truncated meal and
16 rest periods, the amount of paid missed meal period premiums paid during the Class Period, the amount
17 of underpayment of overtime resulting from the miscalculation of the regular rate, and the amount of
18 off-the-clock work performed by the Class Members during the Class Period. BCG calculated and
19 created a damage model for Defendant's potential liability exposure while accounting for the
20 uncertainties of continued litigation. The damage model informed and guided Class Counsel during the
21 mediated settlement discussions.

22 29. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)
23 determining Plaintiff's suitability as a putative class representative through interviews, background
24 investigations, and analysis of her employment files; (2) evaluating all of Plaintiff's potential claims;
25 (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions,
26 and the type of employer; (4) analyzing the Settlement Class' time and payroll records; (5) analyzing
27 Defendant's labor policies and practices; (6) researching settlements in similar cases as well as

1 outstanding issues which could affect settlement approval; (7) evaluating Plaintiff's claims and
2 estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief; and (9)
3 participating in the mediation.

4 30. Class Counsel only agreed to enter the Settlement following this thorough investigation
5 and evaluation of Plaintiff's claims. Based on this investigation of the facts, applicable law, and
6 marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated
7 with litigation, and the various defenses asserted by Defendant, Class Counsel firmly believes this
8 Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair,
9 reasonable, and adequate, the Court should preliminarily approve the Settlement.

10 **B. The Parties Settled At Mediation**

11 31. On March 15, 2022, the Parties conducted a full-day mediation with Jeffrey Krivis, Esq.,
12 a highly regarded mediator of wage and hour class actions. Mediator Krivis helped to manage the
13 Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. The
14 Parties made substantial progress with Mediator Krivis's assistance. Namely, the Parties exchanged
15 information regarding their respective claims and defenses, including their respective evaluations of the
16 damages. After more than eight hours of arm's length and adversarial negotiations, the mediation
17 concluded with a settlement. The amount of the service awards was not negotiated until after the parties
18 agreed to the Gross Settlement Amount and many other terms. No action would likely have been taken
19 by Class Members individually, and no compensation would have been recovered for them, but for
20 Plaintiff's service on behalf of the Class.

21 **C. Class Counsel is Experienced in Similar Litigation**

22 32. Plaintiff is represented by competent and experienced counsel to pursue her claims. I
23 established the JCL Law Firm, APC ("Firm"), in 2010. The Firm is a boutique plaintiff firm representing
24 aggrieved employees and consumers throughout California in wage and hour class actions and complex
25 multi-party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade,
26 Esq. (Partner/Owner), Sydney Castillo-Johnson, Esq. (Associate Attorney), Monnett De La Torre
27
28

(Associate Attorney), Tesla Stone (Paralegal), Maria Watters (Paralegal), and Jennifer Hemming (Administrative Assistant).

33. I am qualified to represent the Plaintiff, the State of California, and the Aggrieved Employees. I have extensive experience with wage and hour class and representative actions litigation like this matter, and employment matters in general. Additionally, I have extensive complex mass tort litigation experience and complex construction product liability experience. I can, will and have adequately represented the interests of the Plaintiff, the State of California, and the Aggrieved Employees throughout this action.

34. I have represented consumers and employees in California class actions, and complex multi-party product liability actions exclusively for more than 14 years. I have been in practice as a plaintiffs' civil litigation attorney since April 2007.

35. I am qualified to represent the Plaintiff, the State of California and the Aggrieved Employees. I have extensive experience with wage and hour class and representative actions litigation like this matter, and employment matters in general. My credentials are reflected in the JCL Law Firm, APC, Firm Resume, a true and correct copy of which is attached hereto as **Exhibit "H."** Some of the major cases the Firm has undertaken are also set forth in **Exhibit "H."**

36. Since 2010, I have successfully tried two (2) cases to conclusion, each resulting in a favorable verdict for the firm's clients.

37. Finally, I have published appellate experience in *William Blanchette et al., v. The Superior Court of Imperial County, (GHA Enterprises)*, 8 Cal.App.5th 521.

38. Consequently, I have been named to the prestigious Thomson Reuters, Super Lawyers, Rising Star in 2015, 2016, 2017 and, again, in 2018. According to Thomson Reuters, the Super Lawyers, Rising Star list recognizes the top 2.5% of eligible attorneys. (see https://www.superlawyers.com/about/selection_process.html.)

D. The Gross Settlement Amount is Fair and Reasonable

39. Here, the Settlement is clearly within the "ballpark" of reasonableness because the Settlement provides a sizeable recovery to the Settlement Class 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 Two Hundred Six Thousand One Hundred Fifteen Dollars and Zero Cents (\$206,115.00) represents a discount on Defendant's 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 Defendant 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.

40. 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 Defendant's 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. As detailed in greater depth during the preliminary approval process, Class Counsel projected a range of Defendant's liability exposure for the claims asserted on behalf of the Settlement Class. The Gross Settlement Amount represents between approximately 15% and 26% of Defendant's *class-wide* liability exposure as estimated by Class Counsel at the time of mediation.

41. 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.

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

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

43. 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 *Magadia v. Wal-Mart*

1 *Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded
2 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed
3 the trial court to enter judgement in favor of the employer. *See also O’Conner v. Uber Technologies,*
4 *Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also*
5 *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor
6 plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th
7 1077, 1088 (“[T]he reason, if any, that employees might not take their breaks were predominantly
8 individualized questions of fact not susceptible to class treatment.”); *Ali v. U.S.A. Cab Ltd.* (2009) 176
9 Cal.App.4th 1333, 1341 (affirming denial of certification because employees’ declarations attesting to
10 having taken meal and rest breaks demonstrated that individualized inquiries were required to show
11 harm); *Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following
12 *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack
13 of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying
14 certification of driver meal and rest period claims based on the predominance of individual issues).
15 Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently,
16 the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring
17 settlement.

18 44. Although Plaintiff is confident about the strength of her claims, Plaintiff nevertheless
19 recognizes that Defendant has factual and legal defenses that, if successful, would potentially defeat or
20 impair the value of the lawsuit. Legally, the fast-changing landscape of wage and hour litigation can
21 drastically affect the value of Plaintiff’s claims and, in fact, already has.

22 45. As demonstrated by the decisions in *Magadia, supra*, 999 F.3d 668, *O’Conner v. Uber*
23 *Technologies* (N.D. Cal. 2018) 82 F.Supp.3d 1133 and *Duran v. U.S. Bank National Assn.* (2014) 59
24 Cal.4th 1, the complexities and duration of further litigation cannot be overstated. There is little doubt
25 that if Defendant faced a large adverse judgement, Defendant undoubtedly has the resources to post a
26 bond and appeal. A post-judgment appeal by Defendant would have required many more years to
27 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 three or more years in the future.

46. The Class Representative and Class Counsel recognize the expense and length of a trial against Defendant 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 recognize 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 mounted, 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.

IV. THE PENALTIES UNDER PAGA ARE REASONABLE

47. Here, Plaintiff and Defendant negotiated a good faith PAGA Settlement in the amount of \$10,000 which is 5.1% 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 Settlement (\$7,500) will be paid to the LWDA ("LWDA Payment") with the remaining twenty-five percent (25%) to be distributed to the Aggrieved Employees, which is within the range of PAGA penalties approved by courts and should be approved.

48. Further on October 25, 2021, Class Counsel gave the LWDA notice of this Settlement and proposed allocation by filing a copy of the Settlement and the Motion for Preliminary Approval with the LWDA. On October 24, 2022, Plaintiffs gave the LWDA notice of this motion seeking final approval of this settlement.

///

1 I declare under the penalty of perjury under the laws of the State of California that the foregoing
2 is true and correct. Executed this 13th day of December 2022, at San Diego, California.

3 **JCL LAW FIRM, APC**

4 By: 
5 Jean-Claude Lapuyade

EXHIBIT A

ZAKAY LAW GROUP, APLC

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

CLAUDIA NUNEZ PORCAYO, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiffs,

v.

THE WHOLE CHILD – MENTAL HEALTH
& HOUSING SERVICES, a California
Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No. 21STCV25160

[Action Filed July 8, 2021]

**STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS**

Judge: Honorable Maren Nelson
Dept.: 17

1 This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is
2 entered into by and between plaintiff CLAUDIA NUNEZ PORCAYO (hereinafter “Plaintiff”), an
3 individual, on behalf of the Settlement Class, and in her representative capacity on behalf of the State
4 of California and the Aggrieved Employees, and Defendant THE WHOLE CHILD – MENTAL &
5 HEALTH HOUSING SERVICES, a California Corporation (hereinafter “Defendant”):

6 **I. DEFINITIONS**

- 7 A. “Action” shall mean the putative class action lawsuit designated *Porcayo v. The*
8 *Whole Child*, Los Angeles County Superior Court, Case No. 21STCV25160, filed
9 July 8, 2021.
- 10 B. “Aggrieved Employees” shall mean all individuals who are or previously were
11 employed by Defendant in California and classified as non-exempt employees at any
12 time during the PAGA Period.
- 13 C. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of
14 Class Action and Release of Claims.
- 15 D. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC and
16 Shani Zakay of Zakay Law Group, APLC.
- 17 E. “Class Counsel Award” means the award of fees and expenses that the Court
18 authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff
19 and the Class in the Action, consisting of attorneys’ fees currently not to exceed one-
20 third of the Gross Settlement Amount currently estimated to be \$65,000.00 out of
21 \$195,000.00 plus costs and expenses in the amount of \$15,000.00. Class Counsel’s
22 award for attorneys’ fees will be divided equally between Class Counsel (50% to
23 JCL Law Firm, APC and 50% to Zakay Law Group, APLC).
- 24 F. “Class Data” means information regarding Class Members that Defendant will in
25 good faith compile from its records and provide to the Settlement Administrator. It
26 shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class
27
28

Member's full name; last known address; Social Security Number; and all dates on which the Class Member performed work for Defendant.

G. "Class Members" or the "Class" means all individuals who are or previously were employed by Defendant in California and classified as non-exempt employees at any time during the Class Period.

H. "Class Period" means the period between July 8, 2017 to May 1, 2022.

I. "Class Representative Service Award" means the amount that the Court authorizes to be paid to the Class Representative, in addition to her Individual Settlement Payment and her pro-rata share of the PAGA Settlement, in recognition of her efforts and risks in assisting with the prosecution of the Action and in exchange for executing a General Release of Defendant.

J. "Class Representative" shall mean plaintiff CLAUDIA NUNEZ PORCAYO.

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

L. "Defendant" shall mean The Whole Child - Mental Health & Housing Services.

M. "Effective Date" means the earliest date, following entry by the Court of an order and judgment finally approving this Settlement, upon which one of the following have occurred: (i) if no objection is filed to the settlement and no objector appears at the hearing on final approval, the date of the Court's entry of the order granting final approval, (ii) if an objection is filed to the settlement, or an objector appears at the hearing on final approval, then the later of the following: (a) the expiration of all potential appeal periods without a filing of a notice of appeal of the final approval order or judgment; (b) final affirmance of the final approval order and judgment by an appellate court as a result of any appeal(s), or (c) final dismissal or denial of all such appeals (including any petition for review, rehearing, certiorari, etc.) such that the final approval order and judgment is no longer subject to further judicial review.

- 1 N. "Funding Date" shall mean fifteen (15) calendar days after the Effective Date and is
2 the date Defendant transfers the Gross Settlement Amount into the QSF in accord
3 with the terms of this Agreement.
- 4 O. "Gross Settlement Amount" means One Hundred Ninety-Five Thousand Dollars
5 (\$195,000.00) that Defendant must pay into the QSF in connection with this
6 Settlement, inclusive of the sum of the Individual Settlement Payments, the Class
7 Representative Service Award, the Class Counsel Award, PAGA Settlement and the
8 Settlement Administration Costs and *exclusive* of the employer's share of payroll tax,
9 if any, triggered by any payment under this Settlement. The Parties contemplate that
10 Defendant's share of payroll taxes will equal approximately Five Thousand Dollars
11 (\$5000), which it will pay separately.
- 12 P. "Individual Settlement Payment" means the amount payable from the Net Settlement
13 Amount to each Settlement Class Member and excludes any amounts distributed to
14 Aggrieved Employees pursuant to PAGA.
- 15 Q. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less Class
16 Counsel Award, Class Representative Service Award, PAGA Settlement, and
17 Settlement Administration Costs.
- 18 R. "Notice Packet" means the Class Notice to be provided to the Class Members by the
19 Settlement Administrator in the form set forth as Exhibit A to this Agreement (other
20 than formatting changes to facilitate printing by the Settlement Administrator).
- 21 S. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
22 Labor Code § 2698 *et seq.*
- 23 T. "PAGA Payment Ratio" means the respective pay periods during the PAGA Period
24 for each Aggrieved Employee divided by the sum-total of the pay periods for all
25 Aggrieved Employees during the PAGA Period.
- 26 U. "PAGA Pay Periods", for purposes of calculating the distribution of the Aggrieved
27 Employee Payment, as defined herein, means the number of pay periods of
28

employment during the PAGA Period that each Aggrieved Employee worked in California.

V. “PAGA Period” means the period between April 30, 2020 to May 1, 2022 (the “PAGA Period”).

W. “PAGA Settlement” shall mean Ten Thousand Dollars (\$10,000) to be allocated from the Gross Settlement Amount.

X. “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either Plaintiff or Defendant, individually.

Y. “Payment Ratio” means the respective Workweeks for each Class Member divided by the sum total Workweeks for all Class Members.

Z. “Plaintiff” shall mean CLAUDIA NUNEZ PORCAYO.

AA. “QSF” means the Qualified Settlement Fund established, designated and maintained by the Settlement Administrator to fund the Gross Settlement Amount.

BB. “Released Class Claims” means all class claims alleged in the operative complaint or that could have been stated based on the facts alleged in the Action, including but not limited to federal and state wage and hour claims (including all claims under the California Labor Code and/or Fair Labor Standards Act) for unpaid wages, minimum wage, overtime, wages for off-the-clock work, meal periods, rest periods, wage statement violations, waiting time penalties, failure to maintain records, interest, penalties, and attorneys’ fees, unfair competition and the related provisions of the Business & Professions Code including sections 17200 and 17203, Labor Code sections 201, 202, 203, 204, 206.5, 210, 226, 226.2, 226.7, 246 510, 512, 515, 558, 1194, 1197, 1197.1, 1198, and 2802 and all claims under the governing Wage Order(s), which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period.

1 CC. "Released PAGA Claims" means all PAGA claims for penalties and any other
2 available relief pursuant to the PAGA alleged in the operative complaint and/or
3 Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period
4 including for violations of California Labor Code sections , 201, 202, 203, 204, 210,
5 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802 and expressly excluding
6 all other claims, including claims for vested benefits, wrongful termination,
7 unemployment insurance, disability, social security, workers' compensation, and
8 PAGA claims outside of the PAGA Period .

9 DD. "Response Deadline" means the date forty-five (45) days after the Settlement
10 Administrator mails Notice Packets to Class Members and the last date on which
11 Class Members may submit requests for exclusion or objections to the Settlement.

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

13 FF. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L,
14 Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. ILYM Group has
15 extensive experience in administering Class Action Settlements, including direct mail
16 services, database management, claims processing and settlement fund distribution
17 services for Class Actions ranging in size from 26 to 4.5 million Settlement Class
18 Members. The Settlement Administrator establishes, designates and maintains, as a
19 QSF under Internal Revenue Code section 468B and Treasury Regulation section
20 1.468B-1, into which the amount of the Gross Settlement Amount is deposited for the
21 purpose of resolving the claims of Settlement Class Members. The Settlement
22 Administrator shall maintain the funds until distribution in an account(s) segregated
23 from the assets of Defendant and any person related to Defendant. ***All accrued***
24 ***interest shall be paid and distributed to the Settlement Class Members as part of***
25 ***their respective Individual Settlement Payment.***

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

4 HH. "Workweeks", for purposes of calculating the distribution of the Net Settlement
5 Amount, means the number of weeks of employment during the Class Period that
6 each Class Member was employed by Defendant in California, excluding weeks
7 during which the Class Member did not perform any work for Defendant. In order to
8 ensure an equitable distribution of the Net Settlement Amount, each Class Member's
9 Workweek total will be calculated by dividing their total days worked by 5.

10 **II. RECITALS**

11 A. On April 30, 2021, Plaintiff filed a Notice of Violations with the Labor and Workforce
12 Development Agency (LWDA) and served the same on Defendant.

13 B. On July 8, 2021, Plaintiff filed the Class Action lawsuit for:

- 14 1. Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;
- 15 2. Failure to pay minimum wages in violation of California Labor Code sections
16 1194, 1197 and 1197.1;
- 17 3. Failure to pay overtime wages in violation of California Labor Code sections
18 510 *et seq*;
- 19 4. Failure to provide required meal periods in violation of California Labor Code
20 sections 226.7 and 512 and the applicable IWC wage order;
- 21 5. Failure to provide required rest periods in violation of California Labor Code
22 sections 226.7 and 512 and the applicable IWC wage order;
- 23 6. Failure to provide accurate itemized wage statements in violation of California
24 Labor Code section 226;
- 25 7. Failure to reimburse Plaintiff for required expenses in violation of California
26 Labor Code section 2802;

1 8. Failure to provide wages when due in violation of California Labor Code
2 sections 201, 202 and 203; and

3 9. Violation of the Private Attorneys General Act [Labor Code section 2698].

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

9 D. Defendant denies any liability or wrongdoing of any kind associated with the claims
10 alleged in the Action, disputes any wages, damages and penalties claimed by the
11 Class Representative are owed, and further contends that, for any purpose other than
12 settlement, the Action is not appropriate for class or representative action treatment.
13 Defendant contends, among other things, that at all times they complied with the
14 California Labor Code and the Industrial Wage Commission Orders.

15 E. The Class Representative is represented by Class Counsel. Class Counsel conducted
16 an investigation into the facts relevant to the Action, including conducting an
17 independent investigation as to the allegations, reviewing documents and
18 information exchanged through informal discovery, and reviewing documents and
19 information provided by Defendant pursuant to informal requests for information to
20 prepare for mediation. Defendant produced for the purpose of settlement
21 negotiations certain employment data concerning the Settlement Class, which Class
22 Counsel reviewed and analyzed. Based on their own independent investigation and
23 evaluation, Class Counsel are of the opinion that the Settlement with Defendant is
24 fair, reasonable and adequate, and is in the best interest of the Settlement Class in
25 light of all known facts and circumstances, including the risks of significant delay,
26 defenses asserted by Defendant, uncertainties regarding class certification, and
27 numerous potential appellate issues. Although they deny any liability, Defendant is
28

1 agreeing to this Settlement solely to avoid the inconveniences and cost of further
2 litigation. The Parties and their counsel have agreed to settle the claims on the terms
3 set forth in this Agreement.

4 F. On March 15, 2022, the Parties participated in mediation presided over by Jeff
5 Krivis, Esq., an experienced mediator of wage and hour class and PAGA actions.
6 The mediation concluded with a settlement after both sides agreed to a Mediator's
7 proposal which was subsequently memorialized in the form of a Memorandum of
8 Understanding ("MOU").

9 G. This Agreement replaces and supersedes the MOU and any other agreements,
10 understandings, or representations between the Parties. This Agreement represents
11 a compromise and settlement of highly disputed claims. Nothing in this Agreement
12 is intended or will be construed as an admission by Defendant that the claims in the
13 Action of Plaintiff or the Class Members have merit or that Defendant bears any
14 liability to Plaintiff or the Class on those claims or any other claims, or as an
15 admission by Plaintiff that Defendant's defenses in the Action have merit.

