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Attorneys for Plaintiff MONSERRAT LOPEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF VENTURA

MONSERRAT LOPEZ, an individual, on
behalf of herself, on behalf of all persons
similarly situated, and in her representative
capacity on behalf of the State of California and
fellow Aggrieved Employees,

Plaintiffs,

vs.

ADIDAS AMERICA, INC., an Oregon
corporation; and DOES 1 through 50, Inclusive;

Defendants.

Case No. 56-2021-00549844-CU-OE-VTA

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

Date: November 22, 2021

Time: 8:30 a.m.

Reservation No. 2582394

Judge: Hon. Mark Borrell

Dept.: 4

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

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner
4 of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am co-counsel of record for
5 Plaintiff MONSERRAT LOPEZ (hereafter "Plaintiff") in this wage and hour class action filed against
6 ADIDAS AMERICA, INC. (hereinafter "Defendant").

7 2. This declaration is being submitted in support of Plaintiff's motion for Preliminary
8 Approval of Class Action Settlement.

9 **I. EXHIBITS**

10 3. Attached hereto as **Exhibit "1"** is a true and correct copy of the fully executed Joint the
11 Stipulation of Settlement of Class Action and PAGA Action Claims and Release of Claims
12 ("Agreement" or "Settlement Agreement"). Attached as **Exhibit "A"** to the Agreement is a true and
13 correct copy of the proposed Class Notice.

14 4. Attached hereto as **Exhibit "2"** is a true and correct copy of the proof of filing with the
15 Labor and Workforce Development Agency notice of this settlement with the Settlement Agreement
16 and Motion for Preliminary Approval of Class Action and PAGA Action Settlement evidencing Class
17 Counsel's compliance with California Labor Code Section 2699(l)(2).

18 5. Attached hereto as **Exhibit "3"** is a true and correct copy of the bid for settlement
19 administration submitted by ILYM Group, Inc., in the amount of \$20,000.

20 **II. INTRODUCTION**

21 6. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of
22 the Settlement Class is fair, reasonable, and valuable. The Settlement was negotiated by the Parties at
23 arm's length. The Settlement confers substantial benefits to the Settlement Class. The relief offered by
24 the Settlement is particularly impressive when viewed against the difficulties encountered by plaintiffs
25 pursuing wage and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class
26 Members will not have to wait (possibly years) for relief, nor will they have to bear the risk of class
27 certification being denied or of Defendants prevailing at trial. Given that there are approximately 3,826

Class Members, the average gross recovery is approximately \$226.08 (Net Settlement Amount divided by Class Members).

7. As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement approval under California law and falls within the range of reasonableness. The average Individual Settlement Share to the Settlement Class meet or exceeds awards in similar wage and hour class actions. Moreover, the proposed Settlement Class is appropriate for provisional certification. Accordingly, Plaintiff respectfully requests that this Court grant preliminary approval of the Settlement.

III. FACTS AND PROCEDURE

A. Overview of the Litigation

8. Defendant is the American subsidiary of the international sports apparel, footwear and lifestyle brand Adidas. Defendant operates approximately thirty retail stores throughout California. This action asserts claims on behalf of Defendant's non-exempt employees working at those California retail store locations. Plaintiff worked for Defendant as a non-exempt retail store employee in California between August of 2019 to August of 2020. At all times during her employment, Plaintiff earned an hourly wage and was entitled to legally compliant meal and/or rest periods, and minimum, regular and overtime wages for all hours worked. Throughout her employment, Plaintiff was subject to Defendant's written policies and procedures contained in, among other documents, the "Adidas Global Stores Operation Manual" and the Adidas "Ready to Go Play Book."

9. Generally, Plaintiff claims that Defendant failed to pay for all time worked, including, time spent waiting for and undergoing mandatory loss prevention security checks, failed to provide compliant meal and rest periods, failed to provide suitable seating, failed to furnish accurate itemized wage statements, and failed to pay all wages upon separation failure. Defendant forcefully denies liability for each of Plaintiff's claims. Further, Defendant asserts that it fully complied with all applicable employment laws and raised several other significant defenses to Plaintiff's claims, including but not limited to, facially compliant meal and rest period policies, written policies requiring all loss prevention security checks to take place while on-the-clock, compliant wage statements, and timely paid all wages due upon separation of employment.

1 10. On October 27, 2020, Plaintiff served Defendant and the Labor and Workforce
2 Development Agency (“LWDA”) with a Notice of Violations (“PAGA Notice”). Plaintiff’s PAGA
3 Notice set forth the facts and theories supporting Defendant’s alleged violations of various provisions
4 of the California Labor Code and applicable Industrial Welfare Commissions (“IWC”) Wage Order and
5 of her intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab.
6 Code Sections 2698 et seq (“PAGA”).

7 11. On December 4, 2020, Plaintiff filed a class action complaint in the Ventura Superior
8 Court, Case Number 56-2020-00547592-CU-OE-VTA (“Class Action”). The Class Action alleged
9 eight causes of action against Defendant for: (1) Unfair Competition in Violation of California Business
10 and Professions Code §§ 17200; (2) Failure to Pay Overtime Wages in Violation of California Labor
11 Code §§ 510 *et seq.*; (3) Failure to Pay Minimum Wages in Violation of California Labor Code §§ 1194,
12 1197 and 1197.1; (4) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7
13 and 512; (5) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 and 512;
14 (6) Failure to Provide Accurate Itemized Wage Statements in Violation of Cal. Lab. Code §226; (7)
15 Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 and 203; and (8)
16 Violation of California Labor Code § 1198 and California Code of Regulations, Title 8, Section 1
17 1070(14) (Failure to Provide Seating) (“Class Claims”). On January 15, 2021, Defendant removed the
18 Class Action to the United States District Court, Central District of California.

19 12. On January 27, 2021, Plaintiff separately filed a representative action in Ventura County
20 Superior Court, Case Number 56-2021-00549844-CU-OE-VTA, alleging a single cause of action for
21 Violations of PAGA (“Representative Action”).

22 13. On March 11, 2021, United States District Court Judge Mark C. Scarsi denied Plaintiff’s
23 motion to remand the Class Action.

24 14. Plaintiff commenced written discovery in both the Class Action and the Representative
25 Action in March 2021. After answering Plaintiff’s written discovery, producing thousands of pages of
26 documents, and taking Plaintiff’s deposition, the Parties agreed to collectively mediate the Class Action
27 and the Representative Action (collectively “Actions”). In anticipation of mediation, the Parties agreed
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1 to stay additional formal discovery and continue deadlines for class certification in the Actions. To
2 prepare for mediation, the Parties agreed to informally produce additional documents and data points
3 subject to the mediation privilege, including but not limited to, the Class Members' time data and certain
4 payroll data points. As discussed *infra*, Plaintiff's counsel retained the forensic consultants at Berger
5 Consulting Group ("BCG") to analyze Defendant's time and payroll data.

6 15. On July 1, 2021 the Parties participated in a full day mediation with highly regarded wage
7 and hour mediator Jeff Ross, Esq. After arms-length negotiations and bargaining, the Parties reached
8 an agreement to settle and signed a Memorandum of Understanding. After reaching an agreement in
9 principle, the Parties drafted and negotiated a long-form settlement agreement, which is the subject of
10 the instant motion. As part of the Agreement, the Parties stipulated to the filing of a First Amended
11 Complaint adding the Class Claims to the Representative Action, to dismiss, without prejudice, the
12 Class Action pending in federal court, and to seek approval of the entire Agreement in the amended
13 Representative Action.

14 **B. Class Counsel Thoroughly Investigated the Factual and Legal Issues**

15 16. Months before filing any one of the Actions, Class Counsel began its pre-filing
16 investigation into the Plaintiff's complaints. Class Counsel's investigation started with several lengthy
17 interviews with Plaintiff. As part of the interview process, the Plaintiff produced documents related to
18 her employment, including portions of Defendant's handbooks, compensation policies and time and
19 payroll records. At the conclusion of the interviews, Class Counsel determined that each Plaintiff's
20 complaints justified further inquiry.

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

1 18. Class Counsel retained a private investigator to visually observe eleven of Defendant's
2 retail store locations in California. Again, this investigation substantiated Plaintiff's claims.

3 19. Additionally, during the pre-litigation meetings with Class Counsel, Plaintiff provided
4 the names and contact information for several Class Members. During the litigation, as result of
5 Plaintiff's formal discovery requests, Defendant produced the names and contact information for the
6 Class Members. During the litigation, Class Counsel interviewed hundreds of Class Members to further
7 investigate the allegations asserted in the Actions. As a result of these interviews, Class Counsel
8 obtained dozens of declarations from putative class members in preparation for Plaintiff's motion for
9 class certification. Ultimately, Class Counsel used these declarations to great affect at the time of
10 mediation.

11 20. Considering the many anticipated factual disputes, the Parties agreed, relatively early in
12 the litigation, that it would be in the best interest of both Parties to mediate the matter. To prepare for
13 mediation, Class Counsel requested documents and data points to further evaluate Plaintiff's claims and
14 Defendant's liability exposure to the Class Members. In response to Class Counsel's request, Defendant
15 produced the time records for the Class Members, aggregate workweek and pay period data for the
16 Class Members, aggregate meal premiums paid to the Class Members, average hourly rate for the Class
17 Members, and copies of applicable handbooks, policies, and agreements containing, *inter alia*,
18 compensation, timekeeping and meal and rest period policies. In total, Defendant produced
19 approximately 4,500 pages of pertinent policy documents and more than 4.1 million unique cells of
20 time and payroll data for Class Counsel to analyze.

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

26 22. BCG analyzed Defendant's time and payroll data to assist in the development of various
27 damage models. Among other things, BCG determined the approximate number of work shifts,
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workweeks, pay periods, average length of shift and average number of hours worked per week and pay periods during the Class Period. BCG also estimated the number of missed, late or truncated meal and rest periods, the amount of paid missed meal period premiums paid during the Class Period, and the amount of off-the-clock work performed by the Class Members during the Class Period.

23. In advance of mediation, Class Counsel created several damage models predicated on the BCG analysis. Class Counsel's models calculated Defendant's potential liability exposure while accounting for the uncertainties of continued litigation. These damage models informed and guided Class Counsel during the mediated settlement discussions.

24. In addition to formal and informal discovery, witness interviews, document review, data analysis and legal research, Class Counsel also researched similar wage and hour actions. Here, Class Counsel's investigation uncovered *Chavez v. Adidas America, Inc.*, United States District Court, Northern District of California, Case Number 5:16-cv-6533 LHK a prior wage and hour class action against Defendant. In that case, Defendant resolved the class claims asserted on behalf of 3,700 class members (a number similar to class members covered by this Settlement) for the period between October 11, 2012 and September 15, 2017 for \$1.5 Million Dollars. Although no two cases are identical, this research provided Class Counsel with a marker to inform settlement discussions and, ultimately, to measure this settlement against.

25. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1) determining Plaintiff's suitability as a putative class representative through interviews, background investigations, and analysis of her employment files; (2) evaluating all of Plaintiff's potential claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions, and the type of employer; (4) analyzing the Settlement Class' time and payroll records; (5) analyzing Defendant's labor policies and practices; (6) researching settlements in similar cases as well as outstanding issues which could affect settlement approval; (7) evaluating Plaintiff's claims and estimating Defendant's liability for purposes of settlement; (8) holding phone interviews with hundreds of putative class members; (9) drafting the mediation brief; and (10) participating in the mediation. This investigation allowed Class Counsel to fully assess the nature and magnitude of the claims being settled,

as well as the impediments to recovery, such as to make an independent assessment of the reasonableness of the terms to which the Parties have agreed.

