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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF LOS ANGELES**
15

16 CINDY NEWMAN, an individual, individually,
17 on behalf of the general public, and all others
similarly situated,

18 Plaintiff,

19 vs.
20

21 WW NORTH AMERICA HOLDINGS, INC., a
corporation; and DOES 1 through 100, inclusive,

22 Defendants.
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Case No. 20STCV02332

Assigned to the Hon. Kenneth R. Freeman

**NOTICE OF MOTION AND MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: August 27, 2024
Time: 10:00 a.m.
Place: Department 14

Complaint Filed: January 21, 2020
Trial Date: None Set

1 **TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on August 27, 2024 at 10:00 a.m., or as soon thereafter as
3 counsel may be heard, in Department 14 of the above-captioned court, located at 312 North Spring
4 Street, Los Angeles, CA 90012, the Honorable Kenneth R. Freeman presiding, Plaintiff Cindy Newman
5 will, and hereby does, move this Court to:

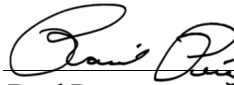
- 6 1. Preliminarily approve the settlement set forth in the Class Action and PAGA Settlement
7 Agreement, attached as Exhibit 1 to the Declaration of Raul Perez;
- 8 2. Conditionally certify the proposed settlement class;
- 9 3. Appoint Cindy Newman as the representative for the settlement class;
- 10 4. Appoint Capstone Law APC and Kyle Todd, P.C. as class counsel;
- 11 5. Approve distribution of the proposed Notice of Settlement to the settlement class;
- 12 6. Appoint CPT Group, Inc. as the Settlement Administrator; and
- 13 7. Set a hearing date for final approval of the settlement.

14 This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of
15 Points and Authorities in support of Motion for Preliminary Approval of Class Action and PAGA
16 Settlement; (3) the Declaration of Raul Perez; (4) the Declaration of Kyle Todd; (5) the Declaration of
17 Cindy Newman; (6) the Class Action and PAGA Settlement Agreement; (7) the Notice of Settlement;
18 (8) the [Proposed] Order Granting Preliminary Approval of Class Action Settlement; (9) the records,
19 pleadings, and papers filed in this action; and (10) upon such other documentary and oral evidence or
20 argument as may be presented to the Court at or prior to the hearing of this Motion.

21 As this Motion is unopposed, the Parties respectfully request relief from the page limit
22 requirement set by California Rules of Court, Rule 3.1113(d).

23 Dated: July 29, 2024

Respectfully submitted,

24 By: 

25 Raul Perez
26 Bevin Allen Pike
27 Daniel Jonathan
28 Trisha K. Monesi
CAPSTONE LAW APC

Attorney for Plaintiff Cindy Newman

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Cindy Newman (“Plaintiff”) seeks preliminary approval of the Class Action and PAGA Settlement Agreement,¹ which if approved, would provide considerable monetary relief for approximately 2,000 current and former employees of Defendant WW North America Holdings, LLC² (“Defendant”) (collectively with Plaintiff, the “Parties”). The principal terms of the Settlement provide for the following:

- (1) Conditional certification of a settlement class defined as: Any person who worked for Defendant as a Studio Team Member in California at any time from January 21, 2016 through July 11, 2020 (“Class Members” or “Settlement Class”).
- (2) A **non-reversionary** Gross Settlement Amount of \$630,000. The Gross Settlement Amount includes:
 - (a) A Net Settlement Amount of approximately \$345,000 (the Gross Settlement Amount minus the requested attorneys’ fees and costs, settlement administration costs, the PAGA Settlement Amount, and the Class Representative Incentive Payment), which will be allocated to all Class Members on a pro-rata basis according to the number of pay periods each Class Member worked during the Class Period. **The entire Net Settlement Amount will be paid to all Class Members who do not opt out of the Settlement Class, and without the need to submit claims for payment.**
 - (b) Attorneys’ fees in the amount of one-third of the Gross Settlement Amount (or \$210,000), and litigation costs and expenses not to exceed \$20,000, to Capstone Law APC and Kyle Todd, P.C. (“Plaintiff’s Counsel”).
 - (c) Settlement administration costs in a reasonable amount, which are not to exceed \$25,000, to be paid to the jointly selected Settlement Administrator, CPT Group,

¹ Hereinafter “Settlement Agreement” or “Settlement.” Unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Settlement Agreement.

² Formerly, WW North America Holdings, Inc.

1 Inc.

2 (d) A \$20,000 PAGA settlement, of which 75% (i.e., \$15,000) will be paid to the
3 Labor & Workforce Development Agency (“LWDA”), and the remaining 25%
4 (i.e., \$5,000) (“PAGA Member Payment”), will be paid to PAGA Members,
5 defined as: Any person who worked for Defendant as a Studio Team Member in
6 California at any time from January 21, 2019 through July 11, 2020. **The entire**
7 **PAGA Member Payment will be paid to all PAGA Members, and without**
8 **the need to submit claims for payment.**

9 (e) A Class Representative Incentive Payment of \$10,000 to Cindy Newman for her
10 service on behalf of the Settlement Class, the risks she took in bringing the
11 action on behalf of the class, and for a general release of all known and
12 unknown claims arising out of her employment with Defendant, including
13 waiver of Civil Code section 1542.

14 An objective evaluation of the Settlement confirms that the relief negotiated on the Settlement
15 Class’s behalf is fair, reasonable, and valuable. The Settlement was negotiated by the Parties at arm’s
16 length with helpful guidance from Jeffrey A. Ross, Esq., an experienced and well-respected class action
17 mediator, and the Settlement confers substantial benefits to Class Members. This relief—averaging
18 approximately \$170 per Class Member from the Net Settlement Amount—is particularly impressive
19 when viewed against the difficulties encountered by plaintiffs pursuing wage and hour cases. Moreover,
20 by settling now rather than proceeding to trial, Class Members will not have to wait (possibly years) for
21 relief, nor will they have to bear the risk of class certification being denied or of Defendant prevailing at
22 trial, or of Plaintiff prevailing at trial but losing on appeal.

23 As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement
24 approval under California law and falls within the range of reasonableness. Accordingly, Plaintiff
25 respectfully requests that this Court grant preliminary approval of the Settlement Agreement.

26 II. FACTS AND PROCEDURE

27 A. Brief Overview of the Litigation and Settlement Negotiations

28 During time relevant to this action, Defendant offered weight loss and wellness programs, “with

1 Digital, in-person and Virtual workshops, and Personal Coaching solutions to help meet our goals.”
2 Defendant also operated several dozen studios in California and employed “Studio Team Members”
3 (previously referred to as Service Providers), including Guides and Coaches (previously referred to as
4 Receptionists and Leaders), to work at their in-person meetings. Plaintiff worked for Defendant as a non-
5 exempt, hourly paid Receptionist/Guide from January 22, 1991 to November 21, 1991 and from April
6 20, 2011 to October 17, 2019. (Second Amended Complaint ¶ 10.)

7 On January 14, 2020, Plaintiff submitted a notice with the LWDA alleging Labor Code
8 violations by Defendant (“LWDA Notice”). (Declaration of Raul Perez [“Perez Decl.”] ¶ 2.) The
9 allegations in the LWDA Notice included: (1) failure to pay overtime; (2) failure to pay minimum
10 wages; (3) failure to provide compliant wage statements; (4) failure to maintain accurate payroll records;
11 (5) failure to timely pay wages during employment; (6) failure to timely pay wages upon termination;
12 and (7) violation of labor code section 558. (*Id.*)

13 On or about January 21, 2020, Plaintiff filed a lawsuit in the Los Angeles County Superior
14 Court, asserting causes of action for (1) failure to pay minimum wages; (2) failure to pay overtime; (3)
15 failure to timely pay wages upon termination; (4) failure to pay wages during employment; (5) failure to
16 provide accurate itemized wage statements; and (6) violation of the California Business and Professions
17 Code section 17200, *et seq.* (*Id.* at ¶ 3.)

18 On February 24, 2020, Defendant filed its Answer to Plaintiff’s Complaint and filed a Notice of
19 Removal of Action to Federal Court. (*Id.* at ¶ 4.) On March 16, 2020, the U.S. District Court for the
20 Central District of California remanded the action to the Los Angeles County Superior Court. (*Id.*)

21 On December 10, 2020, the Parties participated in a full-day mediation with mediator Jeffrey A.
22 Ross, Esq. but were not able to reach a resolution. (*Id.* at ¶ 5.)

23 On December 15, 2020, Plaintiff filed her First Amended Complaint, re-asserting the same
24 causes of action as in her original complaint and adding a cause of action under PAGA on behalf of
25 herself and other allegedly aggrieved employees. (*Id.* at ¶ 6.)

26 On May 26, 2022, Plaintiff filed her Second Amended Complaint, re-asserting the same causes
27 of action as in her First Amended Complaint, adding causes of action for violation of Labor Code
28 sections 226.2 and 226.7, and adding factual allegations, including that Defendant failed to pay for non-

1 productive time, such as pre meeting prep time, time required to attend the meeting site prior to
2 commencement of meetings, and rest periods. (*Id.* at ¶ 7.)

3 On June 28, 2022, Defendant filed its Answer to Plaintiff’s Second Amended Complaint. (*Id.* at
4 ¶ 8.)

5 On August 12, 2022, Plaintiff filed her Motion for Class Certification. (*Id.* at ¶ 9.) On September
6 9, 2022, the Court granted the Parties’ stipulation to stay the action pending mediation. (*Id.*)

7 On November 7, 2022, the Parties participated in a further mediation session with mediator
8 Jeffrey A. Ross, Esq. (*Id.* at ¶ 10.) While the Parties did not reach a resolution at the further mediation
9 session, they continued to discuss the terms of a possible settlement in the following months, and were
10 ultimately able to reach a resolution that was memorialized in a Memorandum of Understanding signed
11 on June 15, 2023. (*Id.*) The terms of the settlement are now set forth in complete and final form in the
12 Class Action and PAGA Settlement Agreement. (*Id.*, Ex. 1.) At all times, the Parties’ negotiations were
13 adversarial and non-collusive. (*Id.*) The Settlement therefore constitutes a fair, adequate, and reasonable
14 compromise of the claims at issue. (*Id.*)

15 **B. The Proposed Settlement Fully Resolves Plaintiff’s Claims**

16 **1. Composition of the Settlement Class**

17 The proposed Settlement Class consists of any person who worked for Defendant as a Studio
18 Team Member in California at any time from January 21, 2016 through July 11, 2020. (Settlement
19 Agreement ¶ 4.)

20 **2. Settlement Consideration**

21 Plaintiff and Defendant have agreed to settle the underlying class and PAGA claims in exchange
22 for the Gross Settlement Amount of \$630,000. The Gross Settlement Amount includes: (1) automatic
23 payments to all Participating Class Members—meaning, all Class Members except those who submit
24 timely and valid Requests for Exclusion—from the Net Settlement Amount; (2) \$210,000 in attorneys’
25 fees (i.e., one-third of the common fund) and up to \$20,000 in litigation costs to Plaintiff’s Counsel; (3)
26 settlement administration costs in a reasonable amount, which is not to exceed \$25,000; (4) a \$15,000
27 payment to the LWDA and a \$5,000 payment to PAGA Members; and (5) a Class Representative
28 Incentive Payment of \$10,000 for Plaintiff’s service on behalf of the Settlement Class, the risks she took

1 in bringing her representative claims, and for a general release of all claims arising out of her
2 employment with Defendant. (Settlement Agreement ¶ 54(e).)

3 Subject to the Court approving attorneys' fees and costs, settlement administration costs, PAGA
4 Settlement Payment, and the Class Representative Incentive Payment, the Net Settlement Amount will
5 be distributed to Participating Class Members in full. (*Id.* at ¶ 71.) Likewise, the entire PAGA Member
6 Payment will be distributed to PAGA Members in full. (*Id.* at ¶ 72.)

7 Payments to Participating Class Members will be made from the Net Settlement Amount.
8 (Settlement Agreement ¶ 71.) The individual allocations will be calculated on a pro-rata basis using the
9 number of pay periods worked by each Class Member during the Class Period. (*Id.*) This is a fair and
10 equitable means of apportioning the Net Settlement Amount to Class Members. Class Members who
11 worked for a longer duration during the Class Period will receive proportionally larger payments than
12 those employees who worked for shorter durations. Given that there are approximately 2,000 Class
13 Members, the average net recovery will be approximately \$170. This average net recovery is
14 significantly greater than many other wage and hour class action settlements approved by California state
15 and federal courts.³

16 Payments to PAGA Members will be made from the PAGA Member Payment. (Settlement
17 Agreement ¶ 72.) The individual allocations will be calculated on a pro-rata basis using the number of
18 pay periods worked by each PAGA Member during the PAGA Period. (*Id.*) This is a fair and equitable
19 means of apportioning the PAGA Member Payment to PAGA Members. PAGA Members who worked
20

21
22 ³ See, e.g., *Sandoval v. Nissho of Cal., Inc.*, Case No. 37-2009-00091861 (San Diego County
23 Super. Ct. Dec. 7, 2010) (average net recovery of approximately \$145); *Fukuchi v. Pizza Hut*, Case No.
24 BC302589 (L.A. County Super. Ct. Sept. 29, 2006) (average net recovery of approximately \$120);
25 *Contreras v. United Food Group, LLC*, Case No. BC389253 (L.A. County Super. Ct. Sept. 10, 2009)
26 (average net recovery of approximately \$120); *Ressler v. Federated Department Stores, Inc.*, Case No.
27 BC335018 (L.A. County Super. Ct. Jan. 27, 2009) (average net recovery of approximately \$90); *Doty v.*
28 *Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average net
recovery of approximately \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D.
Cal. Dec. 17, 2008) (average net recovery of approximately \$60); *Lim v. Victoria's Secret Stores, Inc.*,
Case No. 04CC00213 (Orange County Super. Ct. Jan. 20, 2006) (average net recovery of approximately
\$35); *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (L.A. Super. Ct. July 23, 2010) (average net
recovery of approximately \$20); *Jones v. Bath & Body Works, Inc.*, No. 2:13-cv-05206-FMO-AJW
(C.D. Cal. July 11, 2016) (average net recovery of approximately \$50); and *Palencia v. 99 Cents Only*
Stores, No. 34-2010-00079619 (Sacramento County Super. Ct. Oct. 11, 2012) (average net recovery of
approximately \$80).

1 for a longer duration during the PAGA Period will receive proportionally larger payments than those
2 employees who worked for shorter durations.

3 **3. Release by the Settlement Class**

4 In exchange for the Gross Settlement Amount, Plaintiff and Participating Class Members will
5 agree to release the Released Class Claims during the Class Period:

6 All claims that were or reasonably could have been pled in Plaintiff's Second
7 Amended Complaint or asserted in Plaintiff's LWDA Notice, based on the facts
8 and matters pled or asserted therein or which reasonably could have been raised as
9 part of Plaintiff's claims, including but not necessarily limited to allegations
10 regarding unpaid minimum and overtime wages; failure to pay for nonproductive
11 time including rest periods and pre-meeting prep or attendance time; failure to
12 provide compliant rest breaks; failure to provide complete and accurate wage
statements; failure to maintain accurate payroll records; failure to timely pay
wages during employment; and failure to timely pay wages upon termination, and
factual allegations regarding Defendant's violations of Labor Code sections 201,
202, 203, 204, 216, 226(a), 226.2, 226.3, 226.7, 512, 558, 1174, 1174.5, 1194,
1194.2, 1197, 1197.1, and California Business and Professions Code section
17200 *et seq.*

13 (Settlement Agreement ¶ 82.)

14 **4. Release by PAGA Members**

15 In exchange for the PAGA Settlement Amount, Plaintiff and PAGA Members will agree to
16 release the Released PAGA Claims during the PAGA Period:

17 All claims for civil penalties under PAGA that were, or reasonably could have
18 been, raised as part of Plaintiff's claims in the Second Amended Complaint or as
19 part of Plaintiff's allegations in Plaintiff's LWDA Notice, including any claim for
20 attorneys' fees and costs permissible under PAGA that could reasonably have
21 been raised based on the facts alleged (the "Released PAGA Claims."). The
22 Released PAGA Claims are limited to those claims arising under PAGA during
the PAGA Period. Final Approval effectuates this release by PAGA Members and
the LWDA. The Parties intend for this Settlement to have claim preclusion, issue
preclusion, or otherwise bar a PAGA action if a PAGA Member were to bring a
subsequent claim on behalf of the LWDA based on any claim covered by the
Released PAGA Claims during the PAGA Period.

23 (Settlement Agreement ¶ 83.)

24 **III. ARGUMENT**

25 **A. The Court Should Preliminarily Approve the Proposed Class Action Settlement**

26 **1. Courts Review Class Action Settlements to Ensure that the Terms Are** 27 **Fair, Adequate, and Reasonable**

28 California Rule of Court ("Rule"), Rule 3.769 requires litigants to obtain court approval of class

1 action settlements. Approval occurs in two steps: (1) an early “preliminary” review by the trial court; and
2 (2) a subsequent “final” review after notice of the settlement has been distributed to class members for
3 their comments and objections. Cal. R. Ct. 3.769(c)-(g); *Cellphone Termination Fee Cases*, 180 Cal.
4 App. 4th 1110, 1118 (2010) (the court first “preliminarily approves the settlement” and later “conducts a
5 final approval hearing to inquire into the fairness of the proposed settlement”). The motion for
6 preliminary approval must be accompanied by (1) the settlement agreement, (2) proposed notice to the
7 class, and (3) the proposed order. *Id.* at 3.769(c). The motion must also identify any agreement
8 concerning the payment of attorneys’ fees. *Id.* at 3.769(b).

9 If the trial court grants preliminary approval of a settlement, Rule 3.769(f) requires the court to
10 (1) schedule a final approval hearing and (2) approve the method by which the parties are to provide
11 notice to the class of the hearing and “an explanation of the proposed settlement.” The court must also
12 approve a procedure for class members to file objections to the settlement. *Id.* at 3.769(f). At the final
13 approval hearing, the court must conduct an inquiry into the fairness of the proposed settlement. *Id.* at
14 3.769(g).

15 Although Rule 3.769 does not provide detail as to the scope of review of the proposed
16 settlement, preliminary approval is warranted if the settlement falls within a “reasonable range.” *See*
17 *North County Contractor’s Assn., Inc. v. Touchstone Ins. Services*, 27 Cal. App. 4th 1085, 1089-90
18 (1994); Conte & Newberg, *Newberg on Class Actions*, §§ 11.26 (4th ed. 2002) (“Newberg”).

19 Reasonableness and fairness are presumed where, as here: (1) the settlement is reached through
20 “arms-length bargaining;” (2) investigation and discovery are “sufficient to allow counsel and the court
21 to act intelligently;” (3) counsel is “experienced in similar litigation;” and (4) the percentage of objectors
22 “is small” (collectively, “Dunk Factors”). *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996).⁴

23
24 ⁴ The presumption of fairness is consistent with California’s public policy goal of favoring
25 settlements. *Stambaugh v. Super. Ct.*, 62 Cal. App. 3d 231, 236 (1976) (“the law wisely favors
26 settlements”); *Cellphone Termination Fee Cases*, 180 Cal. App. 4th at 1118 (“public policy generally
27 favors the compromise of complex class action litigation”); *7-Eleven Owners for Fair Franchising v.*
28 *Southland Corp.*, 85 Cal. App. 4th 1135, 1151 (2000) (“voluntary conciliation and settlement are the
preferred means of dispute resolution . . . [t]his is especially true in complex class action litigation”);
Skulnick v. Roberts Express, Inc., 2 Cal. App. 4th 884, 891 (1992) (“public policy strongly discourages
litigation and encourages settlement [because settlements] can produce peace and goodwill in the
community while reducing the expense and persistency of litigation”). Additionally, in reviewing the

1 **2. The Investigation and Discovery Are “Sufficient To Allow Counsel and**
2 **The Court To Act Intelligently”**

3 As set forth in greater detail in Plaintiff’s Counsel’s declaration in support of this Motion, based
4 on their analysis of Defendant’s California labor policies and procedures manuals, and the deposition
5 testimony of Defendant’s corporate representative, Plaintiff’s Counsel were able to realistically assess the
6 value of Plaintiff’s claims and intelligently engage defense counsel in settlement discussions that
7 culminated in the proposed settlement now before the Court. (Perez Decl. ¶ 11.)

8 By engaging in a thorough investigation and evaluation of Plaintiff’s claims, Plaintiff’s Counsel
9 can opine that the Settlement, for the consideration and on the terms set forth in the Settlement
10 Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in light of all
11 known facts and circumstances, including the risk of significant delay and uncertainty associated with
12 litigation, various defenses asserted by Defendant. (*Id.* at ¶ 12.)

13 **3. The Settlement Was Reached Through Arms-Length Bargaining in which**
14 **All Parties Were Represented by Experienced Counsel**

15 “[W]hat transpires in settlement negotiations is highly relevant to the assessment of a proposed
16 settlement’s fairness.” *State of Cal. v. Levi Strauss & Co.*, 41 Cal. 3d 460, 482 (1986). Courts presume
17 the absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is
18 offered; thus, there is a presumption that settlement negotiations are conducted in good faith. Newberg, §
19 11.51.

20 As explained above, the Parties participated in a mediation with Mr. Ross, an experienced
21 mediator of wage and hour class actions. Mr. Ross helped manage the Parties’ expectations and provided
22 a useful, neutral analysis of the issues and risks to both sides. *See In re Bluetooth Headset Prod. Liab.*
23 *Litig.*, 654 F.3d 935, 948 (9th Cir. 2011) (the presence of a neutral mediator is a factor weighing in favor
24 of finding of no collusion); *In re Apple Computer, Inc. Derivative Litig.*, No. C 06-4128 JF (HRL), 2008

25
26 _____
27 fairness of a class action settlement, due regard should be given to what is “otherwise a private
28 consensual agreement between the parties.” *Cellphone Termination Fee Cases*, 180 Cal. App. 4th at
 1117. The inquiry “must be limited to the extent necessary to reach a reasoned judgment that the
 agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties,
 and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” *Id.* at 1118.

1 WL 4820784, at *3 (N.D. Cal. Nov. 5, 2008) (mediator’s participation weighs considerably against any
2 inference of a collusive settlement); *D’Amato v. Deutsche Bank*, 236 F.3d 78, 85 (2d Cir. 2001) (a
3 “mediator’s involvement in pre-certification settlement negotiations helps to ensure that the proceedings
4 were free of collusion and undue pressure.”); *Villegas v. J.P. Morgan Chase & Co.*, No. 09–00261, 2012
5 WL 5878390, at *6 (N.D. Cal. Nov. 21, 2012) (participation in mediation “tends to support the
6 conclusion that the settlement process was not collusive”); *Ogbuehi v. Comcast of*
7 *California/Colorado/Fla./Oregon, Inc.*, 303 F.R.D. 337, 350 (E.D. Cal. 2014) (accord). At all times, the
8 Parties’ negotiations were adversarial and non-collusive. (Perez Decl. ¶ 10.)

9 The Parties were represented by experienced class action counsel throughout the negotiations
10 resulting in this Settlement. Plaintiff is represented by Capstone Law APC. Plaintiff’s Counsel employ
11 seasoned class action attorneys who regularly litigate wage and hour claims through certification and on
12 the merits, and have considerable experience settling wage and hour class actions. (Perez Decl. ¶¶ 13-21,
13 Ex. 2; Declaration of Kyle Todd [“Todd Decl.”] ¶¶ 2-12.) Defendant is represented by Morgan, Lewis &
14 Bockius LLP, a respected defense firm.

15 **4. The Consideration Provided for the Class Claims Is Fair and Reasonable**
16 **in Light of the Amount in Controversy Discounted by the Risks of**
17 **Continued Litigation**

18 In seeking approval, a settling party must provide sufficient information to “enable the court to
19 make an independent assessment of the adequacy of the settlement terms.” *Kullar v. Foot Locker Retail,*
20 *Inc.*, 168 Cal. App. 4th 116, 131-32 (2008). However, “[i]t is well-settled law that a cash settlement
21 amounting to only a fraction of the potential recovery will not per se render the settlement inadequate or
22 unfair.” *See Officers for Justice v. Civil Serv. Comm’n of City & Cty. of San Francisco*, 688 F.2d 615,
23 628 (9th Cir. 1982). “The proposed settlement is not to be judged against a hypothetical or speculative
24 measure of what might have been achieved by the negotiators.” *Id.* at 625. “Estimates of a fair settlement
25 figure are tempered by factors such as the risk of losing at trial, the expense of litigating the case, and the
26 expected delay in recovery (often measured in years).” *In re Toys R Us-Delaware, Inc.-- Fair &*
27 *Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014). In other words,
28 in valuing the claims within a realistic *range* of outcomes, the settling plaintiff should discount the value

1 of the settled claims for risks such as changes in the law, the probability of success, and other factors.⁵

2 Settling parties are not, however, required to partake in a hypothetical accounting exercise:
3 **“Kullar does not ... require any such explicit statement of [maximum] value;** it requires a record
4 which allows ‘an understanding of the amount that is in controversy and the realistic range of outcomes
5 of the litigation.’” *Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal. App. 4th 399, 409-10 (2010)
6 (quoting *Kullar*, 168 Cal. App. 4th at 120 (emphasis added)). Overall, “the most important factor” in
7 determining “whether a settlement is fair and reasonable” is the “strength of the case for plaintiffs on the
8 merits, balanced against the amount offered in the settlement.” *Id.* at 409 n.6 (quoting *Kullar*, 168 Cal.
9 App. 4th at 130). As explained in detail below, the Gross Settlement Amount is within the range of
10 reasonableness in light of the nature and magnitude of the claims being settled and the various potential
11 impediments to recovery.