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

22 I. The Parties agree to certification of the Class for purposes of this Settlement only.
23 If for any reason the settlement does not become effective, Defendant reserves the
24 right to contest certification of any class for any reason and reserves all available
25 defenses to the claims in the Action.

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

1 **III. TERMS OF AGREEMENT**

2 A. Settlement Consideration and Settlement Payments by Defendant.

3 1. Settlement Consideration. In full and complete settlement of the Action, and
4 in exchange for the releases set forth below, Defendant will pay the sum of
5 the Individual Settlement Payment, the Class Representative Service Award,
6 the Class Counsel Award, PAGA Settlement, and the Settlement
7 Administration Costs, as specified in this Agreement, equal to the Gross
8 Settlement Amount of One Hundred Ninety-Five Thousand Dollars and Zero
9 Cents (\$195,000.00). The Parties agree that this is a non-reversionary
10 Settlement and that no portion of the Gross Settlement Amount shall revert to
11 Defendant. Other than the Defendant's share of employer payroll taxes,
12 Defendant shall not be required to pay more than the Gross Settlement
13 Amount, except as provided for hereinbelow.

14 2. Class Size. At the time of mediation, Defendant estimated that the Settlement
15 Class was comprised of 195 individuals who collectively worked
16 approximately 13,211 Workweeks ("Projected Workweeks") during the Class
17 Period. At the time of filing of Plaintiff's motion for preliminary approval of
18 this Agreement, Defendant will provide a declaration under penalty of perjury
19 confirming the number of applicable Class Members and Workweeks they
20 worked during the applicable Class Period. If the workweek number increases
21 by more than 10% of the estimate stated herein, the Gross Settlement Amount
22 will increase proportionally for the number of workweeks over 110%.

23 3. Settlement Payment. Defendant shall pay the Gross Settlement Amount to the
24 Settlement Administrator on the Funding Date.

25 4. Defendant's Share of Payroll Taxes. Defendant's share of employer side
26 payroll taxes is in addition to the Gross Settlement Amount and shall be paid
27 together with the Gross Settlement Amount.

- 1 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
2 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members
3 release the Defendant from the Released Class Claims for the Class Period.
- 4 C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
5 consideration set forth in this Agreement, the Plaintiff, the LWDA and the State of
6 California release the Defendant from the PAGA Released Claims for the PAGA
7 Period. As a result of this release, the Aggrieved Employees shall be precluded from
8 bringing claims against Defendant for the PAGA Release Claims regardless of whether
9 the Aggrieved Employee requests to be excluded from the Settlement as provided
10 herein below in section L(7).
- 11 D. General Release by Plaintiff. As of the Funding Date, for the consideration set forth
12 in this Agreement, Plaintiff waives, releases, acquits and forever discharges the
13 Defendant from any and all claims, whether known or unknown, which exist or may
14 exist on her behalf as of the date of this Agreement, including but not limited to any
15 and all tort claims, contract claims, wage claims, wrongful termination claims,
16 disability claims, benefit claims, public policy claims, retaliation claims, statutory
17 claims, personal injury claims, emotional distress claims, invasion of privacy claims,
18 defamation claims, fraud claims, quantum meruit claims, and any and all claims
19 arising under any federal, state or other governmental statute, law, regulation or
20 ordinance, including, but not limited to claims for violation of the Fair Labor
21 Standards Act, the California Labor Code, the Wage Orders of California's Industrial
22 Welfare Commission, other state wage and hour laws, the Americans with
23 Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee
24 Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the
25 California Fair Employment and Housing Act, the California Family Rights Act, the
26 Family Medical Leave Act, California's Whistleblower Protection Act, California
27 Business & Professions Code Section 17200 et seq., and any and all claims arising
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1 under any federal, state or other governmental statute, law, regulation or ordinance.
2 Plaintiff also waives and relinquishes any and all claims, rights or benefits that she
3 may have under California Civil Code § 1542, which provides as follows:
4

5 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE***
6 ***CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO***
7 ***EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE***
8 ***RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE***
9 ***MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE***
10 ***DEBTOR OR RELEASED PARTY.***
11

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

5 E. Conditions Precedent: This Settlement will become final and effective only upon the
6 occurrence of all of the following events:

- 7 1. The Court enters an order granting preliminary approval of the Settlement;
- 8 2. The Court enters an order granting final approval of the Settlement and a Final
9 Judgment;
- 10 3. If an objector appears at the final approval hearing, the time for appeal of the
11 Final Judgment and Order Granting Final Approval of Class Action
12 Settlement expires; or, if an appeal is timely filed, there is a final resolution of
13 any appeal from the Judgment and Order Granting Final Approval of Class
14 Action Settlement; and
- 15 4. Defendant fully funds the Gross Settlement Amount.

16 F. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
17 not preliminarily or finally approved by the Court, fails to become effective, or is
18 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
19 Defendant from obtaining a complete resolution of the Released Claims, or if
20 Defendant fails to fully fund the Gross Settlement Amount:

- 21 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
22 and shall not be admissible in any judicial, administrative or arbitral
23 proceeding for any purpose or with respect to any issue, substantive or
24 procedural;
- 25 2. The conditional class certification (obtained for any purpose) shall be void *ab*
26 *initio* and of no force or effect, and shall not be admissible in any judicial,
27

1 administrative or arbitral proceeding for any purpose or with respect to any
2 issue, substantive or procedural; and

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

6 4. If Defendant fails to fully fund the Gross Settlement Amount, Defendant shall
7 bear the sole responsibility for any cost to issue or reissue any curative notice
8 to the Settlement Class Members and all Settlement Administration Costs
9 incurred to the date of nullification.

10 G. Certification of the Settlement Class. The Parties stipulate to conditional class
11 certification of the Class for the Class Period for purposes of settlement only. In the
12 event that this Settlement is not approved by the Court, fails to become effective, or is
13 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
14 Defendant from obtaining a complete resolution of the Released Claims, the
15 conditional class certification (obtained for any purpose) shall be void *ab initio* and of
16 no force or effect, and shall not be admissible in any judicial, administrative or arbitral
17 proceeding for any purpose or with respect to any issue, substantive or procedural.

18 H. Tax Liability. The Parties make no representations as to the tax treatment or legal
19 effect of the payments called for, and Class Members and/or Aggrieved Employees are
20 not relying on any statement or representation by the Parties in this regard. Class
21 Members and/or Aggrieved Employees understand and agree that they will be
22 responsible for the payment of any taxes and penalties assessed on the Individual
23 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
24 Settlement described and will be solely responsible for any penalties or other
25 obligations resulting from their personal tax reporting of Individual Settlement
26 Payments and/or Aggrieved Employees' individual shares of the PAGA Settlement.

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

19 J. Preliminary Approval Motion. Plaintiff shall draft and file with the Court a Motion for
20 Order Granting Preliminary Approval and supporting papers within sixty (60) days
21 after complete execution of this agreement unless otherwise agreed upon by the Parties
22 and will provide Defendant with a draft of the Motion at least 3 business days prior to
23 the filing of the Motion to give Defendant an opportunity to propose changes or
24 additions to the Motion.

25 K. Settlement Administrator. The Settlement Administrator shall be responsible for:
26 establishing and administering the QSF; calculating, processing and mailing payments
27 to the Class Representative, Class Counsel, LWDA and Class Members; printing and
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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 and Non-Wage Portion of the Individual Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA Settlement; 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 Elections Not to Participate in Settlement it receives (including the numbers of valid and deficient), and number of objections received.

L. Notice Procedure.

1. Class Data. No later than ten (10) business days after the Preliminary Approval Date, Defendant 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 Action Settlement in a form substantially similar to the form attached as **Exhibit A** and a Request for Exclusion form attached hereto as **Exhibit B**. The Notice of Class 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 PAGA Settlement and to keep the

1 Settlement Administrator apprised of their current mailing address, to
2 which the Individual Settlement Payments and/or Aggrieved
3 Employees' individual shares of the PAGA Settlement will be mailed
4 following the Funding Date. The Notice of Class Action Settlement
5 shall set forth the release to be given by all members of the Class who
6 do not request to be excluded from the Settlement Class and/or
7 Aggrieved Employees' in exchange for an Individual Settlement
8 Payment and/or Aggrieved Employees' individual shares of the PAGA
9 Settlement, the number of Workweeks worked by each Class Member
10 during the Class Period and PAGA Period, if any, and the estimated
11 amount of their Individual Settlement Payment if they do not request
12 to be excluded from the Settlement and each Aggrieved Employee's
13 share of the PAGA Settlement, if any. The Settlement Administrator
14 shall use the Class Data to determine Class Members' Workweeks and
15 PAGA Workweeks. The Notice will also advise the Aggrieved
16 Employees that they will release the Released PAGA Claims and will
17 receive their share of the PAGA Settlement regardless of whether they
18 request to be excluded from the Settlement.

19 b) The Notice Packet's mailing envelope shall include the following
20 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
21 ENTITLED TO PARTICIPATE IN A CLASS ACTION
22 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
23 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
24 NOTICE."

25 3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
26 Settlement Administrator will perform a search based on the National Change
27 of Address Database to update and correct any known or identifiable address
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1 changes. No later than fourteen (14) calendar days after receiving the Class
2 Data from Defendant, the Settlement Administrator shall mail copies of the
3 Notice Packet to all Class Members via regular First-Class U.S. Mail and
4 electronic mail. The Settlement Administrator shall exercise its best judgment
5 to determine the current mailing address for each Class Member. The address
6 identified by the Settlement Administrator as the current mailing address shall
7 be presumed to be the best mailing address for each Class Member.

8 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
9 Administrator as non-delivered on or before the Response Deadline shall be
10 re-mailed to any forwarding address provided within ten (10) calendar days.
11 If no forwarding address is provided, the Settlement Administrator shall
12 within five (5) calendar days attempt to determine a correct address by lawful
13 use of skip-tracing, or other search using the name, address and/or Social
14 Security number of the Class Member involved, and shall then perform a re-
15 mailing, if another mailing address is identified by the Settlement
16 Administrator. In addition, if any Notice Packets, which are addressed to
17 Class Members who are currently employed by Defendant, are returned to the
18 Settlement Administrator as non-delivered and no forwarding address is
19 provided, the Settlement Administrator shall notify Defendant. Defendant
20 will request that the currently employed Class Member provide a corrected
21 address, and transmit to the Administrator any corrected address provided by
22 the Class Member. Class Members who received a re-mailed Notice Packet
23 shall have their Response Deadline extended fifteen (15) calendar days from
24 the original Response Deadline.

25 5. Disputes Regarding Individual Settlement Payments. Class Members will
26 have until the Response Deadline, should they disagree with Defendant's
27 records regarding the start and end dates of employment to provide
28

1 documentation and/or an explanation to show contrary dates. If there is a
2 dispute, the Settlement Administrator will consult with the Parties to
3 determine whether an adjustment is warranted. The Settlement Administrator
4 shall determine the eligibility for, and the amounts of, any Individual
5 Settlement Payments under the terms of this Agreement. The Settlement
6 Administrator's determination of the eligibility for and amount of any
7 Individual Settlement Payment shall be binding upon the Class Member and
8 the Parties, except as provided herein below in Paragraph 6.

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

15 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
16 Packet shall state that Class Members who wish to exclude themselves from
17 the Settlement must submit a signed copy of the Request for Exclusion form
18 to the Settlement Administrator by the Response Deadline. A Request for
19 Exclusion form will be mailed together with the Notice Packet to all Class
20 Members. The Request for Exclusion will not be valid if it is not timely
21 submitted, if it is not signed by the Class Member, or if it does not contain the
22 name and address and last four digits of the Social Security number of the
23 Class Member. The date of the postmark on the mailing envelope or fax stamp
24 on the Request for Exclusion shall be the exclusive means used to determine
25 whether the request for exclusion was timely submitted. Any Class Member
26 who submits a timely Request for Exclusion shall be excluded from the
27 Settlement Class will not be entitled to an Individual Settlement Payment and
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1 will not be otherwise bound by the terms of the Settlement or have any right
2 to object, appeal or comment thereon. However, any Class Member that
3 submits a timely Request for Exclusion that is also a member of the Aggrieved
4 Employees will still receive his/her pro rata share of the PAGA Settlement, as
5 specified below, and in consideration, will be bound by the Release by the
6 Aggrieved Employees as set forth herein. Settlement Class Members who fail
7 to submit a valid and timely Request for Exclusion on or before the Response
8 Deadline shall be bound by all terms of the Settlement and any final judgment
9 entered in this Action if the Settlement is approved by the Court. No later
10 than fourteen (14) calendar days after the Response Deadline, the Settlement
11 Administrator shall provide counsel for the Parties with a final list of the Class
12 Members who have timely submitted timely Requests for Exclusion. At no
13 time shall any of the Parties or their counsel seek to solicit or otherwise
14 encourage members of the Class to submit Requests for Exclusion from the
15 Settlement.

- 16 8. Objections. The Notice of Class Action Settlement contained in the Notice
17 Packet shall state that Class Members who wish to object to the Settlement
18 may submit to the Settlement Administrator a written statement of objection
19 (“Notice of Objection”) by the Response Deadline. The postmark date of
20 mailing shall be deemed the exclusive means for determining that a Notice of
21 Objection was served timely. The Notice of Objection, if in writing, must be
22 signed by the Settlement Class Member and state: (1) the case name and
23 number; (2) the name of the Settlement Class Member; (3) the address of the
24 Settlement Class Member; (4) the last four digits of the Settlement Class
25 Member’s Social Security number; (5) the basis for the objection; and (6) if
26 the Settlement Class Member intends to appear at the Final
27 Approval/Settlement Fairness Hearing. Class Members who fail to make
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1 objections in writing in the manner specified above may still make their
2 objections orally at the Final Approval/Settlement Fairness Hearing with the
3 Court's permission. Settlement Class Members will have a right to appear at
4 the Final Approval/Settlement Fairness Hearing to have their objections heard
5 by the Court regardless of whether they submitted a written objection. At no
6 time shall any of the Parties or their counsel seek to solicit or otherwise
7 encourage Class Members to file or serve written objections to the Settlement
8 or appeal from the Order and Final Judgment. Class Members who submit a
9 written request for exclusion may not object to the Settlement. Class Members
10 may not object to the PAGA Settlement.

11 M. Funding and Allocation of the Gross Settlement Amount. Defendant is required to pay
12 the Gross Settlement Amount on or before the Funding Date, plus any employer's
13 share of payroll taxes as mandated by law within the time specified herein.

14 1. Individual Settlement Payments. Individual Settlement Payments shall be
15 paid from the Net Settlement Amount and shall be paid pursuant to the
16 formula set forth herein. Using the Class Data, the Settlement Administrator
17 shall add up the total number of Workweeks for all Class Members. The
18 respective Workweeks for each Class Member will be divided by the total
19 Workweeks for all Class Members, resulting in the Payment Ratio for each
20 Class Member. Each Class Member's Payment Ratio will then be multiplied
21 by the Net Settlement Amount to calculate each Class Member's estimated
22 Individual Settlement Payments. Each Individual Settlement Payment will be
23 reduced by any legally mandated employee tax withholdings (e.g., employee
24 payroll taxes, etc.). Individual Settlement Payments for Class Members who
25 submit valid and timely requests for exclusion will be redistributed to
26 Settlement Class Members who do not submit valid and timely requests for
27 exclusion on a pro rata basis based on their respective Payment Ratios.

- 1 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
2 Class Data, the Settlement Administrator shall add up the total number of
3 PAGA pay periods for all Aggrieved Employees during the PAGA Period.
4 The respective PAGA pay periods for each Aggrieved Employee will be
5 divided by the total PAGA pay periods for all Aggrieved Employees, resulting
6 in the “PAGA Payment Ratio” for each Aggrieved Employee. Each
7 Aggrieved Employee’s PAGA Payment Ratio will then be multiplied by the
8 Aggrieved Employee Payment to calculate each Aggrieved Employee’s
9 estimated share of the PAGA Settlement.
- 10 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
11 Settlement Payments shall be allocated and treated as 10% wages (“Wage
12 Portion”) and 90% interest and penalties (“Non-Wage Portion”). The Wage
13 Portion of the Individual Settlement Payments shall be reported on IRS Form
14 W-2 and the Non-wage Portion of the Individual Settlement Payments shall
15 be reported on IRS Form 1099 issued by the Settlement Agreement.
- 16 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
17 Employee Settlement Payments shall be allocated and treated as 100%
18 penalties and shall be reported on IRS Form 1099.
- 19 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
20 individual shares of the PAGA Settlement made to Settlement Class Members
21 and/or Aggrieved Employees under this Settlement Agreement, as well as any
22 other payments made pursuant to this Settlement Agreement, will not be
23 utilized to calculate any additional benefits under any benefit plans to which
24 any Class Members may be eligible, including, but not limited to profit-
25 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
26 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
27 Parties’ intention that this Settlement Agreement will not affect any rights,
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1 contributions, or amounts to which any Class Members may be entitled under
2 any benefit plans.

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

14 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
15 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
16 and/or Aggrieved Employees last known mailing address no later than fifteen
17 (15) calendar days after the Funding Date.

18 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
19 Employees shall remain valid and negotiable for one hundred and eighty (180)
20 days from the date of their issuance. If a Settlement Class Member and/or
21 Aggrieved Employee does not cash his or her settlement check within 90 days,
22 the Settlement Administrator will send a letter to such persons, advising that
23 the check will expire after the 180th day, and invite that Settlement Class
24 Member and/or Aggrieved Employee to request reissuance in the event the
25 check was destroyed, lost or misplaced. If an Individual Settlement Payment
26 and/or Aggrieved Employee's individual share of the PAGA Settlement check
27 has not been cashed within one hundred and eighty (180) days, all funds
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1 represented by such uncashed checks, plus any interest accrued thereon, shall
2 be transmitted to the Controller of the State of California to be held pursuant
3 to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the
4 names and corresponding amounts associated with each Class Member and/or
5 Aggrieved Employee whose check(s) are cancelled.

- 6 9. Class Representative Service Award. In addition to the Individual Settlement
7 Payment and her individual share of the PAGA Settlement to be paid to
8 Plaintiff, Plaintiff will apply to the Court for an award of not more than
9 \$10,000, as the Class Representative Service Award. Defendant does not
10 presently intend to oppose a Class Representative Service Award of not more
11 than \$10,000 for Plaintiff. The Settlement Administrator shall pay the Class
12 Representative Service Award, either in the amount stated herein if approved
13 by the Court or some other amount as approved by the Court, to Plaintiff from
14 the Gross Settlement Amount no later than fifteen (15) calendar days after the
15 Funding Date. Any portion of the requested Class Representative Service
16 Award that are not awarded to the Class Representative shall be part of the
17 Net Settlement Amount and shall be distributed to Settlement Class Members
18 as provided in this Agreement. The Settlement Administrator shall issue an
19 IRS Form 1099 — MISC to Plaintiff for her Class Representative Service
20 Award. Plaintiff shall be solely and legally responsible to pay any and all
21 applicable taxes on her Class Representative Service Award and shall hold
22 harmless the Defendant from any claim or liability for taxes, penalties, or
23 interest arising as a result of the Class Representative Service Award. The
24 Class Representative Service Award shall be in addition to Plaintiff's
25 Individual Settlement Payment as a Settlement Class Member. Approval of
26 this Settlement shall not be conditioned on Court approval of the requested
27 amount of the Class Representative Service Award. If the Court reduces or
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1 does not approve the requested Class Representative Service Award, Plaintiff
2 shall not have the right to revoke the Settlement, and it will remain binding.