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

C. The Parties Settled at Mediation

27. On July 1, 2021, the Parties conducted a full day of mediation with Jeff Ross, Esq., a highly regarded wage and hour mediator. Mediator Ross helped manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. The Parties made substantial progress with Mediator Ross's assistance. Namely, the Parties exchanged information regarding their respective claims and defense, including their respective evaluation of the damages. After nearly eight hours of arm's length and adversarial negotiations, the mediation nearly concluded without a settlement. However, at the conclusion of the mediation, Mediator Ross issued a proposal for settlement that the Parties accepted. The complete and final terms of the Parties' settlement are now set forth in the Agreement. Class Counsel submits that the Settlement constitutes a fair, adequate, and reasonable compromise of the claims at issue. At all times, the Parties' negotiations were at an arm's length, adversarial and non-collusive. In fact, despite a full day of mediated negotiations, the Parties reached an impasse and the mediation session nearly concluded without a settlement. The matter resolved only when Mediator Ross issued a mediator's proposal that the Parties accepted. Mediator Ross only arrived at his proposal after hearing arguments, reviewing evidence and evaluating the Parties' respective claims and defenses.

28. Once the Parties agreed to the Mediator's proposal, the Parties engaged in protracted negotiations regarding the written terms of the class action settlement. The Parties maintained the arm's length, non-collusive and adversarial negotiations while arriving at the final terms of the Settlement.

The Agreement is the final product of these mediated negotiations. Objectively, the Settlement terms are fair, adequate and represent a reasonable compromise of the claims at issue.

IV. ARGUMENT

A. The Court Should Preliminarily Approve the Settlement

29. The Total Settlement Amount of \$1,500,000 is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Prior to mediation, Class Counsel retained BCG to develop economic damage models measuring Defendant's liability exposure while accounting for the uncertainties of continued litigation. The various models were informed by Class Counsel's investigation, including the analysis of a significant sample of time and payroll data. Class Counsel projected Defendant's liability exposure for *class claims* (excluding PAGA Penalties) ranged between \$6,246,168 million ("Conservative Model") and \$16,766,311 million ("Aggressive Model") if successful at trial. This range reflects the uncertainty regarding several of the claims, together with the uncertainty surrounding derivative liability for inaccurate wage statements and waiting time penalties. Thus, the Total Settlement Amount of \$1,500,000 represents approximately between 9% and 24% of Defendant's *class-wide* liability exposure as estimated by Class Counsel at the time of mediation. The following summarizes Defendant's estimated exposure.

30. Plaintiff's primary claim in the Actions was that Defendant failed to pay for all hours worked. Specifically, Plaintiff asserted that Defendant failed to pay for all time spent waiting for and undergoing mandatory loss prevention security checks, and for a brief period, COVID-19 screening. Plaintiff contends that Defendant maintained a similar policy at its retail store locations in California during the Class Period.

31. Defendant vigorously denied liability for claim. In discovery, Defendant produced several California specific operation manuals and policies first published in 2017. Collectively, Defendant asserted that these written policies and procedures directed its California retail store managers to conduct all loss prevention security checks while on-the-clock and further directed all California retail stores to discontinue all loss prevention security checks in or about mid-March 2020

1 due to the COVID-19 pandemic. Defendant asserted that any deviation from these written policies were
2 location specific and, thus, created individualized issues of liability unsuitable for class treatment.

3 32. Notwithstanding Defendant's arguments, Plaintiff perceived the off-the-clock as the
4 strongest claim in the Actions. Assuming five (5) minutes of unpaid compensable time per shift worked
5 by the Class Members during the Class Period, BCG estimated Defendant's exposure for this claim at
6 \$624,988.

7 33. Plaintiff also alleges that Defendant failed to provide compliant meal periods.
8 Specifically, Plaintiff alleges that the Class Members were periodically required to undergo loss
9 prevention security checks, while off-the-clock, prior to taking a required meal period. Plaintiff asserted
10 this practice resulted in truncating meal periods. Additionally, Plaintiff contented that because of their
11 rigorous work requirements, the Class Members were often denied complaint meal periods.

12 34. Conversely, Defendant again argued that its loss prevention policies and procedures
13 required all security checks to be done while on-the-clock until these security checks were wholly
14 discontinued in or about mid-March 2020 due to the COVID-19 pandemic. Similarly, Defendant argued
15 any divergence from these written policies were not systematic and, if they existed at all, were store
16 specific. Defendant also asserted that it maintained facially compliant meal period policies and
17 practices throughout the Class Period. Thus, Defendant argued that there was no potential liability for
18 Plaintiff's alleged meal period violations.

19 35. Plaintiff's meal period claim (together with the rest period claim) likely represented the
20 most factually contested claim in the Actions. Accounting for the strength of Defendant's defenses,
21 and the arguably individualized nature of the claim, Plaintiff heavily discounted Defendant's potential
22 liability for meal period violations. Plaintiff estimated the damages for this claim ranged between
23 approximately \$2.1 million dollars and \$4.2 million dollars.

24 36. Plaintiff also alleged that Defendant failed to provide compliant rest periods. Specifically,
25 Plaintiff alleged that because of their rigorous work schedule they were not able to take timely and duty-
26 free rest periods.

37. Plaintiff's own evidence confirms that the written policy does not generate uniform practices.”). Accordingly, the rest break claim was heavily discounted in Plaintiff’s valuation of the case and ranged between approximately \$2.1 and \$1 million dollars.

38. These claims represented Plaintiff’s most legally precarious and uncertain claims. Notwithstanding the uncertain nature of the claims, Plaintiff estimated Defendant’s *maxim* exposure for these claims at approximately \$9.8 million (approximately \$7.5 million for waiting time and \$2.3 million for wage statement). However, Class Counsel’s Conservative Model discounted these claims by 75% (approximately \$2.45 million dollars) because of the aforementioned risk factors.

39. Class Counsel’s damage models also estimated Defendant’s exposure for PAGA penalties. At the time of mediation, Plaintiff estimated Defendant’s PAGA exposure was approximately \$12.9 million dollars.

40. In order to recover any PAGA penalties, Plaintiff would be required at trial to prove each of the underlying Labor Code violations. See *Cardenas v. McLane Foodservice, Inc.*, 2011 U.S. Dist. LEXIS 13126, *10 (C.D. Cal. 2011) ("Given the statutory language [of PAGA], a plaintiff cannot recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor Code by the defendant."). Here, Plaintiff would need to prove that each Aggrieved Employee suffered a violation for each pay period the employee worked. Again, Defendant raised several defenses that presented serious threats to the claims of the Plaintiff and the Aggrieved Employees. In addition to those arguments discussed *supra*, Defendant also argued that the Court of Appeals decision in *Cacho v. Eurostar, Inc.* (2019) 43 Cal.App.5th 885, weakened Plaintiff’s claims, on liability, value, and manageability as to the rest period claims. In all, Plaintiff’s PAGA liability exposure is hotly contested.

B. Litigation Risks

41. Although Plaintiff is confident about the strength of her claims, it would be foolish to ignore the most immediate risk to continued litigation, i.e., class certification. Class certification is far from certain in this, in part, meal and rest period case. Class certification is routinely denied for meal and rest period claims based on an inability to establish predominance.

42. Plaintiff recognizes that Defendant has factual and legal defenses that, if successful, would potentially defeat or substantially impair the value of Plaintiff's lawsuit. Collectively, the examples cited in Plaintiff's brief illustrate the uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring settlement.

43. Finally, continuing to litigate this action would require continued and extensive resources coupled with significant Court time to proceed through trial and post-trial motions; which can often take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates extensive expert testimony, particularly with regards to damages. But even if Plaintiffs are successful at trial, Plaintiffs are acutely aware that a judgment does not end the litigation. Plaintiffs fully expects that Defendant would appeal any favorable judgment.

44. In this matter, Class Counsel negotiated a Total Settlement Amount of \$1,500,000 that is roughly between 9% and 24% Defendant's maximum class wide liability exposure. Given the amount of the settlement here, as compared to potential value of the claims, offset by the various inherent risks to continued litigation, the settlement is fair and reasonable.

B. Proposed Notice Informs the Class About the Case and Settlement

45. The Parties jointly drafted the Class Notice which fairly and neutrally informs the Settlement Class of their rights and remedies. The Settlement Administrator will first verify addresses, then mail the proposed Class Notice to entire Settlement Class. The Notice will include information regarding the nature of the lawsuit, a summary of the substance of the Settlement's terms, the class definition, the procedure and time period within which to requests for exclusions or objections to the Settlement, the date for the final approval hearing, the formula used to calculate settlement payments, and the terms and scope of the Released Claims. Agreement at §III(N). This method was negotiated by the Parties to ensure delivering the most reasonable method of notice to the Settlement Class while ensuring cost effective administration of the Settlement.

46. As detailed in the Agreement, the method of disseminating the proposed Class Notice and contents of the Proposed Class Notice satisfy due process and the California Rule of Court 3.766.

C. The Court Should Preliminarily Approve the Enhancement Award

47. The 3,826 Class Members will share in the Net Settlement Amount due entirely to the effort and commitment of Plaintiff. Subject to Court approval, therefore, the Settlement provides for a Class Representative Service Award of \$10,000 for Plaintiff. The service award is fair and reasonable compensation for each Plaintiff's efforts bringing the action, assisting Class Counsel with the litigation and settlement, regularly conferring with Class Counsel on the status of their case and the strategies for prosecuting the claims, reviewing the proposed Settlement to ensure that its terms are fair and provide adequate relief for the Settlement Class, and agreeing to provide Defendant a general release of all claims arising out of their employment.

48. Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Class Representative Service Award once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated Class Representative Service Award.

D. The Court Should Preliminary Approve the Negotiated Class Counsel Award

49. Class Counsel took this matter on a contingency fee basis and invested significant time and expense successfully prosecuting Plaintiff's claims. As discussed *supra*, the estimated average Individual Settlement Share illustrates the demonstrably positive outcome for the Settlement Class Members. Considering the positive outcome for the Class Members, and in light of the supporting authority, the proposed Class Counsel award is fair and reasonable.

50. Plaintiff will file a formal motion for the negotiated Class Counsel Award once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated attorneys' fees.

E. The Court Should Provisionally Certify the Settlement Class

51. For Settlement, Plaintiff contends, and Defendant does not dispute, that provisional certification of the Class is appropriate.

52. Because all Class Members are Defendant's current and former employees, the class is readily ascertainable from Defendant's regular business records, i.e., payroll records.

53. The statutes relating to each of Plaintiff's claims apply with equal force and effect to the entire Settlement Class. Factually, Defendant's policies and practices apply class-wide and Defendant's liability can be determined by facts common to all members of the class. The wage and hour issues are both numerous and substantial, and a class action is the most advantageous method of dealing with the claims of the Settlement Class.

54. Plaintiff's wage and hour claims are typical of the proposed Settlement Class because they arise from the same factual basis and are based on the same legal theories applicable to the other Class Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of the Settlement Class. Plaintiff alleges that she was injured by the same company-wide practices to which the proposed Class Members were subject to and seek the same relief. Plaintiff has already demonstrated her ability to advocate for the interests of the Class Member by initiating this litigation, undertaking extensive class discovery, and evaluating the proposed settlement to assure that it is fair.