12 Section 226.7 of the California Labor Code, together with Wage Order No. 7, mandate that
13 employers permit employees to take 10-minute rest periods every four hours worked or major fraction
14 thereof. See Cal. Labor Code § 226.7; 8 C.C.R. § 11070(12). “Authorized rest period shall be counted as
15 hours worked for which there shall be no deduction from wages.” 8 C.C.R. § 11070 (12)(A). Employees
16 are entitled to paid rest breaks of at least 10 minutes for shifts greater than 3.5 hours. *Brinker Rest. Corp.*
17 *v. Super. Ct.*, 53 Cal. 4th 1004, 1029 (2012).

18 Rest periods must be counted as compensable time. In the context of piece-rate pay, courts have
19 held that to comply with this requirement, employers must provide rest-break compensation separate
20

21 ⁵ Federal district courts also recognize that there is an inherent “range of reasonableness” in
22 determining whether to approve a settlement “which recognizes the uncertainties of law and fact in any
23 particular case and the concomitant risks and costs necessarily inherent in taking any litigation to
24 completion.” *In re World Trade Ctr. Lower Manhattan Disaster Site Litig.*, 66 F. Supp. 3d 477, 482
25 (S.D.N.Y. 2015); *see also Nat’l Rural Telecomm. Coop. v. Directv, Inc.*, 221 F.R.D. 523, 527 (C.D. Cal.
26 2004) (“well-settled law that a proposed settlement may be acceptable even though it amounts to only a
27 fraction of the potential recovery”); *In re Global Crossing Sec. and ERISA Litig.*, 225 F.R.D. 436, 461
28 (S.D.N.Y. 2004) (“settlement amount’s ratio to the maximum potential recovery need not be the sole, or
even dominant, consideration when assessing settlement’s fairness”); *In re IKON Office Solutions, Inc.*
Sec. Litig., 194 F.R.D. 166, 184 (E.D. Pa. 2000) (“the fact that a proposed settlement constitutes a
relatively small percentage of the most optimistic estimate does not, in itself, weigh against the
settlement; rather the percentage should be considered in light of strength of the claims”); *Officers for*
Just. v. Civ. Serv. Comm’n of City & Cty. of San Francisco, 688 F.2d 615, 628 (9th Cir. 1982) (it is “the
complete package, taken as a whole rather than the individual component parts, that must be examined
for overall fairness”).

1 from piece-rate compensation. *Bluford v. Safeway*, 216 Cal. App. 4th 864, 871-72 (2013). Failure to do
2 so is a violation of the minimum wage and rest-break laws. *Id.* at 872 (“a piece-rate compensation
3 formula that does not compensate separately for rest periods does not comply with California minimum
4 wage law.”)

5 Plaintiff alleges that Defendant failed to properly pay Class Members for rest breaks.
6 Specifically, Class Members often worked at in-person meetings at retail locations statewide. Some of
7 these locations held back-to-back meetings, creating a time period for which employees would be
8 eligible for rest periods. However, Defendant allegedly did not provide rest-break compensation separate
9 from the piece-rate compensation it paid its employees for working these meetings. Plaintiff alleges that
10 the failure to do so is a violation of the minimum wage and rest-break laws, and requires an additional
11 hour of pay of compensation.

12 And because Defendant did not allegedly separate out rest break compensation from the piece-
13 rate compensation, it did not comply with Labor Code section 226.2(a)(2) which explicitly requires that
14 wage statements separately state “the total hours of compensable rest and recovery periods, the rate of
15 compensation, and the gross wages paid for those periods during the pay period.” Cal. Lab. Code §
16 226.2(a)(2). Finally, because Defendant allegedly did not properly pay its piece-rate employees for the
17 rest breaks as alleged above, it is also liable for waiting time penalties.

18 Plaintiff assumed an 86% rest break violation rate, or approximately 120,000 violations during
19 the Class Period. Damages for minimum wage and rest period violations were calculated as follows:
20 $120,000 \text{ violations} \times \$11.40 \text{ average hourly rate of pay} = \underline{\$1,368,000}$. These violations in turn would
21 give rise to wage statement penalties valued as follows: $\approx 20,000 \text{ violative wage statements issued}$
22 $\text{during the 1-year statute of limitations period} \times \$50 \text{ penalty for initial violations} = \underline{\$1,000,000}$. And with
23 respect to waiting-time penalties, Plaintiff estimated Defendant’s liability as follows: $1,530 \text{ Class}$
24 $\text{Members terminations during the 3-year statute of limitations period} \times 8\text{-hour average shift} \times \$11.40$
25 $\text{average hourly rate of pay} \times 30 \text{ days of penalties} \times \text{likelihood of overcoming good faith defenses to the}$
26 $\text{claim (15\%)} = \underline{\$627,912}$.

27 Understandably, for purposes of evaluating the settlement’s reasonableness, the above estimates
28 must be “tempered by factors such as the risk of losing at trial, the expense of litigating the case, and the

1 expected delay in recovery (often measured in years).” *In re Toys R Us-Delaware, Inc.-- Fair &*
2 *Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014).

3 Ultimately, Plaintiff’s Counsel determined an appropriate range of recovery for settlement
4 purposes by offsetting Defendant’s theoretical liability by: (a) the strength of the defenses to the merits of
5 Plaintiff’s claims; (b) the risk of class certification being denied; (c) the risk of losing on any of a number
6 of dispositive motions that could have been brought between certification and trial (e.g., motions to
7 decertify the class, motions for summary judgment, and/or motions in limine) that might have eliminated
8 all or some of Plaintiff’s claims, or barred evidence/testimony in support of the claims; (d) the risk of
9 losing at trial; (e) the chances of a favorable verdict being reversed on appeal; and (f) the difficulties
10 attendant to collecting on a judgment (collectively, the “Discount Factors”).

11 With respect to defenses, Defendant would have argued that absent a shift-by-shift, break-by-
12 break, employee-by-employee inquiry, there was simply no way to know (a) whether a rest period was
13 taken; and (b) if not, why not. Defendant would have argued that rest period claims are inherently
14 individualized in nature because employers only need to “authorize and permit” breaks; they need not
15 ensure that rest breaks are taken. *Brinker Rest. Corp. v. Superior Ct.*, 53 Cal. 4th 1004 (2012). To
16 succeed, “[a]n employee must show that the employer prevented the employee from taking breaks; mere
17 proof of knowledge that the employee was forgoing breaks is insufficient.” *Reece v. Unitrin Auto &*
18 *Home Ins. Co.*, No. 5:11-CV-03960 EJD, 2013 WL 245452, at *5 (N.D. Cal. Jan. 22, 2013) (rejecting
19 claim that the work structure made taking rest breaks impossible, because plaintiff failed to show that the
20 employer prevented such breaks); *Drenckhahn v. Costco Wholesale Corp.*, No. 2:08-CV-01408-JHN,
21 2011 WL 3754659, at *3 (C.D. Cal. Aug. 24, 2011) (“although employers must provide employees with
22 meal and rest breaks under Cal. Lab. Code § 512(a), they need not guarantee that employees take
23 breaks”).

24 Defendant would have also argued that the lack of any actual policy of discouraging Class
25 Members from taking their rest periods would have made it virtually impossible to certify the claim. *See*
26 *Clemens v. Hair Club for Men, LLC*, No. C 15-01431 WHA, 2016 WL 1461944, at **5–6 (N.D. Cal.
27 Apr. 14, 2016) (denying class certification where “plaintiffs have presented no direct evidence of a
28 uniform policy or practice that led to missed meal periods or rest breaks” meaning that “proof of the

1 alleged uniform practice will turn on individual inquiries into the reason for each missed meal period”);
2 *Sultan v. Medtronic, Inc.*, 2012 U.S. Dist. LEXIS 107046 (C.D. Cal. July 23, 2012) (“reasons that
3 employees fail to take breaks can be manifold: the employee could have forgotten, wanted to finish
4 assignments, were not hungry, did not want to leave the premises, wanted to leave early or, possibly,
5 were manipulating their timecards”); *Jimenez v. Allstate Ins. Co.*, 2012 U.S. Dist. LEXIS 65328, 47
6 (C.D. Cal. Apr. 18, 2012) (“[I]n the absence of a common practice or policy or some other ‘glue’ to bind
7 this class, commonality cannot be shown.”).

8 And while wage statement claims are readily certifiable, they are vulnerable to an unfavorable
9 disposition on summary judgment as defendants commonly argue that, without more, wage statement
10 claims are nothing but technical violations for which Class Members suffer no injury. Specifically, Labor
11 Code section 226 claim imposes penalties only for “knowing and intentional” failures to comply with the
12 statute’s itemization requirements. In *Naranjo v. Spectrum Sec. Servs., Inc.*, 88 Cal. App. 5th 937 (2023),
13 the California court of appeal found that if a “good faith dispute” exists as to whether wages are due to an
14 employee, then the employer is not liable for wage statement penalties.

15 Additionally, Labor Code section 226 requires the employee to prove not only that the violation
16 was “knowing and intentional,” but that the violation resulted in an “injury.” Defendant would have
17 argued that the “deprivation of [the] information [required by 226(a)],” by itself, is not a cognizable
18 injury. *Price v. Starbucks Corp.*, 192 Cal. App. 4th 1136, 1142-1143 (2011) (internal citations omitted);
19 *see also Maldonado v. Epsilon Plastics, Inc.*, 22 Cal. App. 5th 1308, 1334 (2018) (“But inaccurate wage
20 statements alone do not justify penalties; the plaintiffs must establish injury flowing from the
21 inaccuracy”).

22 Finally, while Section 203 penalties are relatively straightforward to calculate, the analysis
23 becomes more difficult for settlement purposes as derivative waiting-time penalties are only as strong as
24 the underlying predicate claims, and are subject to good faith defenses. For example, defendants
25 commonly argue that no waiting-time penalties can be awarded unless the failure to pay wages is
26 “willful,” an element that Plaintiff acknowledges would have been difficult to prove. The California
27 Code of Regulations specifically provides:

28 A willful failure to pay wages within the meaning of Labor Code Section 203

occurs when an employer intentionally fails to pay wages to an employee when those wages are due. However, a good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203...

A “good faith dispute” that any wages are due occurs when an employer presents a defense, based in law or fact which, if successful, would preclude any recover[y] on the part of the employee. The fact that a defense is ultimately unsuccessful will not preclude a finding that a good faith dispute did exist. Defenses presented which, under all the circumstances, are unsupported by any evidence, are unreasonable, or are presented in bad faith, will preclude a finding of a “good faith dispute.”

Cal. Code Regs. tit. 8, § 13520.

Subsequent California cases have held that a good faith dispute as to whether wages were owed (including a good faith belief in a legal defense) precludes an award of waiting time penalties under Section 203. *Nordstrom Comm’n Cases*, 186 Cal. App. 4th 576, 584 (2010) (“There is no willful failure to pay wages [under Section 203] if the employer and employee have a good faith dispute as to whether and when the wages were due”); *see also Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 325 (2005) (“A good faith belief in a legal defense will preclude a finding of willfulness”).

And case law interpreting “willful” holds that even unsuccessful good faith defenses will be sufficient to preclude recovery so long as an employer’s “position is not so untenable as to constitute bad faith” or is not supported by any evidence. *See Estrada v. Royalty Carpet Mills, Inc.*, 76 Cal. App. 5th 685, 708, 729 (2022) (finding no liability under Section 203 when the company had a good faith dispute that meal period premiums were owed due to an on-duty meal period policy that restricted employee freedom during meal periods while paying regular wages, even though the policy was found to be unlawful); *see also Woods v. Vector Mktg. Corp.*, No. C-14-0264 EMC, 2015 WL 2453202, at *4 (N.D. Cal. May 22, 2015) (holding that the employer’s defense that the plaintiff was properly classified, even if ultimately unsuccessful at trial, was insufficient to amount to a “willful” violation of 203 and granting summary judgment on those claims because the plaintiff could point to no evidence that the defense was raised in bad faith or was unsupported by the evidence).

After taking into account the Discount Factors, Plaintiff’s Counsel determined that it would be reasonable to settle for a fraction of Defendant’s maximum potential exposure for the class claims (PAGA discussed in the following section), or approximately 20%. Such a discount is inherently reasonable given that Plaintiff would have had to overcome **multiple, dependent** contingencies to

prevail on her claims. If anything, the projected odds for each of the above contingencies is generous to the class's position, since plaintiffs in employment cases rarely prevail on all of the claims at any of these dispositive stages. Courts routinely approve settlements that provide a similar discounted range of the maximum potential recovery. *See, e.g., In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 256-58 (D. Del. 2002) (recognizing that a reasonable settlement amount can be 1.6% to 14% of the total estimated damages); *In re Armored Car Antitrust Litig.*, 472 F. Supp. 1357, 1373 (N.D. Ga. 1979) (settlements with a value of 1% to 8% of the estimated total damages were approved); *In re Four Seasons Secs. Laws Litig.*, 58 F.R.D. 19, 37 (W.D. Okla. 1972) (approving 8% of damages); *Balderas v. Massage Envy Franchising, LLP*, 2014 WL 3610945, at *5 (N.D. Cal. July 21, 2014) (finding that settlement which amounted to 8% of maximum recovery "[fell] within the range of possible initial approval based on the strength of plaintiff's case and the risk and expense of continued litigation."); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated damages).⁶

B. The Consideration Provided for the PAGA Claim Is Fair and Reasonable In Light of the Amount in Controversy Discounted by the Risks of Continued Litigation

Pursuant to the Settlement Agreement, \$20,000 from the Gross Settlement Amount shall be allocated to the resolution of the PAGA claim, of which 75% (i.e., \$15,000) will be paid directly to the LWDA, and the remaining 25% (i.e., \$5,000) will be paid to PAGA Members. (Settlement Agreement ¶ 21, 27.)

⁶ *See also In re Uber FCRA Litig.*, No. 14-CV-05200-EMC, 2017 WL 2806698, at *7 (N.D. Cal. June 29, 2017) (granting preliminary approval to class action settlement where gross settlement fund, prior to deducting attorneys' fees and services awards, was valued at 7.5% or less of total possible verdict); *Viceral v. Mistras Grp., Inc.*, No. 15-CV-02198-EMC, 2016 WL 5907869, at *7 (N.D. Cal. Oct. 11, 2016) (granting preliminary approval to class action settlement representing "8.1% of the full verdict value" with net settlement amount representing approximately 5.3% of full verdict value); *Stovall-Gusman v. W.W. Granger, Inc.*, No. 13-cv-02540-HSG, 2015 WL 3776765, at *4 (N.D. Cal. June 17, 2015) (granting final approval to settlement with net recovery to Plaintiffs valued at 7.3% of potential maximum recovery); *Cruz v. Sky Chefs, Inc.*, No. 12-cv-02705-DMR, 2014 WL 7247065, at *5 (N.D. Cal. Dec. 19, 2014) (granting final approval where gross settlement amount represented 8.6% of the maximum potential recovery from the class claims and estimated amount distributable to class after accounting for attorneys' fees and other deductions represented approximately 6.1% of maximum potential recovery); *In re LDK Solar Sec. Litig.*, No. 07-cv-05182-WHA, 2010 WL 3001384, at *2 (N.D. Cal. July 29, 2010) (granting final approving where "[t]he proposed settlement amount is [. . .] only about five percent of the estimated damages before fee and costs—even before any reduction thereof for attorney's fees and costs.").

1 This result was reached after good-faith negotiation between the parties. The amount was valued
2 as follows: Based on information and evidence produced by Defendant during discovery, Plaintiff's
3 Counsel determined that aggrieved employees worked a combined total of approximately 20,000 pay
4 periods during the PAGA statute of limitations period ("PAGA Period"). Statutory penalties would be
5 calculated according to Labor Code 2699(f)(2): If, at the time of the alleged violation, the person
6 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
7 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
8 employee per pay period for each subsequent violation.

9 However, a number of courts have found that the "subsequent" penalty under PAGA applies
10 only after a court or the Labor Commissioner determines that the employer has violated the Labor Code.
11 *See Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th 334, 356 (2021) ("the increased \$200 civil penalty
12 for 'subsequent violation[s]' does not apply unless [Plaintiff] presents evidence that the Labor
13 Commission or a court notified [Defendant] that it was in violation of the Labor Code."); *Bernstein v.*
14 *Virgin Am., Inc.*, 990 F.3d 1157, 1173 (9th Cir. 2021) (reversing judgment as to "heightened civil
15 penalties" because the defendant was not given notice by the Labor Commissioner when the
16 "subsequent" violations occurred).⁷ Under this line of cases, Defendant's exposure would be
17 approximately \$2,000,000 = 20,000 violative pay periods × \$100.

18 It should be noted that PAGA gives the Court wide latitude to reduce the amount of civil
19 penalties "based on the facts and circumstances of a particular case" when "to do otherwise would result
20 in an award that is unjust, arbitrary and oppressive, or confiscatory." Cal. Lab. Code § 2699(h). In
21 reducing PAGA penalties, courts have considered issues including whether the employees suffered
22

23 ⁷ See also *Vieyara-Flores v. Sika Corp.*, No. EDCV19606JVSCKX, 2019 WL 2436998, at *5
24 (C.D. Cal. June 10, 2019) ("employers are not subject to heightened penalties . . . until a court or
25 commissioner notifies the employer that it is in violation of the Labor Code . . . [Plaintiff] has not offered
26 evidence that the Labor Commission or a court has notified them of PAGA violations [thus] PAGA's
27 heightened penalty of \$200 for subsequent violations will not be calculated to determine the amount in
28 controversy"); *Chen v. Morgan Stanley Smith Barney, LLC*, No. 8:14-CV-01077 ODW (FFMx), 2014
WL 4961182 (C.D. Cal., October 2, 2014) ("Under the Labor Code, if an employer does not have notice
that they are committing a violation, they are not subject to the heightened penalties."); *Trang v. Turbine
Engine Components Technologies Corp.*, No. CV 12-07658 DDP (RZx), 2012 WL 6618854 (C.D. Cal.
Dec. 19, 2012) ("courts have held that employers are not subject to heightened penalties for subsequent
violations unless and until a court or commissioner notifies the employer that it is in violation of the
Labor Code"), citing *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157 (2008).

1 actual injury from the violations, whether the defendant was aware of the violations, and the employer's
2 willingness to fix the violation. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018)
3 (awarding PAGA penalties of only 0.2% of the maximum); *see also Cotter v. Lyft, Inc.*, 193 F. Supp. 3d
4 1030, 1037 (N.D. Cal. 2016); *Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK (OPX), 2011 WL
5 7563047, at *4 (C.D. Cal. Aug. 12, 2011).

6 For example, during the penalty phase of trial in *Carrington*, the plaintiff requested PAGA
7 penalties in the amount of approximately \$70 million. The trial court instead awarded only \$150,000—
8 **or 0.21% of the maximum**—and stated that this reduction was warranted because (a) the Court did not
9 believe it was appropriate to impose multiple penalties per pay period in which a violation occurred and
10 (b) imposing the maximum penalty would be “unjust, arbitrary, and oppressive” based on Starbucks’s
11 “good faith attempts” to comply with meal period obligations and because the court found the violations
12 were minimal. *Carrington*, 30 Cal. App. 5th at 517-18. The Court of Appeal affirmed the lower court’s
13 reduced award of a \$150,000 penalty under PAGA. *Id.* at 529. If a similar reduction had been applied
14 here, Plaintiff would have recovered only approximately \$4,200 (\$2 million × 0.0021 reduction).

15 Likewise, in *Covidien*, the Court reduced the potential penalties by over 82%, awarding
16 \$500,000 instead of maximum penalties of \$2.8 million. *Covidien*, 2011 WL 7563047 at *4; *see also*
17 *Thurman v. Bayshore Transit Mgmt.*, 203 Cal. App. 4th 1112, 1135-36 (2012) (affirming 30% reduction
18 under specified PAGA claim where the employer produced evidence that it took its obligations
19 seriously); *Elder v. Schwan Food Co.*, No. B223911, 2011 WL 1797254, at *5-*7 (Cal. Ct. App. May
20 12, 2011) (reversing trial court decision denying any civil penalties where violations had been proven,
21 remanding for the trial court to exercise discretion to reduce, but not wholly deny, civil penalties); *Li v. A*
22 *Perfect Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 WL 2236752, at *17 (N.D. Cal. June 15,
23 2012) (denying PAGA penalties for violation of California Labor Code section 226 as redundant with
24 recovery on a class basis pursuant to California Labor Code section 226, directly); *Aguirre v. Genesis*
25 *Logistics*, No. SACV 12-00687 JVS (ANx), 2013 WL 10936035 at *2-*3 (C.D. Cal. Dec. 30, 2013)
26 (reducing penalty for past PAGA violations from \$1.8 million to \$500,000, after rejecting numerous
27 other PAGA claims).

28 Plaintiff therefore determined an appropriate range of settlement for PAGA penalties as a

percentage of the settlement range that was consistent with other hybrid class/PAGA settlements approved by California courts.⁸ Where PAGA penalties are negotiated in good faith and “there is no indication that [the] amount was the result of self-interest at the expense of other Class Members,” such amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, No. CV-08-0844 EDL, 2009 WL 928133, at *9 (N.D. Cal. Apr. 3, 2009); *see, e.g., Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 579 (2010) (“[T]rial court did not abuse its discretion in approving a settlement which does not allocate any damages to the PAGA claims.”).

C. The Court Should Preliminarily Approve the Negotiated Class Representative Incentive Payment

Enhancement payments “are fairly typical in class action cases.” *Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1393 (2010) (affirming incentive awards of \$10,000); *Rodriguez v. West Publishing Corp.*, 563 F.3d 948, 958 (9th Cir. 2009), citing 4 Newberg on Class Actions (4th ed. 2002) § 11:38, and Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*, 53 UCLA L. Rev. 1303 (2006). Enhancement payments “are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.” *Rodriguez*, 563 F.3d at 958–59. “[T]he rationale for making enhancement or incentive awards to named plaintiffs is

⁸ *Dearaujo v. Regis Corp.*, No. 2:14-cv-01408-KJM-AC, 2016 WL 3549473 at *3 (E.D. Cal. June 29, 2016) (preliminarily approving \$1.95 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Garcia v. Gordon Trucking, Inc.*, No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575 at *7 (E.D. Cal. Oct. 31, 2012) (approving \$3.7 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Chu v. Wells Fargo Invst., LLC*, No. C 05-4526 MHP, 2011 WL 672645 at *1 (N.D. Cal. Feb. 16, 2011) (approving \$6.9 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Guerrero v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196 (Riverside County Super. Ct. July 16, 2013; Judge Matthew C. Perantoni) (gross settlement fund of \$1,100,000, of which \$3,000 (or 0.3%) was allocated to the settlement of PAGA penalties); *Parra v. Aero Port Services, Inc.*, No. BC483451 (L.A. County Super. Ct. April 20, 2015; Judge Jane Johnson) (gross settlement fund of approximately \$1,458,900, of which \$5,000 (or 0.3%) was allocated to the settlement of PAGA penalties); *Thompson v. Smart & Final, Inc.*, No. BC497198 (L.A. County Super. Ct. Nov. 18, 2014; Judge William F. Highberger) (gross settlement fund of \$3,095,000, of which approximately \$13,333 (or 0.4%) was allocated to the settlement of PAGA penalties); *Chavez v. Vallarta Food Enterprises, Inc.*, No. BC490630 (L.A. County Super. Ct. Nov. 10, 2014; Judge William F. Highberger) (gross settlement fund of \$1,545,900, of which \$10,000 (or 0.6%) was allocated to the settlement of PAGA penalties); *Coleman v. Estes Express Lines, Inc.*, No. BC429042 (L.A. County Super. Ct. Oct. 3, 2013; Judge Kenneth R. Freeman) (gross settlement fund of \$1,535,000, of which \$1,000 (or 0.1%) was allocated to the settlement of PAGA penalties).

1 that they should be compensated for the expense or risk they have incurred in conferring a benefit on
2 other members of the class.” *Clark v. American Residential Services LLC*, 175 Cal. App. 4th 785, 806
3 (2009).