3 10. Class Counsel Award. Defendant understands a motion by Class Counsel for
4 attorneys' fees not to exceed one-third of the Gross Settlement Amount
5 currently estimated to be \$65,000.00 plus costs and expenses supported by
6 declaration not to exceed Fifteen Thousand Dollars (\$15,000.00), from the
7 Gross Settlement Amount will be filed. Any portion of the requested Class
8 Counsel Award that is not awarded to Class Counsel shall be part of the Net
9 Settlement Amount and shall be distributed to Settlement Class Members as
10 provided in this Agreement. The Settlement Administrator shall allocate and
11 pay the Class Counsel Award to Class Counsel from the Gross Settlement
12 Amount no later than fifteen (15) calendar days after the Funding Date. Class
13 Counsel shall be solely and legally responsible to pay all applicable taxes on
14 the payment made pursuant to this paragraph. The Settlement Administrator
15 shall issue an IRS Form 1099 — MISC to Class Counsel for the payments
16 made pursuant to this paragraph. In the event that the Court reduces or does
17 not approve the requested Class Counsel Award, Plaintiff and Class Counsel
18 shall not have the right to revoke the Settlement, or to appeal such order, and
19 the Settlement will remain binding.

20 11. PAGA Settlement. Ten Thousand Dollars (\$10,000) shall be allocated from
21 the Gross Settlement Amount for settlement of claims for civil penalties under
22 the Private Attorneys General Act of 2004 ("PAGA Settlement"). The
23 Settlement Administrator shall pay seventy-five percent (75%) of the PAGA
24 Settlement (\$7,500) to the California Labor and Workforce Development
25 Agency no later than twenty-five (25) calendar days after the Funding Date
26 (hereinafter "LWDA Payment"). Twenty-five percent (25%) of the PAGA
27 Settlement (\$2,500) will be distributed to the Aggrieved Employees as
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described in this Agreement (hereinafter “Aggrieved Employee Payment”). For purposes of distributing the PAGA Settlement 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 \$8,000. The Settlement Administrator shall be paid the Settlement Administration Costs no later than fifteen (15) calendar days after the Funding Date.

N. 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 Class Representative Service Award, the Class Counsel Award, the PAGA Settlement, and the Settlement Administration Costs. Plaintiff will provide Defendant with a draft of the Motion at least 3 business days prior to the filing of the Motion to give Defendant an opportunity to propose changes or additions to the Motion

1. Declaration by Settlement Administrator. No later than fourteen (14) 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 number of objections received, the amount of the average Individual Settlement Payment and highest Individual Settlement Payment, the Settlement Administration Costs, and any other

1 information as the Parties mutually agree or the Court orders the Settlement
2 Administrator to provide.

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

7 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
8 an opportunity for Counsel for Defendant to review the Motions for Preliminary and
9 Final Approval, including the Order Granting Final Approval of Class Action
10 Settlement, and Judgment before filing with the Court. The Parties and their counsel
11 will cooperate with each other and use their best efforts to affect the Court's approval
12 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
13 Judgment.

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

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

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

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

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

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

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

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

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

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

Y. 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.

Z. 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.

AA. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently intend to pursue any claims against the Defendant, including, but not limited to, any and all claims relating to or arising from Plaintiff's employment with Defendant, 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 Defendant, 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.

BB. Stipulation to Class Certification. The Parties agree to stipulate to class certification for purposes of this settlement only.

CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the Released Claims have merit and give rise to liability on the part of Defendant. Defendant claims that the Released Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in

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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 Defendant 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 its/his own attorney's fees and costs.

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

DATED: Aug 25, 2022

Claudia Nuñez

Claudia Nuñez (Aug 25, 2022 11:40 PDT)

CLAUDIA NUNEZ PORCAYO

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

DATED: _____

THE WHOLE CHILD – MENTAL HEALTH &
HOUSING SERVICES

Printed Name

Title

1 this Agreement and no documents referred to and no action taken to carry out this
2 Agreement may be construed or used as an admission by or against the Defendant or
3 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
4 than as may be specifically set forth herein, each Party shall be responsible for and
5 shall bear its/his own attorney's fees and costs.

6
7 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

8
9 DATED: _____

CLAUDIA NUNEZ PORCAYO

10
11 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

12
13 DATED: August 25, 2022

DocuSigned by:

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THE WHOLE CHILD – MENTAL HEALTH &
HOUSING SERVICES

15
16 Constanza Pachon

Printed Name

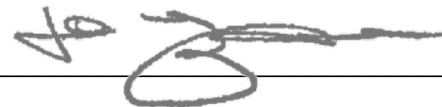
17
18 Chief Executive Officer

Title

1 IT IS SO AGREED AS TO FORM BY COUNSEL:

2
3 DATED: August 25, 2022

JCL LAW FIRM, A.P.C.

4 By: 

5 Attorneys for Plaintiff and the Settlement Class
6 Members

7
8 DATED: August 25, 2022

ZAKAY LAW GROUP, APLC

9 By: 

10 Attorneys for Plaintiff and the Settlement Class
11 Members

12
13 DATED: August 25, 2022

DEBRA ELLWOOD MEPPEN

14 DINA GLUCKSMAN

15 MATTHEW THERIAULT

16 GORDON REES SCULLY MANSUKANI, LLP

17 By: 

18 Attorneys for Defendant
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EXHIBIT B

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619)255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
Eduardo Garcia (State Bar #290572)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
egarcia@jcl-lawfirm.com

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

CLAUDIA NUNEZ PORCAYO, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiffs,

v.

THE WHOLE CHILD – MENTAL HEALTH
& HOUSING SERVICES, a California
Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No. 21STCV25160

[Action Filed July 8, 2021]

**STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS**

Judge: Honorable Maren Nelson
Dept.: 17

1 This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is
2 entered into by and between plaintiff CLAUDIA NUNEZ PORCAYO (hereinafter “Plaintiff”), an
3 individual, on behalf of the Settlement Class, and in her representative capacity on behalf of the State
4 of California and the Aggrieved Employees, and Defendant THE WHOLE CHILD – MENTAL &
5 HEALTH HOUSING SERVICES, a California Corporation (hereinafter “Defendant”):

6 **I. DEFINITIONS**

- 7 A. “Action” shall mean the putative class action lawsuit designated *Porcayo v. The*
8 *Whole Child*, Los Angeles County Superior Court, Case No. 21STCV25160, filed
9 July 8, 2021.
- 10 B. “Aggrieved Employees” shall mean all individuals who are or previously were
11 employed by Defendant in California and classified as non-exempt employees at any
12 time during the PAGA Period.
- 13 C. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of
14 Class Action and Release of Claims.
- 15 D. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC and
16 Shani Zakay of Zakay Law Group, APLC.
- 17 E. “Class Counsel Award” means the award of fees and expenses that the Court
18 authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff
19 and the Class in the Action, consisting of attorneys’ fees currently not to exceed one-
20 third of the Gross Settlement Amount currently estimated to be \$65,000.00 out of
21 \$195,000.00 plus costs and expenses in the amount of \$15,000.00. Class Counsel’s
22 award for attorneys’ fees will be divided equally between Class Counsel (50% to
23 JCL Law Firm, APC and 50% to Zakay Law Group, APLC).
- 24 F. “Class Data” means information regarding Class Members that Defendant will in
25 good faith compile from its records and provide to the Settlement Administrator. It
26 shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class
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Member's full name; last known address; Social Security Number; and all dates on which the Class Member performed work for Defendant.

G. "Class Members" or the "Class" means all individuals who are or previously were employed by Defendant in California and classified as non-exempt employees at any time during the Class Period.

H. "Class Period" means the period between July 8, 2017 to May 1, 2022.

I. "Class Representative Service Award" means the amount that the Court authorizes to be paid to the Class Representative, in addition to her Individual Settlement Payment and her pro-rata share of the PAGA Settlement, in recognition of her efforts and risks in assisting with the prosecution of the Action and in exchange for executing a General Release of Defendant.

J. "Class Representative" shall mean plaintiff CLAUDIA NUNEZ PORCAYO.

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

L. "Defendant" shall mean The Whole Child - Mental Health & Housing Services.

M. "Effective Date" means the earliest date, following entry by the Court of an order and judgment finally approving this Settlement, upon which one of the following have occurred: (i) if no objection is filed to the settlement and no objector appears at the hearing on final approval, the date of the Court's entry of the order granting final approval, (ii) if an objection is filed to the settlement, or an objector appears at the hearing on final approval, then the later of the following: (a) the expiration of all potential appeal periods without a filing of a notice of appeal of the final approval order or judgment; (b) final affirmance of the final approval order and judgment by an appellate court as a result of any appeal(s), or (c) final dismissal or denial of all such appeals (including any petition for review, rehearing, certiorari, etc.) such that the final approval order and judgment is no longer subject to further judicial review.

- 1 N. "Funding Date" shall mean fifteen (15) calendar days after the Effective Date and is
2 the date Defendant transfers the Gross Settlement Amount into the QSF in accord
3 with the terms of this Agreement.
- 4 O. "Gross Settlement Amount" means One Hundred Ninety-Five Thousand Dollars
5 (\$195,000.00) that Defendant must pay into the QSF in connection with this
6 Settlement, inclusive of the sum of the Individual Settlement Payments, the Class
7 Representative Service Award, the Class Counsel Award, PAGA Settlement and the
8 Settlement Administration Costs and *exclusive* of the employer's share of payroll tax,
9 if any, triggered by any payment under this Settlement. The Parties contemplate that
10 Defendant's share of payroll taxes will equal approximately Five Thousand Dollars
11 (\$5000), which it will pay separately.
- 12 P. "Individual Settlement Payment" means the amount payable from the Net Settlement
13 Amount to each Settlement Class Member and excludes any amounts distributed to
14 Aggrieved Employees pursuant to PAGA.
- 15 Q. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less Class
16 Counsel Award, Class Representative Service Award, PAGA Settlement, and
17 Settlement Administration Costs.
- 18 R. "Notice Packet" means the Class Notice to be provided to the Class Members by the
19 Settlement Administrator in the form set forth as Exhibit A to this Agreement (other
20 than formatting changes to facilitate printing by the Settlement Administrator).
- 21 S. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
22 Labor Code § 2698 *et seq.*
- 23 T. "PAGA Payment Ratio" means the respective pay periods during the PAGA Period
24 for each Aggrieved Employee divided by the sum-total of the pay periods for all
25 Aggrieved Employees during the PAGA Period.
- 26 U. "PAGA Pay Periods", for purposes of calculating the distribution of the Aggrieved
27 Employee Payment, as defined herein, means the number of pay periods of
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employment during the PAGA Period that each Aggrieved Employee worked in California.

V. “PAGA Period” means the period between April 30, 2020 to May 1, 2022 (the “PAGA Period”).

W. “PAGA Settlement” shall mean Ten Thousand Dollars (\$10,000) to be allocated from the Gross Settlement Amount.

X. “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either Plaintiff or Defendant, individually.

Y. “Payment Ratio” means the respective Workweeks for each Class Member divided by the sum total Workweeks for all Class Members.

Z. “Plaintiff” shall mean CLAUDIA NUNEZ PORCAYO.

AA. “QSF” means the Qualified Settlement Fund established, designated and maintained by the Settlement Administrator to fund the Gross Settlement Amount.

BB. “Released Class Claims” means all class claims alleged in the operative complaint or that could have been stated based on the facts alleged in the Action, including but not limited to federal and state wage and hour claims (including all claims under the California Labor Code and/or Fair Labor Standards Act) for unpaid wages, minimum wage, overtime, wages for off-the-clock work, meal periods, rest periods, wage statement violations, waiting time penalties, failure to maintain records, interest, penalties, and attorneys’ fees, unfair competition and the related provisions of the Business & Professions Code including sections 17200 and 17203, Labor Code sections 201, 202, 203, 204, 206.5, 210, 226, 226.2, 226.7, 246 510, 512, 515, 558, 1194, 1197, 1197.1, 1198, and 2802 and all claims under the governing Wage Order(s), which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period.

- 1 CC. "Released PAGA Claims" means all PAGA claims for penalties and any other
2 available relief pursuant to the PAGA alleged in the operative complaint and/or
3 Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period
4 including for violations of California Labor Code sections , 201, 202, 203, 204, 210,
5 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802 and expressly excluding
6 all other claims, including claims for vested benefits, wrongful termination,
7 unemployment insurance, disability, social security, workers' compensation, and
8 PAGA claims outside of the PAGA Period .
- 9 DD. "Response Deadline" means the date forty-five (45) days after the Settlement
10 Administrator mails Notice Packets to Class Members and the last date on which
11 Class Members may submit requests for exclusion or objections to the Settlement.
- 12 EE. "Settlement" means the disposition of the Action pursuant to this Agreement.
- 13 FF. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L,
14 Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. ILYM Group has
15 extensive experience in administering Class Action Settlements, including direct mail
16 services, database management, claims processing and settlement fund distribution
17 services for Class Actions ranging in size from 26 to 4.5 million Settlement Class
18 Members. The Settlement Administrator establishes, designates and maintains, as a
19 QSF under Internal Revenue Code section 468B and Treasury Regulation section
20 1.468B-1, into which the amount of the Gross Settlement Amount is deposited for the
21 purpose of resolving the claims of Settlement Class Members. The Settlement
22 Administrator shall maintain the funds until distribution in an account(s) segregated
23 from the assets of Defendant and any person related to Defendant. *All accrued*
24 *interest shall be paid and distributed to the Settlement Class Members as part of*
25 *their respective Individual Settlement Payment.*

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

4 HH. "Workweeks", for purposes of calculating the distribution of the Net Settlement
5 Amount, means the number of weeks of employment during the Class Period that
6 each Class Member was employed by Defendant in California, excluding weeks
7 during which the Class Member did not perform any work for Defendant. In order to
8 ensure an equitable distribution of the Net Settlement Amount, each Class Member's
9 Workweek total will be calculated by dividing their total days worked by 5.

10 **II. RECITALS**

11 A. On April 30, 2021, Plaintiff filed a Notice of Violations with the Labor and Workforce
12 Development Agency (LWDA) and served the same on Defendant.

13 B. On July 8, 2021, Plaintiff filed the Class Action lawsuit for:

- 14 1. Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;
- 15 2. Failure to pay minimum wages in violation of California Labor Code sections
16 1194, 1197 and 1197.1;
- 17 3. Failure to pay overtime wages in violation of California Labor Code sections
18 510 *et seq*;
- 19 4. Failure to provide required meal periods in violation of California Labor Code
20 sections 226.7 and 512 and the applicable IWC wage order;
- 21 5. Failure to provide required rest periods in violation of California Labor Code
22 sections 226.7 and 512 and the applicable IWC wage order;
- 23 6. Failure to provide accurate itemized wage statements in violation of California
24 Labor Code section 226;
- 25 7. Failure to reimburse Plaintiff for required expenses in violation of California
26 Labor Code section 2802;
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1 8. Failure to provide wages when due in violation of California Labor Code
2 sections 201, 202 and 203; and

3 9. Violation of the Private Attorneys General Act [Labor Code section 2698].

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

9 D. Defendant denies any liability or wrongdoing of any kind associated with the claims
10 alleged in the Action, disputes any wages, damages and penalties claimed by the
11 Class Representative are owed, and further contends that, for any purpose other than
12 settlement, the Action is not appropriate for class or representative action treatment.
13 Defendant contends, among other things, that at all times they complied with the
14 California Labor Code and the Industrial Wage Commission Orders.

15 E. The Class Representative is represented by Class Counsel. Class Counsel conducted
16 an investigation into the facts relevant to the Action, including conducting an
17 independent investigation as to the allegations, reviewing documents and
18 information exchanged through informal discovery, and reviewing documents and
19 information provided by Defendant pursuant to informal requests for information to
20 prepare for mediation. Defendant produced for the purpose of settlement
21 negotiations certain employment data concerning the Settlement Class, which Class
22 Counsel reviewed and analyzed. Based on their own independent investigation and
23 evaluation, Class Counsel are of the opinion that the Settlement with Defendant is
24 fair, reasonable and adequate, and is in the best interest of the Settlement Class in
25 light of all known facts and circumstances, including the risks of significant delay,
26 defenses asserted by Defendant, uncertainties regarding class certification, and
27 numerous potential appellate issues. Although they deny any liability, Defendant is
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1 agreeing to this Settlement solely to avoid the inconveniences and cost of further
2 litigation. The Parties and their counsel have agreed to settle the claims on the terms
3 set forth in this Agreement.

4 F. On March 15, 2022, the Parties participated in mediation presided over by Jeff
5 Krivis, Esq., an experienced mediator of wage and hour class and PAGA actions.
6 The mediation concluded with a settlement after both sides agreed to a Mediator's
7 proposal which was subsequently memorialized in the form of a Memorandum of
8 Understanding ("MOU").

9 G. This Agreement replaces and supersedes the MOU and any other agreements,
10 understandings, or representations between the Parties. This Agreement represents
11 a compromise and settlement of highly disputed claims. Nothing in this Agreement
12 is intended or will be construed as an admission by Defendant that the claims in the
13 Action of Plaintiff or the Class Members have merit or that Defendant bears any
14 liability to Plaintiff or the Class on those claims or any other claims, or as an
15 admission by Plaintiff that Defendant's defenses in the Action have merit.

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

22 I. The Parties agree to certification of the Class for purposes of this Settlement only.
23 If for any reason the settlement does not become effective, Defendant reserves the
24 right to contest certification of any class for any reason and reserves all available
25 defenses to the claims in the Action.

26 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:
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1 **III. TERMS OF AGREEMENT**

2 A. Settlement Consideration and Settlement Payments by Defendant.

3 1. Settlement Consideration. In full and complete settlement of the Action, and
4 in exchange for the releases set forth below, Defendant will pay the sum of
5 the Individual Settlement Payment, the Class Representative Service Award,
6 the Class Counsel Award, PAGA Settlement, and the Settlement
7 Administration Costs, as specified in this Agreement, equal to the Gross
8 Settlement Amount of One Hundred Ninety-Five Thousand Dollars and Zero
9 Cents (\$195,000.00). The Parties agree that this is a non-reversionary
10 Settlement and that no portion of the Gross Settlement Amount shall revert to
11 Defendant. Other than the Defendant's share of employer payroll taxes,
12 Defendant shall not be required to pay more than the Gross Settlement
13 Amount, except as provided for hereinbelow.

14 2. Class Size. At the time of mediation, Defendant estimated that the Settlement
15 Class was comprised of 195 individuals who collectively worked
16 approximately 13,211 Workweeks ("Projected Workweeks") during the Class
17 Period. At the time of filing of Plaintiff's motion for preliminary approval of
18 this Agreement, Defendant will provide a declaration under penalty of perjury
19 confirming the number of applicable Class Members and Workweeks they
20 worked during the applicable Class Period. If the workweek number increases
21 by more than 10% of the estimate stated herein, the Gross Settlement Amount
22 will increase proportionally for the number of workweeks over 110%.

23 3. Settlement Payment. Defendant shall pay the Gross Settlement Amount to the
24 Settlement Administrator on the Funding Date.

25 4. Defendant's Share of Payroll Taxes. Defendant's share of employer side
26 payroll taxes is in addition to the Gross Settlement Amount and shall be paid
27 together with the Gross Settlement Amount.