55. A class action is superior to a multitude of individual lawsuits. Given the size and amount of each individual claim, the Class Members likely have little incentive to litigate their claims on an individual basis because the out-of-pocket expense and personal commitment necessary to litigate each claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case adjudication.

F. Class Counsel's Experience

56. Plaintiff, the Settlement Class Members and the Aggrieved Employees are represented by competent and experienced counsel to pursue their claims. I established the JCL Law Firm, APC ("Firm"), in 2010. The Firm is a boutique plaintiff firm representing aggrieved employees and consumers throughout California in wage and hour class actions, PAGA Actions and complex multi-party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade, Esq. (Partner/Owner), Tesla Stone (Paralegal), Leilani Edmunds (Legal Secretary), Amanda De Blouw (Legal Assistant).

57. I am qualified to represent the Plaintiff, the State of California and the Aggrieved Employees. I have extensive experience with wage and hour class and representative actions litigation

1 like this matter, and employment matters in general. Additionally, I have extensive complex mass tort
2 litigation experience and complex construction product liability experience. I can, will and have
3 adequately represented the interests of the Plaintiff, the State of California and the Aggrieved
4 Employees throughout this action.

5 58. I have represented consumers and employees in California class actions, and complex
6 multi-party product liability actions exclusively for more than 13 years. I have been in practice as a
7 plaintiffs' civil litigation attorney since April 2007.

8 59. I have significant class counsel and collective action counsel experience. I served as class
9 and/or collective (PAGA) counsel in the following matters:

10 a. *Nunes v. Home Depot U.S.A., Inc.* San Joaquin Superior Court Case No. Case
11 No. STK-CV-UOE-2020-0011011 (October 20, 2021 – Hon. Roger Ross appointed the
12 Jean-Claude Lapuyade, Esq. as Class Counsel and approved a \$1.5 million dollar wage
13 and hour class and PAGA action settlement for, among things, unpaid off-the-clock
14 work.

15 b. *Munoz v. AMTCR, Inc.*, San Bernardino Superior Court Case No.
16 CIVDS2001914 (August 24, 2021 – Hon. David Cohn approved a \$1.85 million dollar
17 wage and hour class and PAGA action for, among other things, inaccurate itemized wage
18 statements, and appointed the JCL Law Firm, APC as Class Counsel.)

19 c. *Rodriguez v. RSI Home Products, Inc.*, San Bernardino Superior Court Case No.
20 CIVDS2023354 (July 30, 2021 – Hon. David Cohn approved a \$1.45 million class and
21 PAGA settlement for, *inter alia*, failure to comply with piece-rate laws, and appointed
22 the JCL Law Firm, APC as Class Counsel)

23 d. *Jer Vang v. Bridge Property Management*, Alameda County Superior Court,
24 Case No RG19047434 (January 8, 2021 – Hon. Winifred Smith approved a class and
25 PAGA settlement for, *inter alia*, unpaid off the clock work. The JCL Law Firm, APC
26 acted as class counsel for the settlement class and as representative PAGA counsel the
27 State of California and the Aggrieved Employees.)

e. *Johnson v. Volt Management Corp., Inc. et al.*, Los Angeles County Superior Court, Case No. 19STCV16466 (December 11, 2020 – Hon. Amy Hogue approved a PAGA Settlement negotiated on behalf of the State of California and the aggrieved employees by the JCL Law Firm, APC.)

f. *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior Court, Case No. 19STCV20382 (November 24, 2020 – Hon. John P. Doyle appointed the JCL Law Firm, APC as class counsel and approved a class and PAGA settlement for, *inter alia*, missed meal and rest periods.)

g. *Villalobos v. Alterra Group, LLC et al.*, Los Angeles County Superior Court, Case No. 19STCV19448 (November 11, 2020 – Hon. Richard Fruin approved a PAGA Settlement for, *inter alia*, unreimbursed business expenses. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.)

h. *Stevens et al., v. Bank of England*, San Diego County Superior Court Case No. 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer appointed JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for, *inter alia*, off-the-clock work.)

i. *Frazier v. ASA Carlton, Inc.*, San Diego Superior Court Case No. 37-2019-00036147 (October 9, 2020 Hon. Kenneth Medel appointed the JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for off-the-clock work.)

j. *Krake et al., v. Central Valley Diner, Inc.*, Placer County Superior Court Case No. SCV0041645 (September 4, 2020 – Hon. Michael Jones appointed JCL Law Firm as class counsel and granted final approval of wage and hour class action for meal period violations.)

k. *Conner v. Ascendant Marketing, LLC et al.*, San Diego Superior Court Case No. 37-2019-00026864-CU-OE-CTL (July 24, 2020 Hon. Joel Wohlfeil granted approval of

PAGA Settlement for, among other things, off-the-clock work. JCL Law Firm, APC acted as lead counsel.)

l. *Guerrero v. Estancia Operations, LLC.*, San Diego Superior Court Case No. 37-2019-00028963 (August 25, 2020 – Hon. Katherine Bacal approved PAGA Settlement for, *inter alia*, missed meal and rest periods. JCL LAW Firm, APC, acted as lead counsel.)

m. *Moreno v. Dash Lube, et al.*, United States District Court, Southern District of California, Case No. 18cv1922 DMS (AHG) (December 13, 2019 – Granted class certification of Labor Code Section 226 claim and appointed JCL Law Firm, APC, as Class Counsel.)

n. *Perkins et al., v. Tahiti Enterprises, Inc., et al.*, Orange County Superior Court Case No. 30-2016-00863095 (October 22, 2019 – Hon. Peter Wilson appointed JCL Law Firm, APC, as Class Counsel and granted final approval for an unlawful housing class action settlement arising out of Civil Code Section 1940.1.)

o. *Hill v. Stemak Holdings, Ltd.*, San Diego Superior Court Case No., 37-2018-00000747 (January 28, 2020 – Hon. Kenneth Medel appointed JCL Law Firm, APC as class counsel and granted final approval of wage and hour class action for unpaid overtime.)

p. *Shachno et al., v. KT Hotels, LLC, et al.* San Diego Superior Court Case No Case No. 37-2018-00043601 (May 31, 2019 – Hon, Gregory Pollack appointed JCL Law Firm, APC, as Class Counsel and granted preliminary approval for the wage and hour class action settlement involving nearly 900 current and former employees. Final approval scheduled for October 4, 2019)

q. *Almanza v. The Express Group, Inc.*, San Bernardino Superior Court Case No. CIVDS1722542 (April 19, 2019 – Hon. David Cohn appointed the JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement

for *inter alia*, missed meal and rest periods and independent contractor misclassification.)

r. *Moschetto v. Pillow Global, Inc. San Diego Superior Court*, Case No. 37-2017-00024031-CU-OE-CTL (April 5, 2019 – Hon. John S. Meyer appointed JCL LAW Firm, APC, as Class Counsel and granted final approval for a wage and hour wage class action settlement involving misclassified house cleaners.)

s. *Burke v. Friendship Hotel, LLC*, San Diego County Superior Court Case No. 37-2017-00022517-CU-OE-CTL (March 10, 2019 – final approval granted on for an unlawful housing class action arising under Civil Code Section 1940.2)

t. *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court Case No. 37-2018-00014181-CU-OE-CTL (February 8, 2019 – Hon. Gregory W. Pollock appointed JCL Law Firm, APC as Class Counsel and granted final approval for a wage and hour class action settlement for meal and rest period violations);

u. *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case No. CIVDS1512625, (July 27, 2018 – Hon. Thomas S. Garza appointed JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement involving claims for on duty meal and rest periods.);

v. *Summerlin et al. v. Maplebear, Inc. dba Instacart*, Los Angeles Superior Court Case No. BC603030 (2018 - certified and settled wage and hour class action.)

w. *Ortega v. Prime Healthcare*, San Diego Superior Court Case No. 37-2014-00011240-CU-OE-CTL (2018 – Approved PAGA only settlement for on duty meal and rest periods)

x. *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-2016-00012373-CU-OE-CTL (2017 - Certified and settled class action for employee misclassification);

y. *Crawford v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No. BC617160 (2017 - Certified and settled wage and hour class action.);

z. *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case No. CIVDS1505181 (2016 - Certified and settled wage and hour class action);

aa. *Burns v. Shalom, LLC*, San Diego Superior Court, Case No., 37-2013-00058356-CU-BT-CTL (2015 - certified and settled class action for unlawful housing practices arising out of Civil Code Section 1940.1);

60. Since 2010, my firm has successfully resolved more than sixty (65) cases and recovered in excess of \$75 million on behalf of the Firm's clients.

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

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

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

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 28th day of October 2021, at San Diego, California.

JCL LAW FIRM, APC

By: 
Jean-Claude Lapuyade
Attorneys for Plaintiff

EXHIBIT 1

1 JEAN-CLAUDE LAPUYADE, ESQ. (SBN 248676)
2 **JCL LAW FIRM, APC**
3 3990 OLD TOWN AVENUE, SUITE C204
4 SAN DIEGO, CA 92110
5 TEL: 619-599-8292
6 FAX: 619-599-8291

7 **ZAKAY LAW GROUP, APLC**
8 SHANI O. ZAKAY (STATE BAR #277924)
9 3990 OLD TOWN AVENUE, SUITE C204
10 SAN DIEGO, CA 92110
11 TEL: (619) 255-9047
12 FAX: (858) 404-9203

13 ROBERT S. BLUMBERG, Bar No. 161649
14 ASHLEY J. BRICK, Bar No. 281657
15 **LITTLER MENDELSON, P.C.**
16 633 West 5th Street, 63rd Floor
17 Los Angeles, CA 90071
18 Telephone: 213.443.4300
19 Facsimile: 213.443.4299

20 Attorneys for Defendant
21 ADIDAS AMERICA, INC.

22 **SUPERIOR COURT OF CALIFORNIA**

23 **COUNTY OF VENTURA**

24 MONSERRAT LOPEZ, an individual, on
25 behalf of herself and on behalf of all persons
26 similarly situated,

27 PLAINTIFF,

28 vs.

ADIDAS AMERICA, INC., a Corporation;
and DOES 1 through 50, Inclusive;
DEFENDANTS.

Case No. 56-2021-00549844-CU-OE-VTA

[Action Filed 1/27/2021]

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

Judge: Honorable Mark Borrell
Dept.: 40

1 This Stipulation of Settlement of Class Action and PAGA Claims and Release of Claims is
2 entered into by and between Plaintiff MONSERRAT LOPEZ (hereinafter “Plaintiff”), individually
3 and on behalf of the Putative Class, and Defendant ADIDAS AMERICA, INC. (hereinafter
4 “Defendant”):

5 **I. DEFINITIONS**

6 A. “Actions” shall mean the putative class action lawsuit designated *Lopez v. Adidas*
7 *America, Inc.*, Ventura County Superior Court, Case No. 56-2020-00547592-CU-OE-
8 VTA, filed December 4, 2020 (hereinafter Class Action), *Lopez v. Adidas America,*
9 *Inc.*, Ventura County Superior Court, Case No. 56-2021-00549844-CU-OE-VTA,
10 filed January 27, 2021 (hereinafter the “PAGA Action”) and *Lopez v. Adidas*
11 *America, Inc.*, Case No. 2:21-cv-00447 MCS (PVC) (hereinafter the Federal Class
12 Action).

