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Attorneys for Plaintiff CLAUDIA NUNEZ PORCAYO

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

IN AND FOR THE 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

[Complaint Filed 07/08/2021]

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

Hearing Date: September 7, 2022

Hearing Time: 9:00 a.m.

Judge: Maren Nelson

Dept.: 17

1 I, JEAN CLAUDE LAPUYADE, declare as follows:

2 1. I am the managing partner of the law firm of The JCL Law Firm, APC, and counsel of
3 record for Plaintiff CLAUDIA NUNEZ PORCAYO, an individual, on behalf of herself, and on behalf
4 of all persons similarly situated ("Plaintiff") in this matter. As such, I am fully familiar with the facts,
5 pleadings and history of the matter.

6 2. I am submitting this supplemental declaration in support of Plaintiff's Motion for
7 Preliminary Approval of Class Action Settlement.

8 3. Attached hereto **Exhibit #1** is a true and correct Redline copy of the First Amended
9 Settlement Agreement.

10 4. Attached hereto as **Exhibit #2** is a true and correct fully executed copy of the First
11 Amended Settlement Agreement.

12 5. Attached hereto as **Exhibit #3** is a true and correct Redline Copy of the First Amended
13 Class Notice.

14 6. Attached hereto as **Exhibit #4** is a true and correct copy of the proposed Request for
15 Exclusion Form.

16 **(1) Dunk/Kullar Analysis**

17 7. In this instance, Plaintiff's Counsel requested a sample that would provide between 85%
18 and 90% confidence factor/interval with a margin of error equal to or less than 10%. Based on this
19 criterion, Plaintiff ultimately accepted a 25% random sample of the Class Members' time and payroll
20 records for the purpose of determining Defendant's liability exposure at the time of mediation. In
21 arriving at these statistical parameters, Plaintiff's Counsel prioritized fairness to the Class Members at
22 this stage of the litigation by balancing the need for a statistically meaningful sample to evaluate
23 Defendant's liability exposure at this early stage of litigation against preserving the settlement funds
24 for distribution to the Class Members.

25 8. Plaintiff's Counsel recognizes that a statistical model with a confidence factor/interval
26 between 85% and 90% and a margin of error of equal to or less than 10% would likely be inadequate
27 at the time of certification or trial. Here, however, the sample was used to estimate Defendant's
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1 liability for an early mediation, rather than for certification or trial. Further, the class size in this matter
2 (less than 200) is relatively small. To obtain a statistical sampling with a greater confidence
3 factor/interval with a smaller margin of error would have greatly increased the investigative costs in
4 this matter. More specifically, a trial ready expert report would be needed to establish industry
5 recognized statistical sampling consisting of a confidence interval/factor of 95% with a margin of error
6 of less than 3%. The cost associated with obtaining such a report would have been reimbursed from
7 the common fund settlement thereby reducing the net settlement amount to be allocated to the Class
8 Members.

9 9. Further, while Plaintiff's Counsel acknowledges that the industry standard for admissible
10 extrapolation is typically based on a confidence interval/factor of 95% with a margin of error of less
11 than 3%, courts throughout California have admitted statistical samples with a lesser confidence
12 factor/interval and a greater margin of error. See *e.g., Ratanasen v. State of California, Department*
13 *of Health and Human Service* (9th Cir. 1993) 11 F.3d 1467 (affirmed use of 3% random sample to
14 prove damages).

15 10. Plaintiff's Counsel ultimately determined that in this case – with a class of less than 200
16 and, consequently, the potential for a modest settlement – that the benefits to the Class Members of a
17 25% random sample of time and payroll data, i.e., preserving settlement funds for the Class Members,
18 outweighed the need for a costly trial ready expert report at this stage of the litigation.