- 1 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
2 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members
3 release the Defendant from the Released Class Claims for the Class Period.
- 4 C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
5 consideration set forth in this Agreement, the Plaintiff, the LWDA and the State of
6 California release the Defendant from the PAGA Released Claims for the PAGA
7 Period. As a result of this release, the Aggrieved Employees shall be precluded from
8 bringing claims against Defendant for the PAGA Release Claims regardless of whether
9 the Aggrieved Employee requests to be excluded from the Settlement as provided
10 herein below in section L(7).
- 11 D. General Release by Plaintiff. As of the Funding Date, for the consideration set forth
12 in this Agreement, Plaintiff waives, releases, acquits and forever discharges the
13 Defendant from any and all claims, whether known or unknown, which exist or may
14 exist on her behalf as of the date of this Agreement, including but not limited to any
15 and all tort claims, contract claims, wage claims, wrongful termination claims,
16 disability claims, benefit claims, public policy claims, retaliation claims, statutory
17 claims, personal injury claims, emotional distress claims, invasion of privacy claims,
18 defamation claims, fraud claims, quantum meruit claims, and any and all claims
19 arising under any federal, state or other governmental statute, law, regulation or
20 ordinance, including, but not limited to claims for violation of the Fair Labor
21 Standards Act, the California Labor Code, the Wage Orders of California's Industrial
22 Welfare Commission, other state wage and hour laws, the Americans with
23 Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee
24 Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the
25 California Fair Employment and Housing Act, the California Family Rights Act, the
26 Family Medical Leave Act, California's Whistleblower Protection Act, California
27 Business & Professions Code Section 17200 et seq., and any and all claims arising
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1 under any federal, state or other governmental statute, law, regulation or ordinance.
2 Plaintiff also waives and relinquishes any and all claims, rights or benefits that she
3 may have under California Civil Code § 1542, which provides as follows:
4

5 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE***
6 ***CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO***
7 ***EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE***
8 ***RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE***
9 ***MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE***
10 ***DEBTOR OR RELEASED PARTY.***
11

12 Thus, notwithstanding the provisions of section 1542, and to implement a full and
13 complete release and discharge of the Defendant, Plaintiff expressly acknowledges
14 this Settlement Agreement is intended to include in its effect, without limitation, all
15 claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of
16 signing this Settlement Agreement, and that this Settlement Agreement contemplates
17 the extinguishment of any such claims. Plaintiff warrants that Plaintiff has read this
18 Settlement Agreement, including this waiver of California Civil Code section 1542,
19 and that Plaintiff has consulted with or had the opportunity to consult with counsel of
20 Plaintiff's choosing about this Settlement Agreement and specifically about the
21 waiver of section 1542, and that Plaintiff understands this Settlement Agreement and
22 the section 1542 waiver, and so Plaintiff freely and knowingly enters into this
23 Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may discover
24 facts different from or in addition to those Plaintiff now knows or believes to be true
25 regarding the matters released or described in this Settlement Agreement, and even so
26 Plaintiff agrees that the releases and agreements contained in this Settlement
27 Agreement shall remain effective in all respects notwithstanding any later discovery
28

1 of any different or additional facts. Plaintiff expressly assumes any and all risk of any
2 mistake in connection with the true facts involved in the matters, disputes, or
3 controversies released or described in this Settlement Agreement or with regard to any
4 facts now unknown to Plaintiff relating thereto.

5 E. Conditions Precedent: This Settlement will become final and effective only upon the
6 occurrence of all of the following events:

- 7 1. The Court enters an order granting preliminary approval of the Settlement;
- 8 2. The Court enters an order granting final approval of the Settlement and a Final
9 Judgment;
- 10 3. If an objector appears at the final approval hearing, the time for appeal of the
11 Final Judgment and Order Granting Final Approval of Class Action
12 Settlement expires; or, if an appeal is timely filed, there is a final resolution of
13 any appeal from the Judgment and Order Granting Final Approval of Class
14 Action Settlement; and
- 15 4. Defendant fully funds the Gross Settlement Amount.

16 F. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
17 not preliminarily or finally approved by the Court, fails to become effective, or is
18 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
19 Defendant from obtaining a complete resolution of the Released Claims, or if
20 Defendant fails to fully fund the Gross Settlement Amount:

- 21 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
22 and shall not be admissible in any judicial, administrative or arbitral
23 proceeding for any purpose or with respect to any issue, substantive or
24 procedural;
- 25 2. The conditional class certification (obtained for any purpose) shall be void *ab*
26 *initio* and of no force or effect, and shall not be admissible in any judicial,
27

1 administrative or arbitral proceeding for any purpose or with respect to any
2 issue, substantive or procedural; and

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

6 4. If Defendant fails to fully fund the Gross Settlement Amount, Defendant shall
7 bear the sole responsibility for any cost to issue or reissue any curative notice
8 to the Settlement Class Members and all Settlement Administration Costs
9 incurred to the date of nullification.

10 G. Certification of the Settlement Class. The Parties stipulate to conditional class
11 certification of the Class for the Class Period for purposes of settlement only. In the
12 event that this Settlement is not approved by the Court, fails to become effective, or is
13 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
14 Defendant from obtaining a complete resolution of the Released Claims, the
15 conditional class certification (obtained for any purpose) shall be void *ab initio* and of
16 no force or effect, and shall not be admissible in any judicial, administrative or arbitral
17 proceeding for any purpose or with respect to any issue, substantive or procedural.

18 H. Tax Liability. The Parties make no representations as to the tax treatment or legal
19 effect of the payments called for, and Class Members and/or Aggrieved Employees are
20 not relying on any statement or representation by the Parties in this regard. Class
21 Members and/or Aggrieved Employees understand and agree that they will be
22 responsible for the payment of any taxes and penalties assessed on the Individual
23 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
24 Settlement described and will be solely responsible for any penalties or other
25 obligations resulting from their personal tax reporting of Individual Settlement
26 Payments and/or Aggrieved Employees' individual shares of the PAGA Settlement.

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

19 J. Preliminary Approval Motion. Plaintiff shall draft and file with the Court a Motion for
20 Order Granting Preliminary Approval and supporting papers within sixty (60) days
21 after complete execution of this agreement unless otherwise agreed upon by the Parties
22 and will provide Defendant with a draft of the Motion at least 3 business days prior to
23 the filing of the Motion to give Defendant an opportunity to propose changes or
24 additions to the Motion.

25 K. Settlement Administrator. The Settlement Administrator shall be responsible for:
26 establishing and administering the QSF; calculating, processing and mailing payments
27 to the Class Representative, Class Counsel, LWDA and Class Members; printing and
28

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 and Non-Wage Portion of the Individual Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA Settlement; 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 Elections Not to Participate in Settlement it receives (including the numbers of valid and deficient), and number of objections received.

L. Notice Procedure.

1. Class Data. No later than ten (10) business days after the Preliminary Approval Date, Defendant 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 Action Settlement in a form substantially similar to the form attached as **Exhibit A** and a Request for Exclusion form attached hereto as **Exhibit B**. The Notice of Class 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 PAGA Settlement and to keep the

1 Settlement Administrator apprised of their current mailing address, to
2 which the Individual Settlement Payments and/or Aggrieved
3 Employees' individual shares of the PAGA Settlement will be mailed
4 following the Funding Date. The Notice of Class Action Settlement
5 shall set forth the release to be given by all members of the Class who
6 do not request to be excluded from the Settlement Class and/or
7 Aggrieved Employees' in exchange for an Individual Settlement
8 Payment and/or Aggrieved Employees' individual shares of the PAGA
9 Settlement, the number of Workweeks worked by each Class Member
10 during the Class Period and PAGA Period, if any, and the estimated
11 amount of their Individual Settlement Payment if they do not request
12 to be excluded from the Settlement and each Aggrieved Employee's
13 share of the PAGA Settlement, if any. The Settlement Administrator
14 shall use the Class Data to determine Class Members' Workweeks and
15 PAGA Workweeks. The Notice will also advise the Aggrieved
16 Employees that they will release the Released PAGA Claims and will
17 receive their share of the PAGA Settlement regardless of whether they
18 request to be excluded from the Settlement.

19 b) The Notice Packet's mailing envelope shall include the following
20 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
21 ENTITLED TO PARTICIPATE IN A CLASS ACTION
22 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
23 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
24 NOTICE."

25 3. Notice by First Class U.S. Mail and Email. Upon receipt of the Class Data,
26 the Settlement Administrator will perform a search based on the National
27 Change of Address Database to update and correct any known or identifiable
28

1 address changes. No later than fourteen (14) calendar days after receiving the
2 Class Data from Defendant, the Settlement Administrator shall mail and email
3 copies of the Notice Packet to all Class Members via regular First-Class U.S.
4 Mail and electronic mail. The Settlement Administrator shall exercise its best
5 judgment to determine the current mailing address for each Class Member.
6 The address identified by the Settlement Administrator as the current mailing
7 address shall be presumed to be the best mailing address for each Class
8 Member.

9 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
10 Administrator as non-delivered on or before the Response Deadline shall be
11 re-mailed to any forwarding address provided. If no forwarding address is
12 provided, the Settlement Administrator shall promptly attempt to determine a
13 correct address by lawful use of skip-tracing, or other search using the name,
14 address and/or Social Security number of the Class Member involved, and
15 shall then perform a re-mailing, if another mailing address is identified by the
16 Settlement Administrator. In addition, if any Notice Packets, which are
17 addressed to Class Members who are currently employed by Defendant, are
18 returned to the Settlement Administrator as non-delivered and no forwarding
19 address is provided, the Settlement Administrator shall notify Defendant.
20 Defendant will request that the currently employed Class Member provide a
21 corrected address, and transmit to the Administrator any corrected address
22 provided by the Class Member. Class Members who received a re-mailed
23 Notice Packet shall have their Response Deadline extended fifteen (15) days
24 from the original Response Deadline.

25 5. Disputes Regarding Individual Settlement Payments. Class Members will
26 have until the Response Deadline, should they disagree with Defendant's
27 records regarding the start and end dates of employment to provide
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1 documentation and/or an explanation to show contrary dates. If there is a
2 dispute, the Settlement Administrator will consult with the Parties to
3 determine whether an adjustment is warranted. The Settlement Administrator
4 shall determine the eligibility for, and the amounts of, any Individual
5 Settlement Payments under the terms of this Agreement. The Settlement
6 Administrator's determination of the eligibility for and amount of any
7 Individual Settlement Payment shall be binding upon the Class Member and
8 the Parties, except as provided herein below in Paragraph 6.

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

15 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
16 Packet shall state that Class Members who wish to exclude themselves from
17 the Settlement must submit a signed copy of the Request for Exclusion form
18 to the Settlement Administrator by the Response Deadline. A Request for
19 Exclusion form will be mailed together with the Notice Packet to all Class
20 Members. The Request for Exclusion will not be valid if it is not timely
21 submitted, if it is not signed by the Class Member, or if it does not contain the
22 name and address and last four digits of the Social Security number of the
23 Class Member. The date of the postmark on the mailing envelope or fax stamp
24 on the Request for Exclusion shall be the exclusive means used to determine
25 whether the request for exclusion was timely submitted. Any Class Member
26 who submits a timely Request for Exclusion shall be excluded from the
27 Settlement Class will not be entitled to an Individual Settlement Payment and
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1 will not be otherwise bound by the terms of the Settlement or have any right
2 to object, appeal or comment thereon. However, any Class Member that
3 submits a timely Request for Exclusion that is also a member of the Aggrieved
4 Employees will still receive his/her pro rata share of the PAGA Settlement, as
5 specified below, and in consideration, will be bound by the Release by the
6 Aggrieved Employees as set forth herein. Settlement Class Members who fail
7 to submit a valid and timely Request for Exclusion on or before the Response
8 Deadline shall be bound by all terms of the Settlement and any final judgment
9 entered in this Action if the Settlement is approved by the Court. No later
10 than fourteen (14) calendar days after the Response Deadline, the Settlement
11 Administrator shall provide counsel for the Parties with a final list of the Class
12 Members who have timely submitted timely Requests for Exclusion. At no
13 time shall any of the Parties or their counsel seek to solicit or otherwise
14 encourage members of the Class to submit Requests for Exclusion from the
15 Settlement.

- 16 8. Objections. The Notice of Class Action Settlement contained in the Notice
17 Packet shall state that Class Members who wish to object to the Settlement
18 may submit to the Settlement Administrator a written statement of objection
19 (“Notice of Objection”) by the Response Deadline. The postmark date of
20 mailing shall be deemed the exclusive means for determining that a Notice of
21 Objection was served timely. The Notice of Objection, if in writing, must be
22 signed by the Settlement Class Member and state: (1) the case name and
23 number; (2) the name of the Settlement Class Member; (3) the address of the
24 Settlement Class Member; (4) the last four digits of the Settlement Class
25 Member’s Social Security number; (5) the basis for the objection; and (6) if
26 the Settlement Class Member intends to appear at the Final
27 Approval/Settlement Fairness Hearing. Class Members who fail to make
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1 objections in writing in the manner specified above may still make their
2 objections orally at the Final Approval/Settlement Fairness Hearing with the
3 Court's permission. Settlement Class Members will have a right to appear at
4 the Final Approval/Settlement Fairness Hearing to have their objections heard
5 by the Court regardless of whether they submitted a written objection. At no
6 time shall any of the Parties or their counsel seek to solicit or otherwise
7 encourage Class Members to file or serve written objections to the Settlement
8 or appeal from the Order and Final Judgment. Class Members who submit a
9 written request for exclusion may not object to the Settlement. Class Members
10 may not object to the PAGA Settlement.

11 M. Funding and Allocation of the Gross Settlement Amount. Defendant is required to pay
12 the Gross Settlement Amount on or before the Funding Date, plus any employer's
13 share of payroll taxes as mandated by law within the time specified herein.

14 1. Individual Settlement Payments. Individual Settlement Payments shall be
15 paid from the Net Settlement Amount and shall be paid pursuant to the
16 formula set forth herein. Using the Class Data, the Settlement Administrator
17 shall add up the total number of Workweeks for all Class Members. The
18 respective Workweeks for each Class Member will be divided by the total
19 Workweeks for all Class Members, resulting in the Payment Ratio for each
20 Class Member. Each Class Member's Payment Ratio will then be multiplied
21 by the Net Settlement Amount to calculate each Class Member's estimated
22 Individual Settlement Payments. Each Individual Settlement Payment will be
23 reduced by any legally mandated employee tax withholdings (e.g., employee
24 payroll taxes, etc.). Individual Settlement Payments for Class Members who
25 submit valid and timely requests for exclusion will be redistributed to
26 Settlement Class Members who do not submit valid and timely requests for
27 exclusion on a pro rata basis based on their respective Payment Ratios.

- 1 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
2 Class Data, the Settlement Administrator shall add up the total number of
3 PAGA pay periods for all Aggrieved Employees during the PAGA Period.
4 The respective PAGA pay periods for each Aggrieved Employee will be
5 divided by the total PAGA pay periods for all Aggrieved Employees, resulting
6 in the “PAGA Payment Ratio” for each Aggrieved Employee. Each
7 Aggrieved Employee’s PAGA Payment Ratio will then be multiplied by the
8 Aggrieved Employee Payment to calculate each Aggrieved Employee’s
9 estimated share of the PAGA Settlement.
- 10 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
11 Settlement Payments shall be allocated and treated as 10% wages (“Wage
12 Portion”) and 90% interest and penalties (“Non-Wage Portion”). The Wage
13 Portion of the Individual Settlement Payments shall be reported on IRS Form
14 W-2 and the Non-wage Portion of the Individual Settlement Payments shall
15 be reported on IRS Form 1099 issued by the Settlement Agreement.
- 16 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
17 Employee Settlement Payments shall be allocated and treated as 100%
18 penalties and shall be reported on IRS Form 1099.
- 19 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
20 individual shares of the PAGA Settlement made to Settlement Class Members
21 and/or Aggrieved Employees under this Settlement Agreement, as well as any
22 other payments made pursuant to this Settlement Agreement, will not be
23 utilized to calculate any additional benefits under any benefit plans to which
24 any Class Members may be eligible, including, but not limited to profit-
25 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
26 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
27 Parties’ intention that this Settlement Agreement will not affect any rights,
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1 contributions, or amounts to which any Class Members may be entitled under
2 any benefit plans.

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

14 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
15 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
16 and/or Aggrieved Employees last known mailing address no later than fifteen
17 (15) calendar days after the Funding Date.

18 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
19 Employees shall remain valid and negotiable for one hundred and eighty (180)
20 days from the date of their issuance. If a Settlement Class Member and/or
21 Aggrieved Employee does not cash his or her settlement check within 90 days,
22 the Settlement Administrator will send a letter to such persons, advising that
23 the check will expire after the 180th day, and invite that Settlement Class
24 Member and/or Aggrieved Employee to request reissuance in the event the
25 check was destroyed, lost or misplaced. If an Individual Settlement Payment
26 and/or Aggrieved Employee's individual share of the PAGA Settlement check
27 has not been cashed within one hundred and eighty (180) days, all funds
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1 represented by such uncashed checks, plus any interest accrued thereon, shall
2 be transmitted to the Controller of the State of California to be held pursuant
3 to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the
4 names and corresponding amounts associated with each Class Member and/or
5 Aggrieved Employee whose check(s) are cancelled.

- 6 9. Class Representative Service Award. In addition to the Individual Settlement
7 Payment and her individual share of the PAGA Settlement to be paid to
8 Plaintiff, Plaintiff will apply to the Court for an award of not more than
9 \$10,000, as the Class Representative Service Award. Defendant does not
10 presently intend to oppose a Class Representative Service Award of not more
11 than \$10,000 for Plaintiff. The Settlement Administrator shall pay the Class
12 Representative Service Award, either in the amount stated herein if approved
13 by the Court or some other amount as approved by the Court, to Plaintiff from
14 the Gross Settlement Amount no later than fifteen (15) calendar days after the
15 Funding Date. Any portion of the requested Class Representative Service
16 Award that are not awarded to the Class Representative shall be part of the
17 Net Settlement Amount and shall be distributed to Settlement Class Members
18 as provided in this Agreement. The Settlement Administrator shall issue an
19 IRS Form 1099 — MISC to Plaintiff for her Class Representative Service
20 Award. Plaintiff shall be solely and legally responsible to pay any and all
21 applicable taxes on her Class Representative Service Award and shall hold
22 harmless the Defendant from any claim or liability for taxes, penalties, or
23 interest arising as a result of the Class Representative Service Award. The
24 Class Representative Service Award shall be in addition to Plaintiff's
25 Individual Settlement Payment as a Settlement Class Member. Approval of
26 this Settlement shall not be conditioned on Court approval of the requested
27 amount of the Class Representative Service Award. If the Court reduces or
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1 does not approve the requested Class Representative Service Award, Plaintiff
2 shall not have the right to revoke the Settlement, and it will remain binding.

3 10. Class Counsel Award. Defendant understands a motion by Class Counsel for
4 attorneys' fees not to exceed one-third of the Gross Settlement Amount
5 currently estimated to be \$65,000.00 plus costs and expenses supported by
6 declaration not to exceed Fifteen Thousand Dollars (\$15,000.00), from the
7 Gross Settlement Amount will be filed. Any portion of the requested Class
8 Counsel Award that is not awarded to Class Counsel shall be part of the Net
9 Settlement Amount and shall be distributed to Settlement Class Members as
10 provided in this Agreement. The Settlement Administrator shall allocate and
11 pay the Class Counsel Award to Class Counsel from the Gross Settlement
12 Amount no later than fifteen (15) calendar days after the Funding Date. Class
13 Counsel shall be solely and legally responsible to pay all applicable taxes on
14 the payment made pursuant to this paragraph. The Settlement Administrator
15 shall issue an IRS Form 1099 — MISC to Class Counsel for the payments
16 made pursuant to this paragraph. In the event that the Court reduces or does
17 not approve the requested Class Counsel Award, Plaintiff and Class Counsel
18 shall not have the right to revoke the Settlement, or to appeal such order, and
19 the Settlement will remain binding.