13
14
15 B. “Aggrieved Employees” shall mean all non-exempt retail store employees who are or
16 previously were employed by Defendant in California during the PAGA Period.

17
18 C. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of
19 Class Action and PAGA Claims and Release of Claims.

20
21 D. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC and
22 Shani Zakay of Zakay Law Group, APLC.

23 E. “Class Counsel Award” means the award of fees and expenses that the Court
24 authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff
25 and the Class in the Actions, consisting of attorneys’ fees currently not to exceed
26 one-third of the Total Settlement Amount currently estimated to be \$500,000 out of
27 \$1,500,000 plus costs subject to Class Counsel’s billing statement. Class Counsel’s
28

award for attorneys' fees will be divided equally between Class Counsel (50% to JCL Law Firm, APC and 50% to Zakay Law Group, APLC).

F. "Class Data" means information regarding Class Members that Defendant will in good faith compile from its records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class Member's full name; last known address; Social Security Number; start dates and end dates of employment or work in Defendant's retail stores in California during the Class Period; the number of Workweeks (as defined below) for each Class Member and the number of PAGA Workweeks (as defined below).

G. "Class Members" or the "Class" means all non-exempt retail store employees who are or previously were employed by and performed work for Defendant in California during the Class Period.

H. "Class Period" means the period between September 16, 2017 and October 1, 2021.

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 Actions and in exchange for executing a General Release of Defendant.

J. "Class Representative" shall mean plaintiff MONSERRAT LOPEZ.

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

1 L. "Defendant" shall mean ADIDAS AMERICA, INC., an Oregon Corporation.

2
3 M. "Effective Date" means the earliest date, following entry by the Court (or Courts) of
4 an Order (or Orders) and judgment finally approving this Settlement, upon which one
5 of the following have occurred: (i) if no objection is filed to the settlement and no
6 objector appears at the hearing on final approval, the date of the Court's entry of the
7 order granting final approval, (ii) if an objection is filed to the settlement and/or an
8 objector appears at the hearing on final approval, then the earlier of the following: (a)
9 the expiration of all potential appeal periods without a filing of a notice of appeal of
10 the final approval order or judgment; (b) final affirmance of the final approval order
11 and judgment by an appellate court as a result of any appeal(s), or (c) final dismissal
12 or denial of all such appeals (including any petition for review, rehearing, certiorari,
13 etc.) such that the final approval order and judgment concerning the Actions is no
14 longer subject to further judicial review. If this settlement is approved through
15 motions in both Courts, then Effective Date shall mean the latter of both approvals.
16
17

18 N. "Funding Date" shall mean sixty-five (65) calendar days after the Effective Date and
19 is the date Defendant transfers the Total Settlement Amount into the QSF in accord
20 with the terms of this Agreement.
21

22 O. "Individual Settlement Payment" means the amount payable from the Net Settlement
23 Amount to each Settlement Class Member and excludes any amounts distributed to
24 Aggrieved Employees pursuant to PAGA.
25
26
27
28

- 1 P. "Net Settlement Amount" or "NSA" means the Total Settlement Amount, less Class
2 Counsel Award, Class Representative Service Award, PAGA Settlement, and
3 Settlement Administration Costs.
4
- 5 Q. "Notice Packet" means the Class Notice to be provided to the Class Members by the
6 Settlement Administrator in the form set forth as Exhibit A to this Agreement (other
7 than formatting changes to facilitate printing by the Settlement Administrator).
8
- 9 R. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
10 Labor Code § 2698 *et seq.*
11
- 12 S. "PAGA Payment Ratio" means the respective Workweeks during the PAGA Period
13 for each Aggrieved Employee divided by the sum total of the Workweeks for all
14 Aggrieved Employees during the PAGA Period.
15
- 16 T. "PAGA Period" means the period between October 27, 2019 and October 1, 2021,
17 (the "PAGA Period").
18
- 19 U. "PAGA Settlement" shall mean Eighty Thousand Dollars (\$80,000) to be allocated
20 from the Total Settlement Amount.
- 21 V. "Parties" means Plaintiff and Defendant, collectively, and "Party" shall mean either
22 Plaintiff or Defendant, individually.
23
- 24 W. "Payment Ratio" means the respective Workweeks for each Class Member divided
25 by the sum total Workweeks for all Class Members.
26
- 27 X. "Plaintiff" shall mean MONSERRAT LOPEZ.
28

1 Y. “QSF” means the Qualified Settlement Fund established, designated and maintained
2 by the Settlement Administrator to fund the Total Settlement Amount.

3
4 Z. “Released Class Claims” means all claims alleged or which could have been alleged
5 based on the facts alleged in any and all complaints filed in the Actions which
6 occurred during the Class Period, specifically including claims for (1) Failure to pay
7 overtime wages; (2) Failure to pay minimum wages; (3) Failure to provide required
8 meal periods; (4) Failure to provide required rest periods; (5) Failure to provide
9 accurate itemized wage statements; (6) Failure to provide wages when due; as well as
10 any federal, state or local provisions. To the extent employees are required to “opt-
11 in” to have this release be deemed effective under federal law, the acceptance and
12 negotiation of any settlement check shall be deemed effective for this purpose. The
13 Released Class Claims expressly excludes all other claims, including claims for
14 vested benefits, wrongful termination, unemployment insurance, disability, social
15 security, workers’ compensation, and class claims outside of the Class Period.

16
17
18 AA. “Released PAGA Claims” mean any and all claims alleged in the operative PAGA
19 Action complaint and Plaintiff’s PAGA notice to the LWDA which occurred during
20 the PAGA Period, including all claims which could have been alleged under PAGA
21 based on the facts disclosed to the LWDA in Plaintiff’s letters notice to the LWDA,
22 which occurred during the PAGA Period, including PAGA penalties for (1) Failure
23 to pay overtime wages; (2) Failure to pay minimum wages; (3) Failure to provide
24 required meal periods; (4) Failure to provide required rest periods; (5) Failure to
25 provide accurate itemized wage statements; (6) Failure to provide wages when due,
26 including at the time of termination; (7) Failure to maintain true and accurate records;
27
28

1 or (8) Failure to provide suitable seating. Any Released PAGA Claim not presented
2 directly in the complaint must be based on facts alleged in the PAGA Action
3 complaint. Excluded from the PAGA Released Claims are any claims under PAGA
4 which were not and could not have been alleged based upon the facts set forth in
5 Plaintiff's Complaints and administrative exhaustion letter and expressly excluding
6 all other claims, including claims vested benefits, wrongful termination,
7 unemployment insurance, disability, social security, workers' compensation, and
8 PAGA claims outside the PAGA Period.
9

10
11
12 BB. "Released Parties" shall mean Defendant.
13

14 CC. "Response Deadline" means the date forty-five (45) days after the Settlement
15 Administrator mails Notice Packets to Class Members and the last date on which
16 Class Members may submit requests for exclusion or objections to the Settlement.
17

18 DD. "Settlement" means the disposition of the Actions pursuant to this Agreement.
19

20 EE. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L,
21 Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. The Settlement
22 Administrator establishes, designates and maintains, as a QSF under Internal Revenue
23 Code section 468B and Treasury Regulation section 1.468B-1, into which the amount
24 of the Total Settlement Amount is deposited for the purpose of resolving the claims
25 of Settlement Class Members. The Settlement Administrator shall maintain the funds
26 until distribution in an account(s) segregated from the assets of Defendant and any
27 person related to Defendant. *All accrued interest shall be paid and distributed to the*
28

Settlement Class Members as part of their respective Individual Settlement Payment.

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

GG. “Total Settlement Amount” means One Million, Five Hundred Thousand Dollars (\$1,500,000.00) that Defendant must pay into the QSF in connection with this Settlement, inclusive of the sum of the Individual Settlement Payments, the Class Representative Service Awards, the Class Counsel Award, PAGA Settlement and the Settlement Administration Costs and *exclusive* of the employer’s share of payroll tax, if any, triggered by any payment under this Settlement, as determined by the Settlement Administrator.

HH. “Workweeks,” for purposes of calculating the distribution of the Net Settlement Amount, means the number of weeks of employment during the Class Period that each Class Member worked in California for Defendant, excluding any week of employment during which the Class Member did not perform any work for Defendant.

II. “PAGA Workweeks,” for purposes of calculating the distribution of the Aggrieved Employee Payment, as defined herein, means the number of weeks of employment during the PAGA Period that each Aggrieved Employee worked in California, excluding any week of employment during which the Aggrieved Employee did not perform any work for Defendant.

1 **II. RECITALS**

2 A. On October 27, 2020, Plaintiff Lopez filed a Notice of Violations with the Labor and
3 Workforce Development Agency (LWDA) and served the same on Defendant.

4
5 B. On December 4, 2020, Plaintiff Lopez filed the Class Action lawsuit in the Superior
6 Court for the County of Ventura for:

7
8 1. Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;

9
10 2. Failure to pay overtime wages in violation of California Labor Code sections
11 510 *et seq*;

12 3. Failure to pay minimum wages in violation of California Labor Code sections
13 1194, 1197 and 1197.1;

14
15 4. Failure to provide required meal periods in violation of California Labor Code
16 sections 226.7 and 512 and the applicable IWC wage order;

17
18 5. Failure to provide required rest periods in violation of California Labor Code
19 sections 226.7 and 512 and the applicable IWC wage order;

20
21 6. Failure to provide accurate itemized wage statements in violation of California
22 Labor Code section 226;

23
24 7. Failure to provide wages when due in violation of California Labor Code
25 sections 201, 202 and 203.

26
27 8. Failure to provide suitable seating in violation of California Labor Code 1198
28 and California Code of Regulations, Title 8, Section 11070(14).

1 C. On January 19, 2021, Defendant removed the Class Action lawsuit to the United
2 States District Court for the Central District of California, (Federal Class Action),
3 Case No. 2:21-cv-00447 MCS (PVC).

4
5 D. On January 27, 2021, Plaintiff filed a PAGA Action in the Superior Court for the
6 County of Ventura against Defendant alleging single cause of action for violations of
7 PAGA for, *inter alia*, the following:

- 8
9 1. Failure to provide complaint meal and rest periods;
- 10
11 2. Failure to allow employees to take duty-free, off-the-premises rest periods;
- 12
13 3. Failure to pay all minimum, regular and overtime wages;;
- 14
15 4. Failure to provide suitable seating;
- 16
17 5. Failure to maintain true and accurate records;
- 18
19 6. Failure to provide accurate itemized wages statements;
- 20
21 7. Failure to pay employees wages for time spent getting their bags checked; and
- 22
23 8. Failure to timely pay wages when due during, and upon termination of
24 employment.

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

1 F. Defendant denies any liability or wrongdoing of any kind associated with the claims
2 alleged in the Action, disputes any wages, damages and penalties claimed by the
3 Class Representative are owed, and further contends that, for any purpose other than
4 settlement, the Action is not appropriate for class or representative action treatment.
5 Defendant contends, among other things, that at all times it complied with the
6 California Labor Code and the Industrial Wage Commission Orders.