19 **(2) Plaintiff's Meal Period Theory**

20 11. Plaintiff's theory of the case was that Defendant implemented and maintained an
21 unlawful meal period rounding policy in violation of *Donahue v. AMN Services, LLC* (2021) 11 Cal.5th
22 58 ("*Donahue*"). Plaintiff's theory of the case required Plaintiff to analyze the Class Members' time
23 records to identify potentially rounded meal periods. Other than Plaintiff, Plaintiff's Counsel did not
24 interview other putative class members about the potential rounding issue because the time records
25 represent the best evidence of potential violations.

26 12. Defendant's time records evidenced a modest 3.6% violation rate for *missed, late* and
27 *short* meal periods. Stated differently, Defendant's time records evidenced a 96.4% meal period

1 compliance rate. However, the time records also indicated that 29.3% of all compliant meal periods
2 were exactly thirty (30) minutes or sixty (60) minutes in length. Plaintiff argued that these facially
3 compliant meal periods were in fact fictitiously recorded and/or rounded meal periods creating
4 presumptive violations under *Donahue*. Defendant, however, argued that it did not engage in time
5 rounding, but that instead, employee manually entered their meal break time-punches, resulting in
6 artificial rounding by the employees themselves. Moreover, many of the so-called “rounded” meal
7 breaks were exactly 60-minute long (as opposed to exactly 30-minute long), and therefore compliant.
8 Thus, Defendant argued that there was no potential liability for Plaintiff’s alleged meal period
9 violations.

10 **(3) Payment Formula**

11 13. Paragraph III.M.1 at pp. 20:24-27 states that “Individual Settlement Payments for Class
12 Members who submit valid and timely requests for exclusion will be redistributed to Settlement Class
13 Members who do not submit valid and timely requests for exclusion on a pro rata basis based on their
14 respective Payment Ratios.” This language ensures that any settlement funds allocated to Class
15 Members that opt-out is redistributed to the Settlement Class Members.

16 **(4) Notice and Administration**

17 14. Paragraph III.L.4 at p. 17, has been amended to set a deadline to the administrator to re-
18 mail any returned notices to class members.

19 15. A Proposed Request for Exclusion form is attached hereto as **Exhibit #4**.

20 16. Paragraph III.L.3 at p. 16 has been amended to strike the word “email.”

21 17. The Notice has been amended to disclose verbatim the releases in the Settlement
22 Agreement to the Class Members. A true and correct redline copy of the revised Notice is attached
23 hereto as **Exhibit #3**.

24 18. The Notice has been amended to reflect the Court’s updated social distancing procedures.
25 A true and correct redline copy of the revised Notice is attached hereto as **Exhibit #3**.

26
27 ///

19. The date for the final fairness hearing should be no earlier than January 5, 2023, assuming the Court grants this motion for preliminary approval on September 7, 2022.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 22nd day of August 2022, at San Diego, California.

JCL LAW FIRM, APC

By: 
Jean-Claude Lapuyade
Attorneys for Plaintiff

EXHIBIT 1

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
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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;

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:

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,
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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

1 mailing the Notice Packets to the Class Members as directed by the Court; receiving
2 and reporting the objections and requests for exclusion; calculating, deducting and
3 remitting all legally required taxes from Individual Settlement Payments and
4 distributing tax forms for the Wage Portion and Non-Wage Portion of the Individual
5 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
6 Settlement; processing and mailing tax payments to the appropriate state and federal
7 taxing authorities; providing declaration(s) as necessary in support of preliminary
8 and/or final approval of this Settlement; and other tasks as the Parties mutually agree
9 or the Court orders the Settlement Administrator to perform. The Settlement
10 Administrator shall keep the Parties timely apprised of the performance of all
11 Settlement Administrator responsibilities by among other things, sending a weekly
12 status report to the Parties' counsel stating the date of the mailing, the of number of
13 Elections Not to Participate in Settlement it receives (including the numbers of valid
14 and deficient), and number of objections received.

