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11 MAGIC MOUNTAIN, LLC.

12 *[Additional counsel listed on the following page]*

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES, CENTRAL DISTRICT
15

16 KELLEY ANTON, on her own behalf and on
17 behalf of other individuals similarly situated,

18 Plaintiff,

19 v.

20 MAGIC MOUNTAIN, LLC, and DOES 1
21 through 50, inclusive,

22 Defendant.
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25
26
27
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Case No. 20STCV05708
Related with: 19STCV33422
Hon. William F. Highberger
Dept. 10

**STIPULATION AND SETTLEMENT OF
CLASS, COLLECTIVE AND
REPRESENTATIVE ACTION**

[Complaint Filed: February 14, 2020]

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and on behalf of other individuals similarly situated

STIPULATION AND SETTLEMENT OF CLASS
AND REPRESENTATIVE ACTION

Subject to final approval by the Court, which counsel and the Parties agree to diligently pursue and recommend in good faith, Plaintiff Kelley Anton (“Plaintiff”), individually and on behalf of all others similarly situated and alleged aggrieved employees, on the one hand, and Defendant Magic Mountain, LLC (“Defendant”), on the other hand (collectively, the “Parties” and individually, a “Party”), hereby agree to the following binding settlement of the class, collective and representative action designated Kelley Anton v. Magic Mountain, LLC, Los Angeles County Superior Court Case No. 20STCV05708 (the “Action”), pursuant to the terms and conditions set forth below (the “Settlement,” “Settlement Agreement” or “Agreement”). Upon the Effective Date, and the payment by Defendant of all monies due under the Agreement, the Parties shall file a Satisfaction of Judgment with the Court.

I. Definitions.

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

A. “Action.”

The case entitled Kelley Anton v. Magic Mountain, LLC, Los Angeles County Superior Court Case No. 20STCV05708, as amended.

B. “Amended Complaint.”

The amended complaint Plaintiff Kelley Anton will file, upon seeking and receiving Court approval, to add class and collective action allegations encompassing any and all of the Released Claims (defined below), causes of action under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”) to the extent the FLSA overlaps with the Released Claims, and any and all other claims/causes of action encompassed by the Released Claims.

C. “Attorneys’ Fees and Costs.”

The attorneys’ fees agreed upon by the Parties and approved by the Court for Class Counsel’s litigation and resolution of the Action, and all costs incurred and to be incurred by Class

1 Counsel in the Action, including, but not limited to, costs associated with documenting the
2 Settlement, providing any notices required as part of the Settlement or Court's Order, securing the
3 Court's approval of the Settlement, administering the Settlement, any expert expenses, and
4 securing dismissal of the Action. Class Counsel will request attorneys' fees not to exceed one-
5 third (1/3) of the gross Class Settlement Amount of \$420,000.00, which is a total of \$140,000.
6 The costs requested to be reimbursed will not exceed \$15,000.00. The attorneys' fees and costs
7 awarded are subject to the Court's approval. Defendant has agreed not to oppose Class Counsel's
8 request for attorneys' fees and reimbursement of costs and expenses as set forth above. Such
9 Attorneys' Fees and Costs shall be paid from the Class Settlement Amount. Class Counsel will be
10 issued an IRS Form 1099 for the Attorneys' Fees and Costs detailed in this Section and shall be
11 solely and legally responsible for paying all applicable taxes on the payment made pursuant to this
12 Section.

13 **D. "Claims Administrator."**

14 Phoenix Settlement Administrators ("Phoenix") shall be the third-party class action
15 settlement claims administrator as agreed to by the Parties and approved by the Court for the
16 purposes of administering this Settlement. The Parties each represent that they do not have any
17 financial interest in the Claims Administrator or otherwise have a relationship with the Claims
18 Administrator that could create a conflict of interest.

19 **E. "Claims Administration Costs."**

20 The costs payable from the Class Settlement Amount to the Claims Administrator
21 for administering this Settlement, including, but not limited to, printing, distributing, and tracking
22 documents for this Settlement, calculating estimated amounts per Class Member, tax reporting,
23 distributing the Class Settlement Amount, and providing necessary reports and declarations, and
24 other duties and responsibilities set forth herein to process this Settlement Agreement, and as
25 requested by the Parties. The Claims Administration Costs will be paid from the Class Settlement
26 Amount, including, if necessary, any such costs in excess of the amount represented by the Claims
27 Administrator as being the maximum costs necessary to administer the Settlement.

1 The Claims Administration Costs are currently estimated not to exceed \$20,000.00. To the extent
2 actual Claims Administration Costs are greater than \$20,000.00, such excess amount will be
3 deducted from the Class Settlement Amount, subject to the Court's approval. The Claims
4 Administration Costs will be paid no sooner than fifteen (15) calendar days following the
5 Effective Date.

6 **F. "Class Counsel."**

7 Bradley/Grombacher, LLP shall be appointed Class Counsel upon approval by the
8 Court.

9 **G. "Class List."**

10 A complete list of all Class Members that Defendant will diligently and in good
11 faith compile from their records and provide to the Claims Administrator within twenty-one (21)
12 calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a
13 readable Microsoft Office Excel spreadsheet and will include each Class Member's full name,
14 most recent mailing address, telephone number, Social Security number, dates of employment
15 (*i.e.*, hire date and termination date, if applicable), approximate number of pay periods, and any
16 other relevant information needed to calculate settlement payments.

17 **H. "Class Member(s)" or "Settlement Class."**

18 All current and former non-exempt employees of Defendant employed in California
19 at any time during the Class Period.