4 Approximately 2,000 current and former employees will share a \$630,000 settlement fund due
5 entirely to the effort and commitment of Cindy Newman. Subject to Court approval, therefore, the
6 Settlement provides for a Class Representative Incentive Payment of \$10,000.⁹ The Class Representative
7 Incentive Payment is fair and reasonable compensation for Plaintiff’s effort in pursuing the action,
8 serving as a private attorney general under PAGA, assisting counsel with the litigation and settlement,
9 being deposed, regularly conferring with counsel on the status of her case and the strategies for
10 prosecuting the claims, and reviewing the proposed settlement to ensure that its terms are fair and
11 provide adequate relief for the Settlement Class.

12 Plaintiff will file a formal motion for the negotiated Class Representative Incentive Payment
13 once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above
14 showing is sufficient for preliminary approval of the negotiated Class Representative Incentive Payment.

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18 ⁹ Such amounts are reasonable by reference to the amounts that California courts (both federal
19 and state) have repeatedly found to be reasonable for wage and hour class action settlements: *See Carter*
20 *v. GMRI Inc.*, No. RIC 1506085 (Riverside County Super. Ct. Jan. 10, 2017) (awarding \$10,000
21 enhancement payments to the named plaintiffs); *Crook v. Barton Healthcare System*, No. SC20150146
22 (El Dorado County Super. Ct. Dec. 9, 2016) (awarding \$10,000 enhancement payment to the named
23 plaintiff); *Singh v. American Building Supply, Inc.*, No. 34-2015-00179889-CU-OE-GDS (Sacramento
24 County Super. Ct. Oct. 3, 2016) (awarding \$10,000 enhancement payment to the named plaintiff);
25 *Alvarez v. MAC Cosmetics Inc.*, No. CIVDS1513177 (San Bernardino County Super. Ct. July 29, 2016)
26 (awarding \$10,000 enhancement payments to the named plaintiffs); *Coffey v. Beverages & More, Inc.*,
27 No. BC477269 (L.A. County Super. Ct. July 26, 2016) (awarding \$10,000 enhancement payment to the
28 named plaintiff); *Restoration Hardware Wage and Hour Cases*, No. JCCP4794 (L.A. County Super. Ct.
April 28, 2016) (awarding \$10,000 enhancement payments to the named plaintiffs); *Cook v. United*
Insurance Co. of Amer., No. CIVMSC10-00425 (Contra Costa County Super. Ct. April 15, 2016)
(awarding \$10,000 enhancement payments to the named plaintiffs); *Quintana v. Claire’s Boutiques, Inc.*,
No. 5:13-cv-00368-PSG (N.D. Cal. Dec. 1, 2015) (awarding \$10,000 enhancement payments to the
named plaintiffs); *Paredes v. American Family Care, Inc.*, No. 34-2014-00167060-CU-OE-GDS
(Sacramento County Super. Ct. Nov. 17, 2015) (awarding \$10,000 enhancement payment to the named
plaintiff); *Hoagland v. Brooks Brothers Group, Inc.*, No. BC511534 (L.A. County Super. Ct. July 16,
2015) (awarding \$10,000 enhancement payment to the named plaintiff); *Baker v. L.A. Fitness Int’l, LLC*,
No. BC438654 (L.A. County Super. Ct. Dec. 12, 2012) (awarding \$10,000 enhancement payments to
three of the named plaintiffs).

1 **D. The Court Should Preliminarily Approve the Negotiated Attorneys’ Fees and**
2 **Costs**

3 The purpose of an attorneys’ fee award in class action litigation is to reward counsel who took
4 the risk of non-payment and invested in a case that achieved a substantial positive result for the class.
5 “Fee awards in class actions average around one-third of the recovery regardless of whether the
6 percentage method or the lodestar method is used.” *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App.
7 5th 521, 545 (2021) (quoting *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008)) (internal
8 quotations omitted). Consistent with that observation, California state and federal courts routinely award
9 attorneys’ fees equaling one-third of the common fund.¹⁰ Notably, the California Supreme Court in
10 *Laffitte v. Robert Half Internat. Inc.* affirmed a fee award representing one-third of the fund. *Laffitte v.*
11 *Robert Half Internat. Inc.*, 1 Cal. 5th 480 (2016).

12 At final approval, Plaintiff will seek Court-approval of attorneys’ fees of \$210,000 (one-third of
13 the Class Settlement Amount) and \$20,000 in litigation costs.

14 **E. California Law Authorizes Provisional Certification for Settlement Purposes**

15 **1. The California Standard for Class Certification**

16 Class actions are statutorily authorized “when the question is one of common or general interest,
17 of many persons, or when the parties are numerous, and it is impracticable to bring them all before the
18 court.” Cal. Civ. Proc. Code § 382; *Lee v. Dynamex, Inc.*, 166 Cal. App. 4th 1325, 1332 (2008). Class
19 certification is appropriate when there is an “ascertainable class and a well-defined community of interest
20 among class members.” *Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal. 4th 319, 326 (2004). Class
21 treatment is appropriate even if class members at some point may be required to make an individual
22 showing as to eligibility for recovery. *Bufil v. Dollar Financial Group, Inc.*, 162 Cal. App. 4th 1193,
23 1207 (2008); *Sav-On*, 34 Cal. 4th at 333.

24
25 ¹⁰ See, e.g. *Laffitte v. Robert Half Internat. Inc.*, 231 Cal. App. 4th 860, 871 (2016) (“33 1/3
26 percent of the common fund is consistent with, and in the range of, awards in other class action
27 lawsuits”); *Chavez*, 162 Cal. App. 4th at 66 n.11 (“Empirical studies show that, regardless whether the
28 percentage method or the lodestar method is used, fee awards in class actions average around one-third
of the recovery.”); Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, J.
of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at 35 (independent studies of class action
litigation nationwide conclude that fees representing one-third of the total recovery is consistent with
market rates).

1 Conditional certification of the proposed Settlement Class is particularly warranted here given
2 the relatively relaxed standard for certification at the preliminary approval stage. *See Dunk v. Ford Motor*
3 *Co.*, 48 Cal. App. 4th 1794 (1996) (courts can apply a “lesser standard of scrutiny” for class certification
4 in settlement cases).¹¹ In *Dunk*, the California Court of Appeal specifically rejected the argument that the
5 standard for certifying a class for purposes of settlement is identical to the standard for certifying the
6 same class for purposes of litigation:

7 Geer argues the court must use the same standard under Federal Rules of Civil Procedure,
8 rule 23 (28 U.S.C.) to determine the propriety of both settlement and litigation class
9 certifications . . . That rule is contrary to the Ninth Circuit rule, stated in *Officers for Justice*
10 *v. Civil Service Com. supra*, 688 F.2d at p. 633, and the position of the leading
commentators (Newberg & Conte, *supra*, § 11.28 at p. 11–58), which allow a lesser
standard of scrutiny for settlement cases . . . We agree with the latter.

11 *Id.* at n19.

12 **2. The Proposed Settlement Class Is Ascertainable and There Is a Well-** 13 **Defined Community of Interest Among Class Members**

14 Whether a class is “ascertainable” within the meaning of Code of Civil Procedure section 382 is
15 “determined by examining (1) the class definition, (2) the size of the class, and (3) the means available
16 for identifying class members.” *Lee*, 166 Cal. App. 4th at 1334. Class members are ascertainable where
17 they may be readily identified without unreasonable expense or time by reference to official records. *Id.*

18 The community of interest requirement embodies three factors: (1) predominant common
19 questions of law or fact; (2) a class representative with claims or defenses typical of the class; and (3) a
20 class representative and counsel who can adequately represent the class. Cal. Civ. Proc. Code § 382.

21 In April of 2012, the California Supreme Court expounded on the element of predominance:

22 The “ultimate question” the element of predominance presents is whether “the
23 issues which may be jointly tried, when compared with those requiring separate

24 ¹¹ *See also* Newberg on Class Actions § 13:18 (5th ed.) (courts “declin[e] to treat formal class
25 certification as a prerequisite for preliminary approval and undertak[e] a more cursory class certification
26 analysis at the preliminary approval stage.”); *Dearaujo v. Regis Corp.*, No. 2:14-CV-01408-KJM-AC,
2016 WL 3549473, at *6 (E.D. Cal. June 30, 2016) (“[D]espite the Supreme Court’s cautions in
27 *Amchem* . . . , a cursory approach appears the norm.”); *In re Amtrak Train Derailment in Philadelphia,*
28 *Pennsylvania*, No. 15-MD-2654, 2016 WL 1359725, at *4 (E.D. Pa. Apr. 6, 2016) (“[A] settlement class
can be preliminarily certified based on a less rigorous analysis than that necessary for final
certification.”); *In re Processed Egg Prod. Antitrust Litig.*, No. 08-MD-2002, 2014 WL 828083, at *2
(E.D. Pa. Feb. 28, 2014) (at the preliminary approval stage, “the Court must determine whether the
proposed class should be conditionally certified, and leave the final certification decision for the Fairness
Hearing.”).

1 adjudication, are so numerous or substantial that the maintenance of a class action
2 would be advantageous to the judicial process and to the litigants.”

3 *Brinker Rest. Corp. v. Super. Ct.*, 53 Cal. 4th 1004, 1021 (2012) (citations omitted).

4 The proposed Settlement Class consists of any person who worked for Defendant as a Studio
5 Team Member in California at any time from January 21, 2016 through July 11, 2020. Because all Class
6 Members are either current or former employees of Defendant, the class is readily ascertainable from
7 Defendant’s regular business records.

8 Here, Plaintiff submits that common issues of fact and law predominate because the California
9 statutes relating to each of Plaintiff’s claims, and Defendant’s defenses thereto, apply with equal force
10 and effect to all Class Members. Factually, Plaintiff contends that Defendant’s policies and practices
11 apply class-wide and Defendant’s liability can be determined by facts common to all members of the
12 class. The wage and hour issues are both numerous and substantial, and a class action is the most
13 advantageous method of dealing with the claims of the Settlement Class Members.

14 Plaintiff similarly submits that the wage and hour claims are typical of the proposed Settlement
15 Class because they arise from the same factual bases and are based on the same legal theories applicable
16 to the other Class Members. Likewise, Plaintiff’s interests are entirely coextensive with the interests of
17 the Class. Plaintiff maintains that she was injured by the same company-wide practices to which the
18 proposed Settlement Class was subject and seeks the same relief. Plaintiff has already demonstrated her
19 ability to advocate for the interests of the Class by initiating this litigation, undertaking representative
20 discovery, and evaluating the proposed settlement to assure that it is fair.

21 Additionally, Plaintiff is represented by competent counsel who have extensive experience in
22 litigating wage and hour class action cases. (Perez Decl. ¶¶ 13-21, Ex. 2; Declaration of Kyle Todd
23 [“Todd Decl.”] ¶¶ 2-12.) Plaintiff’s Counsel have successfully briefed, argued, certified, and gained state
24 and federal court settlement approval of the same class-wide causes of action that are at issue in this case.
25 (*Id.*) Plaintiff’s Counsel’s wage and hour class action expertise establishes that they are well qualified to
26 represent the interests of this Class.

27 A class action is superior to a multitude of individual lawsuits. Given the size and amount of
28 each individual Class Member’s claim, 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.

3. The Proposed Notice Properly Informs Class Members about the Case and the Settlement

Class members are entitled to the best practical notice under the circumstances. *Kass v. Young*, 67 Cal. App. 3d 100, 106 (1977). The purpose of the notice is to give class members sufficient information to decide whether they should accept the benefits offered, opt out and pursue their own remedies, or object to the settlement. *Trotsky v. Los Angeles Fed. Savings & Loan Assn.*, 48 Cal. App. 3d 143, 151-52 (1975). The notice must advise class members “that they may be excluded from the class if they so request and that they will be bound by the judgment, whether favorable or not, if they do not request exclusion.” *Kass*, 67 Cal. App. 3d at 106. In a case such as this involving a significant number of class members, California authorities generally require service of the class notice by mail or similar reliable means. *Chance v. Super. Ct.*, 58 Cal. 2d 275, 290 (1962); *Cartt v. Super. Ct.*, 50 Cal. App. 3d 960, 972 (1975).¹²

The Parties have jointly drafted the Notice of Settlement (“Class Notice”) which fairly and neutrally informs Class Members of their rights and remedies in this action. The proposed Class Notice will be mailed to all Class Members by First Class mail and 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 submit 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. (Settlement Agreement, Exhibit A.)

In the event Class Notices are returned as undeliverable, the Settlement Administrator will attempt to locate a current address using, among other resources, a skip-trace search. (Settlement

¹² Due process does not require that each Class Member actually receive a notice, but rather a procedure reasonably certain to reach Class Members. Wright, A. Miller & M. Kane, *Federal Practice and Procedure* § 1789, at 253 (2d ed. 1986). If appropriate notice is given, Class Members will be bound by the judgment even if they never actually receive the notice. *Fontana v. Elrod*, 826 F.2d 729, 732 (7th Cir. 1987).

1 Agreement ¶ 67.)

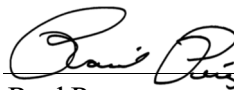
2 Accordingly, both the method of disseminating the Class Notice and content of the Class Notice
3 satisfy due process and the requirements of California law. *See* Cal. R. Ct. 3.776(e)-(f); *State of Cal. v.*
4 *Levi Strauss*, 41 Cal. 3d 460, 485 (1986) (the class notice must “fairly apprise the class members of the
5 terms of the proposed compromise and of the options open to dissenting class members.”).

6 **IV. CONCLUSION**

7 The Parties have negotiated a fair and reasonable settlement of claims. Having appropriately
8 presented the materials and information necessary for preliminary approval, the Parties request that the
9 Court preliminarily approve the settlement.

10
11 Dated: July 29, 2024

Respectfully submitted,

12 By: 

13 Raul Perez

14 Bevin Allen Pike

15 Daniel Jonathan

Trisha K. Monesi

CAPSTONE LAW APC

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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF LOS ANGELES**
15

16 CINDY NEWMAN, an individual, individually,
17 on behalf of the general public, and all others
similarly situated,

18 Plaintiff,

19 vs.
20

21 WW NORTH AMERICA HOLDINGS, INC., a
corporation; and DOES 1 through 100, inclusive,

22 Defendants.
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Case No. 20STCV02332

Assigned to the Hon. Kenneth R. Freeman

**DECLARATION OF RAUL PEREZ IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: August 27, 2024

Time: 10:00 a.m.

Place: Department 14

Complaint Filed: January 21, 2020

Trial Date: None Set

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1 same causes of action as in her original complaint and adding a cause of action under PAGA on behalf of
2 herself and other allegedly aggrieved employees.

3 7. On May 26, 2022, Plaintiff filed her Second Amended Complaint, re-asserting the same
4 causes of action as in her First Amended Complaint, adding causes of action for violation of Labor Code
5 sections 226.2 and 226.7, and adding factual allegations, including that Defendant filed to pay for non-
6 productive time, such as pre meeting prep time, time required to attend the meeting site prior to
7 commencement of meetings, and rest periods.

8 8. On June 28, 2022, Defendant filed its Answer to Plaintiff's Second Amended
9 Complaint.

10 9. On August 12, 2022, Plaintiff filed her Motion for Class Certification. On September 9,
11 2022, the Court granted the Parties' stipulation to stay the action pending mediation.

12 10. On November 7, 2022, the Parties participated in a further mediation session with
13 mediator Jeffrey A. Ross, Esq. At all times, the Parties' negotiations were adversarial and non-collusive.
14 While the Parties did not reach a resolution at the further mediation session, they continued to discuss the
15 terms of a possible settlement in the following months, and were ultimately able to reach a resolution that
16 was memorialized in a Memorandum of Understanding signed on June 15, 2023. The terms of the
17 settlement are now set forth in complete and final form in the Class Action and PAGA Settlement
18 Agreement, attached as Exhibit 1. A copy of the Class Action and PAGA Settlement Agreement has
19 been uploaded to the LWDA's website.

20 11. It is my opinion that the Settlement constitutes a fair, adequate, and reasonable
21 compromise of the claims at issue. This opinion is informed by my experience litigating and settling
22 wage and hour actions, and my firm's investigation into the factual and legal issues implicated by
23 Plaintiff's claims and Defendant's defenses, which entailed a review of Defendant's California labor
24 policies and procedures manuals, and the deposition of Defendant's corporate representative (Janet
25 Riphagen / Territory Manager.) The exchanges of evidence and testimony allowed Plaintiff's Counsel to
26 fully assess the nature and magnitude of the claims being settled, as well as the impediments to recovery,
27 and ultimately enabled Plaintiff's Counsel so as to make an independent assessment of the
28 reasonableness of the settlement's terms.

12. Based on this investigation, Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth in the Settlement Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, and various defenses asserted by Defendant.

CAPSTONE LAW APC FIRM PROFILE

13. Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues.

14. In February, 2015, Ryan H. Wu and I were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for our work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.

15. Recognized as a leading firm in the prosecution of PAGA enforcement actions, Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior Court (Marshalls of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.

16. Capstone has made important contributions to consumer protection law. In *McGill v. Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the right to seek public injunctive relief under the state's consumer protection laws cannot be waived and that consumers need not satisfy class certification requirements to enjoin unfair business practices on behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed a denial of class certification, making law that clarified the use of "benefit of the bargain" damages models in consumer class actions.

17. Capstone served as class counsel in a number of significant wage and hour settlements, including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case

No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v. Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.

18. Capstone has an established practice in automotive defect class actions and is currently appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No. 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

19. Capstone has settled over 100 high-stakes class and representative actions. Capstone's settlements have directly compensated hundreds of thousands of California workers and consumers. Capstone's actions have also forced employers to modify their policies for the benefit of employees, including changing the compensation structure for commissioned employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of California.

20. The following is a representative sample of Capstone's settlements:

- a. *Navarro v. United Parcel Service, Inc.*, No. BC592098 (LA County Superior Court): gross settlement of \$16.5 million on behalf of approximately 180,000 non-exempt employees for wage and hour violations;
- b. *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- c. *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- d. *Moore v. Petsmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross

- 1 settlement of \$10 million on behalf of over 19,000 non-exempt
2 PetSmart employees for wage and hour violations;
- 3 e. *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross
4 settlement of \$9 million on behalf of approximately 1,200 pharmacists
5 for wage and hour violations;
- 6 f. *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura
7 Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig
8 workers for sleep time and other wage violations;
- 9 g. *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super.
10 Ct.): gross settlement of \$5.7 million on behalf of approximately 650
11 sales representatives;
- 12 h. *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino
13 Super. Ct.): gross settlement of \$5.5 million for approximately 5,500
14 non-exempt employees.
- 15 i. *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of
16 \$5.4 million in a case alleging FCRA violations;
- 17 j. *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.):
18 gross settlement of \$5 million on behalf of over 12,000 nonexempt
19 employees;
- 20 k. *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP
21 4790: gross settlement of \$5 million on behalf of 15,000 non-exempt
22 employees;
- 23 l. *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross
24 settlement of nearly \$5 million on behalf of over 100,000 non-exempt
25 workers for meal break and wage statement claims;
- 26 m. *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.):
27 gross settlement of nearly \$5 million on behalf of 2,700 non-exempt
28 employees following contested certification;

- 1 n. *Asghari v. Volkswagen Group of North America*, Case No. 13-02529
2 (C.D. Cal.): Settlement providing complementary repairs of oil
3 consumption defect, reimbursement for repairs, and extended warranty
4 coverage of certain Audi vehicles valued at over \$20 million;
5 o. *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.):
6 Settlement providing complimentary electric vehicle charging cards and
7 extending warranty coverage for the electric battery on the Nissan Leaf
8 valued at over \$10 million.

9 21. Attached as Exhibit 2 is a true and correct copy of Capstone's firm resume.

10
11 I declare under penalty of perjury under the laws of the State of California that the foregoing is
12 true and correct. Executed this 29th day of July, 2024, at Los Angeles, California.

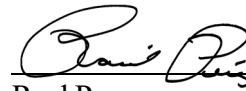
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Exhibit 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

I. INTRODUCTION

1. This Class Action and PAGA Settlement Agreement (hereinafter “Settlement Agreement”) is made by and between Plaintiff Cindy Newman (“Plaintiff”), individually and on behalf of all others similarly situated, and Defendant WW North America Holdings, LLC¹ (“Defendant”) (collectively, the “Parties”), and their respective counsel of record. This Settlement Agreement is subject to the terms and conditions set forth below and to the approval of the Court. This Settlement Agreement supersedes any and all prior memoranda of understanding and accurately sets forth the Parties’ class action and PAGA settlement to resolve all claims as detailed below. The Parties agree that the consideration described herein constitute adequate consideration for the Settlement and releases described herein.

II. DEFINITIONS

2. “Action” means Plaintiff’s lawsuit captioned *Cindy Newman v. WW North America Holdings, Inc.*, Case No. 20STCV02332, initiated on January 21, 2020 and pending in Superior Court of the State of California, County of Los Angeles.

3. “Class Counsel” or “Plaintiff’s Counsel” means Raúl Pérez, Bevin Allen Pike, Daniel S. Jonathan and Trisha K. Monesi of Capstone Law APC and Kyle Todd of Kyle Todd, P.C.

4. “Class Member” or “Settlement Class Member” mean any person who worked for Defendant as a Studio Team Member in California at any time from January 21, 2016 through July 11, 2020, and who does not timely opt-out of the Settlement Class.

5. “Class Period” means the period commencing on January 21, 2016 through July 11, 2020.

6. “Class Representative” means Plaintiff Cindy Newman, who is to be designated

¹ Formerly, WW North America Holdings, Inc.

as the Class Representative for settlement purposes subject to Court approval.

7. “Complaint” means the Second Amended Complaint in this Action.

8. “Court” means the Superior Court of California, County of Los Angeles.

9. “Date of Preliminary Approval” means the date the Court approves this Settlement Agreement, and the exhibits thereto, and enters an Order providing for notice to the Class Members, an opportunity to opt-out of being a Participating Class Member, an opportunity to submit timely objections to the settlement, and setting a hearing for Final Approval of the Settlement, including approval of attorneys’ fees and costs.

10. “Defendant’s Counsel” means Morgan, Lewis & Bockius LLP.

11. “Deficient Opt-Out” means a Class Member has submitted a Deficient Request for Exclusion and has failed to cure its deficiencies within the time required by this Settlement Agreement.

12. “Deficient Request for Exclusion” means a Request for Exclusion that is not signed by the Class Member submitting the Request for Exclusion or cannot be verified by the Settlement Administrator as being an authentic submission by the Class Member.

13. “Final Approval” means the date on which the Court enters the Final Approval Order.

14. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

15. “Final Approval Order” means the Court’s order approving the Settlement after the Final Approval Hearing.

16. “Gross Settlement Amount” is the sum of Six Hundred Thirty Thousand U.S. Dollars (\$630,000.00), which represents the maximum amount payable in this Settlement by Defendant, and includes all attorneys’ fees, litigation costs and expenses, Settlement Administration Expenses, Incentive Payment to the Class Representative, LWDA PAGA Amount, PAGA Member Payment, Settlement Class Payment, and all taxes except the

employer's share of payroll taxes.

17. "Incentive Payment" means the incentive payment in an amount not to exceed \$10,000.00 total to the Class Representative.

18. "Judgment" means the judgment entered by the Court based upon the Final Approval.

19. "Late Request for Exclusion" means a Request for Exclusion that is submitted to the Settlement Administrator after the end of the Notice Period.

20. "LWDA" means the California Labor and Workforce Development Agency.

21. "LWDA PAGA Amount" is the 75% share of the \$20,000 (or \$15,000) allocated from the Gross Settlement Amount for PAGA penalties that will be paid to the LWDA.

22. "Named Plaintiff" means Plaintiff Cindy Newman.

23. "Net Settlement Amount" is the portion of the Gross Settlement Amount eligible for distribution to Participating Class Members. It equals the Gross Settlement amount less Class Counsel's attorneys' fees and actual litigation costs and expenses as ordered to be paid by this Court, Settlement Administration Expenses, Incentive Payment to the Class Representative, LWDA PAGA Amount, PAGA Member Payment, and all taxes except the employer's share of payroll taxes.

24. "Notice Period" shall mean the period of sixty (60) days following the mailing of the Notice of Settlement by the Settlement Administrator. If the 60th day falls on a Sunday or holiday, the Notice Period shall end on the next business day that is not a Sunday or holiday.

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

26. "PAGA Member" means any person who worked for Defendant as a Studio Team Member in California at any time from January 21, 2019 and ending on July 11, 2020.

27. "PAGA Member Payment" is the 25% share of the \$20,000 (or \$5,000) allocated from the Gross Settlement Amount for PAGA penalties that will be paid to the PAGA Members.

28. "PAGA Period" means the period commencing on January 21, 2019 and ending

on July 11, 2020.

29. “Participating Class Member” means any Class Member who does not opt out of the Settlement or who opts out but subsequently rescinds the opt-out in a timely manner.

30. “Pay Period” means any biweekly pay period in which a Class Member worked at least one day during the Class Period.