15 L. Notice Procedure.

- 16 1. Class Data. No later than ten (10) business days after the Preliminary
17 Approval Date, Defendant shall provide the Settlement Administrator with the
18 Class Data for purposes of preparing and mailing Notice Packets to the Class
19 Members.
- 20 2. Notice Packets.
 - 21 a) The Notice Packet shall contain the Notice of Class Action Settlement
22 in a form substantially similar to the form attached as **Exhibit A** and a
23 Request for Exclusion form attached hereto as **Exhibit B**. The Notice
24 of Class Action Settlement shall inform Class Members and
25 Aggrieved Employees that they need not do anything in order to
26 receive an Individual Settlement Payment and/or Aggrieved
27 Employees' individual shares of the PAGA Settlement and to keep the
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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
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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 within ten (10) calendar days.
12 If no forwarding address is provided, the Settlement Administrator shall
13 within five (5) calendar days ~~promptly~~ attempt to determine a correct address
14 by lawful use of skip-tracing, or other search using the name, address and/or
15 Social Security number of the Class Member involved, and shall then perform
16 a re-mailing, if another mailing address is identified by the Settlement
17 Administrator. In addition, if any Notice Packets, which are addressed to
18 Class Members who are currently employed by Defendant, are returned to the
19 Settlement Administrator as non-delivered and no forwarding address is
20 provided, the Settlement Administrator shall notify Defendant. Defendant
21 will request that the currently employed Class Member provide a corrected
22 address, and transmit to the Administrator any corrected address provided by
23 the Class Member. Class Members who received a re-mailed Notice Packet
24 shall have their Response Deadline extended fifteen (15) calendar days from
25 the original Response Deadline.

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

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

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

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

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

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

2. Calculation of Individual Payments to the Aggrieved Employees. Using the Class Data, the Settlement Administrator shall add up the total number of PAGA pay periods for all Aggrieved Employees during the PAGA Period. The respective PAGA pay periods for each Aggrieved 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.

3. Allocation of Individual Settlement Payments. For tax purposes, Individual Settlement Payments shall be allocated and treated as 10% wages (“Wage Portion”) and 90% interest and penalties (“Non-Wage Portion”). The Wage Portion of the Individual Settlement Payments shall be reported on IRS Form W-2 and the Non-wage Portion of the Individual Settlement Payments shall be reported on IRS Form 1099 issued by the Settlement Agreement.

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

5. No Credit Toward Benefit Plans. The Individual Settlement Payments and individual shares of the PAGA Settlement made to Settlement Class Members and/or Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,

1 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
2 Parties' intention that this Settlement Agreement will not affect any rights,
3 contributions, or amounts to which any Class Members may be entitled under
4 any benefit plans.

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

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

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

- 8 9. Class Representative Service Award. In addition to the Individual Settlement
9 Payment and her individual share of the PAGA Settlement to be paid to
10 Plaintiff, Plaintiff will apply to the Court for an award of not more than
11 \$10,000, as the Class Representative Service Award. Defendant does not
12 presently intend to oppose a Class Representative Service Award of not more
13 than \$10,000 for Plaintiff. The Settlement Administrator shall pay the Class
14 Representative Service Award, either in the amount stated herein if approved
15 by the Court or some other amount as approved by the Court, to Plaintiff from
16 the Gross Settlement Amount no later than fifteen (15) calendar days after the
17 Funding Date. Any portion of the requested Class Representative Service
18 Award that are not awarded to the Class Representative shall be part of the
19 Net Settlement Amount and shall be distributed to Settlement Class Members
20 as provided in this Agreement. The Settlement Administrator shall issue an
21 IRS Form 1099 — MISC to Plaintiff for her Class Representative Service
22 Award. Plaintiff shall be solely and legally responsible to pay any and all
23 applicable taxes on her Class Representative Service Award and shall hold
24 harmless the Defendant from any claim or liability for taxes, penalties, or
25 interest arising as a result of the Class Representative Service Award. The
26 Class Representative Service Award shall be in addition to Plaintiff's
27 Individual Settlement Payment as a Settlement Class Member. Approval of
28

1 this Settlement shall not be conditioned on Court approval of the requested
2 amount of the Class Representative Service Award. If the Court reduces or
3 does not approve the requested Class Representative Service Award, Plaintiff
4 shall not have the right to revoke the Settlement, and it will remain binding.