20 **I. "Class Period."**

21 The period from February 14, 2016 through the date of Preliminary Approval.

22 **J. "Class Representative Enhancement Payment."**

23 The amount to be paid to Plaintiff in recognition of her effort and work in
24 prosecuting the Action on behalf of Class Members and for her general release of claims. Subject
25 to the Court granting Final Approval of this Settlement Agreement, Plaintiff will request Court
26 approval of a Class Representative Enhancement Payment of \$5,000 for Plaintiff. Plaintiff will be
27 issued an IRS Form 1099 in connection with her Class Representative Enhancement Payment.
28 Plaintiff shall be solely and legally responsible for paying any and all applicable taxes on this

1 payment and shall hold Defendant harmless from any claim or liability for taxes, penalties or
2 interest arising as a result of the payment. The Class Representative Enhancement Payment will
3 be paid from the Class Settlement Amount and will be in addition to Plaintiff's Individual
4 Settlement Payment paid pursuant to the Settlement, and is conditioned on the execution of a
5 stand-alone settlement agreement and general release of claims. Defendant makes no
6 representations as to the tax treatment or legal effect of the payment called for herein, and Plaintiff
7 is not relying on any statement or representation by Defendant or its counsel in this regard.

8 **K. "Class Settlement Amount."**

9 The sum of no more than \$420,000.00 to be paid by Defendant in full satisfaction
10 of all claims asserted in and arising from the Action. The Class Settlement Amount includes all
11 Individual Settlement Payments to Class Members, the Class Representative Enhancement
12 Payment to Plaintiff, Claims Administration Costs to the Claims Administrator, the Labor and
13 Workforce Development Agency Payment, and the Attorneys' Fees and Costs. Because there are
14 no wage claims covered by this Agreement, Defendant bears no responsibility to pay any taxes
15 (payroll or otherwise) in addition to the Class Settlement Amount.

16 **L. "Effective Date."**

17 The date on which the Final Award becomes final. For purposes of this Section,
18 the Final Award "becomes final" only after the Court grants the Motion for Final Approval and
19 upon the latter of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing
20 of any appeal from, or other challenge to, the Order Granting Final Approval (this time period
21 shall not be less than sixty (60) calendar days after the Court's Order is entered); (ii) the date of
22 affirmance of an appeal of the Order Granting Final Approval becomes final under the California
23 Rules of Court; or (iii) the date of final dismissal of any appeal from the Order Granting Final
24 Approval or the final dismissal of any proceeding on review of any court of appeal decision
25 relating to the Order Granting Final Approval.

26 **M. "Final Approval" or "Final Award."**

27 The Court entering an Order Granting Final Approval of the Settlement Agreement.
28

1 **N. “Individual Settlement Payment.”**

2 Each Class Member’s share of the Net Settlement Amount, which shall be
3 distributed to the Class Members as a result of the payment of the amount allocated to such Class
4 Member as set forth herein.

5 **O. “LWDA Notice.”**

6 The Parties agree that Plaintiff will submit Notice to the Labor and Workforce
7 Development Agency (“LWDA”) of this Settlement along with a copy of this Settlement
8 Agreement within ten (10) calendar days of its execution by all Parties and Class Counsel, and
9 Plaintiff will thereafter submit a copy of any judgment or any other order (*e.g.*, the Final Award)
10 providing for an award of civil penalties in conformity with Labor Code Section 2699(l).

11 **P. “LWDA Payment.”**

12 The amount that the Parties have agreed to pay to the LWDA in connection with
13 the California Private Attorneys General Act of 2004 (“PAGA”). The Parties have agreed that
14 \$40,000.00 of the Class Settlement Amount will be allocated to the resolution of any Class
15 Members’ claims arising under PAGA (“PAGA Settlement Amount”). Pursuant to PAGA,
16 \$30,000.00 (75%) of the PAGA Settlement Amount will be paid to the LWDA and \$10,000.00
17 (25%) of the PAGA Settlement Amount will be included in the Net Settlement Amount.

18 **Q. “Net Settlement Amount.”**

19 The portion of the Class Settlement Amount remaining after deduction of the
20 approved Class Representative Enhancement Payment, Claims Administration Costs, LWDA
21 Payment, and the Attorneys’ Fees and Costs.

22 **R. “Notice of Class Action Settlement.”**

23 The document substantially in the form attached as Exhibit 1 that will be mailed to
24 Class Members’ last known addresses and which will provide Class Members with information
25 regarding the Action and information regarding the Settlement of the Action.

26 **S. “Notice of Objection.”**

27 A Class Member’s valid and timely written objection to the Settlement Agreement.
28 For the Notice of Objection to be valid, it must include the objector’s full name, signature,

1 address, telephone number and a written statement of all grounds for the objection accompanied
2 by legal support, if any, for such objection. The Notice of Objection must be returned by mail or
3 fax to the Claims Administrator at the specified address or facsimile number and postmarked or
4 faxed on or before the Response Deadline. The date of the postmark or fax receipt confirmation
5 will be the exclusive means to determine whether a Notice of Objection has been timely
6 submitted.

7 Class Members who fail to make objections in the manner specified above shall be
8 deemed to have waived any objections and shall be foreclosed from making any objection
9 (whether by appeal or otherwise) to the Settlement Agreement. Neither the Parties nor their
10 counsel will solicit or otherwise encourage Class Members to submit written objections to the
11 Settlement Agreement or appeal from the Order and Judgment. Class Counsel will not represent
12 any Class Members with respect to any such objections to this Settlement. The Claims
13 Administrator shall provide counsel for the Parties with complete copies of all objections received,
14 including the date of postmark or fax receipt confirmation for each objection, within five (5)
15 business days of receipt. Class Counsel will provide copies of any objections and supporting
16 documents to the Court at least sixteen (16) court days before the Preliminary Approval Hearing.

17 **T. “Notice Packet.”**

18 The Notice of Class Action Settlement and Individual Settlement Payment
19 calculations, to include pay period information.