31. “Qualified Settlement Fund” means the Qualified Settlement Fund (“QSF”) created under Internal Revenue Code Section 468B, to be overseen by the Settlement Administrator.

32. “Released Parties” means Defendant and its predecessors (including WW North America Holdings, Inc.), successors and assigns, its current and former direct and indirect parents (including but not limited to WW International, Inc.), affiliates, subsidiaries, divisions, and related business entities, and its current and former officers, directors, shareholders, employees, agents, representatives and employee benefit programs (including the trustees, administrators, fiduciaries and insurers of such programs).

33. “Request for Exclusion” means a signed request from a Class Member to be excluded from the non-PAGA portions of this Settlement.

34. “Settlement Administration Expenses” are those expenses incurred by the Settlement Administrator in effectuating the Settlement and are not to exceed \$25,000.00.

35. “Settlement Administrator” means CPT Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.

36. “Settlement Documents” means the Notice of Settlement attached hereto as Exhibit A.

37. “Settlement Effective Date” means the latter date of: (1) the date of final affirmance of an appeal of the Final Approval Order, or the expiration of the time for a petition for a writ of certiorari to review the Final Approval Order and, if certiorari be granted, the date of final affirmance of the Final Approval Order following review pursuant to that grant; or (2) the date of final dismissal of any appeal from the Final Approval Order or the final dismissal of any

proceeding on certiorari to review the Final Approval Order; or (3) if no appeal is filed, the 61st day after the entry of the Judgment on the Final Approval Order. The Settlement Effective Date cannot occur unless and until there is no possibility of an appeal or further appeal (by anyone who has the right to, or claims to have the ability to, take an appeal) that could potentially prevent this Settlement Agreement from becoming final and binding. The Parties intend that the Final Approval Order will extinguish all released claims, including but not limited to PAGA claims, for the periods covered by this Settlement upon Final Approval of the Settlement and the issuance of payment to the Class/PAGA Members. The Court will retain jurisdiction to enforce the Settlement after the Settlement Effective Date.

38. “Settlement Class Payment” is the allocation from the Net Settlement Amount paid to Participating Class Members and does not include the PAGA Member Payment to the PAGA Members.

39. “Stipulation of Settlement” and “Settlement Agreement” shall mean this Joint Stipulation of Settlement.

III. LITIGATION BACKGROUND

42. On or about January 14, 2020, Plaintiff submitted a notice with the LWDA alleging Labor Code violations by Defendant (hereinafter referred to as the “LWDA Notice”). The allegations in the LWDA Notice included: (1) Failure to Pay Overtime; (2) Failure to Pay Minimum Wages; (3) Failure to Provide Compliant Wage Statements; (4) Failure to Maintain Accurate Payroll Records; (5) Failure to Timely Pay Wages During Employment; (6) Failure to Timely Pay Wages Upon Termination; and (7) Violation of Labor Code section 558.

43. On or about January 21, 2020, Plaintiff filed a lawsuit in the Los Angeles County Superior Court, asserting causes of action for (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime; (3) Failure to Timely Pay Wages Upon Termination; (4) Failure to Pay Wages During Employment; (5) Failure to Provide Accurate Itemized Wage Statements; and (6) Violation of the California Business and Professions Code section 17200, *et seq.*

44. On February 24, 2020, Defendant filed its Answer to Plaintiff’s Complaint and

filed a Notice of Removal of Action to Federal Court.

45. On March 16, 2020, the U.S. District Court for the Central District of California remanded the action to the Los Angeles County Superior Court.

46. On December 10, 2020, the Parties participated in a full-day mediation with mediator Jeffrey A. Ross, Esq. but were not able to reach a resolution.

47. On December 15, 2020, Plaintiff filed her First Amended Complaint, re-asserting the same causes of action as in her original complaint and adding a cause of action under PAGA on behalf of herself and other allegedly aggrieved employees.

48. On May 26, 2022, Plaintiff filed her Second Amended Complaint, re-asserting the same causes of action as in her First Amended Complaint, adding causes of action for violation of Labor Code sections 226.2 and 226.7, and adding factual allegations, including that Defendant failed to pay for non-productive time, such as pre meeting prep time, time required to attend the meeting site prior to commencement of meetings, and rest periods.

49. On June 28, 2022, Defendant filed its Answer to Plaintiff's Second Amended Complaint.

50. Defendant denies Plaintiff's claims, and asserts that, during all relevant times, it complied with the California Labor Code and related authorities, and that Plaintiff and Class Members are not entitled to any recovery.

51. On or about August 12, 2022, Plaintiff filed her Motion for Class Certification.

52. On September 9, 2022, the Court granted the Parties' stipulation to stay the action pending mediation.

53. On November 7, 2022, the Parties participated in a further mediation session with mediator Jeffrey A. Ross, Esq. While the Parties did not reach a resolution at the further mediation session, they continued to discuss the terms of a possible settlement in the following months, and were ultimately able to reach a resolution that was memorialized in a Memorandum of Understanding signed on June 15, 2023.

54. It is the desire of the Parties to fully, finally, and forever settle, compromise, and

discharge all disputes and claims against the Released Parties arising from or related to the Action.

55. It is the intention of the Parties that this Settlement Agreement shall constitute a full and complete settlement and release of the claims averred in the Action. This release includes in its effect a release of all Released Parties.

IV. JURISDICTION AND VENUE

53. This Court has jurisdiction over the Parties and the subject matter of this Action. This Court will have continuing jurisdiction over the terms and conditions of this Settlement Agreement, until all payments and obligations provided for herein have been fully executed.

V. TERMS OF SETTLEMENT

54. NOW, THEREFORE, in consideration of the mutual covenants, promises, and undertakings set forth herein, the Parties agree, subject to the Court's approval, as follows:

- a. **Non-Admission.** Nothing in this Settlement shall be construed to be or deemed an admission by Defendant of any liability, culpability, negligence, or wrongdoing toward the Class Representative, the Class Members, or any other person, and Defendant specifically disclaims any liability, culpability, negligence, or wrongdoing toward the Class Representative, the Class Members, or any other person, or that class certification or proceeding on a representative basis is appropriate. Each of the Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant risk, inconvenience, expenses, and contingencies. This Settlement and any settlement-related court documents or orders between the Parties may not be cited or otherwise admitted as evidence of liability or that class or collective certification is appropriate or that a representative action could ever be manageably tried before a court. There has been no final determination by any Court as to the merits of the claims asserted by

Plaintiff against Defendant or as to whether a class should be certified, other than for settlement purposes only. Furthermore, nothing in this Settlement shall be considered any form of waiver of any alternative dispute resolution provisions, including but not limited to any arbitration agreements, if any, signed by any Class Members.

- b. **Certification.** The Parties stipulate, for settlement purposes only, to the certification of the Class described in Paragraph II.4 above as to all claims asserted in the Complaint. If for any reason the Court does not approve this Settlement, fails to enter the Final Approval Order, or fails to enter the Judgment, or if this Settlement Agreement is lawfully terminated for any other reason, Defendant shall retain the absolute right to dispute the propriety of class or conditional certification and/or the ability of this action to proceed as a representative action on all applicable grounds.
- c. The Parties further stipulate that, for settlement purposes only, Plaintiff's Counsel may be appointed Class Counsel and that Named Plaintiff may be appointed as Class Representative. The Settlement Class may be provisionally certified as a class action for the purposes of the monetary relief provided in this Settlement Agreement. Plaintiff's Counsel, Capstone Law APC and Kyle Todd, P.C. may be preliminarily and conditionally appointed as Class Counsel.
- d. **Non-Approval By The Court.** In the event that this Settlement Agreement is not approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court:
 - i. The Parties will meet and confer or attend mediation again in an effort to reach a settlement approved by the Court. Plaintiff may not withdraw from the Settlement if the Court reduces any amount of attorneys' fees, costs, or expenses or the enhancement payment

- to Plaintiff;
- ii. The Settlement Agreement shall have no force or effect, other than the confidentiality and non-disclosure provisions in Section XVI and the non-admission provisions in Paragraph V.54.a;
 - iii. The Settlement Agreement shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural;
 - iv. The preliminary and conditional certification of the class shall become null and void, and the fact of certification shall not be cited to or admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and
 - v. None of the Parties to this Settlement Agreement will be deemed to have waived any claims, objections, defenses or arguments with respect to the issue of class certification or the merits of Plaintiff's claims.
- e. **Settlement Payments.** Defendant agrees to pay a non-reversionary Gross Settlement Amount of Six Hundred Thirty Thousand U.S. Dollars (\$630,000.00), inclusive of all Settlement Payments, fees and costs identified in this Settlement Agreement, including Incentive Payment to the Class Representative, Settlement Administration Expenses, attorneys' fees and out-of-pocket litigation expenses, PAGA penalties (both the LWDA PAGA Amount and the PAGA penalties paid to the PAGA Members), and all taxes except the employer's share of payroll taxes. The Parties agree, subject to Court approval, to the following allocations to be paid from the Gross Settlement Amount:
- i. From the Gross Settlement Amount, provided there is no breach of

this Settlement Agreement by Named Plaintiff or her counsel, Class Counsel may seek from the Court a maximum of \$210,000.00 (1/3) of the Gross Settlement Amount in attorneys' fees, plus litigation costs and expenses not to exceed \$20,000 (representing actual out-of-pocket costs), for serving as Class Counsel, which Defendant will not oppose.

- ii. From the Gross Settlement Amount, provided there is no breach of this Settlement Agreement by Named Plaintiff or her counsel, Named Plaintiff may seek from the Court an Incentive Payment not to exceed \$10,000.00 for serving as Class Representative, which Defendant will not oppose. The Incentive Payment is in addition to whatever monetary settlement Plaintiff is entitled to recover from the Net Settlement Amount and PAGA Member Payment as a Participating Class Member and PAGA Member. Any amount of the Incentive Payment not approved by the Court shall become part of the Net Settlement Amount.
- iii. From the Gross Settlement Amount, a payment of \$15,000.00 to the California Labor and Workforce Development Agency (the LWDA PAGA Amount), representing the LWDA's 75% share of the settlement attributable to PAGA penalties. In connection with settlement approval, Plaintiff's counsel shall notify the LWDA of the existence of the settlement. Should the LWDA object to the amount of this payment, the Parties agree to work in good faith to negotiate another agreeable amount.
- iv. From the Gross Settlement Amount, a payment of \$5,000.00 to be allocated among the PAGA Members, calculated on a proportional basis by dividing the number of Pay Periods worked by each

PAGA Member by the total Pay Periods worked by all PAGA Members, with a 2x multiplier for the Pay Periods during which the PAGA Members worked back-to-back meetings/workshops, and multiplying the resulting fraction by the PAGA Member Payment.

- v. From the Gross Settlement Amount, Settlement Administration Expenses in a reasonable amount, which are not to exceed \$25,000.00. To the extent that Settlement Administration Expenses are less than \$25,000.00, the remainder shall become part of the Net Settlement Amount.
- vi. If the Court approves a lesser amount of attorney's fees or costs than those sought by Named Plaintiff or Class Counsel, the amount shall become part of the Net Settlement Amount, except that in the event Class Counsel appeals a reduction in the award of fees or costs by the Court, any appellate reduction of attorney fees and costs will be allocated *cy pres* to CASA of Los Angeles (Court Appointed Special Advocates of Los Angeles). The amount of reduction at issue in the appeal shall be held by the Settlement Administrator in trust pending the outcome of the appeal.
- vii. The Settlement Administrator will administer the notice, challenges, and opt-outs, informing Class Members of their rights in regard to the proposed settlement as specified below; will disburse monies from the Qualified Settlement Fund as and when authorized in this Settlement Agreement and by order of the Court; and will inform the Parties and the Court of its fulfillment of the duties imposed by this Settlement Agreement. Settlement Administrator Expenses shall be paid from the Gross Settlement

Amount.

- viii. The Net Settlement Amount is the balance of the Gross Settlement Amount including interest accruing to it, after payments have been made for attorneys' fees and litigation expenses including interest earned on those amounts, Settlement Administration Expenses, Class Representative's Incentive Payment, PAGA penalties (both the LWDA PAGA Amount and the PAGA Member Payment), and all taxes except the employer's share of the employer's share of payroll taxes.
- ix. The Settlement Administrator shall, after Final Approval of the Settlement Agreement by the Court and after the Settlement Effective Date, pay each Participating Class Member from the Net Settlement Amount based on a proportional basis according to the number of Pay Periods worked during the Class Period, with a 2x multiplier for the Pay Periods during which the Settlement Class Members worked back-to-back meetings/workshops. The Settlement Administrator will also conduct a similar proportional calculation for each PAGA Member to determine their share of the PAGA Member Payment, as set forth in Section VIII.
- x. The dates of employment for each Class Member and PAGA Member and the number of Pay Periods during which Class Members worked back-to-back meetings/workshops shall be provided by Defendant to the Settlement Administrator. The Administrator shall calculate the number of Pay Periods worked by Class Members during the Class Period and the PAGA Members during the PAGA Period. All Class Members will be deemed to have worked during at least one Pay Period during the Class

Period, and all PAGA Members will be deemed to have worked during at least one Pay Period during the PAGA Period. Class Members shall have the right to challenge the number of Pay Periods reflected in Defendant's records as set forth in Paragraph 75.

- xi. Class Members entitled to recover under this Settlement Agreement will include only those individuals who are identified in Defendant's records as having worked as Class Members in California during the Class Period, or those additional individuals who can provide to the Settlement Administrator evidence that they worked in that capacity notwithstanding the absence of Defendant's records confirming such employment.
 - xii. Within ten (10) days of the Settlement Effective Date, the Settlement Administrator shall issue Settlement Class Payment checks to Participating Class Members under this Settlement Agreement, as well as an Incentive Payment to the Class Representative, attorneys' fees and expenses awarded to Class Counsel, the LWDA PAGA Amount, and the PAGA Member Payment by sending such payments by mail or other reliable means to the respective recipients as specified below.
- f. **Objections.** Only Participating Class Members who do not opt-out may object to the non-PAGA portion of the Settlement. Plaintiff may not object to the Settlement. Class Members who opt-out of the Settlement are not eligible to object. All written objections must be sent no later than sixty (60) days after the mailing of the Settlement Documents and must include: (a) the Participating Class Member's full name, (b) the Participating Class Member's last four digits of their social security

number, and (c) a clear statement explaining why the Participating Class Member objects to the Settlement. Such deadline applies notwithstanding any argument regarding non-receipt of the Settlement Documents. Notwithstanding this deadline to submit a written objection, Class Members shall retain the right to appear at the Final Approval Hearing regardless of whether they have submitted a written objection to the settlement. Anyone who fails to send timely written objections or make an oral objection at the Final Approval Hearing shall be deemed to have waived any objections and shall be foreclosed from filing any appeal from any Final Approval Order issued by the Court. The Parties may file a response to any objections submitted by objecting Class Members at or prior to the Final Approval Hearing. Class Members shall be permitted to withdraw their objections in writing by submitting a withdrawal statement to the Settlement Administrator not later than one (1) business day prior to the Final Approval Hearing, or as otherwise ordered by the Court.

- g. **Opt Outs.** Class Members who wish to “opt out” of and be excluded from the non-PAGA portion of this Settlement must submit a written Request for Exclusion from the Settlement bearing a post-mark from a date within the Notice Period. Class Members are still bound by the release of PAGA claims even if they submit a valid Request for Exclusion and will receive a check with their PAGA Member Payment allocation from the \$5,000.00 PAGA Member Payment if they are a PAGA Member. The Request for Exclusion must include: (a) the Class Member’s name; (b) a statement that the Class Member desires to exclude himself or herself from the case; and (c) the last four digits of the Class Member’s social security number. If a Class Member submits a Deficient Opt-Out, the Settlement Administrator shall notify the Class Member of the deficiency

within five (5) business days of receipt. The Class Member shall have until the end of the Notice Period or five (5) business days after the close of the Notice Period if the notice of deficiency is sent by the Settlement Administrator within (5) business days of the end of the Notice Period to cure said deficiencies, at which point his or her Request for Exclusion will be rejected if not received. Class Members with Deficient Opt-Outs shall be bound by the Settlement and its releases and will be considered Participating Class Members for settlement distribution purposes. Class Members shall be permitted to rescind their Request for Exclusion in writing by submitting a rescission statement to the Settlement Administrator not later than one (1) business day prior to the Final Approval Hearing, or as otherwise ordered by the Court. The Settlement Administrator shall not accept Late Requests for Exclusion without the written authorization of the Parties. Plaintiff may not opt out of the Settlement.

- h. **Released Claims.** Upon Final Approval, the Class Representative, PAGA Members, and Participating Class Members who did not opt out of the non-PAGA portion of this Settlement, shall be deemed to have fully, finally, and forever released the Released Parties from the released claims as set forth in Sections IX through XI below.
- i. **Entry of Judgment.** At the Final Approval Hearing, the Parties will request that the Court, among other things: (a) certify the Settlement Class for purposes of settlement only; (b) enter a Final Approval Order in accordance with the terms of this Settlement Agreement; (c) approve the settlement as fair, adequate, reasonable, and binding on all Participating Class Members; (d) enter an order whereby Participating Class Members shall release the Released Class Claims; and (e) enter an order whereby

the PAGA Members and LWDA shall release the Released PAGA Claims.

VI. SETTLEMENT ADMINISTRATION

55. The Parties have agreed to the appointment of CPT Group, Inc. to perform the duties of Settlement Administrator.

56. Within seven (7) days of the Final Approval Order, the Settlement Administrator shall calculate, and inform Defendant's counsel of, the employer's share of payroll taxes. Defendant shall provide all information necessary for the Settlement Administrator to calculate the employer's share of payroll taxes.

57. By the later of April 15, 2024 or within thirty (30) days of the Final Approval Order, Defendant shall fund the settlement with the Gross Settlement Amount and the employer's share of payroll taxes by wire transfer or otherwise transmit to a depository bank designated by the Settlement Administrator in an account titled in the name of "WWNA/Newman Wage and Hour Settlement Fund." The account will be organized and existing under the laws of the State of California, intended by the Parties to be a "Qualified Settlement Fund" as described in Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, *et seq.* The monies so transferred, together with any interest subsequently earned thereon, shall constitute the Qualified Settlement Fund. The \$630,000.00 for the Gross Settlement Amount and the employer's share of payroll taxes transferred into the Qualified Settlement Fund by Defendant shall constitute the total Settlement cash outlay by Defendant in connection with: (1) the resolution of this matter; (2) this Settlement Agreement; and (3) the entry of Judgment in this Action. This sum is inclusive of payment for the Gross Settlement Amount (and all payments to be made from the Gross Settlement Amount as described herein).

58. The Settlement Administrator shall serve as Trustee of the Qualified Settlement Fund and shall act as a fiduciary with respect to the handling, management and distribution of the Qualified Settlement Fund, including with regard to payment of valid claims and reporting and paying taxes on such awards. The Settlement Administrator shall act in a manner necessary

to qualify the Qualified Settlement Fund as a “Qualified Settlement Fund” under Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, *et seq.*, and to maintain that qualification.

59. The Settlement Administrator shall be responsible for: (a) calculating each Class Member’s potential recovery of the Net Settlement Amount and PAGA Member Payment amount; (b) preparing and mailing to all Class Members the Settlement Documents with estimated Settlement Class Payment amounts and (if applicable) a PAGA Member Payment amount, and instructions on how to opt out of or object, and will take appropriate steps to trace, update and locate any individual Class Members whose address or contact information as provided to the Settlement Administrator is inaccurate or outdated; (c) receiving and serving on Class Counsel and Defendant’s Counsel, and the Court, Requests for Exclusion and any withdrawal and rescission statements; (d) providing to Class Counsel and Defendant’s Counsel a weekly report of activity; (e) establishing a toll free telephone line and responding to inquiries and requests for information or assistance from Class Members; (f) determining and paying the final amounts due to be paid to Participating Class Members after adjustment for funds due to Class Members who opt-out of the non-PAGA portion of this Settlement; (g) reporting to Class Counsel, Defendant’s Counsel, and the Court regarding the completion of the tasks identified in this paragraph; and (h) carrying out other related tasks including the proper maintenance of the QSF and reporting required for that account, in accordance with the terms of this Settlement Agreement. The weekly report of activity should include: (a) the number of Class Members who have submitted valid Requests for Exclusion, (b) the number of Notices returned and re-mailed, (c) whether any Class Member has submitted a dispute to any information contained in the Notice, and (d) the final count of Class Members who successfully opted-out of the non-PAGA portion of this Settlement.

60. All disputes relating to the Settlement Administrator’s ability and need to perform its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement Agreement, until all payments and obligations

contemplated by the Settlement Agreement have been fully executed.

61. When and if the Court grants Final Approval of the Settlement, and the Settlement Effective Date as defined herein has passed, the Settlement Administrator shall prepare a final list of all Participating Class Members and PAGA Members. The Settlement Administrator shall provide a redacted list to the Parties within ten (10) days after the Final Approval Order. For each Participating Class Member on this list, the Settlement Administrator will re-calculate the amounts due to each Participating Class Member. The Settlement Administrator shall also provide a non-redacted list to only Defendant within ten (10) days after the Final Approval Order.

62. Except for the Incentive Payment described above to be paid to the Class Representative, all Settlement Class Payments to Participating Class Members shall be allocated as follows: 1/3 allocation for wages to be reported on IRS Form W-2; 1/3 allocation as interest, and 1/3 allocation for penalties to be reported on IRS Form 1099. All PAGA Member Payments will be allocated entirely to penalties. The Settlement Administrator shall provide Participating Class Members, PAGA Members, and the Class Representative with an IRS Form 1099 as appropriate for the portions allocated to interest and penalties, if required. The Class Representative and Participating Class Members shall be exclusively liable for any and all tax liability, if any, resulting from any failure on their part to pay any taxes normally paid by an employee due on their Settlement Class Payments or PAGA Member Payments. All Parties represent that they have not received, and shall not rely on, advice or representations from other Parties or their agents or attorneys regarding the tax treatment of payments under federal, state, or local law.

63. The Incentive Payment to the Class Representative shall be treated as compensation for non-wage related claims, injuries, and reimbursement, and shall be reported on an IRS Form 1099 without withholdings.

64. After all payments have been disbursed from the QSF, the Settlement

Administrator shall dissolve the QSF and file a return (SF-1120) with the IRS.

VII. NOTICE TO THE CLASS MEMBERS AND LWDA

65. Within twenty-eight (28) days after the Date of Preliminary Approval by the Court, and subject to the Settlement Administrator executing a confidentiality agreement required by Defendant, Defendant shall provide the Settlement Administrator only with a Microsoft Excel spreadsheet containing the following for each Class Member: (1) full name; (2) last known home address; (3) last known telephone number; (4) social security number; (5) start and end dates of active employment as a Studio Team Member in the state of California; (6) the number of Pay Periods during which Class Members worked back-to-back meetings/workshops; and (7) any other information required by the Settlement Administrator in order to effectuate the terms of the Settlement to the extent it can be reasonably provided. Class Counsel will not be provided with the aforementioned data (including names, contact information, and payroll data for Class Members) unless Defendant provides consent in writing, but may receive aggregated summaries of the aforementioned data, provided sensitive information such as names, addresses, telephone numbers, and social security numbers are redacted.

66. Class data shall only be used by the Settlement Administrator for the purpose of calculating settlement shares and finding and notifying Class Members of the settlement. Class data for Class Members shall not be disclosed to the Named Plaintiff, or any other Class Members without the prior written consent of Defendant and will be subject to the Settlement Administrator's confidentiality agreement and redaction.

67. Prior to mailing the Settlement Documents, the Settlement Administrator will update the addresses for the Class Members using the National Change of Address database and other available resources deemed suitable by the Settlement Administrator. Any returned envelopes from the initial mailing that are returned no later than sixty (60) days after the initial mailing shall be remailed on one occasion. Those envelopes returned with forwarding addresses will be used by the Settlement Administrator to locate Class Members and re-mail the Settlement Documents to the correct or updated address. For envelopes without a forwarding address, the

Settlement Administrator will use all appropriate tracing methods, including skip tracing, to ensure that the Settlement Documents are received by the Class Members. The Settlement Administrator shall also take reasonable steps including skip tracing to locate any Class Member whose Notice of Settlement is returned as undeliverable. Individuals who receive a remailed envelope shall be entitled to an additional 15 days beyond the response deadline to submit written objections or opt-out of the non-PAGA portion of this Settlement.

68. Within fourteen (14) days of receiving the class data from Defendant and after it has completed all of the address updates for Class Members (including any skip tracing), the Settlement Administrator shall mail the Notice of Settlement to Class Members. The Notice of Settlement (attached as Exhibit A) shall provide a summary of the provisions of the Settlement. The Notice of Settlement shall also list the amount of Pay Periods and back-to-back meetings/workshops worked by the Class Member and the estimated individual payment each Class Member will receive as a Class Member and PAGA Member. The Notice shall provide instructions to employees regarding how to request to be excluded from the Settlement, how to object to the Settlement, how to submit a dispute regarding the number of Pay Periods stated on the Settlement Documents, and the date of the final approval hearing. At least five (5) business days prior to this mailing, the Settlement Administrator shall provide the Parties with a report listing the estimated Settlement Class Payment amounts to each Class Member.