20 11. PAGA Settlement. Ten Thousand Dollars (\$10,000) shall be allocated from
21 the Gross Settlement Amount for settlement of claims for civil penalties under
22 the Private Attorneys General Act of 2004 ("PAGA Settlement"). The
23 Settlement Administrator shall pay seventy-five percent (75%) of the PAGA
24 Settlement (\$7,500) to the California Labor and Workforce Development
25 Agency no later than twenty-five (25) calendar days after the Funding Date
26 (hereinafter "LWDA Payment"). Twenty-five percent (25%) of the PAGA
27 Settlement (\$2,500) will be distributed to the Aggrieved Employees as
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described in this Agreement (hereinafter “Aggrieved Employee Payment”). For purposes of distributing the PAGA Settlement 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 \$8,000. The Settlement Administrator shall be paid the Settlement Administration Costs no later than fifteen (15) calendar days after the Funding Date.

N. 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 Class Representative Service Award, the Class Counsel Award, the PAGA Settlement, and the Settlement Administration Costs. Plaintiff will provide Defendant with a draft of the Motion at least 3 business days prior to the filing of the Motion to give Defendant an opportunity to propose changes or additions to the Motion

1. Declaration by Settlement Administrator. No later than fourteen (14) 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 number of objections received, the amount of the average Individual Settlement Payment and highest Individual Settlement Payment, the Settlement Administration Costs, and any other

1 information as the Parties mutually agree or the Court orders the Settlement
2 Administrator to provide.

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

7 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
8 an opportunity for Counsel for Defendant to review the Motions for Preliminary and
9 Final Approval, including the Order Granting Final Approval of Class Action
10 Settlement, and Judgment before filing with the Court. The Parties and their counsel
11 will cooperate with each other and use their best efforts to affect the Court's approval
12 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
13 Judgment.

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

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

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

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

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

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

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

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

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

26 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
27 is a fair, adequate and reasonable settlement of this Action and have arrived at this
28

Settlement after extensive arms-length negotiations, taking into account all relevant factors, present and potential.

Y. 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.

Z. 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.

AA. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently intend to pursue any claims against the Defendant, including, but not limited to, any and all claims relating to or arising from Plaintiff's employment with Defendant, 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 Defendant, 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.

BB. Stipulation to Class Certification. The Parties agree to stipulate to class certification for purposes of this settlement only.

CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the Released Claims have merit and give rise to liability on the part of Defendant. Defendant claims that the Released Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in

1 this Agreement and no documents referred to and no action taken to carry out this
2 Agreement may be construed or used as an admission by or against the Defendant or
3 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
4 than as may be specifically set forth herein, each Party shall be responsible for and
5 shall bear its/his own attorney's fees and costs.

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

7
8 DATED: Jul 1, 2022

Claudia Nuñez

Claudia Nuñez (Jul 1, 2022 11:23 PDT)

CLAUDIA NUNEZ PORCAYO

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15 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

16 DATED: _____

17
18 THE WHOLE CHILD – MENTAL HEALTH &
19 HOUSING SERVICES

20
21 Printed Name

22
23 Title

24 IT IS SO AGREED AS TO FORM BY COUNSEL:

25
26 DATED: _____

JCL LAW FIRM, A.P.C.

27 By: _____

28 29

1 this Agreement and no documents referred to and no action taken to carry out this
2 Agreement may be construed or used as an admission by or against the Defendant or
3 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
4 than as may be specifically set forth herein, each Party shall be responsible for and
5 shall bear its/his own attorney's fees and costs.

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

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9 DATED: _____

CLAUDIA NUNEZ PORCAYO

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15 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

16
17 DATED: 6/29/2022



THE WHOLE CHILD – MENTAL HEALTH &
HOUSING SERVICES

20 Constanza Pachon .

21 Printed Name

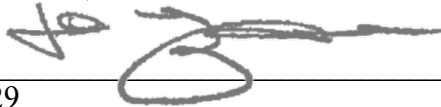
22 Chief Executive Officer

23 Title

24 IT IS SO AGREED AS TO FORM BY COUNSEL:

25
26 DATED: July 1, 2022

JCL LAW FIRM, A.P.C.

27 By: 
28 _____

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Attorneys for Plaintiff and the Settlement Class Members

DATED: July 1, 2022

ZAKAY LAW GROUP, APLC

By:  _____

Attorneys for Plaintiff and the Settlement Class Members

DATED: June 30, 2022

DEBRA ELLWOOD MEPPEN
DINA GLUCKSMAN
GORDON REES SCULLY MANSUKANI, LLP

By:  _____

Attorneys for Defendant

EXHIBIT C

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619)255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
Eduardo Garcia (State Bar #290572)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
egarcia@jcl-lawfirm.com

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

CLAUDIA NUNEZ PORCAYO, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiffs,

v.

THE WHOLE CHILD – MENTAL HEALTH
& HOUSING SERVICES, a California
Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No. 21STCV25160

[Action Filed July 8, 2021]

**ADDENDUM TO STIPULATION OF
SETTLEMENT OF CLASS AND PAGA
ACTION CLAIMS AND RELEASE OF
CLAIMS DATED AUGUST 25, 2022**

Judge: Honorable Maren Nelson
Dept.: 17

1 This Addendum to Stipulation of Settlement of Class and PAGA Action Claims and Release
2 of Claims dated August 25, 2022 (“Settlement Agreement”) is entered into by and between plaintiff
3 CLAUDIA NUNEZ PORCAYO (hereinafter “Plaintiff”), an individual, on behalf of the Settlement
4 Class, and in her representative capacity on behalf of the State of California and the Aggrieved
5 Employees, and Defendant THE WHOLE CHILD – MENTAL & HEALTH HOUSING SERVICES,
6 a California Corporation (hereinafter “Defendant”). By operation of the “escalator clause” in Section
7 II.A.2 of the Settlement Agreement, the Gross Settlement Amount is being increased from \$195,000
8 to \$199,817. Accordingly, the following Definition, Recitals and Terms of Agreement are modified
9 and supersede those in the Settlement Agreement, as follows:

10 **I.E:** “Class Counsel Award” means the award of fees and expenses that the Court
11 authorizes to be paid to Class Counsel for the services they have rendered to
12 Plaintiff and the Class in the Action, consisting of attorneys’ fees currently not to
13 exceed one-third of the Gross Settlement Amount currently estimated to be
14 \$66,599.00 out of \$199,815.00 plus costs and expenses in the amount of
15 \$15,000.00. Class Counsel’s award for attorneys’ fees will be divided equally
16 between Class Counsel (50% to JCL Law Firm, APC and 50% to Zakay Law
17 Group, APLC).

18
19 **I.O:** (“Gross Settlement Amount” means amount of One Hundred Ninety-Nine
20 Thousand Eight Hundred Seventeen Dollars and Zero Cents (\$199,817.00) that
21 Defendant must pay into the QSF in connection with this Settlement, inclusive of
22 the sum of the Individual Settlement Payments, the Class Representative Service
23 Award, the Class Counsel Award, PAGA Settlement and the Settlement
24 Administration Costs and *exclusive* of the employer’s share of payroll tax, if any,
25 triggered by any payment under this Settlement. The Parties contemplate that
26 Defendant’s share of payroll taxes will equal approximately Five Thousand Dollars
27 (\$5000), which it will pay separately.

1 **III.A.1** (“Settlement Consideration and Settlement Payments by Defendant;” “Settlement
2 Consideration):

3 In full and complete settlement of the Action, and in exchange for the releases set
4 forth below, Defendant will pay the sum of the Individual Settlement Payment, the
5 Class Representative Service Award, the Class Counsel Award, PAGA Settlement,
6 and the Settlement Administration Costs, as specified in this Agreement, equal to
7 the Gross Settlement Amount of One Hundred Ninety-Nine Thousand Eight
8 Hundred Seventeen Dollars and Zero Cents (\$199,817.00). The Parties agree that
9 this is a non-reversionary Settlement and that no portion of the Gross Settlement
10 Amount shall revert to Defendant. Other than the Defendant’s share of employer
11 payroll taxes, Defendant shall not be required to pay more than the Gross
12 Settlement Amount, except as provided in the Stipulation of Settlement of Class
13 and PAGA Action Claims and Release of Claims dated August 25, 2022.

14
15 **III.M.10: Class Counsel Award.** Defendant understands a motion by Class
16 Counsel for attorneys’ fees not to exceed one-third of the Gross Settlement Amount
17 currently estimated to be \$66,599.00 plus costs and expenses supported by
18 declaration not to exceed Fifteen Thousand Dollars (\$15,000.00), from the Gross
19 Settlement Amount will be filed. Any portion of the requested Class Counsel
20 Award that is not awarded to Class Counsel shall be part of the Net Settlement
21 Amount and shall be distributed to Settlement Class Members as provided in this
22 Agreement. The Settlement Administrator shall allocate and pay the Class Counsel
23 Award to Class Counsel from the Gross Settlement Amount no later than fifteen
24 (15) calendar days after the Funding Date. Class Counsel shall be solely and legally
25 responsible to pay all applicable taxes on the payment made pursuant to this
26 paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC
27 to Class Counsel for the payments made pursuant to this paragraph. In the event
28

1 that the Court reduces or does not approve the requested Class Counsel Award,
2 Plaintiff and Class Counsel shall not have the right to revoke the Settlement, or to
3 appeal such order, and the Settlement will remain binding.

4 The Notice Packet, attached hereto as Exhibit A, has been modified to reflect the
5 change in the Gross Settlement Amount and changes ordered by the Court on September 12,
6 2022.

7 All other Definitions, Recitals, and Terms of Agreement shall remain the same.
8

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

10
11 DATED: Sep 16, 2022

Claudia Nuñez

Claudia Nuñez (Sep 16, 2022 12:57 PDT)

CLAUDIA NUNEZ PORCAYO

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14 **IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:**

15
16 DATED: 9/14/22

Constanza Pachon

THE WHOLE CHILD – MENTAL HEALTH &
HOUSING SERVICES

18 Constanza Pachon

19 Printed Name

20 CEO

21 Title

22 **IT IS SO AGREED AS TO FORM BY COUNSEL:**

23
24 DATED: September 16, 2022

JCL LAW FIRM, A.P.C.

25 By: 

26 Attorneys for Plaintiff and the Settlement Class
27 Members
28

1
2 DATED: September 16, 2022

ZAKAY LAW GROUP, APLC

3 By: 

4 Attorneys for Plaintiff and the Settlement Class
5 Members

6
7 DATED: Sept. 16, 2022

DEBRA ELLWOOD MEPPEN

8 DINA GLUCKSMAN

9 MATTHEW THERIAULT

GORDON REES SCULLY MANSUKANT LLP

10 By: 

11 Attorneys for Defendant
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EXHIBIT D

ZAKAY LAW GROUP, APLC
Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619)255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com

JCL LAW FIRM, APC
Jean-Claude Lapuyade (State Bar #248676)
Eduardo Garcia (State Bar #290572)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
egarcia@jcl-lawfirm.com

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

CLAUDIA NUNEZ PORCAYO, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiffs,

v.

THE WHOLE CHILD – MENTAL HEALTH
& HOUSING SERVICES, a California
Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No. 21STCV25160

[Action Filed July 8, 2021]

**SECOND ADDENDUM TO
STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS DATED
AUGUST 25, 2022**

Judge: Honorable Maren Nelson
Dept.: 17

1 This Second Addendum to Stipulation of Settlement of Class and PAGA Action Claims and
2 Release of Claims dated August 25, 2022 (“Settlement Agreement”) is entered into by and between
3 plaintiff CLAUDIA NUNEZ PORCAYO (hereinafter “Plaintiff”), an individual, on behalf of the
4 Settlement Class, and in her representative capacity on behalf of the State of California and the
5 Aggrieved Employees, and Defendant THE WHOLE CHILD – MENTAL & HEALTH HOUSING
6 SERVICES, a California Corporation (hereinafter “Defendant”). This Second Addendum supersedes
7 the Addendum to Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims
8 dated September 16, 2022. By operation of the “escalator clause” in Section II.A.2 of the Settlement
9 Agreement, the Gross Settlement Amount is being increased from \$195,000 to \$206,115.
10 Accordingly, the following Definition, Recitals and Terms of Agreement are modified and supersede
11 those in the Settlement Agreement, as follows:

12 **I.E:** “Class Counsel Award” means the award of fees and expenses that the Court
13 authorizes to be paid to Class Counsel for the services they have rendered to
14 Plaintiff and the Class in the Action, consisting of attorneys’ fees currently not to
15 exceed one-third of the Gross Settlement Amount currently estimated to be \$68,636
16 out of \$206,115, plus costs and expenses in the amount of \$15,000.00. Class
17 Counsel’s award for attorneys’ fees will be divided equally between Class Counsel
18 (50% to JCL Law Firm, APC and 50% to Zakay Law Group, APLC).

19
20 **I.O:** (“Gross Settlement Amount” means amount of Two Hundred Six Thousand,
21 One Hundred Fifteen Dollars and Zero Cents (\$206,115) that Defendant must pay
22 into the QSF in connection with this Settlement, inclusive of the sum of the
23 Individual Settlement Payments, the Class Representative Service Award, the Class
24 Counsel Award, PAGA Settlement and the Settlement Administration Costs and
25 *exclusive* of the employer’s share of payroll tax, if any, triggered by any payment
26 under this Settlement. The Parties contemplate that Defendant’s share of payroll
27 taxes will equal approximately Five Thousand Dollars (\$5000), which it will pay
28 separately.

1 **III.A.1** (“Settlement Consideration and Settlement Payments by Defendant;” “Settlement
2 Consideration):

3 In full and complete settlement of the Action, and in exchange for the releases set
4 forth below, Defendant will pay the sum of the Individual Settlement Payment, the
5 Class Representative Service Award, the Class Counsel Award, PAGA Settlement,
6 and the Settlement Administration Costs, as specified in this Agreement, equal to
7 the Gross Settlement Amount of Two Hundred Six Thousand One Hundred Fifteen
8 Dollars and Zero Cents (\$206,115). The Parties agree that this is a non-reversionary
9 Settlement and that no portion of the Gross Settlement Amount shall revert to
10 Defendant. Other than the Defendant’s share of employer payroll taxes, Defendant
11 shall not be required to pay more than the Gross Settlement Amount, except as
12 provided in the Stipulation of Settlement of Class and PAGA Action Claims and
13 Release of Claims dated August 25, 2022.

14
15 **III.M.10: Class Counsel Award.** Defendant understands a motion by Class
16 Counsel for attorneys’ fees not to exceed one-third of the Gross Settlement Amount
17 currently estimated to be \$ 68,705 plus costs and expenses supported by declaration
18 not to exceed Fifteen Thousand Dollars (\$15,000.00), from the Gross Settlement
19 Amount will be filed. Any portion of the requested Class Counsel Award that is
20 not awarded to Class Counsel shall be part of the Net Settlement Amount and shall
21 be distributed to Settlement Class Members as provided in this Agreement. The
22 Settlement Administrator shall allocate and pay the Class Counsel Award to Class
23 Counsel from the Gross Settlement Amount no later than fifteen (15) calendar days
24 after the Funding Date. Class Counsel shall be solely and legally responsible to
25 pay all applicable taxes on the payment made pursuant to this paragraph. The
26 Settlement Administrator shall issue an IRS Form 1099 — MISC to Class Counsel
27 for the payments made pursuant to this paragraph. In the event that the Court
28 reduces or does not approve the requested Class Counsel Award, Plaintiff and Class

Counsel shall not have the right to revoke the Settlement, or to appeal such order,
and the Settlement will remain binding.

The Notice Packet, attached hereto as Exhibit A, has been modified to reflect the
change in the Gross Settlement Amount and changes ordered by the Court on September 12,
2022.

This Second Addendum supersedes the September 16, 2022 Addendum. All other
Definitions, Recitals, and Terms of Agreement shall remain the same.

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

DATED: Oct 10, 2022

Claudia Nuñez

Claudia Nuñez (Oct 10, 2022 16:31 PDT)

CLAUDIA NUNEZ PORCAYO

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

DATED: October 10, 2022

DocuSigned by:

Constanza Pachon

863DB18212B8433...

THE WHOLE CHILD – MENTAL HEALTH &
HOUSING SERVICES

Constanza Pachon

Printed Name

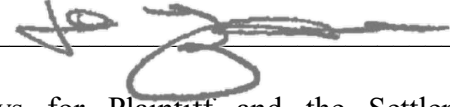
Chief Executive Officer

Title

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: October 11, 2022

JCL LAW FIRM, A.P.C.

By: 

Attorneys for Plaintiff and the Settlement Class
Members

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DATED: October 11, 2022

ZAKAY LAW GROUP, APLC

By:



Attorneys for Plaintiff and the Settlement Class
Members

DATED: October 10, 2022

DEBRA ELLWOOD MEPPEN

DINA GLUCKSMAN

MATTHEW THERIAULT

GORDON REES SCULLY MANSUKANI, LLP

By:



Attorneys for Defendant

EXHIBIT A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

(Porcayo v. The Whole Child, Los Angeles County Superior Court Case No. 21STCV25160)

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. Your estimated Individual Settlement Payment is: \$<<[REDACTED]>>. See the explanation below. Your estimated share of the PAGA Settlement is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendant as detailed 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, you will receive no money from the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. You may present your objections at the Final Approval Hearing at 9:00 A.M. on January 19, 2023, at the Los Angeles County Superior Court, Dept. 17, located at 312 North Spring Street, CA 90012 before Judge Maren Nelson.

1. Why did I get this Notice?

A proposed class action settlement (the "Settlement") of this lawsuit pending in the Superior Court for the State of California, County of Los Angeles (the "Court") has been reached between Plaintiff Claudia Nunez Porcayo ("Plaintiff") and Defendant The Whole Child – Mental Health & Housing Services) a California Corporation ("Defendant"). 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 Class Member and/or Aggrieved Employee, which is defined as:

"Class Members" or the "Class" means all individuals who are or previously were employed by Defendant in California and classified as non-exempt employees at any time during the Class Period.

"Class Period" means is the period of time running from July 8, 2017 to May 1, 2022.

"Aggrieved Employees" means all individuals who are or previously were employed by Defendant in California and classified as non-exempt employees at any time during the PAGA Period.

"PAGA Period" means the period between April 30, 2020 and May 1, 2022.

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 July 8, 2021, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles. Plaintiff asserted claims that Defendant: (a) Violated California Business and Professions Code § 17200 *et seq.*; (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (c) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (f) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (g) Failed to reimburse Plaintiff for required expenses in violation of California Labor code 2802; (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202, and 203; and (i) Violations of the Private Attorney General Act at Labor Code Section 2698, *et seq.*

Defendant denies and disputes all claims asserted in the Actions. Specifically, Defendant contended (and continues to contend) that the Action could not properly be maintained as a class action; that Defendant properly paid members of the class all wages and overtime that was due; that Defendant provided members of the class with all legally required meal breaks and rest breaks; that Defendant paid any members of the class all wages due them at the time of their terminations; that Defendant provided accurate, itemized wage statements to members of the class; that Defendant did not violate California Business and Professions Code section 17200 *et seq.*; that Defendant fully reimbursed members of the class for required business expenses; and that Defendant is not liable for any of the penalties claimed or that could be claimed in the Actions.