20 **U. “Plaintiff.”**

21 Plaintiff Kelley Anton.

22 **V. “Plaintiff’s Released Claims.”**

23 Upon the Effective Date, and as a condition of receiving any portion of her Class
24 Representative Enhancement Payment, Plaintiff shall fully and finally release the Released Parties
25 from any and all claims, known and unknown, under federal, state and/or local law, statute,
26 ordinance, regulation, common law, or other source of law, including but not limited to claims
27 arising from or related to her employment with Defendant and her compensation while an
28 employee of Defendant. Plaintiff’s Released Claims include, but are not limited to, all claims

1 arising from or related to the Action. Plaintiff's Released Claims include all claims for unpaid
2 wages, including, but not limited to, failure to pay minimum wages, straight time compensation,
3 overtime compensation, double-time compensation, and interest; the calculation of the regular rate
4 of pay; wages related to alleged illegal time rounding; missed meal period, rest period, and
5 recovery period wages/premiums; reimbursement for all necessary business expenses; payment for
6 all hours worked, including off-the-clock work; wage statements; deductions; failure to keep
7 accurate records; failure to provide suitable seating; unfair business practices; penalties, including,
8 but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties,
9 and waiting-time penalties; and attorneys' fees and costs. Plaintiff's Released Claims include all
10 claims arising under the California Labor Code (including, but not limited to, sections 200, 201,
11 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 222, 222.5, 223,
12 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 227.3, 246, 247.5, 248.5, 256, 450, 510, 511, 512, 515,
13 516, 550, 551, 552, 558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198,
14 1198.5, 2698 *et seq.*, 2699 *et seq.*, and 2802); all claims arising under: the Wage Orders of the
15 California Industrial Welfare Commission; the California Private Attorneys General Act of 2004
16 (PAGA); California Business and Professions Code section 17200, *et seq.*; the California Civil
17 Code, to include sections 3287, 3336 and 3294; 8 CCR § 11100; California Code of Civil
18 Procedure § 1021.5; the California common law of contract; claims under the Fair Labor and
19 Standards Act ("FLSA"), related to recordkeeping obligations, 29 U.S.C. §§ 201, *et seq.*; 29 CFR
20 778.223; 29 CFR 778.315; federal common law; and the Employee Retirement Income Security
21 Act, 29 U.S.C. §§ 1001, *et seq.* (ERISA). Plaintiff's Released Claims also include all claims for
22 lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and
23 costs arising under federal, state, or local laws for discrimination, harassment, retaliation, and
24 wrongful termination, such as, by way of example only, (as amended) 42 U.S.C. § 1981, Title VII
25 of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), and the California
26 Fair Employment and Housing Act (FEHA); and the law of contract and tort.

27
28 This release excludes the release of claims not permitted by law.

1 Plaintiff's Released Claims include all claims, whether known or unknown. Even
 2 if Plaintiff discovers facts in addition to or different from those that she now knows or believes to
 3 be true with respect to the subject matter of Plaintiff's Released Claims, those claims will remain
 4 released and forever barred. Thus, Plaintiff expressly waives and relinquishes the provisions,
 5 rights and benefits of section 1542 of the California Civil Code, which reads:

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

10 **W. "Preliminary Approval."**

The Court's order granting preliminary approval of the Settlement Agreement.

11 **X. "Qualified Settlement Account."**

12 The fund established by the Claims Administrator pursuant to Internal Revenue
 13 Code Section 1.468B-1.

14 **Y. "Released Claims."**

15 As of the date of the Order Granting Final Approval, all Class Members shall fully
 16 and finally release Released Parties of the Released Claims. The Released Claims include any and
 17 all claims, rights, demands, liabilities and causes of action of any nature or description asserted in
 18 the Action, arising from or related to the facts and claims alleged in the Action, as amended, or
 19 that could have reasonably been alleged in the Action based on the facts and claims alleged in the
 20 operative First Amended Complaint and/or letters sent to the California Labor and Workforce
 21 Development Agency dated February 13, 2020 and July 24, 2020 ("LWDA Letters"), as amended.

22 The Released Claims include all claims for failure to provide accurate, itemized
 23 wage statements; failure to provide right to inspect or copy personnel files; failure to keep accurate
 24 records; for civil and statutory penalties, including wage statement penalties, record keeping
 25 penalties, and penalties for personnel file violations; and attorneys' fees and costs. The Released
 26 Claims also include all such claims arising under: California Labor Code sections 226, 226.3,
 27 1174, 1174.5, 1198, 1198.5. The Release shall also include California Labor Code Sections 2698
 28 *et seq.*, and 2699 *et seq.* to the extent that such penalties are predicated upon alleged violations of

1 asserted in the Action, to include Labor Code Sections 226, 226.3, 1174, 1174.5, 1198, 1198.5; all
2 claims relating to the Released Claims under the California Business and Professions Code
3 section 17200, *et seq.* asserted in the Action, to include claims for failure to provide accurate
4 itemized wage statements, failure to provide right to inspect or copy personnel files, failure to
5 keep accurate records, for civil and statutory penalties, including wage statement penalties, record
6 keeping penalties, and penalties for personnel file violation; the Release shall also include all
7 claims relating to the Released Claims under the Wage Orders of the California Industrial Welfare
8 Commission (including IWC Wage Order No. 10-2001 and 8 CCR § 11100) for failure to provide
9 accurate itemized wage statements, failure to provide right to inspect or copy personnel files,
10 failure to keep accurate records, for civil and statutory penalties, including wage statement
11 penalties, record keeping penalties, and penalties for personnel file violation. As noted above, the
12 Released Claims shall include those for penalties pursuant to the California Private Attorneys
13 General Act of 2004 (PAGA) for Labor Code violations regarding failure to provide accurate
14 itemized wage statements, failure to provide right to inspect or copy personnel files, failure to
15 keep accurate records, for civil and statutory penalties, including wage statement penalties, record
16 keeping penalties, and penalties for personnel file violation, to include Sections 226, 226.3, 1174,
17 1174.5, 1198 1198.5; claims under the Fair Labor and Standards Act (“FLSA”) related to
18 recordkeeping obligations, 29 U.S.C. §211(c); 29 C.F.R. §§ 516, *et seq.*; and all state and federal
19 law equivalents arising from or related to the facts and claims alleged in the Action and/or LWDA
20 letters or that could have been alleged in the Action and/or LWDA letters; California Civil Code
21 sections 3287, 3288; and California Code of Civil Procedure § 1021.5. This release excludes the
22 release of claims not permitted by law.