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

22 11. PAGA Settlement. Ten Thousand Dollars (\$10,000) shall be allocated from
23 the Gross Settlement Amount for settlement of claims for civil penalties under
24 the Private Attorneys General Act of 2004 ("PAGA Settlement"). The
25 Settlement Administrator shall pay seventy-five percent (75%) of the PAGA
26 Settlement (\$7,500) to the California Labor and Workforce Development
27 Agency no later than twenty-five (25) calendar days after the Funding Date
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(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"). 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

1 of the average Individual Settlement Payment and highest Individual
2 Settlement Payment, the Settlement Administration Costs, and any other
3 information as the Parties mutually agree or the Court orders the Settlement
4 Administrator to provide.

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

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

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

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

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

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

- 1 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
2 represent they are expressly authorized by the Parties whom they represent to negotiate
3 this Agreement and to take all appropriate Action required or permitted to be taken by
4 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
5 documents required to effectuate the terms of this Agreement. The persons signing
6 this Agreement on behalf of Defendant represents and warrants that he/she is
7 authorized to sign this Agreement on behalf of Defendant. Plaintiff represents and
8 warrants that she is authorized to sign this Agreement and that she has not assigned
9 any claim, or part of a claim, covered by this Settlement to a third-party.
- 10 T. No Public Comment: The Parties and their counsel agree that they will not issue any
11 press releases, initiate any contact with the press, respond to any press inquiry, or have
12 any communication with the press about the fact, amount or terms of the Settlement
13 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
14 of its terms for any marketing or promotional purposes. Nothing herein will restrict
15 Class Counsel from including publicly available information regarding this settlement
16 in future judicial submissions regarding Class Counsel's qualifications and experience.
17 Further, Class Counsel will not include, reference or use the Settlement Agreement for
18 any marketing or promotional purposes, either before or after the Motion for
19 Preliminary Approval is filed.
- 20 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
21 to the benefit of, the successors or assigns of the Parties, as previously defined.
- 22 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
23 shall be governed by and interpreted according to the laws of the State of California.
- 24 W. Counterparts. This Agreement may be executed in one or more counterparts. All
25 executed counterparts and each of them shall be deemed to be one and the same
26 instrument provided that counsel for the Parties to this Agreement shall exchange
27 among themselves copies or originals of the signed counterparts.

- 1 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
2 is a fair, adequate and reasonable settlement of this Action and have arrived at this
3 Settlement after extensive arms-length negotiations, taking into account all relevant
4 factors, present and potential.
- 5 Y. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
6 respect to the interpretation, implementation and enforcement of the terms of this
7 Agreement and all orders and judgments entered in connection therewith, and the
8 Parties and their counsel submit to the jurisdiction of the Court for purposes of
9 interpreting, implementing and enforcing the settlement and all orders and judgments
10 entered in connection with this Agreement.
- 11 Z. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
12 the Court shall first attempt to construe the provisions valid to the fullest extent
13 possible consistent with applicable precedents so as to define all provisions of this
14 Agreement valid and enforceable.
- 15 AA. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently
16 intend to pursue any claims against the Defendant, including, but not limited to, any
17 and all claims relating to or arising from Plaintiff's employment with Defendant,
18 regardless of whether Class Counsel is currently aware of any facts or legal theories
19 upon which any claims or causes of action could be brought against Defendant,
20 including those facts or legal theories alleged in the operative complaint in this Action.
21 The Parties further acknowledge, understand and agree that this representation is
22 essential to the Agreement and that this Agreement would not have been entered into
23 were it not for this representation.
- 24 BB. Stipulation to Class Certification. The Parties agree to stipulate to class certification
25 for purposes of this settlement only.
- 26 CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
27 Released Claims have merit and give rise to liability on the part of Defendant.
28