69. Class Members shall have sixty (60) days from the date of mailing of the Settlement Documents to opt-out of the Class (*i.e.*, the non-PAGA portion of this Settlement), object to the Settlement, or submit a dispute. If the 60th day falls on a Sunday or holiday, the deadline will be the next business day that is not a Sunday or holiday. After recalculating estimated settlement allocations to account for disputed claims, Participating Class Members will receive their allocation from the Qualified Settlement Fund agreed upon pursuant to this Settlement Agreement and calculated by the Settlement Administrator. The Settlement Administrator shall provide Participating Class Members, PAGA Members, and the Class Representative with an IRS Form 1099 as appropriate for the portions allocated to interest and

penalties, if required

70. Plaintiff's counsel shall provide notice of the Settlement to the LWDA.

VIII. CALCULATION OF SETTLEMENT PAYMENTS AND DISTRIBUTION OF NET SETTLEMENT AND PAGA MEMBER PAYMENT FUNDS

71. **Calculation of Settlement Class Payments.** The Settlement Administrator will calculate pro rata Settlement Class Payments to Class Members based on each Class Member's number of eligible Pay Periods during the Class Period as reflected on Defendant's payroll records with a 2x multiplier for the Pay Periods during which Class Members worked back-to-back meetings/workshops. That pro rata Settlement Class Payments shall be determined as follows: (1) the Settlement Administrator will divide the number of Pay Periods worked by each Class Member by the total Pay Periods of all Class Members, with a 2x multiplier for the Pay Periods during which Class Members worked back-to-back meetings/workshops, and (2) multiply the resulting fraction by the Net Settlement Amount allocated for distribution to Participating Class Members.

72. **Calculation of the PAGA Member Payment.** The Settlement Administrator will calculate pro rata PAGA Member Payments to PAGA Members by: (1) dividing the number of Pay Periods worked by each PAGA Member during the PAGA Period by the total Pay Periods of all PAGA Members during the PAGA Period, with a 2x multiplier for the Pay Periods during which PAGA Members worked back-to-back meetings/workshops, and (2) multiplying the resulting fraction by the PAGA Member Payment.

73. **Eligibility for Settlement Class Payments.** Only Class Members who have not opted-out of the non-PAGA portion of this Settlement will be considered Participating Class Members and eligible to receive a Settlement Class Payment.

74. Each Notice of Settlement mailed to a Class Member will identify the dates of employment that Defendant's records indicate the individual worked as a Class Member; the number of Pay Periods worked by the Class Member during the Class Period and PAGA Period; and an estimate of each Class Member's pro rata share of the Net Settlement Amount including

the share of any PAGA Member Payment as a PAGA Member.

75. Participating Class Members will have the right to dispute only the information described in Paragraph 65, *supra*, as shown on the Notice of Settlement. Challenges to the information listed on the Notice of Settlement shall be sent directly to the Settlement Administrator at the address indicated on the Notice of Settlement. Any dispute must be made during the Notice Period. The Settlement Administrator will inform Class Counsel and Defendant's Counsel in writing of any timely filed disputes. The information listed on the Notice of Settlement is presumed to be accurate unless the Participating Class Member submits documentation demonstrating otherwise, *i.e.*, a Participating Class Member who fails to provide written proof will have his or her challenge denied. In the event of any dispute over an individual's employment information, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Parties shall meet and confer and shall attempt to agree on a resolution for any such dispute. In the event the Parties cannot agree to a resolution, the decision by the Administrator regarding disputes shall be binding on the Class Member and no additional rights of appeal shall exist.

76. The Settlement Administrator shall (a) date stamp all original Requests for Exclusion that it receives; (b) serve copies on Class Counsel and Defendant's Counsel no later than five (5) business days after receipt, or immediately if received within five (5) business days of the Final Approval Hearing; and (c) file the date-stamped originals (with contact information and social security numbers redacted) with the Clerk of the Court no later than five (5) business days prior to the date of the Final Approval Hearing or immediately if received less than five (5) business days prior to the date of the Final Approval Hearing.

77. The Settlement Administrator shall also (a) date stamp all original rescission of Requests for Exclusion it receives; (b) serve copies on Class Counsel and Defendant's Counsel no later than five (5) business days after receipt, or immediately if received within five (5) business days of the Court's Final Approval Hearing; and (c) file the date-stamped originals with the Clerk of the Court no later than five (5) business days prior to the date of the Final Approval

Hearing or immediately if received less than five (5) business days prior to the date of the Final Approval Hearing.

78. The Settlement Administrator shall make the final calculation of Settlement Class Payments and PAGA Member Payments and within seven (7) days of the Settlement Effective Date, the Settlement Administrator shall provide the Parties with a redacted report listing the Class Members by a unique identifier, the amount of Class Payment, any PAGA Member Payment, and the number of eligible Pay Periods. The Settlement Administrator shall also provide a non-redacted report to only Defendant within seven (7) days of the Settlement Effective Date.

79. Within ten (10) days after the Settlement Effective Date, the Settlement Administrator shall distribute and pay Settlement Class Payment checks to all Participating Class Members, pay the Class Representative her Incentive Payment, issue a check to the LWDA for the LWDA PAGA Amount, issue checks to the PAGA Member for their PAGA Member Payments, pay Class Counsel's attorneys' fees and costs, and pay the settlement administration fees.

80. The Settlement Administrator shall be responsible for issuing and mailing the checks and any necessary tax reporting forms to Participating Class Members, PAGA Members, the Class Representative, Class Counsel, and Defendant.

81. Uncashed Settlement Checks. Participating Class Members who are sent Settlement Class Payments and PAGA Members who are sent PAGA Member Payments shall have one-hundred eighty (180) calendar days (which can be extended for good cause shown) after mailing by the Settlement Administrator to cash their checks and will be so advised of such deadline. If such Participating Class Members and/or PAGA Members do not cash their checks within that period, those checks will become void and a stop payment will be placed on the uncashed checks. Within thirty (30) days after the expiration date of the settlement checks, the Settlement Administrator shall provide to Class Counsel and Defendant's Counsel a verification/declaration signed under penalty of perjury that it has mailed the checks for

Settlement Class Payments and PAGA Member Payments, and if uncashed, that such amounts have been sent *cy pres* to CASA of Los Angeles (Court Appointed Special Advocates of Los Angeles) (“Cy Pres Beneficiary”). The Parties do not have a connection to or a relationship with the Cy Pres Beneficiary that could reasonably create the appearance of impropriety as between the selection of the Cy Pres Beneficiary as the recipient of the unclaimed residuals and the interests of the Settlement Class. Defendant will not be required to pay any interest on such amounts and no such amount shall be reverted to Defendant.

IX. RELEASE BY PARTICIPATING CLASS MEMBERS

82. Release by Participating Class Members. The releases agreed upon and made part of the settlement by Participating Class Members shall include a full and final release of the Released Parties, as defined above, of the Released Class Claims. The “Released Class Claims” are all claims that were or reasonably could have been pled in Plaintiff’s Second Amended Complaint or asserted in Plaintiff’s LWDA Notice, based on the facts and matters pled or asserted therein or which reasonably could have been raised as part of Plaintiff’s claims, including but not necessarily limited to allegations regarding unpaid minimum and overtime wages; failure to pay for nonproductive time including rest periods and pre-meeting prep or attendance time; failure to provide compliant rest breaks; failure to provide complete and accurate wage statements; failure to maintain accurate payroll records; failure to timely pay wages during employment; and failure to timely pay wages upon termination, and factual allegations regarding Defendant’s violations of Labor Code sections 201, 202, 203, 204, 216, 226(a), 226.2, 226.3, 226.7, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and California Business and Professions Code section 17200 *et seq.* (collectively, the “Released Class Claims”). All Participating Class Members shall be bound by the release of the Released Class Claims during the Class Period, unless they formally opt-out of the non-PAGA portion of this Settlement. Final Approval effectuates this release and extinguishes the Released Class Claims.

X. RELEASE BY PAGA MEMBERS AND THE LWDA

83. The PAGA Members and the LWDA shall release the Released Parties from all

claims for civil penalties under PAGA that were, or reasonably could have been, raised as part of Plaintiff's claims in the Second Amended Complaint or as part of Plaintiff's allegations in Plaintiff's LWDA Notice, including any claim for attorneys' fees and costs permissible under PAGA that could reasonably have been raised based on the facts alleged (the "Released PAGA Claims."). The Released PAGA Claims are limited to those claims arising under PAGA during the PAGA Period. Final Approval effectuates this release by PAGA Members and the LWDA. The Parties intend for this Settlement to have claim preclusion, issue preclusion, or otherwise bar a PAGA action if a PAGA Member were to bring a subsequent claim on behalf of the LWDA based on any claim covered by the Released PAGA Claims during the PAGA Period. In light of the binding nature of a PAGA judgment on non-party employees pursuant to *Arias v. Superior Court* (Angelo Dairy) 46 Cal. 4th 969 (2009) and *Cardenas v. McLane Foodservice, Inc.*, 796 F. Supp. 2d 1246 (2011), individuals otherwise meeting the definition of a PAGA Member who are eligible to receive a payment for the amount of each such individual's estimated share of the PAGA Member Payment shall be deemed to have released the Released PAGA Claims, regardless if the check is cashed or not, and may not opt-out of, or object to, the release of the Released PAGA Claims or the PAGA portion of the Settlement.

XI. RELEASE BY CLASS REPRESENTATIVE

84. Settlement by Class Representative. As of the Settlement Effective Date, in consideration of the mutual covenants and promises set forth herein and by operation of the Final Approval Order and Judgment, in the event the Court grants an Incentive Payment, the release agreed upon and made part of the settlement by the Class Representative (the "Class Representative General Release") shall include a general release of the Released Parties, as defined above, from all claims, actions, causes of action, lawsuits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, bonuses, controversies, agreements, promises, claims, charges, complaints and demands whatsoever, whether in law or equity, known or unknown, which against the Released Parties, the Class Representative and his heirs, executors, administrators, successors, and assigns, may now have or hereafter later

determine that they have or had upon, or by reason of, any cause or thing whatsoever including, but not limited to, claims arising under the Americans With Disabilities Act, the National Labor Relations Act, the Fair Labor Standards Act, the Equal Pay Act, the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*, as amended, but not limited to, breach of fiduciary duty and equitable claims to be brought under § 1132(a)(3) (“ERISA”), the Worker Adjustment and Retraining Notification Act, as amended, Title VII of the Civil Rights Act of 1964, the Vocational Rehabilitation Act of 1973, the Civil Rights Acts of 1866, 1871 and 1991, including Section 1981 of the Civil Rights Act, the Family and Medical Leave Act (to the extent permitted by law), the California Family Rights Act (“CFRA”), California’s PAGA, Cal. Bus. and Prof. Code § 17200 *et seq.* (“UCL”), the California Labor Code, and/or any other federal, state or local human rights, civil rights, wage-hour, pension or labor law, rule, statute, regulation, constitution or ordinance and/or public policy, contract or tort law, or any claim of retaliation under such laws, or any claim of breach of any contract (whether express, oral, written or implied from any source), or any claim of intentional or negligent infliction of emotional distress, tortious interference with contractual relations, wrongful or abusive or constructive discharge, defamation, prima facie tort, fraud, negligence, loss of consortium, malpractice, breach of duty of care, breach of fiduciary duty or any action similar thereto against the Released Parties, including any claim for attorneys’ fees, expenses or costs based upon any conduct up to and including the date of Final Approval; provided, however, that the Class Representative does not waive any right to file an administrative charge with the Equal Employment Opportunity Commission (“EEOC”) or the National Labor Relations Board (“NLRB”), subject to the condition that the Class Representative agrees not to seek, or in any way obtain or accept, any monetary award, recovery or settlement therefrom and agrees that she understands that such limitation does not in any way restrict her ability to file and pursue such charge consistent with the confidentiality obligations set forth in this Joint Stipulation of Settlement; and further provided, however, that the Class Representative does not waive any rights with respect to, or release the Released Parties from, any claims for California Workers’ Compensation benefits

(except that the Class Representative hereby releases and waives any claims that she is entitled to additional benefits or payments); and further provided, however, that the Class Representative does not release any claim for unemployment compensation benefits; and further provided, however, that the Class Representative does not release any claim that cannot be released by private contract, or for breach of the terms of the Settlement Agreement between the Class Representative and Defendant. It is further agreed that:

- a. The Class Representative, for the purpose of implementing a full and complete release and discharge of the Released Parties, expressly acknowledges that this Class Representative General Release is intended to include in its effect, without limitations, all claims through the date of Final Approval, which the Class Representative does not know or suspect to exist in the Class Representative's favor at the time of execution hereof, and that this Class Representative General Release contemplates the extinguishment of any such claim or claims.
- b. The Class Representative, in connection with such waiver and relinquishment, hereby acknowledges that she or her attorneys may hereafter discover claims or facts in addition to, or different from, those which she now knows or believes to exist, but that the Class Representative expressly agrees to fully, finally and forever settle and release any and all claims, known or unknown, suspected or unsuspected, which exist or may exist on her behalf against the Released Parties at the time of Final Approval, including, but not limited to, any and all claims relating to or arising from the Class Representative's employment with Defendant. The Parties further acknowledge, understand and agree that this representation and commitment is essential to each Party and that this Settlement Agreement would not have been entered into were it not for

this representation and commitment.

- c. The Class Representative shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits she may otherwise have had relating to the claims covered by the Class Representative General Release pursuant to Section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

- d. The Class Representative covenants that she will not participate in or receive recovery or monies as a plaintiff in connection with any proceeding seeking penalties under PAGA, which arises during the Class Period for any known and unknown claims.
- e. As of the Settlement Effective Date, in consideration of the mutual covenants and promises set forth herein and by operation of the Final Approval Order and Judgment, in the event the Court grants an Incentive Payment, the Class Representative agrees to not disparage or impugn the reputation of any of the Released Parties. Notwithstanding the foregoing, the Parties agree that the Class Representative will not be prohibited or restricted from reporting to Defendant's management or directors regarding conduct she believes to be in violation of the law or from providing information to or cooperating with any government agencies or any self-regulating organizations.

XII. DUTIES OF THE PARTIES PRIOR TO PRELIMINARY APPROVAL AND BETWEEN PRELIMINARY AND FINAL APPROVAL.

85. The Parties shall promptly submit this Settlement Agreement to the Court together with a Motion for Preliminary Approval of Settlement and Certification of Settlement

Class. The motion shall also seek an order, attached as Exhibit B:

- a. Preliminarily approving the Settlement;
- b. Approving as to form and content the proposed Notice of Settlement;
- c. Directing the mailing of the Notice of Settlement by first class mail to members of the Settlement Class;
- d. Preliminarily certifying the Settlement Class for purposes of settlement and preliminarily appointing Named Plaintiff and Plaintiff's Counsel as representatives of the Settlement Class;
- e. Preliminarily approving settlement administration services to be provided by the Settlement Administrator;
- f. Preliminarily approving the proposed Incentive Payment to Named Plaintiff as Class Representative;
- g. Preliminarily approving the application for payment of reasonable attorneys' fees and costs to Plaintiff's Counsel;
- h. Scheduling a Final Approval Hearing on the question of whether the proposed settlement should be finally approved as fair, reasonable and adequate as to the members of the Settlement Class.

86. Plaintiff's Counsel shall provide the Court at least 5 days prior to the Final Approval Hearing a declaration by the Settlement Administrator of due diligence and proof of mailing of the Notice of Settlement required to be mailed to Class Members by this Settlement Agreement, and of the delivery results of the Settlement Administrator's mailings including tracing and re-mailing efforts.

XIII. DUTIES OF THE PARTIES AFTER FINAL COURT APPROVAL

88. The Parties will submit a proposed Final Approval Order, attached as Exhibit C, which shall include findings and orders:

- a. Approving the settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing that its terms and provisions be

carried out;

- b. Approving the Incentive Payment to the Named Plaintiff as Class Representative;
- c. Approving Class Counsel's application for an award of attorneys' fees and reimbursement of out-of-pocket litigation expenses, and the Settlement Administrator's fees;
- d. Ordering that the settlement payments be distributed to the Participating Class Members and PAGA Members as set forth in the Agreement;
- e. Identifying the individuals who opted out of the Settlement;
- f. Releasing and extinguishing all Participating Class Members' Released Class Claims that arose during the Class Period and PAGA Members' Released PAGA Claims that arise during the PAGA Period, and the Class Representative General Release; and
- g. Providing that the Court will retain jurisdiction to oversee administration and enforcement of the terms of the Settlement and the Court's orders.

89. Following entry of the Court's Final Approval Order, the Parties will each act to assure its timely execution and the fulfillment of all its provisions, including but not limited to the following:

- a. Should an appeal be taken from the Final Approval Order, all Parties will support the approval order on appeal;
- b. Class Counsel and Defendant's Counsel will assist the Settlement Administrator as needed or requested in the process of identifying and locating Class Members entitled to payments from the Qualified Settlement Fund;
- c. Class Counsel and Defendant's Counsel will assist the Settlement Administrator as needed or requested in responding to late requests for

payments;

- d. Class Counsel and Defendant's Counsel will cooperate with each other and assist the Settlement Administrator as needed;
- e. The Parties and Class Counsel will certify to the Court completion of all payments required to be made by this Settlement Agreement.

XIV. PRELIMINARY TIMELINE FOR COMPLETION OF SETTLEMENT

90. The preliminary schedule for notice, approval, and payment procedures carrying out this settlement is as follows. The schedule may be modified depending on whether and when the Court grants necessary approvals and orders notice to the class and sets further hearings. In the event of such modification, the Parties shall cooperate in order to complete the settlement procedures as expeditiously as reasonably practicable.

Within 28 days after the Date of Preliminary Approval	Defendant shall provide the Settlement Administrator only with the information set forth in Paragraph 65.
Within 14 days after receipt of class data from Defendant	Settlement Administrator to complete updating any Class Member contact information pursuant to Paragraph 67. Mailing by first class mail of Settlement Documents.
5 business days before mailing Settlement Documents	Settlement Administrator to provide the Parties with estimated Settlement Class Payments to each Class Member and PAGA Member Payments to each PAGA Member.
60 days after mailing Settlement Documents	Deadline for Class Members to opt-out, object in writing, or submit Pay Period disputes.
1 business day prior to the Final Approval Hearing	Last day for Class Members to rescind objections or opt-outs.

Within 7 days of the Final Approval Order	Settlement Administrator to calculate and provide Defendant's counsel with the amount of the employer's share of payroll taxes.
Within 10 days of the Final Approval Order	Settlement Administrator to provide the Parties with a redacted list of all Participating Class Members and the re-calculated amounts due to each Participating Class Member. Settlement Administrator to also provide the same list in non-redacted format only to Defendant.
By the later of April 15, 2024 or within 30 days of the Final Approval Order	Defendant to fund the Qualified Settlement Fund.
The 61 st day after the entry of Judgment on the Final Approval Order, if no appeals are filed	Settlement Effective Date
Within 7 days of the Settlement Effective Date	Settlement Administrator to make the final calculation of Settlement Class Payments and PAGA Member Payments from the Net Settlement Amount to be distributed to the Participating Class Members and PAGA Members. Settlement Administrator to provide the Parties with a redacted report listing the Class Members with a unique identifier, the amount of Settlement Class Payment, any PAGA Member Payment, and number of eligible Pay Periods. Settlement Administrator to provide the same report in non-redacted format only to Defendant.
Within 10 days after the Settlement Effective Date	Settlement Administrator to distribute and pay Settlement Class Payment checks to all Participating Class Members, pay the Class Representative his Incentive Payment, issue a check to the LWDA for the LWDA PAGA Amount, issues checks to the PAGA Member for their PAGA Member Payments, pay Class Counsel's attorneys' fees and costs, and pay the settlement administration fees.
180 days after payment of first round settlement checks	Settlement Administrator to send amounts of uncashed Settlement checks to CASA of Los Angeles (Court Appointed Special Advocates of Los Angeles).

Within thirty (30) days after the expiration date of the settlement checks	Settlement Administrator to provide to Class Counsel and Defendant's Counsel a verification/declaration signed under penalty of perjury that it has mailed the checks for Settlement Class Payments and PAGA Member Payments, and if uncashed, that such amounts have been sent <i>cy pres</i> to CASA of Los Angeles (Court Appointed Special Advocates of Los Angeles).
After Settlement Administrator submits final declaration of distributions and within fourteen (14) days of written request by Defendant	Named Plaintiff and Class Counsel to destroy and confirm the destruction of all confidential documents produced to them for settlement purposes.

XV. VOIDING OR MODIFYING THE SETTLEMENT AGREEMENT

91. Defendant has the right to withdraw from the Settlement before Final Approval if:

(a) the Settlement is construed by the Court to be materially different from the Settlement Agreement; (b) more than 5% of Class Members request to be excluded from the Settlement; or (c) if Plaintiff or Class Counsel breach the Settlement Agreement. In the event of Defendant's withdrawal because more than 5% of Class Members request to be excluded from the Settlement, Defendant will pay the costs already incurred by the Settlement Administrator. The Parties shall meet and confer prior to Defendant exercising its right to withdraw and Defendant shall provide Class Counsel with written notice.

92. If for any reason the Settlement is not approved by the Court, or if Defendant withdraws from the Settlement pursuant to this Section, this Settlement Agreement and any related Settlement Documents will be null and void, other than the confidentiality and non-disclosure provisions in Section XVI and the non-admission provisions in Paragraph V.54.a, and any class action certified for settlement purposes will be vacated. In such an event, neither this Settlement Agreement, nor the Memorandum of Understanding of Settlement, nor the settlement documents, nor the negotiations leading to the Settlement may be used as evidence for any purpose, and Defendant shall retain the right to challenge all claims and allegations in the action,

to assert all applicable defenses, and to dispute the propriety of class or collective certification on all applicable grounds. If the Settlement is not initially approved by the Court following the filing of Plaintiff's Motion for Preliminary Approval, the parties shall meet and confer or attend mediation again in an effort to modify the Settlement in a manner that addresses the Court's concerns.

93. Other than as specified above, this Settlement Agreement may not be changed, altered, or modified, except in writing and signed by counsel for the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

XVI. CONFIDENTIALITY AND PUBLICITY

94. The names of Participating Class Members and their allocation amounts shall be kept strictly confidential by the Settlement Administrator, who will not release such information to Class Counsel, unless anonymized and with contact information redacted, and will only file such information under seal if necessary. Any information received by Class Counsel in connection with this Settlement may be used for this action only, and may not be used for any purpose or in any other action or proceeding.

95. Named Plaintiff, Defendant, Class Counsel and Defendant's Counsel agree not to disclose the terms of this settlement before the Motion for Preliminary Approval is filed. Thereafter the Parties agree that they shall not, directly or indirectly, issue a press release, hold a press conference, respond to any press inquiries, publish information about the settlement on any website (other than used by the Settlement Administrator for claims administration purposes) or on social media, or otherwise publicize the settlement, except that this provision will not apply to any reporting requirements by Defendant to its outside auditors or Board of Directors or as otherwise required by law.

96. Destruction of Confidential Settlement Materials. Named Plaintiff and Class Counsel agree to destroy and confirm the destruction of all confidential documents produced to them for settlement purposes in this action after the Settlement Administrator submits the final

declaration of distributions and within fourteen (14) days of written request by Defendant.

XVII. PARTIES' AUTHORITY

97. The signatories hereby represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

XVIII. MUTUAL FULL COOPERATION

98. The Parties agree to fully cooperate with each other to promote participation in Settlement and in seeking court approval of this Settlement Agreement, including but not limited to, working cooperatively to address any questions raised by the Court, executing documents or amending documents as required by the Court, and taking such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court or otherwise to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Plaintiff's Counsel shall, with the assistance and cooperation of Defendant and Defendant's counsel, take all necessary steps to secure the Court's preliminary and final approval of this Settlement Agreement.

XIX. NOTICES

99. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiff's Counsel:

Raúl Pérez, Bevin Allen Pike, Daniel S. Jonathan and Trisha K. Monesi
CAPSTONE LAW APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
Tel: (310) 556-4811
Fax: (310) 943-0396
bevin.pike@capstonelawyers.com

Kyle Todd

KYLE TODD, P.C.
171 N Altadena Dr.
Pasadena, CA 91107
Tel: (323) 208-9171
Fax: (323) 693-0822
kyle@kyletodd.com

To Defendant's Counsel:

Carrie A. Gonell and Samuel S. Sadeghi
MORGAN, LEWIS & BOCKIUS LLP
600 Anton Blvd., Suite 1800
Costa Mesa, CA 92626
Tel: 949.399.7000
Fax: 949.399.7001
carrie.gonell@morganlewis.com

If the identity of the persons to be notified for any Party changes, or their address changes, that Party shall notify all other Parties of said change in writing.