23 Class Members who timely cash or otherwise negotiate their Settlement Payment
24 Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those
25 Class Members, the Released Claims include any and all claims the Class Members may have
26 under the FLSA arising under or related to the alleged claims during the Class Period. Upon entry
27 of Judgment, Class Members are precluded from filing a wage and hour action under the Fair
28 Labor Standards Act against the Released Parties for claims and/or causes of action encompassed

1 by the Released Claims which are extinguished and precluded pursuant to the holding in *Rangel*
2 v. *PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (2018). This release excludes the release
3 of claims not permitted by law.

4 **Z. “Released Parties.”**

5 Defendant and each of their past, present and future agents, employees, servants, officers,
6 directors, members, owners (whether direct or indirect), general partners, limited partners,
7 trustees, representatives, shareholders, stockholders, mortgagees or ground lessors, attorneys,
8 parents, subsidiaries, equity sponsors, related and/or affiliated companies/corporations and/or
9 partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers,
10 joint employers, alleged joint employers, temporary staffing agencies, contractors, affiliates,
11 service providers, alter-egos, dual employers, alleged dual employers, co-employers, alleged co-
12 employers, alleged alter-egos, vendors, affiliated organizations, and any person and/or entity
13 alleged to have joint liability, and all of their respective past, present and future employees,
14 directors, officers, members, owners, agents, representatives, payroll agencies, attorneys,
15 stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns and any and all
16 entities and/or persons acting under, by, through or in concert with any of them (hereinafter
17 referred to collectively as the “Released Parties”), and each and all of them

18 **1. “Request for Exclusion.”**

19 A notice submitted by a Class Member requesting to be excluded from the
20 Settlement. For the Request for Exclusion to be valid, it must include the Class Member’s full
21 name, signature, address, telephone number and a written statement requesting to be excluded
22 from this Settlement. The Request for Exclusion must be returned by mail or fax to the Claims
23 Administrator at the specified address or facsimile number and postmarked or faxed on or before
24 the Response Deadline. The date of the postmark or fax receipt confirmation will be the exclusive
25 means to determine whether a Request for Exclusion has been timely submitted. A Class Member
26 who does not submit a timely and valid Request for Exclusion from the Settlement will be deemed
27 a Class Member and will be bound by all terms of the Settlement Agreement if the Settlement is
28 granted Final Approval by the Court. Any Class Members who timely submits a valid Request for

1 Exclusion will not receive payment from the Settlement, and will not be bound by the terms of the
2 Settlement Agreement or Judgment (with the exception of claims arising under the PAGA).
3 Eligible PAGA Members will receive their share of the employee portion of the LWDA Payment
4 and will be deemed to have released any claims arising out of PAGA, regardless of whether they
5 submit a Request for Exclusion.

6 **AA. "Response Deadline."**

7 The deadline by which Class Members must mail or fax to the Claims
8 Administrator valid Requests for Exclusion, Notices of Objection to the Settlement, or pay period
9 disputes. The Response Deadline will be forty-five (45) calendar days from the initial mailing of
10 the Notice Packet by the Claims Administrator, unless the 45th day falls on a Sunday or Federal
11 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.
12 Postal Service is open. The Response Deadline for Requests for Exclusion, Notices of Objection,
13 or pay period disputes will be extended fifteen (15) calendar days for any Class Member who is
14 re-mailed a Notice Packet by the Claims Administrator, unless the 15th day falls on a Sunday or
15 Federal holiday, in which case the Response Deadline will be extended to the next day on which
16 the U.S. Postal Service is open. The Response Deadline may also be extended by express
17 agreement between Class Counsel and Defendant. Under no circumstances, however, will the
18 Claims Administrator have the authority to unilaterally extend the deadline for Class Members to
19 submit a Request for Exclusion, Notice of Objection to the Settlement, or pay period disputes.

20 **BB. "Satisfaction of Judgment."**

21 Upon the Effective Date and payment by Defendant of all monies due under the
22 Settlement Agreement and entry of the Order Granting Final Approval, Plaintiff shall file a
23 Satisfaction of Judgment with the Court.

24 **CC. "Settlement Payment Check."**

25 The payment to Class Members. The back of the Settlement Payment Check shall
26 state, immediately below the space where the check is to be endorsed by the payee: "By endorsing
27 or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms
28 set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards

1 Act ("FLSA") portion of the [Action], elect to participate in the settlement of the FLSA claims,
2 and agree to release all of my FLSA claims that are covered by the Settlement."

3 **II. Funding of the Class Settlement Amount.**

4 1. Within twenty-one (21) calendar days after the Effective Date of the Settlement,
5 Defendant will make a one-time deposit of all approved and claimed amounts from the Class
6 Settlement Amount into a Qualified Settlement Account to be established by the Claims
7 Administrator. Within fourteen (14) calendar days of the funding of the Settlement, the Claims
8 Administrator will issue payments to: (a) Class Members; (b) the Labor and Workforce
9 Development Agency (LWDA); (c) Plaintiff; and (d) Class Counsel. The Claims Administrator
10 will also issue a payment to itself for Court-approved services performed in connection with the
11 Settlement. Defendant has no obligation to deposit such funds prior to the deadline set forth
12 herein.

13 **III. Attorneys' Fees and Costs.**

14 1. Defendant agrees not to oppose or impede any application by Class Counsel for
15 attorneys' fees of not more than \$140,000.00 or the reimbursement of costs and expenses
16 associated with Class Counsel's litigation and settlement of the Action not to exceed \$15,000.00.
17 No counsel shall be entitled to attorneys' fees or costs for work performed in the Action other than
18 as provided in this Settlement Agreement. The instant Settlement Agreement is the exclusive
19 means for recovery of attorneys' fees and costs incurred in the Action by any attorney, law firm
20 and/or other legal services provider.

21 **IV. Class Representative Enhancement Payment.**

22 1. In exchange for a general release and in recognition of her effort and work in
23 prosecuting the Action on behalf of Class Members, Defendant agrees not to oppose or impede
24 any application or motion for a Class Representative Enhancement Payment in the amount of up to
25 \$5,000.00. The Class Representative Enhancement Payment will be paid from the Class
26 Settlement Amount and will be in addition to Plaintiff's Individual Settlement Payment paid
27 pursuant to the Settlement, and is conditioned on the execution of a stand-alone settlement
28 agreement and general release of claims. Plaintiff will be solely and legally responsible to pay any

1 and all applicable taxes on the payment made pursuant to this Section and will indemnify and hold
2 Defendant harmless from any claim or liability for taxes, penalties, or interest arising as a result of
3 the payment.