On March 15, 2022, the Parties participated in an all-day mediation with Jeffrey Krivis, Esq., an experienced mediator of wage and hour class actions. The mediation concluded with a settlement after both sides agreed to a Mediator's proposal. 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, APC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an "all in" amount of Two Hundred Six Thousand. One Hundred Fifteen Dollars and Zero Cents (\$206,115.00) (the "Gross Settlement Amount") to fund the settlement. The Gross Settlement Amount includes the payment of all Individual Settlement Payments to Settlement Class Members, the Class Representative Service Award, the Class Counsel Award, PAGA Settlement, and the Settlement Administration Costs and is exclusive of the employer's share of payroll tax.

Fifteen days after the Effective Date, Defendant will pay 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:

1. Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$8,000.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
2. Class Counsel Award. Is the award of fees and expenses that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff and the Class in the Action, consisting of attorneys' fees currently not to exceed one-third of the Gross Settlement Amount currently estimated to be \$68,705.00 out of \$206,115.00 plus costs and expenses in the amount of \$15,000.00. Class Counsel's award for attorneys' fees will be divided equally between Class Counsel (50% to JCL Law Firm, APC and 50% to Zakay Law Group, APLC).
3. Class Representative Service Award. Class Representative Service Award of up to Ten Thousand Hundred Dollars (\$10,000) 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.
4. PAGA Settlement. Ten Thousand Dollars (\$10,000) shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the Private Attorneys General Act of 2004 ("PAGA Settlement"). The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Settlement (\$7,500) to the California Labor and Workforce Development Agency no later than twenty-five (25) calendar days after the Funding Date (hereinafter "LWDA Payment"). Twenty-five percent (25%) of the PAGA Settlement (\$2,500) will be distributed to the Aggrieved Employees as described in this Agreement (hereinafter "Aggrieved Employee Payment").

5. Calculation of Payments to Settlement Class Members. After all the above payments of the court-approved Class Counsel Award, the Class Representative Service Award, the PAGA Settlement, 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 the number of weeks of employment during the Class Period that each Class Member was employed by Defendant in California, excluding weeks during which the Class Member did not perform any work for Defendant. In order to ensure an equitable distribution of the Net Settlement Amount, each Class Member’s Workweek total will be calculated by dividing their total days worked by 5.

6. Calculation of PAGA Penalties Payments to PAGA 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 Employee 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 PAGA Settlement.

If the Settlement is approved by the Court, 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 insure you receive your payment.

Tax Matters. 10% of each Individual Settlement Payment is allocated to wages. Taxes are withheld from this amount, and each Participating Class Member will be issued an Internal Revenue Service Form W-2 for such payment. 90% of each Individual Settlement Payment is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld, and each Participating Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from the PAGA Penalties paid to Aggrieved Employees, and each Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant’s 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.

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 Class Claims. As of the Funding Date, in exchange for the consideration set forth in [the] Agreement, Plaintiff and the Settlement Class Members release the Defendant from the Released Class Claims for the Class Period. The Released Class Claims means all class claims alleged in the operative complaint or that could have been stated based on the facts alleged in the Action, including but not limited to federal and state wage and hour claims (including all claims under the California Labor Code and/or Fair Labor Standards Act) for unpaid wages, minimum wage, overtime, wages for off-the-clock work, meal periods, rest periods, wage statement violations, waiting time penalties, failure to maintain records, interest, penalties, and attorneys’ fees, unfair competition and the related provisions of the Business & Professions Code including sections 17200 and 17203, Labor Code sections 201, 202, 203, 204, 206.5, 210, 226, 226.2, 226.7, 246 510, 512, 515, 558, 1194, 1197, 1197.1, 1198, and 2802 and all claims under the governing Wage Order(s), which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and class claims outside of the Class Period.

Released PAGA Claims. As of the Funding Date, in exchange for the consideration set forth in this Agreement, the Plaintiff, the LWDA and the State of California release the Defendant from the PAGA Released Claims for the PAGA Period. As a result of this release, the Aggrieved Employees shall be precluded from bringing claims against Defendant for the PAGA Released Claims regardless of whether the Aggrieved Employee requests to be excluded from the [Class Action] portion of the Settlement. Released PAGA Claims shall mean all PAGA Claims for penalties and any other available relief pursuant to PAGA alleged in the operative complaint and/or Plaintiff’s PAGA notice to the LWDA which occurred during the PAGA Period including violations of California Labor Code sections, 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802 and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and PAGA claims outside 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 Defendant 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?

Defendant’s records reflect that you have <<____>> Workweeks worked during the Class Period (July 8, 2017 to May 1, 2022).

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

Defendant's records reflect that you have <<_____>> pay periods worked during the PAGA Period (April 30, 2020 to May 1, 2022).

Based on this information, your estimated PAGA 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 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: _____. (800) _____.

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 class portion of the Settlement, you may exclude yourself or "opt out." **If you opt out, you will receive NO money from the class Settlement, and you will not be bound by its terms, except as provided as follows.**

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 Aggrieved Employee 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 _____. The request for exclusion must state in substance that the Class Member has read the Class Notice and wishes to opt out of the class action settlement. 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 **Porcayo v. The Whole Child, Case No. 21STCV25160**. 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 _____.

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
Fax: (619) 599-2891
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
Fax: (619) 599-8291
Email: shani@zakaylaw.com
Website: www. zakaylaw.com

Counsel for Defendant:

Debra E. Meppen, Esq.
Dina Glucksman, Esq.
Matthew Theriault, Esq.
Gordon Rees Scully Mansukhani, LLP
633 West Fifth Street, 52th Floor
Los Angeles, Ca 90071
Tel.: (213) 576-5000
Fax: (213) 680-4470
E-Mail: dmeppen@grsm.com
dglucksman@grsm.com

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

The Court will hold a Final Approval Hearing at 9:00 A.M. on January 19, 2023, at the Los Angeles County Superior Court, Dept. 17, located at 312 North Spring Street, CA 90012 before Judge Maren Nelson. 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 via audio or video 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. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

You may call the Settlement Administrator at _____ or write to *Porcayo v. The Whole Child, Case No. 21STCV25160*, Settlement Administrator, 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.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

1. You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
2. 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 to State Controller's Office. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT E

FILED
LOS ANGELES SUPERIOR COURT

SEP 12 2022

SHERRI R. CARTER, EXECUTIVE OFFICER/CLERK
BY N. Navarro Deputy
NANCY NAVARRO

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

CLAUDIA NUNEZ PORCAYO, an
individual, on behalf of herself and on
behalf of all persons similarly situated,

Plaintiff,

v.

THE WHOLE CHILD – MENTAL
HEALTH & HOUSING SERVICES., a
California Corporation; and DOES 1-50,
Inclusive;

Defendants.

Case No.: 21STCV25160

ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT ON CONDITIONS

I. BACKGROUND

Plaintiff Claudia Nunez Porcayo sues her former employer, Defendant The Whole Child – Mental Health & Housing Services, for alleged wage and hour violations. Defendant provides mental health, family housing, parent enrichment, and

1 nutrition education services to families and children. Plaintiff seeks to represent a class
2 of Defendant's current and former non-exempt employees. Plaintiff alleges (1) Unfair
3 Competition (Business and Professions Code §§ 17200); (2) Failure to Pay Minimum
4 Wages (Labor Code §§ 1194, 1197 and 1197.1); (3) Failure to Pay Overtime Wages
5 (Labor Code §§ 510 et seq.); (4) Failure to Provide Required Meal Periods (Labor Code
6 §§ 226.7 and 512); (5) Failure to Provide Required Rest Periods (Labor Code §§ 226.7
7 and 512); (6) Failure to Provide Accurate Itemized Wage Statements (Labor Code §
8 226); (7) Failure to Reimburse Employees for Required Business Expenses (Labor
9 Code § 2802); (8) Failure to Provide Wages When Due (Labor Code §§ 201, 202 and
10 203); (9) Unpaid Sick Pay (Labor Code § 246); and (10) Violations of the Private
11 Attorney General Act (Labor Code §§ 2698 et. seq.) ("PAGA").

12 On March 15, 2022, the parties participated in a full day mediation with
13 mediator Jeffrey Krivis, Esq., which resulted in settlement. The terms were
14 subsequently finalized in a Stipulation of Settlement of Class and PAGA Action Claims
15 and Release of Claims, a copy of which was filed with the Court.

16 The matter came on for hearing on August 3, 2022, at which time the Court and
17 counsel discussed matters set forth in the Court's "checklist" issued August 2, 2022.
18 The hearing was continued to September 7, 2022.

19 On August 25, 2022 a revised settlement agreement and form of notice were
20 filed with the Supplemental Declaration of Jean-Claude Lapuyade. Oral argument was
21 heard September 7, 2022 on Plaintiffs' motion for preliminary approval of the
22 settlement.

23 Having considered the argument of counsel and the terms of the settlement, the
24 Court now grants preliminary approval, subject to conditions, and sets a final approval
25

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2 of Defendant's current and former non-exempt employees. Plaintiff alleges (1) Unfair
3 Competition (Business and Professions Code §§ 17200); (2) Failure to Pay Minimum
4 Wages (Labor Code §§ 1194, 1197 and 1197.1); (3) Failure to Pay Overtime Wages
5 (Labor Code §§ 510 et seq.); (4) Failure to Provide Required Meal Periods (Labor Code
6 §§ 226.7 and 512); (5) Failure to Provide Required Rest Periods (Labor Code §§ 226.7
7 and 512); (6) Failure to Provide Accurate Itemized Wage Statements (Labor Code §
8 226); (7) Failure to Reimburse Employees for Required Business Expenses (Labor
9 Code § 2802); (8) Failure to Provide Wages When Due (Labor Code §§ 201, 202 and
10 203); (9) Unpaid Sick Pay (Labor Code § 246); and (10) Violations of the Private
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20 filed with the Supplemental Declaration of Jean-Claude Lapuyade. Oral argument was
21 heard September 7, 2022 on Plaintiffs' motion for preliminary approval of the
22 settlement.

23 Having considered the argument of counsel and the terms of the settlement, the
24 Court now grants preliminary approval, subject to conditions, and sets a final approval
25

1 hearing. All references below are to the amended settlement agreement attached to the
2 Lapayude Declaration filed August 25, 2022.

3 The conditions are as follows:

- 4
- 5 1. The Notice delete the language in section 3 “‘Final’ means the date the
6 Judgment is no longer subject to appeal, or if an appeal is filed, the date the
7 appeal process is completed and the Judgment is affirmed.” This is
8 unnecessary given that the language earlier in the sentence has been revised.
- 9 2. The Notice is amended to make clear that persons opting out are nonetheless
10 bound by the PAGA settlement. *Robinson v. Southern Counties Oil Co.*
11 (2020) 53 Cal. App. 5th 476, 482. The language in the paragraph after
12 “Released PAGA claims” does not make this clear.
- 13 3. Filing a Declaration by Defendant confirming the number of applicable Class
14 Members and Workweeks they worked during the applicable Class Period.
(¶III.A.2)

15 Amendments to the Notice and the Declaration shall be made and filed no later than
16 September 19, 2022.

17
18 **II. THE TERMS OF THE SETTLEMENT**

19 **A. SETTLEMENT CLASS AND RELATED DEFINITIONS**

20 "Class Members" or the "Class" means all individuals who are or previously
21 were employed by Defendant in California and classified as non-exempt employees at
22 any time during the Class Period. (¶I.G)

23 "Class Period" means the period between July 8, 2017 to May 1, 2022. (¶I.H)
24
25

1 "Aggrieved Employees" shall mean all individuals who are or previously were
2 employed by Defendant in California and classified as non-exempt employees at any
3 time during the PAGA Period. (§I.B)

4 "PAGA Period" means the period between April 30, 2020 to May 1, 2022 (the
5 "PAGA Period"). (§I.V)

6 "Settlement Class Members" or "Settlement Class" means all Class Members
7 who have not submitted a timely and valid request for exclusion as provided in the
8 Agreement. (§I.GG)

10 **B. THE MONETARY TERMS OF SETTLEMENT**

11 The essential monetary terms are as follows:

- 12 • The Gross Settlement Amount ("GSA") is **\$195,000** (§I.O). This includes
13 payment of a PAGA penalty of **\$10,000** to be paid 75% to the LWDA (\$7,500)
14 and 25% to the Aggrieved Employees (\$2,500) (§III.M.11).
 - 15 ○ Class Size: At the time of mediation, Defendant estimated that the
16 Settlement Class was comprised of 195 individuals who collectively
17 worked approximately 13,211 Workweeks ("Projected Workweeks")
18 during the Class Period. At the time of filing of Plaintiff's motion for
19 preliminary approval of this Agreement, Defendant will provide a
20 declaration under penalty of perjury confirming the number of applicable
21 Class Members and Workweeks they worked during the applicable Class
22 Period. If the workweek number increases by more than 10% of the
23 estimate stated, the Gross Settlement Amount will increase proportionally
24 for the number of workweeks over 110%. (§III.A.2). This Declaration
25 has not been filed.

- 1 • The Net Settlement Amount (“Net”) (\$87,000) is the GSA less:
 - 2 ○ Up to \$65,000 (33 1/3%) for attorney fees (¶I.E);
 - 3 ○ Up to \$15,000 for attorney costs (*Ibid.*);
 - 4 ○ Up to \$10,000 for a service award to the proposed class representative
 - 5 (¶III.M.9); and
 - 6 ○ Estimated \$8,000 for settlement administration costs (¶III.M.12).
- 7 • Defendant's share of employer side payroll taxes is in addition to the Gross
- 8 Settlement Amount and shall be paid together with the Gross Settlement
- 9 Amount. (¶III.A.4)
- 10 • Assuming the Court approves all maximum requested deductions, approximately
- 11 \$87,000 will be available for automatic distribution to participating class
- 12 members. Assuming full participation, the average settlement share will be
- 13 approximately \$446.15. (\$87,000 Net ÷ 195 class members = \$446.15). In
- 14 addition, each PAGA member will receive a portion of the PAGA penalty,
- 15 estimated to be \$24.27 per PAGA member. (\$2,500 or 25% of \$10,000 PAGA
- 16 penalty ÷ 103 PAGA members = \$24.27).
- 17 • There is no Claim Requirement (¶III.L.2.a).
- 18 • The settlement is not reversionary (¶III.A.1).
- 19 • Individual Settlement Share Calculation: Using the Class Data, the Settlement
- 20 Administrator shall add up the total number of Workweeks for all Class
- 21 Members. The respective Workweeks for each Class Member will be divided by
- 22 the total Workweeks for all Class Members, resulting in the Payment Ratio for
- 23 each Class Member. Each Class Member's Payment Ratio will then be multiplied
- 24 by the Net Settlement Amount to calculate each Class Member's estimated
- 25 Individual Settlement Payments. Individual Settlement Payments for Class

1 Members who submit valid and timely requests for exclusion will be
2 redistributed to Settlement Class Members who do not submit valid and timely
3 requests for exclusion on a pro rata basis based on their respective Payment
4 Ratios. (§III.M.1)

- 5 ○ PAGA Payment Calculation: Using the Class Data, the Settlement
6 Administrator shall add up the total number of PAGA pay periods for all
7 Aggrieved Employees during the PAGA Period. The respective PAGA
8 pay periods for each Aggrieved Employee will be divided by the total
9 PAGA pay periods for all Aggrieved Employees, resulting in the "PAGA
10 Payment Ratio" for each Aggrieved Employee. Each Aggrieved
11 Employee's PAGA Payment Ratio will then be multiplied by the
12 Aggrieved Employee Payment to calculate each Aggrieved Employee's
13 estimated share of the PAGA Settlement. (§III.M.2)

- 14 • Tax Withholdings: Individual Settlement Payments shall be allocated as 10%
15 wages, 90% interest and penalties. (§III.M.3) Aggrieved Employee Settlement
16 Payments shall be allocated and treated as 100% penalties. (§III.M.4)
- 17 • Funding of Settlement: "Funding Date" shall mean fifteen (15) calendar days
18 after the Effective Date and is the date Defendant transfers the Gross Settlement
19 Amount into the QSF in accord with the terms of the Agreement. (§I.N)
20 Defendant shall pay the Gross Settlement Amount to the Settlement
21 Administrator on the Funding Date. (§III.A.3)
- 22 • Distribution: Individual Settlement Payments and Aggrieved Employee
23 Payments shall be mailed by regular First-Class U.S. Mail to Settlement Class
24 Members' and/or Aggrieved Employees last known mailing address no later than
25 fifteen (15) calendar days after the Funding Date. (§III.M.7)

- **Uncashed Settlement Payment Checks:** 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 an Individual Settlement Payment and/or Aggrieved Employee's individual share of the PAGA Settlement 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 transmitted to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et seq., in the names and corresponding amounts associated with each Class Member and/or Aggrieved Employee whose check(s) are cancelled. (§III.M.8)

C. TERMS OF RELEASES

- **Release by Settlement Class Members:** As of the Funding Date, in exchange for the consideration set forth in the Agreement, Plaintiff and the Settlement Class Members release the Defendant from the Released Class Claims for the Class Period. (§III.B)
 - "Released Class Claims" means all class claims alleged in the operative complaint or that could have been stated based on the facts alleged in the Action, including but not limited to federal and state wage and hour claims (including all claims under the California Labor Code and/or Fair Labor Standards Act) for unpaid wages, minimum wage, overtime, wages for off-the-clock work, meal periods, rest periods, wage statement violations, waiting time penalties, failure to maintain records, interest, penalties, and attorneys' fees, unfair competition and the related provisions of the Business & Professions Code including sections 17200

1 and 17203, Labor Code sections 201, 202, 203, 204, 206.5, 210, 226,
2 226.2, 226.7, 246, 510, 512, 515, 558, 1194, 1197, 1197.1, 1198, and
3 2802 and all claims under the governing Wage Order(s), which occurred
4 during the Class Period, and expressly excluding all other claims,
5 including claims for vested benefits, wrongful termination,
6 unemployment insurance, disability, social security, workers'
7 compensation, and class claims outside of the Class Period. (§I.BB)

- 8 • Release by the Aggrieved Employees: As of the Funding Date, in exchange for
9 the consideration set forth in this Agreement, the Plaintiff, the LWDA and the
10 State of California release the Defendant from the PAGA Released Claims for
11 the PAGA Period. As a result of this release, the Aggrieved Employees shall be
12 precluded from bringing claims against Defendant for the PAGA Release Claims
13 regardless of whether the Aggrieved Employee requests to be excluded from the
14 Settlement. (§III.C)

- 15 ○ "Released PAGA Claims" means all PAGA claims for penalties and any
16 other available relief pursuant to the PAGA alleged in the operative
17 complaint and/or Plaintiff's PAGA notice to the LWDA which occurred
18 during the PAGA Period including for violations of California Labor
19 Code sections 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 558, 1194,
20 1197, 1197.1, 1198, 2802 and expressly excluding all other claims,
21 including claims for vested benefits, wrongful termination,
22 unemployment insurance, disability, social security, workers'
23 compensation, and PAGA claims outside of the PAGA Period. (§I.CC)

- 24 • The named Plaintiff will also provide a general release and a waiver of the
25 protections of Cal. Civ. Code §1542. (§III.D)

- The releases are effective as of the Funding Date, which is fifteen (15) calendar days after the Effective Date. (§§III.B, I.N)

D. SETTLEMENT ADMINISTRATION

- The proposed Settlement Administrator is ILYM Group Inc. (§I.FF), which has provided evidence that no counsel are affiliated with it and that it has adequate procedures in place to safeguard the data and funds to be entrusted to it. (See Declaration of Sean Hartranft.)
- Settlement administration costs are estimated to be \$8,000 (§III.M.12).
- Notice: The manner of giving notice is described below.
- Opt Out/Objection Dates: "Response Deadline" means the date forty-five (45) 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. (§I.DD) The Response Deadline also applies the submission of individual settlement payment disputes. (§III.L.5)
 - Any Class Member that submits a timely Request for Exclusion that is also a member of the Aggrieved Employees will still receive his/her pro rata share of the PAGA Settlement, and in consideration, will be bound by the Release by the Aggrieved Employees. (§III.L.7)
- Notice of Final Judgment will be posted on the Settlement Administrator's website (Notice pg. 5).