XX. MISCELLANEOUS PROVISIONS

100. **Captions and Titles.** Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

101. **Drafting.** The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms-length negotiations between the Parties. Neither party shall be considered the "drafter" of the Settlement Agreement for purposes of having terms construed against that party, and this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her or its counsel participated in the drafting of this Settlement Agreement.

102. **Extensions of Time.** If a party cannot reasonably comply with an obligation under this Settlement Agreement by the deadline set forth herein applicable to that obligation, that party may apply to the Court for a reasonable extension of time to fulfill that obligation. Consent to such a request for an extension will not be unreasonably withheld by the other party. The parties agree to cooperate so that the matter will be resolved with appropriate dispatch and

the settlement terms carried out without unnecessary delay.

103. **Governing Law.** The rights and obligations of the Parties hereunder shall be construed and enforced in accordance with, and shall be governed by, the laws of the State of California, without regard to principles of conflict of laws.

104. **No Impact on Benefit Plans.** Neither the Settlement nor any amounts paid under the Settlement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by the Released Parties. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under the Released Parties' sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of the Released Parties' benefit plan, policy, or bonus program. The Released Parties retain the right to modify the language of the Released Parties' benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

105. **Integration.** This Settlement Agreement, along with attached exhibits, contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

106. **No Prior Assignments.** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign,

transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

107. **Class Member Signatories.** It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each member of the Class execute this Settlement Agreement. The Notice of Settlement attached hereto will advise all Class Members of the binding nature of the release and such shall have the same force and effect as if this Settlement Agreement were executed by each member of the Class.

XXI. COUNTERPARTS

108. This Settlement Agreement may be executed in counterparts with signatures transmitted by facsimile or as an electronic image of the original signature. When each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to all Parties. A facsimile signature shall have the same force and effect as the original signature.

[signatures on next page]

READ CAREFULLY BEFORE SIGNING

PLAINTIFF CINDY NEWMAN

02 / 07 / 2024

Dated: _____

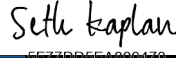


Cindy Newman

DEFENDANT WW North America Holdings, LLC

DocuSigned by:

Dated: February 8, 2024



Seth Kaplan, Senior Vice President, Legal and People
On behalf of Defendant WW North America Holdings, LLC

APPROVED AS TO FORM.

Dated: February 8, 2024

MORGAN, LEWIS & BOCKIUS LLP

By 

Carrie A. Gonell
Samuel S. Sadeghi
Attorneys for Defendant
WW North America Holdings, LLC

Dated: February 7, 2024

CAPSTONE LAW APC

By 

Raúl Pérez
Bevin Allen Pike
Daniel S. Jonathan
Trisha K. Monesi
Attorneys for Plaintiff
CINDY NEWMAN, individually and on
behalf of all others similarly situated

02 / 04 / 2024

Dated: _____, 2024

KYLE TODD, P.C.

By 

Kyle Todd
Attorney for Plaintiff
CINDY NEWMAN, individually and on
behalf of all others similarly situated

Exhibit A

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

Cindy Newman v. WW North America Holdings, Inc.

Superior Court for the State of California, County of Los Angeles, Case No. 20STCV02332

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

IF YOU ARE OR WERE EMPLOYED BY DEFENDANT WW NORTH AMERICA HOLDINGS, LLC (formerly WW NORTH AMERICA HOLDINGS, INC.) (“DEFENDANT”) AS A STUDIO TEAM MEMBER IN CALIFORNIA AT ANY TIME DURING THE PERIOD FROM JANUARY 21, 2016 THROUGH JULY 11, 2020, A SETTLEMENT OF A CLASS ACTION LAWSUIT MAY AFFECT YOUR RIGHTS.

Why should you read this Notice?

A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Cindy Newman v. WW North America Holdings, Inc.*, Case No. 20STCV02332 (Los Angeles County Superior Court) (the “Action”). The purpose of this Notice of Class Action Settlement (“Notice”) is to briefly describe the case, and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action and will result in the entry of Judgment in the Action.

A hearing concerning the Settlement will be held before the Hon. Kenneth R. Freeman on [REDACTED], 2024 at [REDACTED] X:XX x.m. in Department 14 of the Los Angeles County Superior Court, located at the Spring Street Courthouse at 312 North Spring Street, Los Angeles, California, 90012 to determine whether the Settlement is fair, adequate, and reasonable.

AS A CLASS MEMBER, YOU ARE ELIGIBLE TO RECEIVE AN INDIVIDUAL SETTLEMENT PAYMENT UNDER THE SETTLEMENT AND WILL BE BOUND BY THE RELEASE OF CLAIMS DESCRIBED IN THIS NOTICE AND THE SETTLEMENT AGREEMENT FILED WITH THE COURT, UNLESS YOU TIMELY REQUEST TO BE EXCLUDED FROM THE SETTLEMENT.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING	If you do nothing, you will receive a Settlement Payment and will give up your right to pursue a separate legal action against Defendants for the claims alleged in this Action, as explained more fully below.
EXCLUDE YOURSELF FROM THE SETTLEMENT	You have the option to pursue separate legal action against Defendant about the claims in the Action, except as to the claim under the California Private Attorneys General Act (“PAGA”). If you choose to do so, you must exclude yourself, in writing, from the Settlement. As a result, you will not receive benefits under the Settlement as a Class Member; however, you may still receive a payment if you are determined to be a PAGA Member (a subset of the Class). Whether or not you submit a Request for Exclusion, you will still receive a PAGA Member Payment if you are determined to be a PAGA Member (a subset of the Class) and be bound by the release of the Released PAGA Claims.
OBJECT	You may submit written objections to the Settlement Administrator about why you do not like the Settlement. You may also appear at the Final Approval Hearing on [REDACTED], 2024, and make an objection at this time. Objecting is available only if you do not exclude yourself from the Settlement.
DISPUTE YOUR AMOUNT	The amount you are eligible to receive under the Settlement is based on how long you worked for Defendant as a Class Member and how many back-to-back meetings/workshops you worked during the Class Period. The number of Pay Periods and back-to-back meetings/workshops you have been credited is set forth in this notice. If you believe the number of Pay Periods is incorrect, you can dispute the number credited to you by following the procedures set forth below.

Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following class (the “Class”):

All persons who worked for Defendant as a Studio Team Member in California at any time from January 21, 2016 through July 11, 2020 (“Class Period”).

According to Defendant’s records, you are a member of the Class (“Class Member”).

What is this case about?

In the Action, Plaintiff Cindy Newman (“Plaintiff”) alleges on behalf of herself and the Class the following claims against Defendant: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime; (3) Failure to Timely Pay Wages Upon Termination; (4) Failure to Pay Wages During Employment; (5) Failure to Provide Accurate Itemized Wage Statements; (6) Violation of the California Business and Professions Code section 17200, *et seq.*; (7) Recovery of Civil Penalties Under the Private Attorneys General Act (“PAGA”); and (8) Violation of Labor Code section 226.2; and (9) Violation of Labor Code section 226.7. In the Action, Plaintiff seeks alleged unpaid wages, civil penalties under the California Labor Code and PAGA, interest, attorneys’ fees, costs, and expenses.

Defendant denies all liability and is confident that it has strong legal and factual defenses to these claims, but it recognizes the risks, distractions, and costs associated with litigation. Defendant contends that its conduct is and has been lawful at all times relevant and that Plaintiff’s claims do not have merit and do not meet the requirements for class certification.

This Settlement is a compromise reached after good faith, arm’s length negotiations between Plaintiff and Defendant (the “Parties”), through their attorneys, and is not an admission of liability on the part of Defendant. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair, adequate and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has preliminarily approved the settlement, but the Court has not ruled on the merits of Plaintiff’s claims or Defendant’s defenses.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Class Counsel

Raúl Pérez, Bevin Allen Pike, Daniel S. Jonathan and
Trisha K. Monesi
CAPSTONE LAW APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
Tel: 1 (888) 322-4568
Email: info@ww-lawsuit.com

Kyle Todd
KYLE TODD, P.C.
171 N Altadena Dr.
Pasadena, CA 91107
Tel: (323) 208-9171
kyle@kyletodd.com

Defense Counsel

Carrie A. Gonell and Samuel S. Sadeghi
MORGAN, LEWIS & BOCKIUS LLP
600 Anton Blvd., Suite 1800
Costa Mesa, CA 92626
Tel: 949.399.7000
Fax: 949.399.7001
carrie.gonell@morganlewis.com

What are the Settlement terms?

Subject to final Court approval, Defendant will pay \$630,000.00 (the “Gross Settlement Amount”) for: (a) Settlement Payments to Class Members; (b) the Court-approved Incentive Payment to Plaintiff; (c) the Court-approved attorneys’ fees and costs to Class Counsel; (d) the costs of administering the Settlement; (e) payment to

the State of California Labor and Workforce Development Agency (“LWDA”) for PAGA penalties; (f) payment to PAGA Members.

Class Settlement Payments. After deduction from the Gross Settlement Amount for attorneys’ fees and costs, the Incentive Payment to Plaintiff, the PAGA Member Payment, the payment to the LWDA, and the costs of administering the Settlement, there will be a Net Settlement Amount. From this Net Settlement Amount, each Class Member who does not opt out of the Settlement (“Participating Class Members”) will receive a Settlement Payment.

The Net Settlement Amount will be divided among all Participating Class Members based on a proportional basis according to the Pay Periods¹ worked during the period of January 16, 2016 through July 11, 2020, with a 2x multiplier for the Pay Periods during which Class Members worked back-to-back meetings/workshops.

According to payroll records maintained by Defendant, the total number of Pay Periods you worked in California during the Class Period is [REDACTED] and during ____ of those Pay Periods, you worked back-to-back meetings/workshops.

Based on that information, your estimated Settlement Payment is \$ [REDACTED]. If you believe the information about the number of Pay Periods assigned to you is inaccurate, you may contact the Settlement Administrator and provide the Settlement Administrator with a copy of any documentation you want to include to support your dispute. Absent such documentary evidence, your dispute, if any, will be ordinarily denied. However, you may not dispute the formula, calculation, or amount of your Settlement Payment.

Settlement Administrator
Address
Telephone Number
Fax Number

PAGA Settlement Payments. A portion of the Gross Settlement Amount, called the “PAGA Member Payment,” will be set aside for all persons who worked for Defendant as a Studio Team Member in California at any time from January 21, 2019 through July 11, 2020 (“PAGA Members”). The PAGA Member Payment will be \$5,000.00. Each PAGA Member will receive a pro rata share of the PAGA Member Payment based on the number of Pay Periods worked between January 21, 2019, and July 11, 2020 (with a 2x multiplier for the Pay Periods during which the PAGA Member worked back-to-back meetings/workshops), regardless of whether he or she opts out of the Settlement.

Settlement Payments Generally. If a settlement check remains uncashed after 180 days from issuance, the check will become void and a stop payment will be placed on the uncashed check. These payments will then be sent to CASA of Los Angeles (Court Appointed Special Advocates of Los Angeles), a non-profit organization. In such event, the Class Member will remain bound by the terms of the Settlement and all Court orders.

For tax reporting purposes, the Settlement Payments to Class Members will be allocated as follows: 1/3 allocation for wages to be reported on IRS Form W-2; 1/3 allocation as interest, and 1/3 allocation for penalties. All PAGA Member Payments will be allocated entirely to penalties. The Settlement Administrator shall provide Participating Class Members and the Class Representative with an IRS Form 1099 as appropriate for the portions allocated to interest and penalties, if required.

None of the Parties or attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member.

¹ “Pay Period” means any biweekly pay period in which a Class Member worked at least one day during the Class Period.

Any amounts paid to Participating Class Members will not count or be counted for determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any collective bargaining agreement, employee pension benefit plan or employee welfare plan sponsored by Defendants, unless otherwise required by law.

Class Counsel Attorneys' Fees and Costs, Class Representative Incentive Payment, Settlement

Administration Costs and Payment to the California LWDA. Class Counsel will ask the Court to award attorneys' fees up to \$210,000.00 (1/3 of the Gross Settlement Amount), plus reimbursement of actual costs and expenses incurred in the Action not to exceed \$ [REDACTED] (representing actual out-of-pocket costs). In addition, Class Counsel will ask the Court to authorize an Incentive Payment of up to \$10,000.00 to Plaintiff for her efforts in prosecuting the case on behalf of the Class and \$ [REDACTED] to the Settlement Administrator for the cost of administering the Settlement. A payment in the amount of \$15,000 will also be made to the LWDA for the portion of the total amount allocated for PAGA penalties, as required by law.

Any amounts not requested or awarded by the Court will be included in the Net Settlement Amount and will be distributed to Participating Class Members as set forth above, except that in the event Class Counsel appeals a reduction in the award of fees by the Court, any appellate reduction of attorney fees and costs will be allocated to **CASA of Los Angeles (Court Appointed Special Advocates of Los Angeles)** as a *cy pres* organization. The amount of reduction at issue in the appeal shall be held by the Settlement Administrator in trust pending the outcome of the appeal.

What claims are being released by the proposed Settlement?

Upon the Settlement becoming final and distribution of the Net Settlement Amount, Plaintiff and other Participating Class Members shall release and discharge the "Released Parties"² from all claims that were or reasonably could have been pled in Plaintiff's Second Amended Complaint or asserted in Plaintiff's LWDA Notice, based on the facts and matters pled or asserted therein or which reasonably could have been raised as part of Plaintiff's claims, including but not necessarily limited to allegations regarding unpaid minimum and overtime wages; failure to pay for nonproductive time including rest periods and pre-meeting prep or attendance time; failure to provide compliant rest breaks; failure to provide complete and accurate wage statements; failure to maintain accurate payroll records; failure to timely pay wages during employment; and failure to timely pay wages upon termination, and factual allegations regarding Defendant's violations of Labor Code sections 201, 202, 203, 204, 216, 226(a), 226.2, 226.3, 226.7, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and California Business and Professions Code section 17200, *et seq.* The aforementioned release will hereinafter be referred to as the "Released Class Claims." All Participating Class Members shall be bound by the release of the Released Class Claims that arose during the Class Period, unless they formally opt out. Final Approval of the Settlement effectuates this release and extinguishes the Released Class Claims.

The PAGA Members and the LWDA shall be bound by a release as to all claims for civil penalties under PAGA that were, or reasonably could have been, raised as part of Plaintiff's claims in the Second Amended Complaint or as part of Plaintiff's allegations in Plaintiff's LWDA Notice, including any claim for attorneys' fees and costs permissible under PAGA that could reasonably have been raised based on the facts alleged (the "Released PAGA Claims."). The Released PAGA Claims are limited to those claims which arose during the period commencing on January 21, 2019 through July 11, 2020. The PAGA Members shall be bound by the release of the Released PAGA Claims even if they have formally opted out of being a Settlement Class Member. Final Approval of the Settlement effectuates this release by PAGA Members and the LWDA.

What are my options in this matter?

You have two options under this Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive a Class Settlement Payment; or (B) exclude yourself from the Settlement (where you will

² "Released Parties" means Defendant and each of its past or present, direct and/or indirect, officers, directors, members, managers, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors (including but not limited to WW North America Holdings, LLC or WW North America Holdings, Inc.), assigns, and joint venturers.

not receive a Class Settlement Payment, but will still receive your PAGA Member Payment if you are entitled to such a payment). If you choose option (A), you may also object to the Settlement, as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement.

OPTION A. Remain in the Class. If you wish to remain in the Class and be eligible to receive a Settlement Payment under the Settlement, you do not need to take any action. By remaining in the Class and receiving settlement monies, you consent to the Release of Claims as described above. You will also receive a PAGA Member Payment if you are determined to be a PAGA Member (a subset of the Class) and be bound by the release of the Released PAGA Claims.

OPTION B. If You Want To Be Excluded From the Class Settlement. If you do not want to be part of the Class Settlement, you must submit a written request to be excluded from the Settlement (“Request for Exclusion”) to the Settlement Administrator at **Newman v. WW North America Holdings, LLC Settlement, P.O. Box _____, [City], [State] [Zip]**, postmarked on or before **[Response Deadline]**. In order to be valid, your Request for Exclusion must: (1) state your full name, and the last four digits of your Social Security Number; (2) contain a clear statement that you are requesting to opt out of, or be excluded from, the Settlement in *Newman v. WW North America Holdings, LLC*; and (3) be signed by you. If you do not submit a timely and valid Request for Exclusion, you will be deemed a Participating Class Member, you will receive a Settlement Payment, and you will be bound by the Release of Claims as described above and all other terms of the Settlement. If you submit a valid and timely Request for Exclusion, you: will not be able to object to the Settlement; will not be guaranteed to receive benefits under the Settlement as a Class Member; and will have the option to pursue separate legal action against Defendant about the claims in the Action, except as to the claim under the PAGA. Whether or not you submit a Request for Exclusion, you will still receive a PAGA Member Payment if you are determined to be a PAGA Member (a subset of the Class) and be bound by the release of the Released PAGA Claims.

Objecting to the Settlement: If you believe disagree with the proposed Class Settlement you may object to it. To object, you must submit a written brief or statement of objection (“Notice of Objection”) to the Settlement Administrator at **Newman v. WW North America Holdings, LLC Settlement, P.O. Box _____, [City], [State] [Zip]**, postmarked on or before **[Response Deadline]**. In order to be valid, the Notice of Objection must include: (1) your full name, (2) the last four digits of your Social Security Number, and (3) a clear statement explaining why you object to the Settlement. You can also hire an attorney at your own expense to represent you in your objection. **You cannot object to the Settlement if you request exclusion from the Settlement. You also cannot object to the PAGA Member Payment whether or not you request exclusion from the Settlement. You may appear at the Final Approval Hearing and be heard regardless of whether you submit a written objection.**

Even if you submit an objection, you will be bound by the terms of the Settlement, including the Release of Claims as set forth above, unless the Settlement is not finally approved by the Court.

Disputing Your Pay Periods

As mentioned above, if you dispute the accuracy of Defendant’s records as to the number of Pay Periods worked during the Class Period, you must contact the Settlement Administrator and provide any documentation you have supporting such dispute by **[DATE]**. All disputes regarding your Pay Periods will be reviewed by the Parties and the Parties will attempt to agree to a resolution of the dispute. If the dispute is unable to be resolved by the Parties, Defendant will make the final decision on the dispute and the decision will be binding on the Class Member and no additional rights of appeal shall exist.

What is the next step in the approval of the Settlement?

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel’s request for attorneys’ fees and costs, the Incentive

Payment to Plaintiff, the settlement administration costs, and the payment to the LWDA for PAGA penalties on [REDACTED], 2024 at X:XX x.m. in in Department 14 of the Los Angeles County Superior Court, located at the Spring Street Courthouse at One Regent Street, Inglewood, California, 90301. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive a Settlement Payment but may attend if you wish. You may attend in person or remotely. Please see <https://my.lacourt.org/laccwelcome> for information on how to schedule remote appearances.

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. For more information, the pleadings and other records in this litigation, including copies of the Settlement Agreement, may be examined at any time during regular business hours at the office of the Clerk of the Superior Court of the State of California for Los Angeles County, at the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California, 90012. You can also view the case records online at the court's website:

<https://www.lacourt.org/casesummary/ui/>. Follow the instructions for submitting the Case Number: 20STCV02332. Then click "search" to view the case record.

If you have questions regarding the Settlement, you may also contact the Settlement Administrator at 1-XXX-XXX-XXXX.

PLEASE DO NOT CALL OR WRITE TO THE COURT WITH QUESTIONS ABOUT THIS NOTICE.

BY ORDER OF THE LOS ANGELES COUNTY SUPERIOR COURT

Exhibit B

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CINDY NEWMAN, an individual, individually,
on behalf of the general public, and all others
similarly situated,

Plaintiff,

vs.

WW NORTH AMERICA HOLDINGS, INC., a
corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No. 20STCV02332
Assigned to the Hon. Kenneth R. Freeman
**[PROPOSED] ORDER GRANTING MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT**
Date: August 27, 2024
Time: 10:00 a.m.
Place: Department 14
Complaint Filed: January 21, 2020
Trial Date: None Set

1 **ORDER**

2 On August 27, 2024, this Court conducted a hearing on Plaintiff's Motion for Preliminary
3 Approval of the Class Action and PAGA Settlement (the "Motion"). Having considered the Motion and
4 the points and authorities submitted in support of the Motion, including the Class Action and PAGA
5 Settlement Agreement ("Settlement Agreement" or "Settlement"), and **GOOD CAUSE** appearing, **IT**
6 **IS HEREBY ORDERED** that the Motion is **GRANTED**, subject to the following findings and orders:

7 1. This Order incorporates by reference the Settlement Agreement, and unless indicated
8 otherwise, all capitalized terms used herein will have the same meaning as set forth in the Settlement
9 Agreement.

10 2. The Settlement Class shall be conditionally certified for settlement purposes only and
11 shall consist of any person who worked for Defendant as a Studio Team Member in California at any
12 time from January 21, 2016 through July 11, 2020.

13 3. The class action settlement set forth in the Settlement Agreement, entered into among
14 the Parties and their counsel, is preliminarily approved as it appears to be proper, to fall within the range
15 of reasonableness, to be the product of arm's-length and informed negotiations, to treat all Class
16 Members fairly, and to be presumptively valid, subject only to any objections that may be raised at or
17 before the final approval hearing.

18 4. The Court further finds that Plaintiff conducted extensive investigation and research, and
19 that she was able to reasonably evaluate her position and the strengths and weaknesses of her claims and
20 her ability to certify them. Plaintiff has provided the Court with enough information about the nature and
21 magnitude of the claims being settled, as well as the impediments to recovery, to make an independent
22 assessment of the reasonableness of the terms to which the Parties have agreed.

23 5. The Court also finds that settlement now will avoid additional and potentially substantial
24 litigation costs, as well as delay and risks if the Parties were to continue to litigate the Action.

25 6. The Court preliminarily approves the Settlement Agreement, including all the terms and
26 conditions set forth therein and the Gross Settlement Amount and allocation of payments.

27 7. The rights of any potential dissenters to the proposed Settlement are adequately
28 protected in that they may exclude themselves from the Settlement and proceed with any alleged claims

they may have against Defendant, or they may object to the Settlement and appear before this Court. However, to do so they must follow the procedures outlined in the Settlement Agreement and Notice of Class Action Settlement.

8. The Court approves, as to form and content, the proposed Notice of Class Action Settlement (“Class Notice”).

9. The Court directs the mailing, by First-Class U.S. mail, of the Class Notices to Class Members in accordance with the schedule set forth below and the other procedures described in the Settlement Agreement. The Court finds that the method selected for communicating the preliminary approval of the Settlement Agreement to Class Members is the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons entitled to notice, and thereby satisfies due process.

10. The Court appoints Plaintiff Cindy Newman as the representative for the Settlement Class conditionally certified by this Order.

11. The Court appoints Capstone Law APC and Kyle Todd, P.C. as Class Counsel. The Court finds that counsel have demonstrable experience litigating, certifying, and settling class actions, and will serve as adequate counsel for the Class conditionally certified by this Order.

12. The Court approves and appoints CPT Group, Inc. as the Settlement Administrator.

13. The following dates shall govern for purposes of this Settlement:

Date	Event
September 24, 2024 (or not later than 28 calendar days after the Court grants preliminary approval of the Settlement Agreement, if later)	Last day for Defendant to produce the Class List to the Settlement Administrator.
October 8, 2024 (or not later than 14 calendar days after Defendant produces the Class List, if later)	Last day for the Settlement Administrator to mail Class Notices to all Class Members.
December 9, 2024 (or not later than 60 calendar days after the Settlement Administrator mails the Class Notices, if later)	Last day for Class Members to submit Requests for Exclusion or Objections to the Settlement.
No later than 30 calendar days prior to the Final Approval Hearing	Last day for Plaintiff to file and serve the: (1) Motion for Final Approval of Class Action Settlement and (2) Motion for Attorneys’ Fees, Costs, and a Class Representative Incentive Payment.

Date	Event
_____ at 10:00 a.m.	Hearing on the: (1) Motion for Final Approval of Class Action Settlement and (2) Motion for Attorneys' Fees, Costs, and a Class Representative Incentive Payment.

14. The Court expressly reserves the right to continue or adjourn the final approval hearing without further notice to the Class Members.

IT IS SO ORDERED.

Dated: _____

Hon. Kenneth R. Freeman
Los Angeles County Superior Court Judge

Exhibit C

EXHIBIT C

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

CINDY NEWMAN, an individual,
individually, on behalf of the general public,
and all others similarly situated,

Plaintiff,

vs.

WW NORTH AMERICA HOLDINGS, INC. a
corporation; and DOES 1 through 100,
inclusive,

Defendant.