4 **V. Claims Administration Costs.**

5 1. The Claims Administrator will be paid for the reasonable costs of administration of
6 the Settlement and distribution of payments from the Class Settlement Amount, which are
7 currently estimated not to exceed \$20,000.00.

8 2. The Parties hereby acknowledge that the Claims Administration Costs may
9 increase above the current estimate of \$20,000.00 and that any such additional Claims
10 Administration Costs that are approved by the Parties' counsel and the Court shall be taken out of
11 the Class Settlement Amount.

12 **VI. Labor and Workforce Development Agency Payment.**

13 1. Subject to Court approval, the Parties agree that \$40,000.00 of the Class Settlement
14 Amount will be designated for satisfaction of Plaintiff's and Class Members' PAGA claims (the
15 "PAGA Settlement Amount"). Pursuant to the PAGA, \$30,000.00 (75%) of the PAGA Settlement
16 Amount will be paid to the LWDA and \$10,000.00 (25%) of the PAGA Settlement Amount will
17 be included in the Net Settlement Amount. Eligible PAGA aggrieved employees will receive their
18 share of the employee portion of the LWDA Payment and will be deemed to have released any
19 claims arising out of PAGA, regardless of whether they submit a Request for Exclusion.

20 **VII. Net Settlement Amount.**

21 1. The Net Settlement Amount will be used to satisfy Individual Settlement Payments
22 to Class Members from the Settlement Class in accordance with the terms of this Settlement.

23 **VIII. Individual Settlement Payment Calculations.**

24 1. Individual Settlement Payments will be calculated and apportioned from the Net
25 Settlement Amount based on the number of pay periods a Class Member worked during the Class
26 Period. Specific calculations of Individual Settlement Payments will be made as follows:

- 27 1(a) The Claims Administrator will calculate the total number of pay periods
28 worked by each Class Member ("Individual Pay Periods") and the total

1 number of pay periods worked by all Class Members ("Class Pay Periods")
2 during the Class Period.

3 1(b) To determine each Class Member's Individual Settlement Payment, the
4 Claims Administrator will use the following formula: Individual Settlement
5 Payment = (Individual Pay Periods ÷ Class Pay Periods) × Net Settlement
6 Amount.

7 2. The Individual Settlement Payments made to Class Members under this Settlement,
8 and any other payments made pursuant to this Settlement, will not be utilized to calculate any
9 additional benefits under any benefit plans to which any Class Members may be eligible,
10 including, but not limited to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans,
11 vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
12 intention that this Settlement Agreement will not affect any rights, contributions, or amounts to
13 which any Class Members may be entitled under any benefit plans.

14 **IX. Claims Administration Process.**

15 1. The Parties agree to cooperate in the administration of the Settlement and to make
16 all reasonable efforts to control and minimize the costs and expenses incurred in administration of
17 the Settlement. The Claims Administrator will provide the following services:

- 18 a. Establish and maintain a Qualified Settlement Account.
- 19 b. Calculate the Individual Settlement Payment each Class Member is eligible
20 to receive.
- 21 c. Translate the Notice Packet into Spanish by request of Class Members.
- 22 d. Print and mail the Notice Packet.
- 23 e. Establish and maintain a toll-free information telephone support line to
24 assist Class Members who have questions regarding the Notice Packet.
- 25 f. Conduct additional address searches for mailed Notice Packets that are
26 returned as undeliverable.
- 27 g. Process Requests for Exclusion, calculate Class Members' Individual
28 Settlement Payment, field inquiries from Class Members, and administer

1 any Requests for Exclusion. This service will include settlement proceed
2 calculation, printing and issuance of Settlement Payment Checks, and
3 preparation of IRS Form-1099 Tax Forms.

4 h. Issuing to Plaintiff, Class Members, and Plaintiff's Counsel any IRS Form-
5 1099, or other tax forms as may be required by law for all amounts paid
6 pursuant to this Settlement.

7 i. Provide declarations and/or other information to the Court as requested by
8 the Parties and/or the Court.

9 j. Provide weekly status reports to counsel for the Parties.

10 2. Within fourteen (14) calendar days of Preliminary Approval, Defendant will
11 provide the Class List to the Claims Administrator.

12 3. Within fourteen (14) calendar days after receiving the Class List from Defendant,
13 the Claims Administrator will mail a Notice Packet to all Class Members via regular First-Class
14 U.S. Mail, using the last known mailing addresses identified in the Class List.

15 4. Prior to mailing, the Claims Administrator will perform a search based on the
16 National Change of Address Database for information to update and correct any known or
17 identifiable address changes. Any Notice Packets returned to the Claims Administrator as non-
18 deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S.
19 Mail to the forwarding address affixed thereto and the Claims Administrator will indicate the date
20 of such re-mailing on the Notice Packet. If no forwarding address is provided, the Claims
21 Administrator will promptly attempt to determine the correct address using a skip-trace, or other
22 search using the name, address and/or Social Security number of the Class Member involved, and
23 will then perform a single re-mailing. Those Class Members who receive a re-mailed Notice
24 Packet, whether by skip-trace or by request, will have between the later of (a) an additional fifteen
25 (15) calendar days or (b) the Response Deadline to postmark or fax a Request for Exclusion or
26 Notice of Objection to the Settlement.

27 5. All Class Members will be mailed a Notice Packet containing the forms attached as
28 Exhibit 1 as approved by the Court.