1 Defendant claims that the Released Claims have no merit and do not give rise to
2 liability. This Agreement is a compromise of disputed claims. Nothing contained in
3 this Agreement and no documents referred to and no action taken to carry out this
4 Agreement may be construed or used as an admission by or against the Defendant or
5 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
6 than as may be specifically set forth herein, each Party shall be responsible for and
7 shall bear its/his own attorney's fees and costs.

8
9 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

10
11 DATED: _____

CLAUDIA NUNEZ PORCAYO

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

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20 DATED: _____

THE WHOLE CHILD – MENTAL HEALTH &
HOUSING SERVICES

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23 _____
Printed Name

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25 _____
Title

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27 IT IS SO AGREED AS TO FORM BY COUNSEL:

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DATED: _____

JCL LAW FIRM, A.P.C.

By: _____

Attorneys for Plaintiff and the Settlement Class
Members

DATED: _____

ZAKAY LAW GROUP, APLC

By: _____

Attorneys for Plaintiff and the Settlement Class
Members

DATED: _____

DEBRA ELLWOOD MEPPEN
DINA GLUCKSMAN
GORDON REES SCULLY MANSUKANI, LLP

By: _____

Attorneys for Defendant

EXHIBIT 2

ZAKAY LAW GROUP, APLC

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Jackland K. Hom (State Bar #327243)
5440 Morehouse Drive, Suite 3600
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JCL LAW FIRM, APC

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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;

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:

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:
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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.***
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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,
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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
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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
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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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14 THE WHOLE CHILD – MENTAL HEALTH &
15 HOUSING SERVICES

16 Constanza Pachon

17 Printed Name

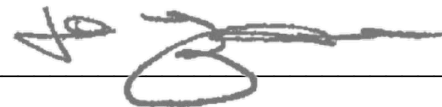
18 Chief Executive Officer

19 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

6 Attorneys for Plaintiff and the Settlement Class
7 Members

8 DATED: August 25, 2022

ZAKAY LAW GROUP, APLC

9 By: 
10

11 Attorneys for Plaintiff and the Settlement Class
12 Members

13 DATED: August 25, 2022

DEBRA ELLWOOD MEPPEN

14 DINA GLUCKSMAN

15 MATTHEW THERIAULT

16 GORDON REES SCULLY MANSUKANI, LLP

17 By: 
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19 Attorneys for Defendant
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EXHIBIT 3

**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 Share is: \$<<[REDACTED]>>. See the explanation below. Your estimated share of the PAGA Settlement Share 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 pay-may present your objections at the Final Approval Hearing at 00:00 AM/PM on [REDACTED], 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 member of the Class Member and/or Aggrieved Employee, which is defined as:

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

The "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 Maty 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?

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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 Kravis, 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 One Hundred Ninety-Five Thousand Dollars and Zero Cents (\$195,000.00) (the "Gross Settlement Amount") to fund the settlement. The Gross Settlement Amount includes the payment of all Individual Settlement Payments to Settlement Participating 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, Class Counsel's attorneys' fees and costs, Settlement Administration Expenses, the LWDA Payment, PAGA Shares, and the Class Representative Service Payment to the Plaintiff.

Fifteen days after the -Effective Date Judgment becomes Final, 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 Attorneys' Fees and Costs. 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 \$65,000.00 out of \$195,000.00 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, APC). Payment to Class Counsel of an award of a Class Counsel Fees Payment of no more than 1/3 of the Gross Settlement Amount (currently \$65,000.00) and a Class Counsel Litigation Expenses Payment of not more than \$15,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
3. Class Representative Service Award Payment. Class Representative Service Award Payment 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 Payment. 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"). A payment of \$10,000 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$7,500 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$2,500 will be distributed to PAGA Employees as part of the Net PAGA Amount.