Case No. 20STCV02332

Hon. Kenneth R. Freeman
Dept. 14

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS AND
PAGA ACTION SETTLEMENT AND
ENTERING FINAL JUDGMENT**

Hearing Date: _____, 2024
Hearing Time: _____
Location: Dept. 14

Action Filed: January 21, 2020
SAC Filed: May 26, 2022

On _____, a hearing was held on the motion of Plaintiff Cindy Newman (“Plaintiff”) for final approval of class action settlement and for payments to the Plaintiff, Class Members, PAGA Members, Class Counsel, the California Labor and Workforce Development Agency (“LWDA”) and the Settlement Administrator. Capstone Law APC and Kyle Todd, P.C. appeared for Plaintiff, and Morgan, Lewis & Bockius LLP appeared for Defendant WW North America Holdings, LLC (formerly WW North America Holdings, Inc.) (“Defendant”). Having considered the Settlement Agreement (“Settlement Agreement”), which this Court preliminary approved by its Order dated _____ (the “Preliminary Approval Order”), and all papers filed and all arguments made in connection with the Final Approval Hearing, and good cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Except as otherwise specified herein, the Court for purposes of this Final Approval Order adopts all defined terms set forth in the Settlement Agreement.

2. For the reasons set forth in the Preliminary Approval Order, which are adopted and incorporated herein by reference, this Court finds that the requirements of California Code of Civil Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.

3. The Court finds that it has jurisdiction over the subject matter of the action and over all parties to the action, including all Class Members.

4. The Court finds that the Settlement was made and entered into in good faith and hereby approves the Settlement as fair, reasonable, adequate, and in the best interests of the entire Class. The Court hereby directs implementation of all remaining terms, conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were to continue to litigate the case. Additionally, after considering the monetary recovery provided by the settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement provides Class Members with fair and adequate relief.

Class Certification

5. In the Court’s Preliminary Approval Order, the Court certified the Class for

1 purposes of settlement. The Court finds, for purposes of settlement only, that the Class meets the
2 requirements for certification on all other theories under California Code of Civil Procedure section
3 382. For purposes of effectuating the Settlement, the Court finally certifies the following Class:

4 All persons who worked for Defendant as a Studio Team Member in California at any time
5 from January 21, 2016 through July 11, 2020.

6 6. In the Court's Preliminary Approval Order, Plaintiff Cindy Newman was appointed
7 as Class Representatives as to the conditionally certified Class. The Court confirms her
8 appointment for purposes of this settlement.

9 7. In the Court's Preliminary Approval Order, Capstone Law APC and Kyle Todd,
10 P.C. were appointed as Class Counsel as to the conditionally certified Class. The Court confirms
11 their appointment as Class Counsel for purposes of this settlement.

12 **Class Notice**

13 8. Notice of Settlement ("Notice") to Class Members, as set forth in the Settlement
14 Agreement, has been completed in conformity with the terms of the Settlement Agreement and
15 Preliminary Approval Order as to all Class Members who could be identified through reasonable
16 effort. The Court finds that said notice was the best notice practicable under the circumstances. The
17 Notice provided due and adequate notice to Class Members of the proceedings and of the matters
18 set forth therein, including the Settlement, the manner by which objections to the Settlement could
19 be made and Class Members could opt out of the non-PAGA portion of the Settlement, and that
20 Class Members who opt out, provided they are also PAGA Members, will still be bound by the
21 PAGA terms of the Settlement and will be ineligible to pursue any Released PAGA Claims. The
22 Notice fully satisfied the requirements of due process.

23 **California Private Attorneys General Act**

24 9. The Court finds that Plaintiff was authorized to proceed on behalf of the State of
25 California under the California Private Attorneys General Act (Cal. Labor Code §§2698 *et seq.*)
26 ("PAGA") to resolve the PAGA claims asserted in the Second Amended Complaint, that the State
27 had an opportunity to review the PAGA claims that Plaintiff is releasing on the State's behalf
28 pursuant to California Labor Code Section 2699(l) and 2699.3, and that the State has expressed no

1 objection to the PAGA portion of this Settlement. Accordingly, Plaintiff, all PAGA Members
2 (whether or not they have opted out of the Class Settlement) on whose behalf Plaintiff has settled
3 these PAGA claims, and the State of California shall be deemed to have expressly waived and
4 relinquished, by operation of law and to the fullest extent permitted by law, the provisions, rights
5 and benefits they otherwise may have had related to the Released PAGA Claims as set forth in
6 Section IX the Settlement Agreement.

7 **Objections and Requests for Exclusion**

8 10. ____ objections to the Settlement were submitted by any Class Members. [If
9 objections were submitted: The Court has considered any objections filed along with responses to
10 the objections, and the Court finds that, notwithstanding the objections, the settlement is fair,
11 reasonable and non-collusive and is hereby approved.]

12 11. Requests for Exclusion were submitted by ____ Class Members. The Court finds
13 that the following Class Members submitted a valid and timely Request for Exclusion and therefore
14 shall not be bound by the terms of the Settlement Agreement related to the non-PAGA portion of
15 the Settlement:

- 16 1. _____
17 2. _____
18 3. _____

19 **Release of Claims**

20 Plaintiff and all other Participating Class Members, excluding the Class Member(s)
21 identified in Paragraph 11 above, shall have, by operation of this Judgment, fully, finally, and
22 forever released, relinquished, and discharged the Released Parties from the Released Class Claims
23 as set forth in Section IX of the Settlement Agreement. All Class Members who are PAGA
24 Members, as defined in the Settlement Agreement shall have, by operation of this Judgment, fully,
25 finally, and forever released, relinquished, and discharged the Released Parties from the Released
26 PAGA Claims. Additionally, Plaintiff will be bound by her covenant, as provided in the Settlement
27 Agreement, that she will not participate or receive recovery or monies, as a Plaintiff, in connection
28 with any proceeding seeking penalties under the PAGA, or in connection with any other claim

1 which arises during the Class Period for any known or unknown claims. Plaintiff is hereby enjoined
2 from filing or prosecuting any other cases, claims, suits or administrative proceedings involving
3 the Released Class Claims as set forth in the Settlement Agreement.

4 **Payments Pursuant to the Stipulation**

5 12. Within thirty (30) days after this Final Approval Order, Defendant is to fund the
6 Qualified Settlement Fund. The Court finds that the Gross Settlement Amount, the Net Settlement
7 Amount for Participating Class Members, the PAGA Member Payment for the PAGA Members,
8 and the methodology used to calculate and pay each Participating Class Member's portion of the
9 Net Settlement Amount and/or PAGA Member Payment is fair and reasonable, and authorizes the
10 Settlement Administrator to pay and distribute the Net Settlement Amount and PAGA Member
11 Payment to the Participating Class Members and PAGA Members in accordance with the terms of
12 the Settlement Agreement.

13 13. The funds for any check that remains uncashed one-hundred-eighty (180) days after
14 the payment of first round settlement checks by the Settlement Administrator will be sent by the
15 Settlement Administrator *cy pres* to CASA of Los Angeles (Court Appointed Special Advocates of
16 Los Angeles). In such event, the Participating Class Members whose checks remain uncashed one-
17 hundred-eighty (180) days after the payment of first round settlement checks by the Settlement
18 Administrator shall nevertheless remain subject to the terms of the Judgment.

19 14. Class Counsel shall be paid \$210,000 as their attorneys' fees and \$_____ for
20 reimbursement of actual litigation costs and expenses from the Gross Settlement Amount in
21 accordance with the terms of the Settlement Agreement. The Court finds that the requested award
22 of attorneys' fees is fair and reasonable for a contingency fee in a class action such as this, *i.e.*, one-
23 third of the common fund created by the settlement. Counsel have also established the
24 reasonableness of the requested award of attorneys' fees via their lodestar crosscheck, and the Court
25 finds that the rates, hours billed, and risk multiplier are fair and reasonable.

26 15. Plaintiff Cindy Newman shall be paid an Incentive Payment of \$10,000.00 from the
27 Gross Settlement Amount for her role as the Class Representative in accordance with the terms of
28 the Agreement. The Court finds this amount to be fair, reasonable, and sufficiently supported.

16. The Settlement Administrator shall be paid an amount not to exceed \$ _____ from the Gross Settlement Amount for the costs and expenses of administering the Settlement.

17. A payment in the amount of \$15,000 from the Gross Settlement Amount shall be allocated to penalties under the PAGA, California Labor Code sections 2698, *et seq.*, and paid by the Settlement Administrator directly to the LWDA.

Other Provisions

18. Nothing relating to this Order, or any communications, papers, or orders related to the Settlement, shall be cited to as, construed to be, admissible as, or deemed an admission by Defendant or the Released Parties of any liability, culpability, negligence, or wrongdoing toward the Plaintiff, the Class Members, or any other person, or that class or collective action certification is appropriate in this or any other matter. There has been no determination by any Court as to the merits of the claims asserted by Plaintiff or as to whether a class should be certified, other than for settlement purposes only. Furthermore, nothing in the Settlement Agreement shall be cited to as, construed to be, admissible as, or considered any form of waiver of any alternative dispute resolution agreements, provisions, or policies by Defendant or Released Parties.

19. The Parties shall implement the Settlement according to the terms of the Settlement Agreement.

20. The Court reserves exclusive and continuing jurisdiction over the Action, Plaintiff, the Class Members, and Defendant for purposes of supervising the implementation, enforcement, construction, administration and interpretation of the Settlement and this Judgment.

21. If the Settlement does not become final and effective in accordance with its terms, this Judgment shall be rendered null and void and shall be vacated and, in such event, all related orders entered and all releases delivered in connection herewith also shall be rendered null and void.

IT IS SO ORDERED.

Date: _____

The Honorable Kenneth R. Freeman
SUPERIOR COURT JUDGE

Exhibit 2

FIRM PROFILE

Capstone Law APC is one of California's largest plaintiff-only labor and consumer law firms. Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues and obtaining over two hundred million dollars in recovery for employees and consumers:

- In February, 2015, Capstone attorneys Raul Perez and Ryan H. Wu were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for their work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.
- Recognized as a leading firm in the prosecution of PAGA enforcement actions, Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior Court (Marshall's of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.
- Capstone has made important contributions to consumer protection law. In *McGill v. Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the right to seek public injunctive relief under the state's consumer protection laws cannot be waived and that consumers need not satisfy class certification requirements to enjoin unfair business practices on behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed a denial of class certification, making law that clarified the use of "benefit of the bargain" damages models in consumer class actions.
- Capstone served as class counsel in a number of significant wage and hour settlements, including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v. Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.
- Capstone has an established practice in automotive defect class actions and is currently appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No. 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

SUMMARY OF SIGNIFICANT SETTLEMENTS

Since its founding, Capstone has settled over 100 high-stakes class and representative actions totaling well over \$200 million dollars. Capstone's settlements have directly compensated hundreds of thousands of California workers and consumers. Capstone's actions have also forced employers to modify their policies for the benefit of employees, including changing the compensation structure for commissioned employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of California.

The following is a representative sample of Capstone's settlements:

- *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- *Moore v. PetSmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
- *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
- *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
- *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
- *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
- *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 nonexempt employees;
- *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;
- *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;
- *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.

PROFESSIONAL BIOGRAPHIES

Partners

Rebecca Labat. Rebecca Labat is co-managing partner of Capstone Law APC, supervising the litigation for all of the firm's cases. She also manages the firm's co-counsel relationships and assists the firm's other partners and senior counsel with case management and litigation strategy. Under Ms. Labat's leadership, Capstone has successfully settled over 100 cases, delivering hundreds millions of dollars to California employees and consumers while earning statewide recognition for its cutting-edge work in developing new law.

Ms. Labat's career accomplishments representing consumers and employees in class actions include the certification of a class of approximately 3,200 current and former automobile technicians and shop employees for the miscalculation of the regular rate for purposes of paying premiums for missed meal and rest breaks.

Before her work representing plaintiffs in class and representative actions, Ms. Labat was an attorney with Wilson Elser and represented life, health, and disability insurers in litigation throughout California in both state and federal courts. She graduated from the University of California, Hastings College of the Law in 2002, where she was a member of the Hastings Civil Justice Clinic, served as a mediator in Small Claims Court for the City and County of San Francisco, and received the CALI Award for Excellence in Alternative Dispute Resolution. She received her undergraduate degree from the University of California, Los Angeles. Ms. Labat is a member of the National Employment Lawyers Association (NELA), the Consumer Attorneys Association of Los Angeles (CAALA), and the Beverly Hills Bar Association.

Raul Perez. Raul Perez is co-managing partner at Capstone, and has focused exclusively on wage and hour and consumer class litigation since 2011. Mr. Perez is the lead negotiator on numerous large settlements that have resulted in hundreds of millions to low-wage workers across California, including many of the most valuable settlements reached by Capstone.

During his career, Mr. Perez has successfully certified by way of contested motion and/or been appointed Lead Counsel or Interim Lead Counsel in several cases, including: *Lopes v. Kohl's Department Stores, Inc.*, Case No. RG08380189 (Alameda Super. Ct.); *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.); *Tameifuna v. Sunrise Senior Living Managements, Inc.*, Case No. 13-02171 (C.D. Cal.) (certified class of over 10,000 hourly-paid employees); and *Berry v. Urban Outfitters Wholesale, Inc.*, Case No. 13-02628 (N.D. Cal.) (appointed lead counsel in a class action involving over 10,000 non-exempt employees). As the lead trial attorney in *Iskanian v. CLS Transportation Los Angeles*, 59 Cal. 4th 348 (2014), Mr. Perez, along with Mr. Wu, received the 2015 CLAY Award in labor and employment.

Mr. Perez received both his undergraduate degree and his law degree from Harvard University and was admitted to the California Bar in December 1994. Earlier in his career, Mr. Perez handled a variety of complex litigation matters, including wrongful termination and other employment related actions, for corporate clients while employed by some of the more established law firms in the State of California, including Morgan, Lewis & Bockius; Manatt Phelps & Phillips; and Akin Gump Strauss Hauer & Feld. Before Capstone, Mr. Perez was a partner at another large plaintiff's firm, helping to deliver millions of dollars in relief to California workers.

Melissa Grant. Melissa Grant is a partner at Capstone. Ms. Grant is responsible for litigating many of the firm's most contentious and high-stakes class actions. The author of numerous successful motions for class

certification, Ms. Grant is the lead or co-lead attorney on multiplied certified class actions currently on track for trial, representing over 140,000 California employees in pursuing their wage and hour claims. She is also at the forefront in developing the law on PAGA, including administrative exhaustion, standing, the nature of PAGA violations, the scope of discovery, and trials.

Prior to joining Capstone, Ms. Grant worked at the Securities and Exchange Commission as a staff attorney in the Enforcement Division, investigating ongoing violations of federal securities regulations and statutes and for Quinn Emanuel Urquhart & Sullivan, LLP, where she was an associate on the trial team that prosecuted the *Mattel v. Bratz* case. Ms. Grant began her legal career as a law clerk to the Honorable Harry Pregerson, Justice of the Ninth Circuit Court of Appeals before joining Sidley & Austin as an associate. She graduated from Southwestern Law School in 1999, where she served as editor-in-chief of the Law Review, and graduated *summa cum laude* and first in her class. Ms. Grant earned her undergraduate degree from Cornell University, where she received the JFK Public Service Award and the Outstanding Senior Award. Her published articles include: *Battling for ERISA Benefits in the Ninth Circuit: Overcoming Abuse of Discretion Review*, 28 Sw. U. L. Rev. 93 (1998), and CLE Class Actions Conference (SF) CAFA: *Early Decisions on Commencement and Removal of Actions* (2006).

Ryan H. Wu. Ryan H. Wu is a partner at Capstone and is primarily responsible for complex motion work and supervising court approval of class action settlements. Mr. Wu handles many of the most challenging legal issues facing Capstone's clients, including the scope and operation of PAGA, contested attorneys' fees motions, responding to objectors, and high-impact appeals. Mr. Wu is responsible for the merits briefing in *McGill v. Citibank, N.A.*, 2 Cal. 5th 945 (2017), where the California Supreme Court unanimously held that consumers' right to pursue public injunctive relief cannot be impeded by a contractual waiver or class certification requirements. He briefed the closely-watched *Williams v. Superior Court (Marshalls of CA LLC)*, 3 Cal.5th 531(2017), an important pro-employee ruling that broadened the scope of discovery in PAGA actions and resolved a longstanding conflict regarding third-party constitutional privacy rights. He also authored the briefs in *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), where, on an issue of first impression, the Ninth Circuit sided with Plaintiffs in holding that PAGA actions are state enforcement actions not covered by the CAFA. In February 2015, Mr. Wu, along with Mr. Perez, received the prestigious CLAY award for his successful appellate work, including briefing to the California Supreme Court, in *Iskanian*. Mr. Wu recently achieved an important consumer victory in *Nguyen v. Nissan N.A.*, 932 F.3d 811 (9th Cir. 2019), which clarified the use of "benefit of the bargain" damages models in consumer class actions.

Mr. Wu graduated from the University of Michigan Law School in 2001, where he was an associate editor of the *Michigan Journal of Law Reform* and contributor to the law school newspaper. He received his undergraduate degree in political science with honors from the University of California, Berkeley. He began his career litigating international commercial disputes and commercial actions governed by the Uniform Commercial Code. Mr. Wu is co-author of "*Williams v. Superior Court: Employees' Perspective*" and "*Iskanian v. CLS Transportation: Employees' Perspective*," both published in the *California Labor & Employment Law Review*.

Robert Drexler. Robert Drexler is a partner with Capstone Law where he leads one of the firm's litigation teams prosecuting wage-and-hour class actions. He has more than 25 years of experience representing clients in wage-and-hour and consumer rights class actions and other complex litigation in state and federal courts. Over the course of his career, Mr. Drexler has successfully certified dozens of employee classes for claims such as misclassification, meal and rest breaks, and off-the-clock work, ultimately resulting in multi-million

dollar settlements. He has also arbitrated and tried wage-and-hour and complex insurance cases. Mr. Drexler has been selected as one of Southern California's "Super Lawyers" every year from 2009 through 2020.

Before joining Capstone, Mr. Drexler was head of the Class Action Work Group at Khorrami Boucher, LLP and led the class action team at The Quisenberry Law Firm. Mr. Drexler graduated from Case Western Reserve University School of Law, where he served as Managing Editor of the Case Western Reserve Law Review and authored Defective Prosthetic Devices: Strict Tort Liability for the Hospital? 32 CASE W. RES. L. REV. 929 (1982). He received his undergraduate degree in Finance at Ohio State University where he graduated *cum laude*. Mr. Drexler is a member of Consumer Attorneys of California (CAOC) and Consumer Attorneys of Los Angeles (CAALA). He has been a featured speaker at class action and employment litigation seminars, and has published articles in CAOC's Forum Magazine and The Daily Journal.

Jamie Greene. Jamie Greene is a partner with Capstone Law, where she leads the firm's business development and case generation team. Ms. Greene is responsible for evaluating all potential new cases and referrals, developing new claims, and managing the firm's client and cocounseling relationships. She also supervises the pre-litigation phase for all cases, including investigation, analysis, and client consultation.

Before joining Capstone, Ms. Greene began her legal career at Makarem & Associates representing clients in a wide array of cases ranging from wrongful death, insurance bad faith, employment, personal injury, construction defect, consumer protection, and privacy law. Ms. Greene is a graduate of the University of Southern California Gould School of Law and earned her bachelor's degree from Scripps College in Claremont, California.

Bevin Allen Pike. Bevin Allen Pike is a partner with Capstone Law, where she focuses primarily on wage-and-hour class actions. Ms. Pike has spent her entire legal career representing employees and consumers in wage-and-hour and consumer rights class actions. Over the course of her career, Ms. Pike has successfully certified dozens of employee and consumer classes for claims such as meal and rest breaks, unpaid overtime, off-the-clock work, and false advertising.

Before joining Capstone, Ms. Pike's experience included class and representative action work on behalf of employees and consumers at some of the leading plaintiffs' firms in California. Ms. Pike graduated from Loyola Law School, Los Angeles, where she was an Editor for the International and Comparative Law Review. She received her undergraduate degree from the University of Southern California. Ms. Pike has been selected as one of Southern California's "Super Lawyers – Rising Stars" every year from 2012 through 2015.

Senior Counsel

Theresa Carroll. Theresa Carroll is a senior counsel at Capstone Law. Her practice is devoted to the Appeals & Complex Motions team, working on various settlement and approval projects.

Prior to joining Capstone, Ms. Carroll was an associate with Parker Stanbury, LLP, advising small business owners on various employment matters and worked as an associate attorney for O'Donnell & Mandell litigating employment discrimination and sexual harassment cases. In 1995, she graduated from Southwestern University School of Law where she was on the trial advocacy team and was awarded the prestigious Trial Advocate of the Year award sponsored by the American Board of Trial Advocates (ABOTA) for Southwestern University School of Law. Ms. Carroll received her Bachelor of Science degree in speech with an emphasis in theatre from Iowa State University.

Liana Carter. Liana Carter is a senior counsel with Capstone Law APC, specializing in complex motions, writs, and appeals. Her work on recent appeals has included reversing a denial of class certification decision in *Brown v. Cinemark USA, Inc.*, No. 16-15377, 2017 WL 6047613 (9th Cir. Dec. 7, 2017), affirming a denial of a motion to compel arbitration in *Jacoby v. Islands Rests., L.P.*, 2014 Cal. App. Unpub. LEXIS 4366 (2014) and reversal of a dismissal of class claims in *Rivers v. Cedars-Sinai Med. Care Found.*, 2015 Cal. App. Unpub. LEXIS 287 (Jan. 13, 2015). Ms. Carter was responsible for drafting the successful petition for review in *McGill v. Citibank N.A.*, as well as the petition for review and briefing on the merits in *Williams v. Superior Court*, 2017 WL 2980258. Ms. Carter also has extensive prior experience in overseeing settlement negotiations and obtaining court approval of class action settlements.

Ms. Carter was admitted to the California bar in 1999 after graduating from the University of Southern California Gould School of Law, where she was an Articles Editor on the board of the *Southern California Law Review*. She received her undergraduate degree with honors from the University of California, Irvine.

Anthony Castillo. Anthony Castillo is a senior counsel with Capstone Law. His practice focuses on analyzing and developing pre-litigation wage-and-hour and consumer claims, including PAGA representative actions and class actions for failure to pay overtime and minimum wages, meal and rest period violations, and claims under the Fair Labor Standards Act and the Investigative Consumer Reporting Agency Act. Prior to joining Capstone, he was an associate at a California bankruptcy practice, where he represented individual and business debtors in liquidations and re-organizations as well as various debt and foreclosure defense-related issues.

Mr. Castillo graduated from Loyola Law School, Los Angeles in 2009, where he volunteered with the Disability Rights Legal Center. He attended Stanford University for his undergraduate degree, majoring in Political Science and minoring in History. Anthony is admitted to practice law in California and Washington and before the United States District Court for the Central and Southern Districts of California.

Molly DeSario. Molly DeSario is a senior counsel with Capstone Law, specializing in employment class action litigation. Ms. DeSario's practice focuses primarily on wage-and-hour class action and Private Attorneys General Act litigation on behalf of employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work. She has experience briefing and arguing a multitude of dispositive motions in state and federal court and has successfully certified and settled numerous classes for claims such as exempt misclassifications, unpaid wages, missed meal and rest breaks, and unreimbursed business expenses.

Ms. DeSario began her career as a general practice litigation associate with Sandler & Mercer in Rockville, Maryland, handling a wide range of civil and criminal matters. Since 2005, she has primarily litigated class action cases and, for the last seven years, has focused on representing employees and consumers in class and collective actions across California and the nation, helping them recover millions of dollars in unpaid wages, restitution, and penalties. Molly graduated from Northeastern University School of Law in 2002. During law school, she interned for the U.S. Attorney's Office in Boston, Massachusetts, and the Honorable Paul L. Friedman at the U.S. District Court for the District of Columbia. She received her undergraduate degree in Marketing and International Business from the University of Cincinnati, where she graduated summa cum laude.

Helga Hakimi. Helga Hakimi is a senior counsel at Capstone Law. Her practice primarily involves employment law class action litigation, namely wage-and-hour class actions and PAGA litigation on behalf of

employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work, and related employer violations under the Fair Labor Standards Act and California Labor Code.

Prior to joining Capstone, Ms. Hakimi was a partner at a civil litigation firm in West Los Angeles, where she handled mainly real estate litigation, business litigation, and defense of some employment law matters; prior to that, she worked as a civil litigation attorney handling complex personal injury litigation. Ms. Hakimi's interest in advocating for employee rights began in law school, where she volunteered for the Workers' Rights Clinic and assisted low-income community members in Northern California's greater Bay Area region with employment-related legal issues. Upon graduating from law school, Ms. Hakimi worked as an associate for a municipal law firm, and thereafter at the local City Attorney's Office, where she advised municipalities and cities in civil matters involving land use, environmental law, development issues, Constitutional law, and First Amendment rights. Ms. Hakimi graduated from Berkeley Law (Boalt Hall School of Law), where she earned her Juris Doctorate and was awarded the Prosser Award in Remedies. Ms. Hakimi received her Bachelor of Arts degree in Political Science with a minor in Education Studies from the University of California, Los Angeles, and graduated summa cum laude and with Departmental Highest Honors.