1 6. Class Members will have an opportunity to dispute the information provided in
2 their Notice Packets. To the extent Class Members dispute the number of pay periods to which
3 they have been credited or the amount of their Individual Settlement Payment, Class Members
4 may produce evidence to the Claims Administrator showing that such information is inaccurate.
5 Absent evidence rebutting Defendant's records, Defendant's records will be presumed
6 determinative. However, if a Class Member produces evidence to the contrary, the Claims
7 Administrator will evaluate the evidence submitted by the Class Member and will make the final
8 decision as to the number of eligible pay periods that should be applied and/or the Individual
9 Settlement Payment to which the Class Member may be entitled. The pay period dispute must be
10 returned by mail or fax to the Claims Administrator at the specified address or facsimile number
11 and postmarked or faxed on or before the Response Deadline. The date of the postmark or fax
12 receipt confirmation will be the exclusive means to determine whether a pay period dispute has
13 been timely submitted. All such disputes are to be resolved not later than fourteen (14) calendar
14 days after the Response Deadline.

15 7. Defective Submissions. If a Class Member's Request for Exclusion is defective as
16 to the requirements listed herein, that Class Member will be given an opportunity to cure the
17 defect(s). The Claims Administrator will mail the Class Member a cure letter within three (3)
18 business days of receiving the defective submission to advise the Class Member that his or her
19 submission is defective and that the defect must be cured to render the Request for Exclusion
20 valid. The Class Member will have until the later of (a) the Response Deadline or (b) fifteen (15)
21 calendar days from the date of the cure letter, whichever date is later, to postmark or fax a revised
22 Request for Exclusion.

23 8. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
24 Settlement Agreement must sign and postmark or fax a written Request for Exclusion to the
25 Claims Administrator within the Response Deadline. The date of the postmark on the return
26 mailing envelope or the fax receipt confirmation will be the exclusive means to determine whether
27 a Request for Exclusion has been timely submitted. All Requests for Exclusion will be submitted
28 to the Claims Administrator, who will certify jointly to Class Counsel and Defendant's Counsel

1 the Requests for Exclusion that were timely submitted. Any Class Member who does not timely
2 seek exclusion will be bound by the terms of this Settlement Agreement. Any Class Members
3 who timely submits a valid Request for Exclusion will not receive payment from the Settlement,
4 and will not be bound by the terms of the Settlement Agreement or Judgment (with the exception
5 of claims arising under the PAGA). Eligible PAGA aggrieved employees will receive their share
6 of the employee portion of the LWDA Payment and will be deemed to have released any claims
7 arising out of PAGA, regardless of whether they submit a Request for Exclusion.

8 **X. NULLIFICATION OF THE SETTLEMENT AGREEMENT.**

9 1. Condition Precedent – Non-Opt Out. This Agreement is expressly conditioned
10 upon Christopher Watson’s agreement not to opt out of the Settlement Class as well as the
11 dismissal of his wage statement claims currently pending, including those under Labor Code § 226
12 and the California Industrial Welfare Commission Wage Orders, and as alleged in the lawsuit
13 entitled Watson v. Magic Mountain, LLC in the Los Angeles Superior Court, Case No.
14 20STCV28184. Watson will file the necessary pleadings to effectuate the aforementioned
15 dismissal within five (5) business days following final approval of the instant Settlement. If
16 Watson does not comply with the terms of this Section, such non-compliance can be grounds for
17 Defendant’s nullification of this Settlement Agreement. It is the sole and exclusive responsibility
18 of Anton and/or proposed Class Counsel to ensure compliance.

19 2. Defendant’s Option to Nullify the Settlement Agreement. If five percent (5%) or
20 more of the Class Members opt out of the Settlement (or are otherwise excluded), Defendant, in
21 their its sole discretion, shall have the option of nullifying the Settlement Agreement. In addition,
22 Defendant may nullify the Settlement Agreement as set forth in this Section X. In such a case, the
23 Parties and any funds to be awarded under this Settlement Agreement shall be returned to their
24 respective statuses as of the date and time immediately prior to the execution of this Agreement,
25 and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed,
26 except that any fees already incurred by the Claims Administrator shall be paid by Defendant.

27 3. Nullification of the Settlement Agreement. In the event: (i) the Court does not
28 enter the Preliminary Approval Order and approve the Released Claims specified herein; (ii) the

1 Court does not finally approve the Settlement as provided herein; (iii) Defendant exercises its
2 option to nullify the Settlement Agreement based on an excessive number of opt-outs, as described
3 in the above Section; (iv) Christopher Watson opts-out of the Settlement Class; or (v) the
4 Settlement does not become final for any other reason (*e.g.*, an objection by the LWDA), this
5 Settlement Agreement shall be null and void. Any order or judgment entered by the Court in
6 furtherance of this Settlement Agreement shall be treated as void from the beginning, and the
7 Stipulations and Recitals contained herein shall be of no force or effect, and shall not be treated as
8 an admission by the Parties or their counsel. In such a case, the Parties and any funds to be
9 awarded under this Settlement Agreement shall be returned to their respective statuses as of the
10 date and time immediately prior to the execution of this Settlement Agreement, and the Parties
11 shall proceed in all respects as if this Settlement Agreement had not been executed, except that
12 any fees already incurred by the Claims Administrator shall be paid equally by both Parties.
13 Should the Court not approve the requested Attorneys' Fees, Costs award(s), and/or Class
14 Representative Enhancement Payment, this Settlement Agreement shall remain valid and binding
15 and any difference between the requested Attorneys' Fees, Costs award(s), and/or Class
16 Representative Enhancement Payment shall be allocated to the Net Settlement Amount. A
17 reduction of the requested Attorneys' Fees, Costs award(s), and/or Class Representative
18 Enhancement Payment shall not be grounds to nullify the Settlement Agreement. Prior to
19 nullifying the Settlement Agreement, the Party seeking nullification shall notify the other Party in
20 writing at least fifteen (15) business days prior to nullifications. The Parties agree to use their
21 best, good faith, efforts to maintain the terms of the Settlement Agreement and agree to meet and
22 confer prior to nullifying the Settlement Agreement.

23 4. Settlement Terms Bind All Class Members Who Do Not Opt Out. Any Class
24 Member who does not affirmatively opt out of the Settlement Agreement by submitting a timely
25 and valid Request for Exclusion will be bound by all its terms, including those pertaining to the
26 Released Claims.