7
8 G. Plaintiff is represented by Class Counsel. Class Counsel conducted an investigation
9 into the facts relevant to the Action, including conducting an independent
10 investigation as to the allegations, reviewing documents and information exchanged
11 through informal discovery, and reviewing documents and information provided by
12 Defendant pursuant to informal requests for information to prepare for mediation.
13 Defendant produced for the purpose of settlement negotiations certain employment
14 data concerning the Settlement Class, including electronic time punch data for the
15 Class Members, which Class Counsel reviewed and analyzed. Furthermore, Class
16 Counsel propounded substantial formal discovery, including numerous requests for
17 production, requests for admission, and form and special interrogatories. Class
18 Counsel engaged in a comprehensive review and analysis of Defendant's discovery
19 responses, including obtaining the contact information of the class members and
20 conducting numerous interviews of the class members. Based on their own
21 independent investigation and evaluation, Class Counsel are of the opinion that the
22 Settlement with Defendant is fair, reasonable and adequate, and is in the best
23 interest of the Settlement Class in light of all known facts and circumstances,
24 including the risks of significant delay, defenses asserted by Defendant,
25 uncertainties regarding class certification, and numerous potential appellate issues.
26
27
28

1 Although it denies any liability, Defendant is agreeing to this Settlement solely to
2 avoid the inconveniences and cost of further litigation. The Parties and their counsel
3 have agreed to settle the claims on the terms set forth in this Agreement.
4

5 H. On July 1, 2021, the Parties participated in mediation presided over by Jeffrey Ross,
6 Esq., a well-respected wage and hour class action mediator.
7

8 I. At the conclusion of the mediation, the Parties were able to reach an agreement to
9 settle this Action for the total Gross Settlement Amount of \$1,500,000. The Parties
10 subsequently executed a binding and enforceable Memorandum of Agreement
11 (“MOU”), and agreed that a detailed, long-form Joint Stipulation of Settlement of
12 Class Action and PAGA Claims and Release of Claims would be completed shortly
13 thereafter.
14

15 J. As part of this Agreement, the Parties stipulated to the filing of a First Amended
16 Complaint in the PAGA Action, pursuant to and for the purposes of this Agreement
17 only. The First Amended Complaint in the PAGA Action will add all the class
18 action claims and allegations asserted in both the Class Action and Federal Class
19 Action into the PAGA Action. Following Plaintiff’s filing of the First Amended
20 Complaint in the PAGA Action, Defendant will file an answer to Plaintiff’s First
21 Amended Complaint within the time frame allowed in the Code of Civil Procedure.
22

23 K. This Agreement replaces and supersedes the MOU and any other agreements,
24 understandings, or representations between the Parties. This Agreement represents
25 a compromise and settlement of highly disputed claims. Nothing in this Agreement
26 is intended or will be construed as an admission by Defendant that the claims in the
27
28

1 Actions of Plaintiff or the Class Members have merit or that Defendant bears any
2 liability to Plaintiff or the Class on those claims or any other claims, or as an
3 admission by Plaintiff that Defendant's defenses in the Actions have merit.
4

5 L. The Parties believe that the Settlement is fair, reasonable and adequate. The
6 Settlement was arrived at through arm's-length negotiations, taking into account all
7 relevant factors. The Parties recognize the uncertainty, risk, expense and delay
8 attendant to continuing the Action through trial and any appeal. Accordingly, the
9 Parties desire to fully, finally, and forever settle, compromise and discharge all
10 disputes and claims arising from or relating to the Action.
11

12 M. The Parties agree to certification of the Class for purposes of this Settlement only.
13 If for any reason the settlement does not become effective, Defendant reserves the
14 right to contest certification of any class for any reason and reserves all available
15 defenses to the claims in the Action.
16

17 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:
18

19 **III. TERMS OF AGREEMENT**

20 A. Settlement Consideration and Settlement Payments by Defendant.
21

- 22 1. Settlement Consideration. In full and complete settlement of the Actions, and
23 in exchange for the releases set forth below, Defendant will pay the sum of
24 the Individual Settlement Payment, the Class Representative Service Award,
25 the Class Counsel Award, PAGA Settlement, and the Settlement
26 Administration Costs, as specified in this Agreement, equal to the Total
27 Settlement Amount of One Million Five Hundred Thousand Dollars
28

1 (\$1,500,000.00). The Parties agree that this is a non-reversionary Settlement
2 and that no portion of the Total Settlement Amount shall revert to Defendant.
3 Other than Defendant's share of employer payroll taxes, or as otherwise
4 specified in the Agreement, Defendant shall not be required to pay more than
5 the Total Settlement Amount, except as provided for hereinbelow.
6

7 2. Class Size. At the time of mediation, Defendant estimated that the Settlement
8 Class was comprised of 3,474 individuals who collectively worked
9 approximately 152,828 Workweeks in California ("Projected Workweeks")
10 during the Class Period as of March 31, 2021. In regard hereto, Defendant
11 will provide a declaration under penalty of perjury confirming the number of
12 Class Members and Workweeks they worked in California during the Class
13 Period prior to the filing of the motion for preliminary approval. If, at the time
14 of Defendant's declaration, the actual number of Workweeks as of March 31,
15 2021 exceeds the Projected Workweeks by more than 10%, the Gross
16 Settlement Amount will increase proportionally with added workweeks (e.g.,
17 if the workweeks as of March 31, 2021 exceed 152,828 by 11%, the Gross
18 Settlement Amount will increase by 1%).
19
20

21 3. Settlement Payment. Defendant is liable for payment of the Total Settlement
22 Amount. Defendant shall pay, via wire transfer, the Total Settlement Amount
23 to the Settlement Administrator on the Funding Date.
24

25 4. Defendant's Share of Payroll Taxes. Defendant's share of employer side
26 payroll taxes is in addition to the Total Settlement Amount and shall be paid
27 together with the Total Settlement Amount.
28

- 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 Released Parties from the Released Class Claims for the Class Period.
4
- 5 C. Released PAGA Claims by the Aggrieved Employees. As of the Funding Date, in
6 exchange for the consideration set forth in this Agreement, Plaintiff, the LWDA and
7 the State of California, acting on behalf of Aggrieved Employees, release the Released
8 Parties from the Released PAGA Claims for the PAGA Period.
9
- 10 D. General Release by Plaintiff. As of the Funding Date, for the consideration set forth
11 in this Agreement, Plaintiff waives, releases, acquits and forever discharges the
12 Released Parties from any and all claims, whether known or unknown, which exist or
13 may exist on her behalf as of the date of this Agreement, including but not limited to
14 any and all tort claims, contract claims, wage claims, wrongful termination claims,
15 disability claims, benefit claims, public policy claims, retaliation claims, statutory
16 claims, personal injury claims, emotional distress claims, invasion of privacy claims,
17 defamation claims, fraud claims, quantum meruit claims, and any and all claims
18 arising under any federal, state or other governmental statute, law, regulation or
19 ordinance, including, but not limited to claims for violation of the Fair Labor
20 Standards Act, the California Labor Code, the Wage Orders of California's Industrial
21 Welfare Commission, other state wage and hour laws, the Americans with
22 Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee
23 Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the
24 California Fair Employment and Housing Act, the California Family Rights Act, the
25 Family Medical Leave Act, California's Whistleblower Protection Act, California
26 Business & Professions Code Section 17200 et seq., and any and all claims arising
27
28

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

1 even so Plaintiff agrees that the releases and agreements contained in this Settlement
2 Agreement shall remain effective in all respects notwithstanding any later discovery
3 of any different or additional facts. Plaintiff expressly assumes any and all risk of any
4 mistake in connection with the true facts involved in the matters, disputes, or
5 controversies released or described in this Settlement Agreement or with regard to any
6 facts now unknown to Plaintiff relating thereto.
7

8
9 E. Conditions Precedent. This Settlement will become final and effective only upon the
10 occurrence of all of the following events:

- 11 1. Plaintiff amends her state court action to allege her class claims as part of her
12 state court action, and the federal court claims are stayed pending the approval
13 process set forth herein;
14
- 15 2. The Court enters an order granting preliminary approval of the Settlement;
16
- 17 3. The Court enters an order granting final approval of the Settlement and a Final
18 Judgment;
19
- 20 4. If an objector appears at the final approval hearing, the time for appeal of the
21 Final Judgment and Order Granting Final Approval of Class Action
22 Settlement expires; or, if an appeal is timely filed, there is a final resolution of
23 any appeal from the Judgment and Order Granting Final Approval of Class
24 Action Settlement; and
25
- 26 5. Defendant fully funds the Total Settlement Amount.
27
28

1 F. Dismissal of the Class Action and Federal Class Action. Upon the Effective Date, and
2 prior to the Funding Date, Class Counsel will take all steps necessary to dismiss the
3 Class Action and Federal Class Action with prejudice.
4

5 G. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
6 not preliminarily or finally approved by the Court, fails to become effective, or is
7 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
8 Defendant from obtaining a complete resolution of the Released Claims, or if
9 Defendant fails to fully fund the Total Settlement Amount:
10

11 1. This Settlement Agreement and the First Amended Complaint in the PAGA
12 Action shall be void *ab initio* and of no force or effect, and shall not be
13 admissible in any judicial, administrative or arbitral proceeding for any
14 purpose or with respect to any issue, substantive or procedural;
15

16 2. The conditional class certification (obtained for any purpose) shall be void *ab*
17 *initio* and of no force or effect, and shall not be admissible in any judicial,
18 administrative or arbitral proceeding for any purpose or with respect to any
19 issue, substantive or procedural; and
20

21 3. None of the Parties to this Settlement will be deemed to have waived any
22 claims, objections, defenses or arguments in the Actions, including with
23 respect to the issue of class certification.
24

25 The Party responsible for any nullification shall bear the costs associated with
26 nullification. If neither party is responsible for the nullification, following
27
28

1 good faith efforts to cure, the costs associated with nullification shall be split
2 equally.

3
4 H. Certification of the Settlement Class. The Parties stipulate to conditional class
5 certification of the Class for the Class Period for purposes of settlement only. In the
6 event that this Settlement is not approved by the Court, fails to become effective, or is
7 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
8 Defendant from obtaining a complete resolution of the Released Claims, the
9 conditional class certification (obtained for any purpose) shall be void *ab initio* and of
10 no force or effect, and shall not be admissible in any judicial, administrative or arbitral
11 proceeding for any purpose or with respect to any issue, substantive or procedural.
12

13
14 I. Tax Liability. The Parties make no representations as to the tax treatment or legal
15 effect of the payments called for, and Class Members and/or Aggrieved Employees are
16 not relying on any statement or representation by the Parties in this regard. Class
17 Members and/or Aggrieved Employees shall be provided notice that they will be
18 responsible for the payment of any taxes and penalties assessed on the Individual
19 Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved
20 Employee Payment described and will be solely responsible for any penalties or other
21 obligations resulting from their personal tax reporting of Individual Settlement
22 Payments and/or Aggrieved Employees' individual shares of the Aggrieved Employee
23 Payment.
24

25
26 J. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
27 the "acknowledging party" and each Party to this Agreement other than the
28 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision

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

19 K. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file with
20 the Court a Motion for Order Granting Preliminary Approval and supporting papers,
21 which shall include this Settlement Agreement. Plaintiff will provide Defendant with
22 a draft of the Motion at least five (5) business days prior to the filing of the Motion to
23 give Defendant an opportunity to propose changes or additions to the Motion.
24

25 L. Settlement Administrator. The Settlement Administrator shall be responsible for:
26 establishing and administering the QSF; calculating, processing and mailing payments
27 to the Class Representatives, 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 Aggrieved
6 Employee Payment; processing and mailing tax payments to the appropriate state and
7 federal taxing authorities; providing declaration(s) as necessary in support of
8 preliminary and/or final approval of this Settlement; and other tasks as the Parties
9 mutually agree or the Court orders the Settlement Administrator to perform. The
10 Settlement Administrator shall keep the Parties timely apprised of the performance of
11 all 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.