III. SETTLEMENT STANDARDS AND PROCEDURE

California Rules of Court, rule 3.769(a) provides: "A settlement or compromise of an entire class action, or of a cause of action in a class action, or as to a party,

1 requires the approval of the court after hearing.” “Any party to a settlement agreement
2 may serve and file a written notice of motion for preliminary approval of the settlement.
3 The settlement agreement and proposed notice to class members must be filed with the
4 motion, and the proposed order must be lodged with the motion.” See Cal. Rules of
5 Court, rule 3.769(c).

6 “In a class action lawsuit, the court undertakes the responsibility to assess
7 fairness in order to prevent fraud, collusion or unfairness to the class, the settlement or
8 dismissal of a class action. The purpose of the requirement [of court review] is the
9 protection of those class members, including the named plaintiffs, whose rights may not
10 have been given due regard by the negotiating parties.” *Consumer Advocacy Group,*
11 *Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal. App.4th 46, 60 [internal
12 quotation marks omitted]; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224,
13 245, disapproved on another ground in *Hernandez v. Restoration Hardware, Inc.* (2018)
14 4 Cal. 5th 260 (“*Wershba*”), [Court needs to “scrutinize the proposed settlement
15 agreement to the extent necessary to reach a reasoned judgment that the agreement is
16 not the product of fraud or overreaching by, or collusion between, the negotiating
17 parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all
18 concerned.”] [internal quotation marks omitted].

19 “The burden is on the proponent of the settlement to show that it is fair and
20 reasonable. However, “a presumption of fairness exists where: (1) the settlement is
21 reached through arm's-length bargaining; (2) investigation and discovery are sufficient
22 to allow counsel and the court to act intelligently; (3) counsel is experienced in similar
23 litigation; and (4) the percentage of objectors is small.” *Wershba*, 91 Cal. App. 4th at
24 245 [citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802].

1 Notwithstanding an initial presumption of fairness, “the court should not give
2 rubber-stamp approval.” *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th
3 116, 130 (“*Kullar*”). “[W]hen class certification is deferred to the settlement stage, a
4 more careful scrutiny of the fairness of the settlement is required.” *Carter v. City of*
5 *Los Angeles* (2014) 224 Cal.App.4th 808, 819. “To protect the interests of absent class
6 members, the court must independently and objectively analyze the evidence and
7 circumstances before it in order to determine whether the settlement is in the best
8 interests of those whose claims will be extinguished.” *Kullar*, 168 Cal. App. 4th at 130.
9 In that determination, the court should consider factors such as “the strength of
10 plaintiffs' case, the risk, expense, complexity and likely duration of further litigation,
11 the risk of maintaining class action status through trial, the amount offered in
12 settlement, the extent of discovery completed and stage of the proceedings, the
13 experience and views of counsel, the presence of a governmental participant, and the
14 reaction of the class members to the proposed settlement.” *Id.* at 128. “Th[is] list of
15 factors is not exclusive and the court is free to engage in a balancing and weighing of
16 factors depending on the circumstances of each case.” *Wershba*, 91 Cal. App. 4th at
17 245.

18 At the same time, “[a] settlement need not obtain 100 percent of the damages
19 sought in order to be fair and reasonable. Compromise is inherent and necessary in the
20 settlement process. Thus, even if ‘the relief afforded by the proposed settlement is
21 substantially narrower than it would be if the suits were to be successfully litigated,’
22 this is no bar to a class settlement because ‘the public interest may indeed be served by
23 a voluntary settlement in which each side gives ground in the interest of avoiding
24 litigation.’” *Id.* at 250.

1 **IV. ANALYSIS OF SETTLEMENT AGREEMENT**

2
3 **A. THERE IS A PRESUMPTION OF FAIRNESS**

4 The settlement is entitled to a presumption of fairness for the following reasons:

5
6 **1. The settlement was reached through arm's-length bargaining**

7 On March 15, 2022, the parties participated in a full day mediation with
8 mediator Jeffrey Krivis, Esq., at which the parties reached an agreement to settle and
9 signed a Memorandum of Understanding. The terms of settlement were subsequently
10 finalized in the long-form Settlement Agreement. (Declaration of Shani O. Zakay
11 ("Zakay Decl.") ¶13.)

12
13 **2. The investigation and discovery were sufficient**

14 Class Counsel represents that their investigation started with interviews with
15 Plaintiff, at which she produced documents related to her employment, including time
16 and payroll records. (*Id.* at ¶14.) To prepare for mediation, Class Counsel requested
17 documents and data points, to which Defendant produced time records for the Class
18 Members, aggregate workweek and pay period data for the Class Members, wage
19 statements for the Class Members, and copies of applicable handbooks, policies, and
20 agreements containing, *inter alia*, compensation, timekeeping and meal and rest period
21 policies. (*Id.* at ¶16.) Class Counsel further specifies that the information they received
22 was comprised of the following: a 25% sampling of data showing the employees, their
23 employment dates, their time sheets, hourly rates, and their wages; Defendant's
24 Employee Handbook for the relevant time period, which outlined the wage and hour
25 policies of Defendant; Plaintiff's employee file; 25% samples of wage statements

1 provided by Defendant to employees; and a 25% sample of payroll data. (*Id.* at ¶55.)
2 Counsel retained the forensic consultants at Berger Consulting Group (“BCG”) to
3 analyze Defendant’s time and payroll data. (*Id.* at ¶¶ 12, 18.)

4 Counsel for plaintiffs explain that the sample they obtained provided between
5 85% and 90% confidence factor/interval with a margin of error equal to or less than
6 10%. In arriving at these statistical parameters, Plaintiff’s Counsel were of the view that
7 this balanced the need for a statistically meaningful sample to evaluate Defendant’s
8 liability exposure at this stage of litigation against preserving the settlement funds for
9 distribution to the Class Members. See Supp. Lapuyade Dec. ¶7. Counsel further
10 explained orally that given the size of the class the differential to obtain a more reliable
11 sample was not deemed necessary.

12 Plaintiff’s theory of the case was that Defendant implemented and maintained an
13 unlawful meal period rounding policy in violation of *Donahue v. AMN Services, LLC*
14 (2021) 11 Cal.5th 58 (“*Donahue*”). The time records analyzed showed a modest 3.6%
15 violation rate for missed, late and short meal periods. The time records also indicated
16 that 29.3% of all compliant meal periods were exactly thirty (30) minutes or sixty (60)
17 minutes in length. Plaintiff argued that these facially compliant meal periods were in
18 fact fictitiously recorded and/or rounded meal periods creating presumptive violations
19 under *Donahue*. Defendant, however, argued that it did not engage in time rounding,
20 but that instead, employee manually entered their meal break time-punches, resulting in
21 artificial rounding by the employees themselves. Moreover, many of the so-called
22 “rounded” meal breaks were exactly 60-minute long (as opposed to exactly 30-minute
23 long), and therefore compliant. (Supp. Lapuyade Dec. ¶¶ 11-12.

24 In the circumstances the information received was sufficient to value the case for
25 settlement purposes.

1
2 **3. Counsel is experienced in similar litigation**

3 Class Counsel represent that they are experienced in class action litigation,
4 including wage and hour class actions. (Zakay Decl., Exhibit 2; Declaration of Jean-
5 Claude Lapuyade ¶7.)
6

7 **4. Percentage of the class objecting**

8 This cannot be determined until the final fairness hearing. Weil & Brown et al.,
9 Cal. Prac. Guide: Civ. Pro. Before Trial (The Rutter Group 2019) ¶ 14:139.18 [“Should
10 the court receive objections to the proposed settlement, it will consider and either sustain
11 or overrule them at the fairness hearing.”].
12

13 **B. THE SETTLEMENT MAY PRELIMINARILY BE CONSIDERED**
14 **FAIR, ADEQUATE, AND REASONABLE**
15

16 Notwithstanding a presumption of fairness, the settlement must be evaluated in its
17 entirety. The evaluation of any settlement requires factoring unknowns. “As the court
18 does when it approves a settlement as in good faith under Code of Civil Procedure
19 section 877.6, the court must at least satisfy itself that the class settlement is within the
20 ‘ballpark’ of reasonableness. See *Tech-Bilt, Inc. v. Woodward-Clyde & Associates* (1985)
21 38 Cal.3d 488, 499–500. While the court is not to try the case, it is ‘called upon to
22 consider and weigh the nature of the claim, the possible defenses, the situation of the
23 parties, and *the exercise of business judgment* in determining whether the proposed
24 settlement is reasonable.’ (*City of Detroit v. Grinnell Corporation*, *supra*, 495 F.2d at p.
25 462, italics added.)” *Kullar*, 168 Cal.App.4th at 133 (emphasis in original).

1
2 **1. Amount Offered in Settlement**

3 The most important factor is the strength of the case for plaintiffs on the merits,
4 balanced against the amount offered in settlement.” (*Id.* at 130.)

5 Class Counsel estimated Defendant’s maximum exposure at \$2,385,681, based on
6 the following analysis:

7

Violation	Maximum Exposure
8 Off-the-Clock Work	\$54,145.00
9 Unpaid Overtime	\$1,319.00
10 Unpaid Sick Time	\$3,354.00
11 Meal Period Violations	\$300,669.00
12 Rest Period Violations	\$300,669.00
13 Unreimbursed Business	\$88,125.00
14 Expenses	
15 Wage Statement Penalties	\$213,550.00
16 Waiting Time Penalties	\$323,850.00
17 PAGA Penalties	\$1,100,000.00
18 Total	\$2,385,681.00

19

20 (Zakay Decl. ¶¶ 26-36.)

21 Class Counsel obtained a gross settlement valued at \$195,000. This is
22 approximately 8.2% of Defendant’s maximum exposure and, depending on the success of
23 the meal and rest break claims and whether a class could be certified with respect to
24 same, potentially in excess of actual liability.

25 //

2. The Risks of Future Litigation

The case is likely to be expensive and lengthy to try. Procedural hurdles (e.g., motion practice and appeals) are also likely to prolong the litigation as well as any recovery by the class members. Even if a class is certified, there is always a risk of decertification. *Weinstat v. Dentsply Intern., Inc.* (2010) 180 Cal.App.4th 1213, 1226 [“Our Supreme Court has recognized that trial courts should retain some flexibility in conducting class actions, which means, under suitable circumstances, entertaining successive motions on certification if the court subsequently discovers that the propriety of a class action is not appropriate.”].) Further, the settlement was negotiated and endorsed by Class Counsel who, as indicated above, are experienced in class action litigation. Based upon their investigation and analysis, the attorneys representing Plaintiff and the class are of the opinion that this settlement is fair, reasonable, and adequate. (Zakay Decl. ¶40.)

The Court also notes that Plaintiff brings a PAGA claim on behalf of the LWDA, which was sent a copy of the Settlement Agreement on July 12, 2022 and has not yet objected. (Proof of Service to the LWDA filed 7/12/2022.) Any objection by it will be considered at the final fairness hearing.

3. The Releases Are Limited

The Court has reviewed the Releases to be given by the absent class members and the named plaintiff. The releases, described above, are tailored to the pleadings and release only those claims in the pleadings. There is no general release by the absent class. The named plaintiff’s general release is appropriate given that she was represented by counsel in its negotiation.

1 **4. Conclusion**

2 Class Counsel estimated Defendant's maximum exposure at \$2,385,681. Class
3 Counsel obtained a gross settlement valued at \$195,000. This is approximately 8.2% of
4 Defendant's maximum exposure, which, given the uncertain outcomes, including the
5 potential that the class might not be certified, that liability is a contested issue, and that
6 the full amount of penalties would not necessarily be assessed even if the class is certified
7 and liability found, the settlement is within the "ballpark of reasonableness."

8
9 **C. CONDITIONAL CLASS CERTIFICATION MAY BE GRANTED**

10 A detailed analysis of the elements required for class certification is not required,
11 but it is advisable to review each element when a class is being conditionally certified.
12 *Amchem Products, Inc. v. Winsor* (1997) 521 U.S. 591, 620, 622-627. The party
13 advocating class treatment must demonstrate the existence of an ascertainable and
14 sufficiently numerous class, a well-defined community of interest, and substantial
15 benefits from certification that render proceeding as a class superior to the alternatives."
16 *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1021.

17 **1. The Proposed Class is Numerous**

18 There are approximately 195 putative Class Members. (Settlement Agreement
19 ¶III.A.2.) Numerosity is established. *Franchise Tax Bd. Limited Liability Corp. Tax*
20 *Refund Cases* (2018) 25 Cal.App.5th 369, 393: stating that the "requirement that there
21 be many parties to a class action is liberally construed," and citing examples wherein
22 classes of as little as 10, *Bowles v. Superior Court* (1955) 44 Cal.2d 574, and 28,
23 *Hebbard v. Colgrove* (1972) 28 Cal.App.3d 1017, were upheld).

24 //

25 //

1 **2. The Proposed Class Is Ascertainable**

2 “A class is ascertainable, as would support certification under statute
3 governing class actions generally, when it is defined in terms of objective
4 characteristics and common transactional facts that make the ultimate identification
5 of class members possible when that identification becomes necessary.” *Noel v. Thrifty*
6 *Payless, Inc.* (2019) 7 Cal.5th 955, 961 (*Noel*).

7 The class is defined above. Class Members are ascertainable through
8 Defendant’s regular business records. (Zakay Decl. ¶48.)

9 **3. There Is A Community of Interest**

10 “The community of interest requirement involves three factors: ‘(1) predominant
11 common questions of law or fact; (2) class representatives with claims or defenses typical
12 of the class; and (3) class representatives who can adequately represent the class.’”
13 *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.

14 As to predominant questions of law or fact, Plaintiff contends that the statutes
15 relating to each of her claims apply with equal force and effect to the entire Settlement
16 Class. Plaintiff contends that Defendant’s policies and practices apply class-wide and
17 Defendant’s liability can be determined by facts common to all members of the class.
18 (Zakay Decl. ¶49.)

19 As to typicality, Plaintiff contends that her claims are typical of the proposed
20 Settlement Class because they arise from the same factual basis and are based on the
21 same legal theories applicable to the other Class Members. (*Id.* at ¶50.)

22 As to adequacy, Plaintiff represents that she does not have conflicts of interest
23 with the class, has participated in the litigation, and is aware of her duty as a Class
24 Representative. (Declaration of Claudia Nunez Porcayo ¶¶ 5-7.) As previously stated,
25 Class Counsel have experience in class action litigation.

1
2 **4. Substantial Benefits Exist**

3 Given the relatively small size of the individual claims, a class action is superior to
4 separate actions by the class members.

5
6 **D. THE PROPOSED NOTICE PLAN MEETS THE REQUIREMENTS**
7 **OF DUE PROCESS**

8 The purpose of notice is to provide due process to absent class members. A practical
9 approach is required, in which the circumstances of the case determine what forms of
10 notice will adequately address due process concerns. *Noel*, 7 Cal.5th at 982. California
11 Rules of Court, rule 3.766 (e) provides that in determining the manner of the notice, the
12 court must consider: (1) the interests of the class; (2) the type of relief requested; (3) the
13 stake of the individual class members; (4) the cost of notifying class members; (5) the
14 resources of the parties; (6) the possible prejudice to class members who do not receive
15 notice; and (7) the res judicata effect on class members.

16 **1. Method of class notice**

17 No later than ten (10) business days after the Preliminary Approval Date,
18 Defendant shall provide the Settlement Administrator with the Class Data for purposes
19 of preparing and mailing Notice Packets to the Class Members. (§III.L.1) Upon receipt
20 of the Class Data, the Settlement Administrator will perform a search based on the
21 National Change of Address Database to update and correct any known or identifiable
22 address changes. No later than fourteen (14) calendar days after receiving the Class
23 Data from Defendant, the Settlement Administrator shall mail copies of the Notice
24 Packet to all Class Members via regular First-class U.S. Mail and electronic mail.

25 (§III.L.3)

1 Any Notice Packets returned to the Settlement Administrator as non-delivered on
2 or before the Response Deadline shall be re-mailed to any forwarding address provided.
3 Within ten calendar days. (§III.L.4) If no forwarding address is provided, the Settlement
4 Administrator shall within 5 calendar days attempt to determine a correct address by
5 lawful use of skip-tracing, or other search using the name, address and/or Social
6 Security number of the Class Member involved, and shall then perform a re-mailing, if
7 another mailing address is identified by the Settlement Administrator. In addition, if
8 any Notice Packets, which are addressed to Class Members who are currently employed
9 by Defendant, are returned to the Settlement Administrator as non-delivered and no
10 forwarding address is provided, the Settlement Administrator shall notify Defendant.
11 Defendant will request that the currently employed Class Member provide a corrected
12 address, and transmit to the Administrator any corrected address provided by the Class
13 Member. Class Members who received a re-mailed Notice Packet shall have their
14 Response Deadline extended fifteen (15) days from the original Response Deadline.
15 (§III.L.4)

16 **2. Content of class notice.**

17 A copy of the proposed class notice is attached to the Settlement Agreement as
18 Exhibit A. The notice includes information such as: a summary of the litigation; the
19 nature of the settlement; the terms of the settlement agreement; the maximum
20 deductions to be made from the gross settlement amount (i.e., attorney fees and costs,
21 the enhancement award, and claims administration costs); the procedures and deadlines
22 for participating in, opting out of, or objecting to, the settlement; the consequences of
23 participating in, opting out of, or objecting to, the settlement; and the date, time, and
24 place of the final approval hearing. See Cal Rules of Court, rule 3.766(d). It is to be
25

1 given in English only, as Class Members were required to be fluent in English to work
2 for Defendant. (Zakay Decl. ¶56.)

3 The Notice is adequate and the plan meets the requirements of due process,
4 excepting that aggrieved employees need to be advised that they may not opt out of the
5 PAGA settlement and are bound by the release of the PAGA claims. *Robinson v.*
6 *Southern Counties Oil Co.* (2020) 53 Cal. App. 5th 476, 482.

7 **3. Settlement Administration Costs**

8 Settlement administration costs are estimated at **\$8,000**, including the cost of
9 notice (¶III.M.12). Prior to the time of the final fairness hearing, the settlement
10 administrator must submit a declaration attesting to the total costs incurred and
11 anticipated to be incurred to finalize the settlement for approval by the Court.

12 **E. ATTORNEY FEES AND COSTS**

13 California Rule of Court, rule 3.769(b) states: “Any agreement, express or
14 implied, that has been entered into with respect to the payment of attorney fees or the
15 submission of an application for the approval of attorney fees must be set forth in full in
16 any application for approval of the dismissal or settlement of an action that has been
17 certified as a class action.”

18 Ultimately, the award of attorney fees is made by the court at the fairness
19 hearing, using the lodestar method with a multiplier, if appropriate. *PLCM Group, Inc.*
20 *v. Drexler* (2000) 22 Cal.4th 1084, 1095-1096; *Ramos v. Countrywide Home Loans, Inc.*
21 (2000) 82 Cal.App.4th 615, 625-626; *Ketchum III v. Moses* (2000) 24 Cal.4th 1122,
22 1132-1136. In common fund cases, the court may use the percentage method. If
23 sufficient information is provided a cross-check against the lodestar may be conducted.
24 *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 503. Despite any
25

1 agreement by the parties to the contrary, “the court ha[s] an independent right and
2 responsibility to review the attorney fee provision of the settlement agreement and
3 award only so much as it determined reasonable.” *Garabedian v. Los Angeles Cellular*
4 *Telephone Company* (2004) 118 Cal.App.4th 123, 128.