Daniel Jonathan. Daniel Jonathan is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Prior to joining Capstone, Mr. Jonathan began his career as an associate at Kirkland & Ellis representing Fortune 500 clients in high-stakes litigation in various matters, including class action defense and plaintiff's actions for accounting fraud. Following that, he was a senior counsel at a boutique litigation firm where he successfully first-chaired several trials. Mr. Jonathan graduated from the Northwestern University School of Law. He received his undergraduate degree in Accounting from the University of Southern California, where he graduated cum laude. He has passed the CPA examination and worked as an auditor at Deloitte before attending law school.

Jonathan Lee. A senior counsel with Capstone, Jonathan Lee primarily litigates employment class actions. At Capstone, Mr. Lee has worked on several major successful class certification motions, and his work has contributed to multi-million dollar class settlements against various employers, including restaurant chains, retail stores, airport staffing companies, and hospitals. Prior to joining Capstone, Mr. Lee defended employers and insurance companies in workers' compensation actions throughout California.

Mr. Lee graduated in 2009 from Pepperdine University School of Law, where he served as an editor for the Journal of Business, Entrepreneurship and the Law; he received his undergraduate degree from UCLA.

Cody Padgett. Cody Padgett is a senior counsel with Capstone Law. Mr. Padgett prosecutes automotive defect and other consumer class action lawsuits during all stages of litigation. His work has been integral to achieving contested class certification in several automotive defect cases, including *Falco v. Nissan N. Am. Inc.*, No. 13-00686 (C.D. Cal.) (certifying a class of owners/lessees of Nissan vehicles), *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-08629 (C.D. Cal.) (certifying a class of owners/lessees of Toyota vehicles), and *Victorino v. FCA US, LLC*, No. 16-01617 (S.D. Cal.) (certifying a class of owners/lessees of Dodge Dart vehicles). Mr. Padgett's efforts have also contributed to major settlements of automotive defect and consumer cases, providing substantial monetary relief to millions of class members, valued in the hundreds of millions of

dollars. See, e.g., *Weckwerth v. Nissan North America, Inc.*, No. 18-00588 (M.D. Tenn.) (providing a \$407 to \$547 million-dollar benefit to a class of nearly 3 million consumers).

Prior to joining Capstone Law, Mr. Padgett assisted with the defense of major felony cases at the San Diego County Public Defender's Office. During law school, Mr. Padgett served as a judicial extern to the Honorable C. Leroy Hansen, United States District Court for the District of New Mexico. He graduated from California Western School of Law in the top 10% of his class and received his undergraduate degree from the University of Southern California, where he graduated *cum laude*. Mr. Padgett is admitted to practice in California, before the Ninth Circuit Court of Appeals, and before United States District Court for the Northern, Eastern, Central, and Southern Districts of California.

Eduardo Santos. Eduardo Santos is a senior counsel at Capstone Law, and concentrates his practice on managing and obtaining court approval of many of Capstone's wage-and-hour, consumer, and PAGA settlements, from the initial contract drafting phase to motion practice, including contested motion practice on attorneys' fees. Over the course of his career, Mr. Santos has helped to secure court approval of over one hundred high-stakes class and representative action settlements totaling over \$100 million.

Before joining Capstone, Mr. Santos began his career at a prominent plaintiff's firm in Los Angeles specializing in mass torts litigation, with a focus on complex pharmaceutical cases. Most notably, he was involved in the national Vioxx settlement, which secured a total of \$4.85 billion for thousands of individuals with claims of injuries caused by taking Vioxx. Mr. Santos graduated from Loyola Law School, Los Angeles, where he was a recipient of a full-tuition scholarship awarded in recognition of academic excellence. While in law school, Mr. Santos served as an extern for the Honorable Thomas L. Willhite, Jr. of the California Court of Appeal. He graduated magna cum laude from UCLA and was a recipient of the Ralph J. Bunche Scholarship for academic achievement.

Mao Shiokura. Mao Shiokura is a senior counsel with Capstone. Her practice focuses on identifying, evaluating, and developing new claims, including PAGA representative actions and class actions for wage-and-hour violations and consumer actions under the Consumers Legal Remedies Act, False Advertising Law, Unfair Competition Law, and other consumer protection statutes. Prior to joining Capstone, Ms. Shiokura was an associate at a California lemon law firm, where she represented consumers in Song-Beverly, Magnuson-Moss, and fraud actions against automobile manufacturers and dealerships.

Ms. Shiokura graduated from Loyola Law School, Los Angeles in 2009, where she served as a staff member of Loyola of Los Angeles Law Review. She earned her undergraduate degree from the University of Southern California, where she was a Presidential Scholar and majored in Business Administration, with an emphasis in Cinema-Television and Finance.

John Stobart. John Stobart is a senior counsel with Capstone Law. He focuses on appellate issues in state and federal courts and contributes to the firm's amicus curiae efforts to protect and expand the legal rights of California employees and consumers. Mr. Stobart has significant appellate experience having drafted over two dozen writs, appeals and petitions, and having argued before the Second, Fourth, and Fifth Districts of the California Court of Appeal.

Prior to joining Capstone, Mr. Stobart was a law and motion attorney who defended against civil liability in catastrophic injury and wrongful death cases brought against his clients, which included the railroad, public schools, small businesses, and commercial and residential landowners. He has drafted and argued scores of

dispositive motions at the trial court level and had success in upholding judgments and verdicts on appeal. He graduated cum laude from Thomas Jefferson School of Law where he was on the mock trial competition team and earned his undergraduate degree from the Ohio State University.

Roxanna Tabatabaepour. Roxanna Tabatabaepour is a senior counsel with Capstone Law. Her practice primarily involves representing employees in class actions and representative actions for various violations of the California Labor Code.

Before joining Capstone, Ms. Tabatabaepour's experience included representing workers in single-plaintiff and class/representative action lawsuits regarding wage-and-hour violations, as well as individual claims for discrimination, retaliation, failure to accommodate, harassment, and wrongful termination, under both California and federal laws. Ms. Tabatabaepour received her undergraduate degrees from the University of California San Diego. She subsequently graduated from the American University, Washington College of Law, where she was a Marshall-Brennan Constitutional Literacy Fellow and taught Constitutional Literacy to teens in marginalized communities.

Ryan Tish. Ryan Tish is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and Private Attorneys General Act ("PAGA") representative actions on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, failure to reimburse necessary business expenses, and other claims under the Fair Labor Standards Act and California Labor Code.

Before joining Capstone, Mr. Tish was an associate at a civil litigation firm in Los Angeles, handling a variety of matters, including commercial contracts, real estate, and employment law. Mr. Tish has represented both employers and employees in actions ranging from individual claims of discrimination, harassment, retaliation, and wrongful termination, to class and representative actions for wage-and-hour and privacy law violations. Mr. Tish is a graduate of the University of Southern California Gould School of Law and earned his bachelor's degree in civil and environmental engineering from the University of California, Los Angeles. Mr. Tish is admitted to practice law in California and before the United States District Court for the Northern, Eastern, Central, and Southern Districts of California.

Orlando Villalba. Orlando Villalba is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Mr. Villalba began his career at Kirkland & Ellis where he handled a wide range of business litigation matters, including transnational contract disputes, insurance-related tort claims, developer litigation, and civil rights actions. He also has extensive plaintiff-side experience representing government agencies and note-holders in the pursuit of mortgage and other fraud losses. Mr. Villalba graduated from Stanford Law School, where he served as an articles editor on the Stanford Journal of Law, Business & Finance. After law school, he clerked for the Honorable Warren Matthews of the Alaska Supreme Court. Orlando received his bachelor's degree in International Business from the University of Southern California.

Tarek Zohdy. A senior counsel with Capstone Law, Tarek Zohdy develops, investigates and litigates automotive defect class actions, along with other consumer class actions for breach of warranty and consumer fraud. At Capstone, he has worked on several large-scale automotive class actions from

investigation through settlements that have provided significant relief to millions of defrauded car owners. Before joining Capstone, Mr. Zohdy spent several years representing individual consumers in their actions against automobile manufacturers and dealerships for breaches of express and implied warranties pursuant to the Song-Beverly Consumer Warranty Act and the Magnuson-Moss Warranty Act, commonly referred to together as “Lemon Law.” He also handled fraudulent misrepresentation and omission cases pursuant to the Consumers Legal Remedies Act. Mr. Zohdy graduated from Louisiana State University *magna cum laude* in 2003, and Boston University School of Law in 2006, where he was a member of the criminal clinic representing underprivileged criminal defendants.

Associates

Tyler Anderson. Tyler Anderson is an associate with Capstone Law. His practice focuses on complex motions, writs, and appeals. Before joining Capstone, Mr. Anderson was Co-Director of the Los Angeles Center for Community Law and Action (“LACCLA”), a nonprofit law firm that represents tenant unions and union organizers. While there, Mr. Anderson tried a disparate impact federal Fair Housing Act case that resulted in a jury verdict of over \$1,000,000. He also frequently used California Anti-SLAPP laws to block attempts to silence tenant union organizers. Prior to working at LACCLA, Mr. Anderson clerked for the Honorable Martha Vazquez, a federal district court judge for the District of New Mexico who, at the time, sat on the Executive Committee of the Federal Judiciary. Before that, Mr. Anderson was a litigation associate at the international law firm Jenner & Block LLP. Mr. Anderson graduated from Harvard Law School, where he was the Executive Articles Editor of the Harvard Journal on Legislation as well as President of one of the largest student-run pro bono organizations at Harvard University, Project No One Leaves. He graduated with several “Dean’s Scholar” prizes for receiving top grades in his constitutional law courses.

Sairah Budhwani. Sairah Budhwani is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work violations. Previously, Ms. Budhwani litigated employment discrimination, harassment, and retaliation claims, and also represented incarcerated individuals contesting the conditions of their confinement. Ms. Budhwani graduated from UCLA School of Law in 2019 and received an undergraduate degree in Urban Studies from University of California, Irvine in 2012. Ms. Budhwani is admitted to practice law in California. She is fluent in Urdu.

Laura Goolsby. Laura Goolsby is an associate with Capstone Law. Her practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. Prior to joining Capstone Law, Ms. Goolsby was an associate at a California civil litigation practice representing individuals in toxic tort disputes. Previous to that, Ms. Goolsby was a trial attorney in a California lemon law firm, trying cases against automobile manufacturers in state and federal court. Ms. Goolsby is published in the University of Pennsylvania Journal of Law and Change law review and served as a judicial intern to the U.S. Department of Justice Immigration Court while in law school. Ms. Goolsby graduated from California Western School of Law, where she was a member of the award-winning Philip C. Jessup International Moot Court team and spent multiple trimesters on the Dean’s List. She graduated with several Academic Excellence Awards for receiving top grades in various international law, civil rights law, and legal skills courses.

Ninel Kocharyan. Ninel Kocharyan is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violation of overtime and minimum

wage law, meal and rest period requirements, and off-the-clock work violations. Ms. Kocharyan began her career in entertainment law reviewing, drafting, and negotiating contracts for talent and ensuring FTC compliance. She immigrated to the United States from Russia at the age of 15 with a passion to pursue a career in law. Ms. Kocharyan graduated from Thomas Jefferson School of Law in 2014 and received her undergraduate degree from University of California, Los Angeles where she majored in Political Science. Ms. Kocharyan is admitted to practice law in California.

Alexander Lima. Alexander Lima is an associate with Capstone Law. His practice focuses on evaluating pre-litigation wage-and-hour claims, including potential violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work issues, as well as consumer protection claims. Previously, Mr. Lima was an associate at a California civil litigation practice representing individuals and entities in real estate disputes. Mr. Lima graduated from Santa Clara University, School of Law in 2018, where he served as an Executive Board Member of the Honors Moot Court and was selected as a regional finalist for the American Bar Association Negotiation Competition. He received his undergraduate degree from the University of California, Riverside in 2014.

Trisha Monesi. Trisha Monesi is an associate with Capstone. Her practice focuses on prosecuting consumer class actions in state and federal court. Ms. Monesi graduated from Loyola Law School, Los Angeles in 2014, where she served as an editor of the Loyola of Los Angeles Entertainment Law Review and was a certified law clerk at the Center for Juvenile Law and Policy. She earned her undergraduate degree from Boston University in 2011, where she majored in Political Science and International Relations. She is an active member of the Women Lawyers Association of Los Angeles, and the Los Angeles County and Beverly Hills Bar Associations.

Joey Parsons. Joey Parsons is an associate with Capstone. His practice primarily involves wage-and-hour class actions and PAGA representative actions. Previously, Joey was an associate at a boutique firm where he represented California employees in all facets of employment law, including claims brought under the FEHA, Title VII, and the California Labor Code. Joey is a graduate of the University of Alabama School of Law, where he competed on the Labor and Employment Moot Court team and served as the Executive Articles Editor for the Alabama Law & Psychology Review. Joey received his bachelor's degree in history from Virginia Tech.

Jezette Ron. Jezette Ron is an associate with Capstone Law. Her practice focuses on analyzing pre-litigation wage-and-hour and consumer claims, including claims for overtime wages, meal and rest periods, and off-the-clock work violations. She began her career as in-house counsel for a private entity reviewing and drafting company policies. During this time, she actively supported the company with human resource and workers compensation matters. Additionally, she ensured company compliance with California Labor Codes and Occupational Safety and Health Administration (OSHA) regulations. She also implemented an Illness Injury Prevention Program, which included a COVID-19 Exposure Control and Response procedure in compliance with OSHA. Ms. Ron graduated from Whittier Law in 2017, where she served as a board member of the Student Bar Association. She received her undergraduate degree from the University of California, Riverside in 2012 where she majored in Business Management and Public Policy. Ms. Ron is admitted to practice law in California and takes pride in being an advocate for creating a work friendly environment for all employees.

Alexander Wallin. Alexander Wallin is an associate at Capstone Law. He is a passionate litigator who has successfully represented employees against corporate injustice. Mr. Wallin has recovered millions of dollars in

numerous wage-and-hour class actions, PAGA actions, and individual discrimination lawsuits. He has a particular interest in representing economically disadvantaged employees who cannot afford legal representation on a retainer-fee basis. Mr. Wallin is a member of the Los Angeles County Bar Association's Employment Law Section and stays up-to-date with the rapidly evolving areas of wage-and-hour protections. He graduated from Loyola Law School in 2017 and is admitted to practice law in California, as well as before the United States District Court for Central and Northern Districts of California. He has been selected as a Southern California "Super Lawyers – Rising Star" in 2022 and 2023.

OUTREACH AND EDUCATION

To increase public awareness about the issues affecting class action and other representative litigation in the consumer and employment areas, Capstone publishes the Impact Litigation Journal (www.impactlitigation.com). Readers have access to news bulletins, op-ed pieces, and legal resources. By taking advantage of social media, Capstone hopes to spread the word about consumer protection and employee rights to a larger audience than has typically been reached by traditional print sources, and to thereby contribute to the enforcement of California's consumer and workplace protection laws.

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12 Attorneys for Plaintiff Cindy Newman

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF LOS ANGELES**
15

16 CINDY NEWMAN, an individual, individually,
17 on behalf of the general public, and all others
similarly situated,

18 Plaintiff,

19 vs.
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21 WW NORTH AMERICA HOLDINGS, INC., a
corporation; and DOES 1 through 100, inclusive,

22 Defendants.
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Case No. 20STCV02332

Assigned to the Hon. Kenneth R. Freeman

**DECLARATION OF KYLE TODD IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: August 27, 2024
Time: 10:00 a.m.
Place: Department 14

Complaint Filed: January 21, 2020
Trial Date: None Set

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1 cases, including the published case of *Patterson v. Sup. Ct.* (2021) 70 Cal.App.5th 473 (finding
2 unenforceable under *Armendariz* a fee-shifting clause, which required an employee opposing arbitration
3 to pay, if unsuccessful in that challenge, the attorneys' fees, costs, and expenses of the employer).

4 7. I have been the recipient of the International Advisory Experts Awards award for
5 Employment Lawyer of the Year, California; and every year since 2018 I have been selected as a Super
6 Lawyer-Rising Star.

7 8. I constantly attend trainings, workshops, and seminars to hone my employment litigation
8 trial skills. I have logged an average of 100 hours of CLE training per year since I have been a licensed
9 attorney. I have attended trial skills trainings put on by, among other groups, the Los Angeles County
10 Bar Association, California Employment Lawyers Association, Consumer Attorneys Association of Los
11 Angeles, and the National Institute for Trial Advocacy.

12 9. I currently volunteer as a trial attorney for the Eviction Defense Network in Los
13 Angeles, with whom I have conducted five trials, including four jury trials. In this capacity, I continually
14 practice my trial skills – something many litigators do not have the opportunity to do. All the while, my
15 work with the organization helps to prevent Los Angeles-area tenants from being evicted in what is now
16 a historic housing crisis in the city.

17 10. I have been class counsel on the following class actions and representative PAGA cases,
18 all of which obtained class certification and/or court-approved settlement:

19 A. *Guillen v. Grasshopper House LLC* (L.A. Sup. Ct., Case No. BC685116)
20 (approval of \$1,350,000 class action settlement on behalf of employees of
21 addiction recovery centers).

22 B. *Carbajal v. Tom's Famous Family Restaurants* (San Bernardino Sup. Ct., Case
23 No. CIVDS1601821) (served as counsel and obtained approval of a \$1,025,000
24 settlement on behalf of restaurant workers alleging wage and hour violations)

25 C. *Eddings v. DS Waters of America, Inc.* (N.D. Cal., Case No. 3:15-cv-2576VC)
26 (served as counsel and obtained approval of a \$1,000,000 settlement on
27 behalf of water sales employees alleging wage and hour violations and mis-
28 classification);

- 1 D. *Melara v. Noble Interstate Management Group-California, LLC* (L.A. Sup.
2 Ct., Case No. BC591782) (approval of a \$500,000 settlement on behalf of hotel
3 workers alleging wage and hour violations);
- 4 E. *King v. Renaissance Operating Company, et al.* (L.A. Sup. Ct., Case No.
5 BC617531) (approval of a \$350,000 settlement on behalf of hotel workers
6 alleging wage and hour violations);
- 7 F. *Guevara v. Overland, Pacific & Cutler, LLC* (L.A. Sup. Ct., Case No.
8 20STCV27309) (obtained \$435,000 settlement of PAGA-only case that was
9 significantly litigated and nearly went to trial);
- 10 G. *Chem v. Oakmont Mgmt. Group LLC* (L.A. Sup. Ct., Case No. BC662434)
11 (obtained \$470,000 settlement for elderly care employees in PAGA-only case
12 on the eve of trial);
- 13 H. *Castillo v. Rosita D. Tan, DMD, Inc.* (L.A. Sup. Ct., Case No. BC635329)
14 (obtained \$110,000 in PAGA-only settlement for employees of a dental
15 practice on the eve of trial);
- 16 I. *Ramos v. Pouring with Heart, LLC* (L.A. Sup. Ct., Case No. 22STCV05070)
17 (approval of \$450,000 settlement on behalf of employees of a chain of bars and
18 restaurants in downtown Los Angeles); and
- 19 J. *Martinez v. David's Bridal, Inc.* (Sacramento Sup. Ct., Case No. 34-2018-
20 00240652-CU-OE-GDS) (approval of \$1,350,000 settlement of wage and hour
21 class action brought on behalf of retail bridal employees).
- 22 K. *Walker v. Loma Linda University Health* (San Bernardino Sup. Ct., Case No.
23 CIV SB 2133010) (approval of \$2,300,000 settlement of wage and hour class
24 action brought on behalf of hospital employees).

25 11. In addition, I am the principal attorney on several more class actions either currently
26 being litigated or pending settlement approval. My more-than eleven years of experience vigorously
27 litigating these kind of cases makes me more than adequate to serve as counsel in this case.

28 12. I am a seasoned class action attorneys who regularly litigates wage and hour claims

1 through certification and on the merits, and have considerable experience settling wage and hour class
2 actions.

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4 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and
5 correct. Executed on July 29, 2024 at Altadena, California.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CINDY NEWMAN, an individual, individually,
on behalf of the general public, and all others
similarly situated,

Plaintiff,

vs.

WW NORTH AMERICA HOLDINGS, INC., a
corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No. 20STCV02332
Assigned to the Hon. Kenneth R. Freeman
**[PROPOSED] ORDER GRANTING MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT**
Date: August 27, 2024
Time: 10:00 a.m.
Place: Department 14
Complaint Filed: January 21, 2020
Trial Date: None Set

1 **ORDER**

2 On August 27, 2024, this Court conducted a hearing on Plaintiff's Motion for Preliminary
3 Approval of the Class Action and PAGA Settlement (the "Motion"). Having considered the Motion and
4 the points and authorities submitted in support of the Motion, including the Class Action and PAGA
5 Settlement Agreement ("Settlement Agreement" or "Settlement"), and **GOOD CAUSE** appearing, **IT**
6 **IS HEREBY ORDERED** that the Motion is **GRANTED**, subject to the following findings and orders:

7 1. This Order incorporates by reference the Settlement Agreement, and unless indicated
8 otherwise, all capitalized terms used herein will have the same meaning as set forth in the Settlement
9 Agreement.

10 2. The Settlement Class shall be conditionally certified for settlement purposes only and
11 shall consist of any person who worked for Defendant as a Studio Team Member in California at any
12 time from January 21, 2016 through July 11, 2020.

13 3. The class action settlement set forth in the Settlement Agreement, entered into among
14 the Parties and their counsel, is preliminarily approved as it appears to be proper, to fall within the range
15 of reasonableness, to be the product of arm's-length and informed negotiations, to treat all Class
16 Members fairly, and to be presumptively valid, subject only to any objections that may be raised at or
17 before the final approval hearing.

18 4. The Court further finds that Plaintiff conducted extensive investigation and research, and
19 that she was able to reasonably evaluate her position and the strengths and weaknesses of her claims and
20 her ability to certify them. Plaintiff has provided the Court with enough information about the nature and
21 magnitude of the claims being settled, as well as the impediments to recovery, to make an independent
22 assessment of the reasonableness of the terms to which the Parties have agreed.

23 5. The Court also finds that settlement now will avoid additional and potentially substantial
24 litigation costs, as well as delay and risks if the Parties were to continue to litigate the Action.

25 6. The Court preliminarily approves the Settlement Agreement, including all the terms and
26 conditions set forth therein and the Gross Settlement Amount and allocation of payments.

27 7. The rights of any potential dissenters to the proposed Settlement are adequately
28 protected in that they may exclude themselves from the Settlement and proceed with any alleged claims

they may have against Defendant, or they may object to the Settlement and appear before this Court. However, to do so they must follow the procedures outlined in the Settlement Agreement and Notice of Class Action Settlement.

8. The Court approves, as to form and content, the proposed Notice of Class Action Settlement (“Class Notice”).

9. The Court directs the mailing, by First-Class U.S. mail, of the Class Notices to Class Members in accordance with the schedule set forth below and the other procedures described in the Settlement Agreement. The Court finds that the method selected for communicating the preliminary approval of the Settlement Agreement to Class Members is the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons entitled to notice, and thereby satisfies due process.

10. The Court appoints Plaintiff Cindy Newman as the representative for the Settlement Class conditionally certified by this Order.

11. The Court appoints Capstone Law APC and Kyle Todd, P.C. as Class Counsel. The Court finds that counsel have demonstrable experience litigating, certifying, and settling class actions, and will serve as adequate counsel for the Class conditionally certified by this Order.

12. The Court approves and appoints CPT Group, Inc. as the Settlement Administrator.

13. The following dates shall govern for purposes of this Settlement:

Date	Event
September 24, 2024 (or not later than 28 calendar days after the Court grants preliminary approval of the Settlement Agreement, if later)	Last day for Defendant to produce the Class List to the Settlement Administrator.
October 8, 2024 (or not later than 14 calendar days after Defendant produces the Class List, if later)	Last day for the Settlement Administrator to mail Class Notices to all Class Members.
December 9, 2024 (or not later than 60 calendar days after the Settlement Administrator mails the Class Notices, if later)	Last day for Class Members to submit Requests for Exclusion or Objections to the Settlement.
No later than 30 calendar days prior to the Final Approval Hearing	Last day for Plaintiff to file and serve the: (1) Motion for Final Approval of Class Action Settlement and (2) Motion for Attorneys’ Fees, Costs, and a Class Representative Incentive Payment.

Date	Event
_____ at 10:00 a.m.	Hearing on the: (1) Motion for Final Approval of Class Action Settlement and (2) Motion for Attorneys' Fees, Costs, and a Class Representative Incentive Payment.

14. The Court expressly reserves the right to continue or adjourn the final approval hearing without further notice to the Class Members.

IT IS SO ORDERED.

Dated: _____

Hon. Kenneth R. Freeman
Los Angeles County Superior Court Judge