17 M. Notice Procedure.

18
19 1. Class Data. No later than fifteen (15) business days after the Preliminary
20 Approval Date, Defendant shall provide the Settlement Administrator with the
21 Class Data for purposes of preparing and mailing Notice Packets to the Class
22 Members.

23
24 2. Notice Packets.

25
26 a) The Notice Packet shall contain the Notice of Class Action Settlement
27 in a form substantially similar to the form attached as Exhibit A. The
28

1 Notice of Class Action Settlement shall inform Class Members and
2 Aggrieved Employees that they need not do anything in order to
3 receive an Individual Settlement Payment and/or Aggrieved
4 Employees' individual shares of the Aggrieved Employee Payment
5 and to keep the Settlement Administrator apprised of their current
6 mailing address, to which the Individual Settlement Payments and/or
7 Aggrieved Employees' individual shares of the Aggrieved Employee
8 Payment will be mailed following the Funding Date. The Notice of
9 Class Action Settlement shall set forth the release to be given by all
10 members of the Class who do not request to be excluded from the
11 Settlement Class and/or Aggrieved Employees' in exchange for an
12 Individual Settlement Payment and/or Aggrieved Employees'
13 individual shares of the Aggrieved Employee Payment, the number of
14 Workweeks worked in California by each Class Member during the
15 Class Period and PAGA Period, if any, and the estimated amount of
16 their Individual Settlement Payment if they do not request to be
17 excluded from the Settlement and each Aggrieved Employee's share
18 of the PAGA Settlement, if any. The Settlement Administrator shall
19 use the Class Data to determine Class Members' Workweeks and
20 PAGA Workweeks. The Notice will also advise the Aggrieved
21 Employees that they will release the Released PAGA Claims and will
22 receive their share of the PAGA Settlement regardless of whether they
23 request to be excluded from the Settlement.
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1 b) The Notice Packet's mailing envelope shall include the following
2 language: "IMPORTANT LEGAL DOCUMENT - YOU MAY BE
3 ENTITLED TO PARTICIPATE IN A CLASS ACTION
4 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
5 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
6 NOTICE."

7
8 3. Notice by First Class U.S. Mail and Email. Upon receipt of the Class Data,
9 the Settlement Administrator will perform a search based on the National
10 Change of Address Database to update and correct any known or identifiable
11 address changes. No later than fourteen (14) calendar days after receiving the
12 Class Data from Defendant, the Settlement Administrator shall mail and email
13 copies of the Notice Packet to all Class Members via regular First-Class U.S.
14 Mail and electronic mail. The Settlement Administrator shall exercise its best
15 judgment to determine the current mailing address for each Class Member.
16 The address identified by the Settlement Administrator as the current mailing
17 address shall be presumed to be the best mailing address for each Class
18 Member.
19 Member.

20
21 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
22 Administrator as non-delivered on or before the Response Deadline shall be
23 re-mailed to any forwarding address provided. If no forwarding address is
24 provided, the Settlement Administrator shall promptly attempt to determine a
25 correct address by lawful use of skip-tracing, or other search using the name,
26 address and/or Social Security number of the Class Member involved, and
27
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1 shall then perform a re-mailing, if another mailing address is identified by the
2 Settlement Administrator. In addition, if any Notice Packets, which are
3 addressed to Class Members who are currently employed by Defendant, are
4 returned to the Settlement Administrator as non-delivered and no forwarding
5 address is provided, the Settlement Administrator shall notify Defendant.
6 Defendant will request that the currently employed Class Member provide a
7 corrected address, and transmit to the Administrator any corrected address
8 provided by the Class Member. Class Members who received a re-mailed
9 Notice Packet shall have their Response Deadline extended fifteen (15) days
10 from the original Response Deadline.
11

12
13 5. Disputes Regarding Individual Settlement Payments. Class Members will
14 have the opportunity, should they disagree with Defendant's records regarding
15 the number of Workweeks to provide documentation and/or an explanation to
16 show contrary dates in which they performed work at a California retail
17 location. If there is a dispute, the Settlement Administrator will consult with
18 the Parties to determine whether an adjustment is warranted. The Settlement
19 Administrator shall determine the eligibility for, and the amounts of, any
20 Individual Settlement Payments under the terms of this Agreement. The
21 Settlement Administrator's determination of the eligibility for and amount of
22 any Individual Settlement Payment shall be binding upon the Class Member
23 and the Parties.
24

25
26 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
27 by the Settlement Administrator concerning the administration of the
28

1 Settlement will be resolved by the Court under the laws of the State of
2 California. Before any such involvement of the Court, counsel for the Parties
3 will confer in good faith to resolve the disputes without the necessity of
4 involving the Court.
5

6 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
7 Packet shall state that Class Members who wish to exclude themselves from
8 the Settlement must submit a written request for exclusion by the Response
9 Deadline. The written request for exclusion must state that the Class Member
10 wishes to exclude himself or herself from the Settlement and (1) must contain
11 the name, address, and the last four digits of the Social Security number of the
12 person requesting exclusion; (2) must be signed by the Class Member; (3)
13 must be postmarked or fax stamped by the Response Deadline and returned to
14 the Settlement Administrator at the specified address or fax telephone number;
15 and (4) contain a typewritten or handwritten notice stating in substance: "I
16 wish to opt out of the settlement of the class action lawsuit entitled *Lopez v.*
17 *Adidas America, Inc.*, currently pending in the Superior Court for the County
18 of Ventura, Case No. 56-2020-00547592-CU-OE-VTA . I understand that
19 by requesting to be excluded from the settlement, I will receive no money
20 from the Settlement described in this Notice." The request for exclusion will
21 not be valid if it is not timely submitted, if it is not signed by the Class
22 Member, or if it does not contain the name and address and last four digits of
23 the Social Security number of the Class Member. The date of the postmark
24 on the mailing envelope or fax stamp on the request for exclusion shall be the
25 exclusive means used to determine whether the request for exclusion was
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1 timely submitted. Any Class Member who requests to be excluded from the
2 Settlement Class will not be entitled to an Individual Settlement Payment and
3 will not be otherwise bound by the terms of the Settlement or have any right
4 to object, appeal or comment thereon. However, any Class Member that
5 submits a timely request for exclusion that is also a member of the Aggrieved
6 Employees will still receive his/her pro rata share of the PAGA Settlement, as
7 specified below, and in consideration, will be bound by the Release by the
8 Aggrieved Employees as set forth herein. Settlement Class Members who fail
9 to submit a valid and timely written request for exclusion on or before the
10 Response Deadline shall be bound by all terms of the Settlement and any final
11 judgment entered in this Action if the Settlement is approved by the Court.
12 No later than fourteen (14) calendar days after the Response Deadline, the
13 Settlement Administrator shall provide counsel for the Parties with a final list
14 of the Class Members who have timely submitted written requests for
15 exclusion. At no time shall any of the Parties or their counsel seek to solicit
16 or otherwise encourage members of the Class to submit requests for exclusion
17 from the Settlement.

- 21 8. Objections. The Notice of Class Action Settlement contained in the Notice
22 Packet shall state that Class Members who wish to object to the Settlement
23 may submit to the Settlement Administrator a written statement of objection
24 ("Notice of Objection") by the Response Deadline. The postmark date of
25 mailing shall be deemed the exclusive means for determining that a Notice of
26 Objection was served timely. The Notice of Objection must be signed by the
27 Settlement Class Member and state: (1) the case name and number; (2) the

1 name of the Settlement Class Member; (3) the address of the Settlement Class
2 Member; (4) the last four digits of the Settlement Class Member's Social
3 Security number; (4) the basis for the objection; and (5) if the Settlement Class
4 Member intends to appear at the Final Approval/Settlement Fairness Hearing.
5 Class Members who fail to make objections in writing in the manner specified
6 above may still make their objections orally at the Final Approval/Settlement
7 Fairness Hearing with the Court's permission. Settlement Class Members will
8 have a right to appear at the Final Approval/Settlement Fairness Hearing to
9 have their objections heard by the Court. At no time shall any of the Parties
10 or their counsel seek to solicit or otherwise encourage Class Members to file
11 or serve written objections to the Settlement or appeal from the Order and
12 Final Judgment. Class Members who submit a written request for exclusion
13 may not object to the Settlement. Class Members may not object to the PAGA
14 Settlement.
15
16

17
18 N. Funding and Allocation of the Total Settlement Amount. Defendant is required to pay
19 the Total Settlement Amount on or before the Funding Date, plus any employer's share
20 of payroll taxes as mandated by law within the time specified herein.

21
22 1. Individual Settlement Payments. Individual Settlement Payments shall be
23 paid from the Net Settlement Amount and shall be paid pursuant to the
24 formula set forth herein. Using the Class Data, the Settlement Administrator
25 shall add up the total number of Workweeks for all Class Members. The
26 respective Workweeks for each Class Member will be divided by the total
27 Workweeks for all Class Members, resulting in the Payment Ratio for each
28

1 Class Member. Each Class Member's Payment Ratio will then be multiplied
2 by the Net Settlement Amount to calculate each Class Member's estimated
3 Individual Settlement Payments. Each Individual Settlement Payment will be
4 reduced by any legally mandated employee tax withholdings (e.g., employee
5 payroll taxes, etc.). Individual Settlement Payments for Class Members who
6 submit valid and timely requests for exclusion will be redistributed to
7 Settlement Class Members who do not submit valid and timely requests for
8 exclusion on a pro rata basis based on their respective Payment Ratios.
9

10
11 2. PAGA Settlement. Eighty Thousand Dollars (\$80,000) shall be allocated
12 from the Total Settlement Amount for settlement of claims for civil penalties
13 under the Private Attorneys General Act of 2004 ("PAGA Settlement"). The
14 Settlement Administrator shall pay seventy-five percent (75%) of the PAGA
15 Settlement (\$60,000) to the California Labor and Workforce Development
16 Agency no later than twenty-five (25) calendar days after the Funding Date
17 (hereinafter "LWDA Payment"). Twenty-five (25%) of the PAGA Settlement
18 (\$20,000) will be distributed to the Aggrieved Employees as described in this
19 Agreement (hereinafter "Aggrieved Employee Payment"). For purposes of
20 distributing the Aggrieved Employee Payment to the Aggrieved Employees,
21 each Aggrieved Employee shall receive his or her pro-rata share of the
22 Aggrieved Employee Payment using the PAGA Payment Ratio as defined
23 above.
24

25
26 3. Calculation of Individual Payments to the Aggrieved Employees. Using the
27 Class Data, the Settlement Administrator shall add up the total number of
28

PAGA Workweeks for all Aggrieved Employees during the PAGA Period. The respective PAGA Workweeks for each Aggrieved Employee will be divided by the total PAGA Workweeks 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.

4. Allocation of Individual Settlement Payments. For tax purposes, Individual Settlement Payments shall be allocated and treated as follows: 1/3 as wages (“Wage Portion”); 2/3 as penalties and interest (“Non-Wage Portion”). The Wage Portion is subject to wage withholdings and shall be reported on IRS Form W-2. The Non-Wage Portion shall not be subject to wage withholdings and shall be reported on IRS Form 1099.

5. 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.