5.—Calculation of Payments to SettlementParticipating Class Members. After all the above payments of the court-approved Class Counsel AwardFees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service AwardPayments, the PAGA SettlementLWDA Payment, and the Settlement Administration CostsExpenses are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to Cclass Mmembers who do not request exclusion ("Settlement Class Members"). The Individual Settlement PaymentShare for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of Wworkweeks for all SettlementParticipating Class Members that occurred during the Class Period and multiplying the result by each individual SettlementParticipating 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, a normal seven-day week of work during the Class Period in which, according to Defendant's records, a member of the class worked at least one day during any such workweek. Your total workweeks will be determined by dividing the total days worked during the Class Period by five.

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. The Net PAGA Amount shall be distributed to PAGA Employees irrespective of whether they exclude themselves or opt-out. The Net PAGA Amount will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. "PAGA 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. The PAGA Period means the period between April 30, 2020 to May 1, 2022.

5.—
If the Settlement is approved by the Court, you will automatically be mailed a check for your Individual Settlement PaymentShare 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 PaymentShare 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 PaymentShare 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. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendant, As of the Funding Date, in exchange for the consideration set forth in [the] Agreement, Plaintiff and the Settlement Class Members shall release the Defendant from the all Released Class Claims for the Class Period that occurred during the Class Period as to the Released Parties. 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.

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~~Released PAGA Claims. The Released PAGA Claims shall be released as follows: As of the Settlement Effective Date and upon funding in full of the Gross Settlement Amount by Defendant, 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. all Aggrieved Employees shall release all Released PAGA Claims, irrespective of whether they opted out of the class settlement, and will be bound by this PAGA Release (the "PAGA Release"). "Released PAGA Claims" all PAGA claims for penalties and any other available relief pursuant to the PAGA alleged in the operative complaint and/or Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period including for 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 of the PAGA Period. The PAGA Period means the period between April 30, 2020 to May 1, 2022.~~

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 **Share** 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 Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** 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, Net-PAGA-Amount.

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 00:00 AM/PM on _____ 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. ~~If you wish to appear, please see the Los Angeles County Superior Court for directions - <https://www.lacourt.org/> -~~ 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 4

Superior Court of California, County of Los Angeles
Porcayo v. The Whole Child., et al
Los Angeles County Superior Court Case No. 21STCV25160

REQUEST FOR EXCLUSION

Instructions: Please complete this Form ONLY IF YOU **DO NOT** WANT TO PARTICIPATE IN THE SETTLEMENT that is described in the Notice of Class Action Settlement that accompanies this Form. If you choose to complete this Form, the deadline for mailing it to the Settlement Administrator is **** INSERT DATE****.

I. PERSONAL INFORMATION

Name (first, middle and last): _____
Home Street Address: _____
City, State, Zip Code: _____
Home Telephone Number: (____) _____
Last 4 Digits of Social Security Number: _____

II. REQUEST FOR EXCLUSION

By signing and returning this Form, I certify that I wish to opt out of the settlement of the class action lawsuit entitled *Claudia Nunez Porcayo v. The Whole Child., et al.*, Case No. 21STCV25160, filed in the Superior Court of California, County of Los Angeles. I understand that by requesting to be excluded from the settlement, I will receive no money from the Settlement described in this Notice.”

III. MAILING INSTRUCTIONS

If you choose to return this Form, you must return it to the Settlement Administrator postmarked on or before ****INSERT DATE**** AT THE ADDRESS LISTED BELOW:

ILYM Group, Inc.
P.O. Box 2031
Tustin, CA 92781

IV. PLEASE SIGN BELOW

I declare that the foregoing is true and correct.

Dated: _____

(Signature)

(Print Name)