5 The question of class counsel’s entitlement to **\$65,000** (33 1/3%) in attorney fees
6 will be addressed at the final fairness hearing when class counsel brings a noticed
7 motion for attorney fees. If a lodestar analysis is requested class counsel must provide
8 the court with current market tested hourly rate information and billing information so
9 that it can properly apply the lodestar method and must indicate what multiplier (if
10 applicable) is being sought.

11 Fee Split: Class Counsel represents that the attorneys' fees awarded shall be
12 allocated as 50% to Zakay Law Group, APC and 50% to the JCL Law Firm, APC, to
13 which Plaintiff consented in writing. (Zakay Decl. ¶67.)

14 Class counsel should also be prepared to justify the costs sought (capped at
15 **\$15,000**) by detailing how they were incurred.

16 17 **F. SERVICE AWARDS**

18 The Settlement Agreement provides for a service award of up to **\$10,000** for the
19 class representative. Trial courts should not sanction enhancement awards of thousands
20 of dollars with “nothing more than *pro forma* claims as to ‘countless’ hours expended,
21 ‘potential stigma’ and ‘potential risk.’ Significantly more specificity, in the form of
22 quantification of time and effort expended on the litigation, and in the form of reasoned
23 explanation of financial or other risks incurred by the named plaintiffs, is required in
24 order for the trial court to conclude that an enhancement was ‘necessary to induce [the
25

1 named plaintiff] to participate in the suit” *Clark v. American Residential Services*
2 *LLC* (2009) 175 Cal.App.4th 785, 806-807, italics and ellipsis in original.

3 In connection with the final fairness hearing, named Plaintiff must submit a
4 declaration attesting to why she should be compensated for the expense or risk she may
5 have incurred in conferring a benefit on other members of the class. *Id.* at 806. In
6 particular plaintiff should set forth why an award well in excess of the average payment
7 to Class members is appropriate.

8 The Court will decide the issue of the enhancement award at the time of final
9 approval.

10
11 **V. CONCLUSION AND ORDER**

12 Contingent upon the parties amending the notice and filing the Declaration of
13 Defendant contemplated by Settlement Agreement Paragraph III.A.2 by September 19,
14 2022, as set forth above, the Court hereby:

15 (1) Grants preliminary approval of the settlement as fair, adequate, and
16 reasonable;

17 (2) Grants conditional class certification;

18 (3) Appoints Claudia Nunez Porcayo as Class Representative;

19 (4) Appoints JCL Law Firm, APC and Zakay Law Group, APLC as Class
20 Counsel;

21 (5) Appoints ILYM Group, Inc. as Settlement Administrator;

22 (6) Approves the proposed notice plan; and

23 (7) Approves the proposed schedule of settlement proceedings as follows:

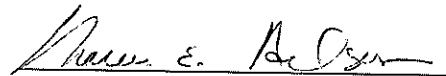
- 24 • Preliminary approval: September 12, 2022
25

- Deadline for settlement administrator to mail notices: October 10, 2022 (within 14 calendar days from receipt of the Class Data)
- Deadline for class members to opt out: November 28, 2022 (45 calendar days from the initial mailing of the Notice Packets)
- Deadline for class members to object: November 28, 2022 (45 calendar days from the initial mailing of the Notice Packets)
- Deadline for class counsel to file motion for final approval: December 14, 2022, 2022 (16 court days prior to final fairness hearing)
- Final fairness hearing: January 9, 2023 at 9:00 a.m.

Any failure to fully and timely comply with the contingencies may result in the revocation of this Order in its entirety.

Dated:

9/12/2022



MAREN E. NELSON

Judge of the Superior Court

EXHIBIT F

From: [DIR PAGA Unit](#)
To: [Tesla Stone](#)
Subject: Thank you for your Proposed Settlement Submission
Date: Tuesday, July 12, 2022 2:22:48 PM

07/12/2022 02:22:13 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: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT G

EXHIBIT H

JCL LAW FIRM, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Fax: (619) 599-8291

FIRM RESUME

Areas of Practice: Employee Class Actions, Wage and Hour Class Actions, Civil Litigation, and Unlawful Housing Practices.

ATTORNEY BIOGRAPHIES

Jean-Claude Lapuyade, Esq.
California Bar Number 248676
Founding Partner

Biography:

Mr. Lapuyade is a San Diego based labor and employment attorney representing aggrieved California employees and the victims of unlawful housing practices throughout the State of California. Mr. Lapuyade's litigation practice focuses on representing California employees in wage and hour class actions for unpaid wages, missed meal and rest breaks, and misclassification, wrongful termination cases and tenants in unlawful housing class actions. Mr. Lapuyade prides himself on providing his clients with aggressive, attentive and result driven representation through the litigation process, trial and arbitration. Since 2007, Mr. Lapuyade successfully recovered in excess of \$100 million in monetary awards for his clients.

Mr. Lapuyade served as co-editor of the Insurance Column for Consumer Attorneys of San Diego from 2011 to 2014. As editor, Mr. Lapuyade was responsible for publishing monthly articles in the Trial Bar News periodical analyzing complex insurance coverage issues. Mr. Lapuyade is a four-time recipient of the Super Lawyers Rising Star by Thomson Reuters. To be eligible for inclusion in Rising Stars, a candidate must be either 40 years old or younger or in practice for 10 years or less. While up to 5 percent of the lawyers in a state are named to Super Lawyers, no more than 2.5 percent are named to Rising Stars.

Bar Admissions:

- California
- U.S. District Court Southern District of California
- U.S. District Court Central District of California
- U.S. District Court Eastern District of California
- U.S. District Court Northern District of California

Professional Associations:

- California Employment Lawyers Association, 2007 to Present
- Consumer Attorneys of San Diego, 2007 to 2020
- American Bar Association, Section of Litigation, Member, 2007 to 2020
- American Bar Association, Labor & Employment Section, Member, 2007 to 2020
- American Bar Association, Tort, Trial & Insurance Section, Member, 2007 to 2020
- California Bar Association, Labor & Employment Section, Member, 2007 to Present
- California Bar Association, Litigation Section, Member, 2007 to Present

Education:

- **California Western School of Law**
 - J.D. - 2006
 - Honors: Deans Merit Scholarship, California Western School of Law 2005 - 2006
- **University of Arizona**
 - B.A. - 2001
 - Major: History

Honors:

- Super Lawyers Rising Star, Thomson Reuters, 2015 - 2018
- Distinguished Advocate Award for Outstanding Oral Advocacy, 2005 - 2006

Sydney Castillo-Johnson, Esq.
California Bar Number 343881
Associate Attorney

Biography:

Ms. Castillo-Johnson is a San Diego based labor and employment attorney representing California employees throughout the state of California. Ms. Castillo-Johnson's litigation practice focuses on representing current and former employees in wage and hour class actions for unpaid wages, missed meal and rest breaks, misclassification, and wrongful termination.

Ms. Castillo-Johnson volunteered her time at California Western School of Law first as a student intern and later as a student manager with the Community Law Project which offers legal services to the low-income community of San Diego. She now sits on the Advisory Council with the Community Law Project.

Education:

- **California Western School of Law**
 - J.D.- 2022
 - Honors:
 - Dean's Honor List: Spring 2021, Fall 2021
 - Public Service Honor Society Fall 2021
 - 3L Academic Merit Scholarship
 - Dean's Diversity, Service, and Leadership Scholarship
 - Activities: Community Law Project Student Manager
- **Azusa Pacific University**
 - B.A. – 2018
 - Major: Criminal Justice

Monnett De La Torre, Esq.
California Bar Number 272884
Senior Associate

Biography:

Ms. De La Torre is a San Diego and Ventura County based labor and employment attorney representing aggrieved California employees throughout the State of California. Ms. De La Torre's litigation practice focuses on representing California employees in wage and hour class and representative actions for unpaid wages, missed meal and rest breaks, misclassification, penalties, and wrongful termination cases. Ms. De La Torre has extensive experience handling internal workplace investigations. Ms. De La Torre has handled matters before the Department of Fair Employment and Housing, Equal Employment Opportunity Commission and Department of Labor.

Ms. De La Torre is a two-time recipient of the Super Lawyers Rising Star by Thomas Reuters. To be eligible for inclusion in Rising Stars, a candidate must be either 40 years old or younger or in practice for 10 years or less. While up to five percent of the lawyers in a state are named to Super Lawyers, no more than 2.5 percent are named to Rising Stars.

Bar Admissions:

- California
- U.S. District Court Southern District of California

Professional Associations:

- California Employment Lawyers Association, 2022 to Present
- Consumer Attorneys of San Diego, 2010-2015
- American Bar Association, Labor & Employment Section, Member, 2015 to Present
- California Bar Association, Labor & Employment Section, Member, 2015 to Present
- San Diego La Raza Lawyers Association, 2010-2015
- Ventura County Bar Association, 2015-Present
- Women Lawyers of Ventura County, 2015-Present

Education:

- **New England School of Law**
 - J.D.- 2010

- Honors:
 - Dean's List Consecutive years
- **University of California, San Diego**
 - B.A.- 2006
 - Major: Economics
 - Minor: Latin American Studies

Honors:

- Super Lawyers Rising Star, Thomson Reuters, 2021 and 2022
- Pacific Cost Business Times, "Top 40 under 40" Award
- Daily Transcripts "Top Young Attorney: nominee, consecutive years"

REPORTED CASES

- *Blanchette et al., v. Superior Court (GHA Homes)*, 8 Cal.App.5th 521, 2017
- *Chmurny v. State*, 392 Md. 159, 2006

CLASS ACTION & REPRESENTATIVE CASES

- *Martinello v. Century Wilshire, Inc.*, Los Angeles Superior Court Case No. 20STCV32613 (March 1, 2022) Hon. Carolyn Kuhl approved a \$550 billing rate and appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as Class Counsel.
- *Wilson v. Spreen Inc. (dba Spreen Honda)*, San Bernardino Superior Court Case No. CIVSB2119857 (April 6, 2022) Hon. David Cohn approved a \$300,000 PAGA action settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Ledesma v. TVJ Sons I, Inc.; Porter and Howard, Inc.* Santa Barbara Superior Court Case No. 20CV03573 (November 10, 2021) Hon. Jed Beebe approved a \$350,000 PAGA action settlement for meal and rest period violations. The JCL Law Firm, APC represented the State of California and the Aggrieved Employees.
- *Jacobs v. Rush Media Company, LLC; XLT Management Services, Inc.*, Los Angeles Superior Court Case No. 20STCV32350 (May 2, 2022) Hon. Daniel J. Buckley appointed the JCL Law Firm, APC as Class Counsel and approved a \$330,000 class action settlement for, *inter alia*, independent contractor misclassification.
- *Chavez v. HTL Conrad Domestic, LLC; HTL Conrad Domestic Employer, LLC*, San Diego Superior Court Case No. 37-2020-00016193-CU-OE-CTL (June 9, 2022) Hon. John S. Meyer approved a \$850,000 PAGA action settlement for, *inter alia*, failure to compensate overtime at the regular rate of pay. The JCL Law Firm, APC acted as representative PAGA counsel for the State of California and the Aggrieved Employees.
- *Renteria v. Love's Country Stores of California*, San Bernardino Superior Court Case No. CIVDS20164481 (June 14, 2022) Hon. David Cohn approved a \$2.2 million dollar class action and PAGA action settlement for, *inter alia*, unpaid overtime and sick pay. The JCL Law Firm, APC acted as Class Counsel and as representative PAGA counsel for the State of California.
- *Lopez v. Adidas America, Inc.*, Ventura Superior Court Case No. 56-2021-005498444-CU-OE-VTA (April 4, 2022) Hon. Mark Borrell approved a \$1.5 million dollar class action and PAGA action settlement for, *inter alia*, inaccurate overtime calculations, and appointed the JCL Law Firm, APC as Class Counsel.
- *Felix v. TVI, Inc., d.b.a. Savers*, Santa Clara Superior Court Case No. 21CV376407 (February 18, 2022) Hon. Sunil R. Kulkarni approved a \$1.8 million dollar class action and PAGA action settlement for, *inter alia*, unpaid off-the-clock work. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Munoz v. AMTCR*, San Bernardino Superior Court Case No. CIV-DS2001914 (August 24, 2021) Hon. David Cohn approved a \$1.8 million dollar class and PAGA settlement for, *inter alia*, inaccurate itemized wage statements. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- *Nunes v. Home Depot U.S.A., Inc.*, San Joaquin Superior Court Case No. STK-CV-UOE-2020-0011011 (October 20, 2021 – Hon. Roger Ross approved a \$1.5 million dollar class and PAGA settlement for, *inter alia*, miscalculated meal period premiums and appointed Jean-Claude Lapuyade, Esq. as Class Counsel.)
- *Pillsbury v. T&T Restaurants CA, Inc.*, Del Norte Superior Court Case No. CVUJ-20-1214 (December 14, 2021 – Hon. Darren McElfresh approved \$550 billing rate and appointed Jean-Claude Lapuyade, Esq. as Class Counsel in a wage and hour class action settlement.)
- *Latin v. OneMain General Service Corporation*, Stanislaus County Superior Court Case No. CV-20-002498 (October 22, 2021) Hon. Stacy Speiller approved a PAGA action settlement for \$700,000 wage statement violations. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.

- *Elias Kaser v. Aviation Consultants, Inc.*, Orange County Superior Court Case No. 30-2021-01191204-CU-OE-CXC (September 22, 2021 – Hon. Peter J. Wilson approved \$550 billing rate in a representative California Labor Code Private Attorney General Act settlement).
- *Rodriguez v. RSI Home Products, Inc.*, San Bernardino Superior Court Case No. CIVDS2023354 (July 30, 2021 – Hon. David Cohn approved a \$1.45 million class and PAGA settlement for, *inter alia*, failure to comply with piece-rate laws, and appointed the JCL Law Firm, APC as Class Counsel)
- *Jer Vang v. Bridge Property Management*, Alameda County Superior Court, Case No RG19047434 (January 8, 2021 – Hon. Winifred Smith approved a class and PAGA settlement for, *inter alia*, unpaid off the clock work. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- *Johnson v. Volt Management Corp., Inc. et al.*, Los Angeles County Superior Court, Case No. 19STCV16466 (December 11, 2020 – Hon. Amy Hogue approved a PAGA Settlement negotiated on behalf of the State of California and the aggrieved employees by the JCL Law Firm, APC.)
- *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior Court, Case No. 19STCV20382 (November 24, 2020 – Hon. John P. Doyle appointed the JCL Law Firm, APC as class counsel and approved a class and PAGA settlement for, *inter alia*, missed meal and rest periods.)
- *Villalobos v. Alterra Group, LLC et al.*, Los Angeles County Superior Court, Case No. 19STCV19448 (November 11, 2020 – Hon. Richard Fruin approved a PAGA Settlement for, *inter alia*, unreimbursed business expenses. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.)
- *Stevens et al., v. Bank of England*, San Diego County Superior Court Case No. 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer appointed JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for, *inter alia*, off-the-clock work.)
- *Frazier v. ASA Carlton, Inc.*, San Diego Superior Court Case No. 37-2019-00036147 (October 9, 2020 Hon. Kenneth Medel appointed the JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for off-the-clock work.)
- *Krake et al., v. Central Valley Diner, Inc.*, Placer County Superior Court Case No. SCV0041645 (September 4, 2020 – Hon. Michael Jones appointed JCL Law Firm as class counsel and granted final approval of wage and hour class action for meal period violations.)
- *Conner v. Ascendant Marketing, LLC et al.*, San Diego Superior Court Case No. 37-2019-00026864-CU-OE-CTL (July 24, 2020 Hon. Joel Wohlfeil granted approval of PAGA Settlement for, among other things, off-the-clock work. JCL Law Firm, APC acted as lead counsel.)
- *Guerrero v. Estancia Operations, LLC.*, San Diego Superior Court Case No. 37-2019-00028963 (August 25, 2020 – Hon. Katherine Bacal approved PAGA Settlement for, *inter alia*, missed meal and rest periods. JCL Law Firm, APC, acted as lead counsel.)
- *Moreno v. Dash Lube, et al.*, United States District Court, Southern District of California, Case No. 18cv1922 DMS (AHG) (December 13, 2019 – Granted class certification of Labor Code Section 226 claim and appointed JCL Law Firm, APC, as Class Counsel.)
- *Perkins et al., v. Tahiti Enterprises, Inc., et al.*, Orange County Superior Court Case No. 30-2016-00863095 (October 22, 2019 – Hon. Peter Wilson appointed JCL Law Firm, APC, as Class Counsel and granted final approval for an unlawful housing class action settlement arising out of Civil Code Section 1940.1.)
- *Hill v. Stetak Holdings, Ltd.*, San Diego Superior Court Case No., 37-2018-00000747 (January 28, 2020 – Hon. Kenneth Medel appointed JCL Law Firm, APC as class counsel and granted final approval of wage and hour class action for unpaid overtime.)
- *Shachno et al., v. KT Hotels, LLC, et al.* San Diego Superior Court Case No Case No. 37-2018-00043601 (May 31, 2019 – Hon. Gregory Pollack appointed JCL Law Firm, APC, as Class Counsel and granted preliminary approval for the wage and hour class action settlement involving nearly 900 current and former employees. Final approval scheduled for October 4, 2019)
- *Almanza v. The Express Group, Inc.*, San Bernardino Superior Court Case No. CIVDS1722542 (April 19, 2019 – Hon. David Cohn appointed the JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement for *inter alia*, missed meal and rest periods and independent contractor misclassification.)
- *Moschetto v. Pillow Global, Inc.* San Diego Superior Court, Case No. 37-2017-00024031-CU-OE-CTL (April 5, 2019 – Hon. John S. Meyer appointed JCL LAW Firm, APC, as Class Counsel and granted final approval for a wage and hour wage class action settlement involving misclassified house cleaners.)
- *Burke v. Friendship Hotel, LLC*, San Diego County Superior Court Case No. 37-2017-00022517-CU-OE-CTL (March 10, 2019 – final approval granted on for an unlawful housing class action arising under Civil Code Section 1940.2)
- *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court Case No. 37-2018-00014181-CU-OE-CTL (February 8, 2019 – Hon. Gregory W. Pollock appointed JCL Law Firm, APC as Class Counsel and granted final approval for a wage and hour class action settlement for meal and rest period violations);

- *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case No. CIVDS1512625, (July 27, 2018 – Hon. Thomas S. Garza appointed JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement involving claims for on duty meal and rest periods.);
- *Summerlin et al. v. Maplebear, Inc. dba Instacart*, Los Angeles Superior Court Case No. BC603030 (2018 - certified and settled wage and hour class action.)
- *Ortega v. Prime Healthcare*, San Diego Superior Court Case No. 37-2014-00011240-CU-OE-CTL (2018 – Approved PAGA only settlement for on duty meal and rest periods)
- *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-2016-00012373-CU-OE-CTL (2017 - Certified and settled class action for employee misclassification);
- *Crawford v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No. BC617160 (2017 - Certified and settled wage and hour class action.);
- *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case No. CIVDS1505181 (2016 - Certified and settled wage and hour class action);
- *Burns v. Shalom, LLC*, San Diego Superior Court, Case No., 37-2013-00058356-CU-BT-CTL (2015 - certified and settled class action for unlawful housing practices arising out of Civil Code Section 1940.1);