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

1 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan.
2 Rather, it is the Parties' intention that this Settlement Agreement will not
3 affect any rights, contributions, or amounts to which any Class Members may
4 be entitled under any benefit plans.
5

6 7. All monies received by Settlement Class Members under the Settlement which
7 are attributable to wages shall constitute income to such Settlement Class
8 Members solely in the year in which such monies actually are received by the
9 Settlement Class Members. It is the intent of the Parties that Individual
10 Settlement Payments and individual shares of the Aggrieved Employee
11 Payment provided for in this Settlement agreement are the sole payments to be
12 made by Defendant to Settlement Class Members and/or Aggrieved Employees
13 in connection with this Settlement Agreement, with the exception of Plaintiff,
14 and that the Settlement Class Members and/or Aggrieved Employees are not
15 entitled to any new or additional compensation or benefits as a result of having
16 received the Individual Settlement Payments and/or their shares of the
17 Aggrieved Employee Payment.
18
19

20 8. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
21 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
22 and/or Aggrieved Employees last known mailing address no later than fifteen
23 (15) calendar days after the Funding Date.
24

25 9. Expiration. Any checks issued to Settlement Class Members and Aggrieved
26 Employees shall remain valid and negotiable for one hundred and eighty (180)
27 days from the date of their issuance. If a Settlement Class Member and/or
28

1 Aggrieved Employee does not cash his or her settlement check within 90 days,
2 the Settlement Administrator will send a letter to such persons, advising that
3 the check will expire after the 180th day, and invite that Settlement Class
4 Member and/or Aggrieved Employee to request reissuance in the event the
5 check was destroyed, lost or misplaced. In the event a check for an Individual
6 Settlement Payment and/or individual shares of the Aggrieved Employee
7 Payment has not been cashed within one hundred and eighty (180) days, all
8 funds represented by such uncashed checks, plus any interest accrued thereon,
9 shall be distributed consistent with California Code of Civil Procedure Section
10 384 as follows: to the Legal Aid Association of California ("LAAC"). Neither
11 Class Counsel nor Defendant's counsel, nor any of the Parties, has any
12 interest, pecuniary or otherwise, in LAAC..
13

- 14
- 15 10. Class Representative Service Award. In addition to the Individual Settlement
16 Payment and her individual share of the Aggrieved Employee Payment to be
17 paid to Plaintiff, Plaintiff will apply to the Court for an award of not more than
18 \$10,000, as the Class Representative Service Award. Defendant does not
19 presently intend to oppose a Class Representative Service Award of not more
20 than \$10,000 for Plaintiff. The Settlement Administrator shall pay the Class
21 Representative Service Award, either in the amount stated herein if approved
22 by the Court or some other amount as approved by the Court, to Plaintiff from
23 the Total Settlement Amount no later than ten (10) calendar days after the
24 Funding Date. Any portion of the requested Class Representative Service
25 Award that is not awarded to the Class Representatives shall be part of the Net
26 Settlement Amount and shall be distributed to Settlement Class Members as
27
28

1 provided in this Agreement. The Settlement Administrator shall issue an IRS
2 Form 1099-MISC to Plaintiff for her Class Representative Service Award.
3 Plaintiff shall be solely and legally responsible to pay any and all applicable
4 taxes on her Class Representative Service Award and shall hold harmless the
5 Released Parties from any claim or liability for taxes, penalties, or interest
6 arising as a result of the Class Representative Service Award. The Class
7 Representative Service Award shall be in addition to Plaintiff's Individual
8 Settlement Payment as a Settlement Class Member. Approval of this
9 Settlement shall not be conditioned on Court approval of the requested amount
10 of the Class Representative Service Award. In the event that the Court reduces
11 or does not approve the requested Class Representative Service Award,
12 Plaintiff shall not have the right to revoke the Settlement, and it will remain
13 binding.
14
15

- 16
17 11. Class Counsel Award. Defendant understands a motion by Class Counsel for
18 attorneys' fees not to exceed one-third of the Total Settlement Amount
19 currently estimated to be \$500,000.00, plus costs and expenses supported by
20 declaration not to exceed Twenty-Five Thousand Dollars (\$25,000.00), from
21 the Total Settlement Amount will be filed. Any portion of the requested Class
22 Counsel Award that is not awarded to Class Counsel shall be part of the Net
23 Settlement Amount and shall be distributed to Settlement Class Members as
24 provided in this Agreement. The Settlement Administrator shall allocate and
25 pay the Class Counsel Award to Class Counsel from the Total Settlement
26 Amount no later than five (5) calendar days after the Funding Date. Class
27 Counsel shall be solely and legally responsible to pay all applicable taxes on
28

1 the payment made pursuant to this paragraph. The Settlement Administrator
2 shall issue an IRS Form 1099 — MISC to Class Counsel for the payments
3 made pursuant to this paragraph. In the event that the Court reduces or does
4 not approve the requested Class Counsel Award, Plaintiff and Class Counsel
5 shall not have the right to revoke the Settlement, or to appeal such order, and
6 the Settlement will remain binding.
7

8
9 12. Settlement Administration Costs. The Settlement Administrator shall be paid
10 for the costs of administration of the Settlement from the Total Settlement
11 Amount. The estimate of the Settlement Administration Costs is \$20,000.00.
12 The Settlement Administrator shall be paid the Settlement Administration
13 Costs no later than twenty-five (25) calendar days after the Funding Date.
14

15 O. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with
16 the Court a Motion for Order Granting Final Approval and Entering Judgment, within
17 twenty-eight (28) days following the expiration of the Response Deadline, which
18 motion shall request final approval of the Settlement and a determination of the
19 amounts payable for the Class Representative Service Award, the Class Counsel
20 Award, the PAGA Settlement, and the Settlement Administration Costs. Plaintiff will
21 provide Defendant with a draft of the Motion at least 3 business days prior to the filing
22 of the Motion to give Defendant an opportunity to propose changes or additions to
23 the Motion.
24

25
26 1. Declaration by Settlement Administrator. No later than fourteen (14) days
27 after the Response Deadline, the Settlement Administrator shall submit a
28 declaration in support of Plaintiff's motion for final approval of this

1 Settlement detailing the number of Notice Packets mailed and re-mailed to
2 Class Members, the number of undeliverable Notice Packets, the number of
3 timely requests for exclusion, the number of objections received, the amount
4 of the average Individual Settlement Payment and highest Individual
5 Settlement Payment, the Settlement Administration Costs, and any other
6 information as the Parties mutually agree or the Court orders the Settlement
7 Administrator to provide.
8

9
10 2. Final Approval Order and Judgment. Class Counsel shall present an Order
11 Granting Final Approval of Class Action Settlement to the Court for its
12 approval, and Judgment thereon, at the time Class Counsel files the Motion
13 for Final Approval.
14

15 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
16 an opportunity for Counsel for Defendant to review the Motions for Preliminary and
17 Final Approval, including the Order Granting Final Approval of Class Action
18 Settlement, and Judgment before filing with the Court. The Parties and their counsel
19 will cooperate with each other and use their best efforts to affect the Court's approval
20 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
21 Judgment.
22

23 O. Cooperation. The Parties and their counsel will cooperate with each other and use
24 their best efforts to implement the Settlement.
25
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1 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Actions,
2 except such proceedings necessary to implement and complete the Settlement, pending
3 the Final Approval/Settlement Fairness Hearing to be conducted by the Court.
4

5 Q. Amendment or Modification. This Agreement may be amended or modified only by
6 a written instrument signed by counsel for all Parties or their successors-in-interest.
7

8 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
9 Agreement among these Parties, and no oral or written representations, warranties or
10 inducements have been made to any Party concerning this Agreement or its Exhibit
11 other than the representations, warranties and covenants contained and memorialized
12 in this Agreement and its Exhibit.
13

14 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
15 represent they are expressly authorized by the Parties whom they represent to negotiate
16 this Agreement and to take all appropriate action required or permitted to be taken by
17 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
18 documents required to effectuate the terms of this Agreement. The person signing this
19 Agreement on behalf of Defendant represents and warrants that he/she is authorized to
20 sign this Agreement on behalf of Defendant. Plaintiff represents and warrants that she
21 is authorized to sign this Agreement and that she has not assigned any claim, or part
22 of a claim, covered by this Settlement to a third-party.
23
24

25 T. No Public Comment: The Parties and their counsel agree that they will not issue any
26 press releases, initiate any contact with the press, respond to any press inquiry, or have
27 any communication with the press about the fact, amount or terms of the Settlement
28

1 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
2 of its terms for any marketing or promotional purposes. Nothing herein will restrict
3 Class Counsel from including publicly available information regarding this settlement
4 in future judicial submissions regarding Class Counsel's qualifications and experience.
5 Further, Class Counsel will not include, reference or use the Settlement Agreement for
6 any marketing or promotional purposes, or for attempting to influence business
7 relationships, either before or after the Motion for Preliminary Approval is filed. Any
8 communication about the Class Action Settlement to Class Members prior to the court-
9 approved mailing will be limited to a statement that a settlement has been reached and
10 the details will be communicated in a forthcoming Court-approved notice.
11

12
13 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
14 to the benefit of, the successors or assigns of the Parties, as previously defined.
15

16 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
17 shall be governed by and interpreted according to the laws of the State of California.
18

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

24 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
25 is a fair, adequate and reasonable settlement of this Action and have arrived at this
26 Settlement after extensive arms-length negotiations, taking into account all relevant
27 factors, present and potential.
28

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

7
8 Z. Invalidity of Any Provision. In the event that any one or more of the provisions
9 contained in this Agreement shall for any reason be held invalid, illegal or
10 unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no
11 way affect any other provision if counsel for Defendant and Class Counsel, on behalf
12 of the Parties and the Class, mutually elect in writing to proceed as if such invalid,
13 illegal or unenforceable provision had never been included in this Agreement. The
14 Parties agree to respectfully request that before declaring any provision of this
15 Agreement invalid, the Court shall first attempt to construe the provisions valid to the
16 fullest extent possible consistent with applicable precedents so as to define all
17 provisions of this Agreement valid and enforceable.

18
19
20 AA. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently
21 intend to pursue any claims against the Released Parties, including, but not limited to,
22 any and all claims relating to or arising from Plaintiff's employment with Defendant,
23 regardless of whether Class Counsel is currently aware of any facts or legal theories
24 upon which any claims or causes of action could be brought against Released Parties,
25 including those facts or legal theories alleged in the operative complaint in this Action.
26 The Parties further acknowledge, understand and agree that this representation is
27
28

1 essential to the Agreement and that this Agreement would not have been entered into
2 were it not for this representation.

3
4 BB. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
5 certification for purposes of this settlement only.

6
7 CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
8 Released Claims have merit and give rise to liability on the part of Defendant.
9 Defendant claims that the Released Claims have no merit and do not give rise to
10 liability. This Agreement is a compromise of disputed claims. Nothing contained in
11 this Agreement and no documents referred to and no action taken to carry out this
12 Agreement may be construed or used as an admission by or against the Defendant or
13 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
14 than as may be specifically set forth herein, each Party shall be responsible for and
15 shall bear its/her own attorney's fees and costs.

16
17 DD. Extension of Time. Without further order of the Court, the Parties hereto may agree in
18 writing to reasonable extensions of time to carry out any of the provisions of the
19 Agreement.