XI. Certification Reports Regarding Individual Settlement Payment Calculations.

1. The Claims Administrator will provide Defendant's counsel and Class Counsel a weekly report which certifies: (a) the number of Class Members who have submitted valid Requests for Exclusion; (b) any objections submitted to the Settlement along with a copy of any such objection; and (c) whether any Class Member has submitted a challenge to any information contained in his/her Notice Packet. Additionally, the Claims Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

2. Uncashed Settlement Checks. Any checks issued by the Claims Administrator to Class Members will be negotiable for one-hundred eighty (180) calendar days. After one-hundred eighty (180) calendar days from the date of mailing, the checks shall become null and void, and any monies remaining in the distribution account shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et seq., for the benefit of those Settlement Class members who did not cash their checks until such time that they claim their property. The Settling Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Settlement Payment will be paid out to Settlement Class members, whether or not they all cash their Settlement Checks. Therefore, Defendant will not be required to pay any interest on said amount.

3. Certification of Completion. Upon completion of administration of the Settlement, the Claims Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

XII. Tax Treatment of Individual Settlement Payments.

All Individual Settlement Payments will be allocated as non-wages. The Individual Settlement Payments will be reported on an IRS Form-1099 by the Claims Administrator. The Claims Administrator will issue a check and IRS Form-1099 for the Individual Settlement Payment. Because there are no wage claims asserted, no withholdings shall be made on the Individual Settlement Payments. The Claims Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Settlement

1 Agreement. Any disputes not resolved by the Claims Administrator concerning the administration
2 of the Settlement will be resolved by the Court, under the laws of the State of California. Prior to
3 any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the
4 dispute without the necessity of involving the Court.

5 **XIII. Administration of Taxes by the Claims Administrator.**

6 1. Tax Liability. Defendant makes no representation as to the tax treatment or legal
7 effect of the payments called for hereunder, and Plaintiff and Class Members are not relying on
8 any statement, representation, or calculation by Defendant or by the Claims Administrator in this
9 regard. Plaintiff and Class Members understand and agree they will be solely responsible for the
10 payment of their share of any taxes and penalties assessed on the payments described herein.

11 2. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT
12 AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY”
13 AND EACH PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE
14 ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES
15 THAT (1) NO PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN
16 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
17 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY
18 SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
19 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
20 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
21 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
22 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
23 ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT
24 ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE
25 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
26 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
27 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
28 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE

1 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
2 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
3 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
4 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
5 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
6 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
7 SETTLEMENT AGREEMENT.

8 **XIV. Release by Class Members.**

9 1. No Prior Assignments. The Parties and their counsel represent, covenant, and
10 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to
11 assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
12 action, cause of action or right herein released and discharged.

13 2. It is the desire of Plaintiff, Class Members (except those who exclude themselves
14 from the Settlement), and Defendant to fully, finally, and forever settle, compromise, and
15 discharge the Released Claims. Upon the Final Approval by the Court of this Settlement
16 Agreement, and except as to such rights or claims as may be created by this Settlement
17 Agreement, the Class Members shall fully release and discharge the Released Parties from any and
18 all Released Claims for the entire Class Period. This release shall be binding on all Class
19 Members who have not timely submitted a valid and complete Request for Exclusion, including
20 each of their respective attorneys, agents, spouses, executors, representatives, guardians ad litem,
21 heirs, successors, and assigns, and shall inure to the benefit of the Released Parties, who shall have
22 no further or other liability or obligation to any Class Member with respect to the Released
23 Claims, except as expressly provided herein.

24 **XV. Preliminary Approval Hearing.**

25 1. Plaintiff will obtain a hearing before the Court to request Preliminary Approval of
26 the Settlement Agreement and the entry of a Preliminary Approval Order for: (a) conditional
27 certification of the Settlement Class for settlement purposes only, (b) Preliminary Approval of the
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1 proposed Settlement Agreement, and (c) setting a date for a Final Approval/Settlement Fairness
2 Hearing.

3 2. The Preliminary Approval Order will provide for the Notice Packet to be sent to all
4 Class Members as specified herein. In conjunction with the Preliminary Approval Hearing,
5 Plaintiff will submit this Settlement Agreement and will include the proposed Notice Packet.

6 3. Class Counsel will be responsible for drafting all documents necessary to obtain
7 Preliminary Approval, subject to review by Defendant's counsel. Any failure by the Court to fully
8 and completely approve the Settlement Agreement which has the effect of preventing the full and
9 complete approval of the Settlement Agreement as written and agreed to by the Parties will result
10 in this Settlement Agreement, and all obligations under this Settlement Agreement, being nullified
11 and voided.

12 **XVI. Final Settlement Approval Hearing and Entry of Judgment.**

13 1. Upon expiration of the Response Deadline, and with the Court's permission, a
14 Final Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of
15 the Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement
16 Payments; (b) the LWDA Payment; (c) the Attorneys' Fees and Costs; (d) the Class
17 Representative Enhancement Payment; and (e) all Claims Administration Costs.

18 2. The Final Approval/Settlement Fairness Hearing will be held no later than seventy-
19 five (75) calendar days after the Response Deadline.

20 3. Class Counsel will be responsible for drafting all documents necessary to obtain
21 Final Approval, subject to review by Defendant's counsel. Class Counsel will also be responsible
22 for drafting the Attorneys' Fees and Costs application to be heard at the Final Approval/Settlement
23 Fairness Hearing. Any failure by the Court to fully and completely approve the Settlement
24 Agreement will result in this Settlement Agreement entered into by the Parties, and all obligations
25 under this Settlement Agreement, being nullified and voided. Upon such failure, any order or
26 judgment entered by the Court in furtherance of this Settlement Agreement shall be treated as void
27 from the beginning, and the Stipulations and Recitals contained herein shall be of no force or
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1 effect and shall not be treated as an admission by the Parties or their counsel. In such a case, the
2 Parties and any funds to be awarded under this Settlement Agreement shall be returned to their
3 respective statuses as of the date and time immediately prior to the execution of this Settlement
4 Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not
5 been executed, except that any fees already incurred by the Claims Administrator shall be paid
6 equally by both Parties.