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21 EE. Deadlines Falling on Weekends or Holidays. To the extent that any deadline set forth
22 in this Agreement falls on a Saturday, Sunday or legal holiday, that deadline shall be
23 continued until the following business day.
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IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: 8/12/2021

DocuSigned by:
Monserat Lopez
08D2253454DB42F...
MONSERRAT LOPEZ

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

DATED: 11.08.2021

ADIDAS AMERICA, INC.
DocuSigned by:
51CA9296C2EF408...
PAUL EHRLICH

General Counsel, Global Brands and Americas

DATED: 11.08.2021

ADIDAS AMERICA, INC.
DocuSigned by:
901AA1EC66C84A5...
LANIECE DOUGLAS

VICE PRESIDENT - RETAIL

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: 8/12/2021

JCL LAW FIRM, A.P.C.
DocuSigned by:
Jean-Claude Lapuyade
0EBC25D5B9CD469...
JEAN-CLAUDE LAPUYADE
Attorneys for Plaintiff and the Settlement Class Members

DATED: 8/12/2021

ZAKAY LAW GROUP, APLC
DocuSigned by:
4ECDE73A91D4420...
SHANI O. ZAKAY
Attorneys for Plaintiff and the Settlement Class Members

1 DATED: August 10, 2021

LITTLER MENDELSON, P.C.

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3 ROBERT S. BLUMBERG
4 Attorneys for Defendant

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EXHIBIT A

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

(Lopez, et al., v Adidas America, Inc., Ventura County Superior Court Case No. 56-2021-00549844)

**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 Settlement Share is: \$<<__>>. 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 Defendant adidas America, Inc. 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. Directions are provided below.

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 Ventura (the “Court”) has been reached between Plaintiff Monserrat Lopez (“Plaintiff”) and Defendant adidas America, Inc. (“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, which is defined as:

All non-exempt retail store employees who are or previously were employed by and performed work for Defendant in California during the period of September 16, 2017 to October 1, 2021.

The “Class Period” is the period of time running from September 16, 2017 to October 1, 2021.

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

2. What is this class action lawsuit about?

On December 4, 2020, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of Ventura. Plaintiff asserted claims that Defendant: (a) Violated California Business and Professions Code § 17200 *et seq.*; (b) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (c) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (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 provide wages when due in violation of California Labor Code §§ 201, 202, and 203; and (h) Violation of Labor Code § 1198 and California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating). On January 27, 2021, Plaintiff separately filed a representative action in Ventura County Superior Court, alleging a single cause of action for Violations of the Private Attorney General Act (“PAGA”) at Labor Code Section 2698, *et seq.* Both of these class and representative PAGA actions will be collectively referred to herein as “Actions.”

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 Defendants 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 Plaintiff did not request seating and that the nature of the work does not permit the use of seats; and that Defendant is not liable for any of the penalties claimed or that could be claimed in the Actions.

On July 1, 2021, the Parties participated in an all-day mediation with Jeffrey Ross, Esq., an experienced mediator of wage and hour class actions. At the conclusion of the full-day mediation, the Parties reached an agreement for settlement. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, 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 Million Five Thousand Dollars (\$1,500,000) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount includes the payment of all Settlement Shares to Participating Class Members, Class Counsel’s attorneys’ fees and costs, Settlement Administration Expenses, the LWDA Payment, PAGA Shares, and the Class Representative Service Payments to the Plaintiff.

After the 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:

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$20,000.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.

- Attorneys' Fees and Costs. 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 \$500,000) and a Class Counsel Litigation Expenses Payment of not more than \$25,000.00 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Actions 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.
- Class Representative Service Payment. Class Representative Service Payment of up to Ten Thousand Dollars (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate her for services on behalf of the Class in initiating and prosecuting the Action, and for the risks she undertook.
- PAGA Payment. A payment of \$80,000 relating to Plaintiff's claim under the PAGA, \$60,000.00 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$20,000.00 will be distributed to PAGA Employees as part of the Net PAGA Amount.
- Calculation of Payments to Participating Class Members. After all the above payments of the court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payments, the LWDA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Participating Class Members"). The Settlement Share for each Participating Class Member will be calculated by dividing the Net Settlement Amount by the total number of Workweeks for all Participating Class Members that occurred during the Class Period and multiplying the result by each individual Participating Class Member's Workweeks that occurred during the Class Period. A "Workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendant's records, a member of the class worked at least one-day for Defendant in a California retail store during any such workweek.
- Calculation of PAGA Penalties Payments to PAGA Employees. 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 Workweeks worked by all PAGA Employees during the PAGA Period, and then taking that number and multiplying it by the number of Workweeks worked by each respective PAGA Employee during the PAGA Period. "PAGA Employees" means all non-exempt employees who are or previously were employed by Defendant in California during the period of October 27, 2019 to October 1, 2021.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Settlement Share 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. 1/3 of each Settlement Share 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. 2/3 of each Settlement Share 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 PAGA Employees, and each PAGA Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant's counsel intend for anything contained in this Class Notice or in the Settlement to constitute advice regarding taxes or taxability. You may be responsible for taxes on your portion of the settlement, and 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, Plaintiff and the Participating Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. Released Class Claims are defined as all class claims alleged or could have been alleged based on the facts in the operative complaint or on the facts alleged in any and all complaints filed in the Actions 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. The Released PAGA Claims shall be released as follows. Specifically, Plaintiff and the Settlement Class Members shall release the Released Parties from all claims alleged or which could have been alleged based on the facts alleged in any and all complaints filed in the Actions which occurred during the Class Period, including claims for (1) Failure to pay overtime wages; (2) Failure to pay minimum wages; (3) Failure to provide required meal periods; (4) Failure to provide required rest periods; (5) Failure to provide accurate itemized wage statements; (6) Failure to provide wages when due; as well as any federal, state or local provisions, but expressly excluding all other claims arising from employment, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period.

Released PAGA Claims. As of the Settlement Effective Date and upon funding in full of the Gross Settlement Amount by Defendant, Plaintiff, the LWDA and the State of California, acting on behalf of all PAGA Employees shall release all Released PAGA Claims, irrespective of whether any PAGA Employees opted-out of the class settlement, and will be bound by this PAGA Release (the "PAGA Release"). "Released PAGA Claims" are defined as all claims alleged in the operative PAGA Action complaint and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period, including all claims which could have been alleged under PAGA based on the facts disclosed to the LWDA in Plaintiff's letters notice to the LWDA, which occurred during the PAGA Period, including PAGA penalties for (1) Failure to pay overtime wages; (2) Failure to pay minimum wages; (3) Failure to provide required meal periods; (4) Failure to provide required rest periods; (5) Failure to provide accurate itemized wage statements; (6) Failure to provide wages when due, including at the time of termination; (7) Failure to maintain true and accurate records; or (8) Failure to provide suitable seating. Any Released PAGA Claim not presented directly in the complaint must be based on facts alleged in the PAGA Action complaint. Excluded from the PAGA Released Claims are any claims under PAGA which were not and could not have been alleged based upon the facts set forth in Plaintiff's Complaints and administrative exhaustion letter and expressly excluding all other claims, including claims vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside the PAGA Period.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you. To the extent employees are required to "opt-in" to have this release be deemed effective under federal law, the acceptance and negotiation of any settlement check shall be deemed effective for this purpose.

5. How much will my payment be?

Defendant's records reflect that you have <<____>> Workweeks worked during the Class Period (September 16, 2017 to October 1, 2021).

Based on this information, your estimated Settlement Share is <<____>>. Your estimated PAGA 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 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: "I have read the Class Notice and I wish to opt out of the class action and settlement of the case *Lopez, et al., v. Adidas America, Inc., Case No. 56-2021-00549844-CU-OE-VTA*." 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 or object to 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 *Lopez, et al., v. Adidas America, Inc., Case No. 56-2021-00549844-CU-OE-VTA*. 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
3990 Old Town Ave., Suite C204
San Diego, CA 92110
Tel.: (619) 826-6975
Fax: (619) 599-2891
E-Mail: jlapuyade@jcl-lawfirm.com

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
5850 Oberlin Drive, Suite 230A
San Diego, CA 92121
Tel: (619) 892-7095
Email: shani@zakaylaw.com
Website: www.zakaylaw.com

Counsel for Defendant:

Robert S. Blumberg, Esq.
Ashley Brick, Esq.
Littler Mendelson, P.C.
633 West 5th Street, 63rd Floor
Los Angeles, CA 90071
Tel.: (213) 443-4300
Fax: (213) 443-4299
E-Mail: rblumberg@littler.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 Ventura County Superior Court, located at 800 South Victoria, Ventura, CA 93009 in Department 40 before Judge Mark Borrell. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

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

You may call the Settlement Administrator at _____ or write to *Lopez, et al., v. Adidas America, Inc.*, Case No. 56-2021-00549844-CU-OE-VTA, 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, 3990 Old Town Ave., Suite C204, San Diego, CA 92110.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to the Participating Class Members who cashed his or her Settlement Share check using the same workweek formula used for distribution of the Net Settlement Amount. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 2

EXHIBIT 3

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Lopez v. Adidas

Friday, July 16, 2021

Requesting Attorney:
Requesting Attorney's E-mail:
ILYM Contact
E-Mail
Contact Number

Claude Lapuyade
jlapuyade@jcl-lawfirm.com
Sean Hartranft
Sean@ilymgroupclassaction.com
949.690.2564

ESTIMATE FOR ADMINISTRATION SOLUTIONS

Opt-Out

ASSUMPTIONS	
Total Estimated Number of Class Members	3,474
Estimated Percentage of Undeliverable Mail	20%
NCOA	Yes
Certified Spanish Translation	No
Case Duration (Years)	1

Activity	Rate Type	Unit Cost	Volume	Amount
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CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	5	\$750.00
Programming of Class Database	Hourly	\$175.00	5	\$875.00

*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.

Subtotal \$1,625.00

PROJECT MANAGEMENT				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	8	\$960.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s)	Hourly	\$70.00	4	\$280.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	1	\$70.00
Report Processing	Hourly	\$70.00	6	\$420.00
NCOA	Per Piece	\$250.00	1	\$250.00
Toll-Free Phone Support	Flat Fee	\$375.00	1	\$375.00
Status Reports	Flat Fee	\$750.00	1	Waived

Subtotal \$2,355.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
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NOTIFICATION/MAILING

Fulfillment of Notices	Per Piece	\$0.85	3,474	\$2,952.90
USPS First Class Postage	Per Piece	\$0.50	3,474	\$1,737.00
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$1.50	695	\$1,042.20
Storage, Photocopies, Deliveries	Flat Fee	\$300.00	1	\$300.00

Subtotal \$6,032.10

DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)

Distribution Setup & Management	Hourly	\$150.00	6	\$900.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	6	\$750.00
Check, Stub & Release - Print & Mail (including W2 and/or 1099)**	Per Check	\$0.90	3,474	\$3,126.60
Check Mailing Postage	Per Piece	\$0.50	3,474	\$1,737.00
Reminder Mailing, Includes Postage	Per Piece	\$1.50	347	\$521.10
Preparation of Taxes	Hourly	\$120.00	14	\$1,680.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

***Additional Bank fees may apply*

Subtotal \$10,214.70

CASE CONCLUSION

Data Manager Final Reporting	Hourly	\$100.00	6	\$600.00
Project Manager Final Reporting	Hourly	\$120.00	6	\$720.00
Declaration	Hourly	\$125.00	3	\$375.00

Subtotal \$1,695.00

Total Case Estimate: \$21,921.80

DISCOUNTED NOT TO EXCEED: \$20,000.00

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. **Attached here to is Exhibit D:** ILYM hereby incorporates the attached Exhibit D into the terms and conditions herein and Exhibit D shall be a part of this agreement. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.