7 **XVII. Judgment and Continued Jurisdiction.**

8 1. The Court shall retain jurisdiction with respect to the interpretation,
9 implementation, and enforcement of the terms of this Settlement Agreement and all orders and
10 judgments entered in connection therewith, and the Parties and their counsel hereto submit to the
11 jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement
12 embodied in this Settlement Agreement and all orders and judgments entered in connection
13 therewith.

14 2. Because there are no wage claims asserted, no withholdings shall be made on the
15 Individual Settlement Payments.

16 **XVIII. Other Provisions.**

17 1. Exhibits Incorporated by Reference. The terms of this Settlement include the terms
18 set forth in any attached Exhibits, which are incorporated by this reference as though fully set
19 forth herein. Any Exhibits to this Settlement are an integral part of the Settlement.

20 2. Entire Agreement. This Settlement Agreement, and Exhibits attached hereto,
21 constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written
22 or oral agreements may be deemed binding on the Parties, except as to those Exhibits described
23 herein, including Anton's individual settlement agreement.

24 3. Amendment or Modification. This Settlement Agreement may be amended or
25 modified only by a written instrument signed by counsel for all Parties or their successors-in-
26 interest and approved by the Court.

27 4. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
28 and represent they are expressly authorized by the Parties whom they represent to negotiate this

1 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
2 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
3 documents required to effectuate the terms of this Settlement Agreement. The Parties and their
4 counsel will cooperate with each other and use their best efforts to effect the implementation of the
5 Settlement. If the Parties are unable to reach agreement on the form or content of any document
6 needed to implement the Settlement, or on any supplemental provisions that may become
7 necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of Jeffrey
8 Krivis, Esq. (mediator) to resolve such disagreement.

9 5. Binding on Successors and Assigns. This Settlement Agreement will be binding
10 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
11 defined.

12 6. California Law Governs. All terms of this Settlement Agreement and Exhibits
13 hereto will be governed by and interpreted according to the laws of the State of California.

14 7. Execution and Counterparts. This Settlement Agreement is subject only to the
15 execution of all Parties. However, the Settlement Agreement may be executed in one or more
16 counterparts, and the Parties expressly agree to use electronic signatures. All executed
17 counterparts and each of them, including electronic, facsimile and scanned copies of the signature
18 page, will be deemed to be one and the same instrument.

19 8. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe
20 this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have
21 arrived at this Settlement after arm's-length negotiations and in the context of adversarial
22 litigation, taking into account all relevant factors, present and potential. The Parties further
23 acknowledge that they are each represented by competent counsel and that they have had an
24 opportunity to consult with their counsel regarding the fairness and reasonableness of this
25 Settlement.

26 9. Invalidity of Any Provision. Before declaring any provision of this Settlement
27 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest
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1 extent possible consistent with applicable precedents so as to define all provisions of this
2 Settlement Agreement valid and enforceable.

3 10. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
4 class certification for purposes of this Settlement only; except, however, that either Party may
5 appeal any Court order that materially alters the Settlement Agreement's terms.

6 11. Class Action Certification for Settlement Purposes Only. The Parties agree to
7 stipulate to class certification only for purposes of the Settlement. If, for any reason, the
8 Settlement is not approved, the stipulation to certification will be void. The Parties further agree
9 that certification for purposes of the Settlement is not an admission that class action certification is
10 proper under the standards applied to contested certification motions and that this Settlement
11 Agreement will not be admissible in this or any other proceeding as evidence that either: (a) a
12 class action should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other
13 than according to the Settlement's terms.

14 12. Non-Admission of Liability. The Parties enter into this Settlement Agreement to
15 resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of
16 continued litigation. In entering into this Settlement Agreement, Defendant does not admit, and
17 specifically deny, they have violated any federal, state, or local law; violated any regulations or
18 guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal
19 requirements; breached any contract; violated or breached any duty; engaged in any
20 misrepresentation or deception; or engaged in any other unlawful conduct with respect to their
21 employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the
22 negotiations connected with it, shall be construed as an admission or concession by Defendant of
23 any such violations or failures to comply with any applicable law. Except as necessary in a
24 proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its
25 terms and provisions shall not be offered or received as evidence in any action or proceeding to
26 establish any liability or admission on the part of Defendant or to establish the existence of any
27 condition constituting a violation of, or a non-compliance with, federal, state, local or other
28 applicable law.

1 13. Captions. The captions and section numbers in this Settlement Agreement are
2 inserted for the reader's convenience, and in no way define, limit, construe or describe the scope
3 or intent of the provisions of this Settlement Agreement.

4 14. Waiver. No waiver of any condition or covenant contained in this Settlement
5 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered
6 to imply or constitute a further waiver by such party of the same or any other condition, covenant,
7 right or remedy.

8 15. Enforcement Action. If one or more of the Parties institutes any legal action or
9 other proceeding against any other Party or Parties to enforce the provisions of this Settlement or
10 to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
11 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs,
12 including expert witness fees incurred in connection with any enforcement actions.

13 16. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
14 and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be
15 construed more strictly against one Party than another merely by virtue of the fact that it may have
16 been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-
17 length negotiations between the Parties, all Parties have contributed to the preparation of this
18 Settlement Agreement.

19 17. Representation by Counsel. The Parties acknowledge that they have been
20 represented by counsel throughout all negotiations that preceded the execution of this Settlement
21 Agreement and that this Settlement Agreement has been executed with the consent and advice of
22 counsel and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that there
23 are no liens on the Settlement Agreement.

24 18. All Terms Subject to Final Court Approval. All amounts and procedures described
25 in this Settlement Agreement herein will be subject to final Court approval.

26 19. Cooperation and Execution of Necessary Documents. All Parties will cooperate in
27 good faith and execute all documents to the extent reasonably necessary to effectuate the terms of
28 this Settlement Agreement.

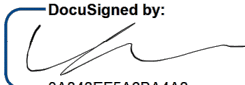
21. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law. Plaintiff, and not her respective representative(s), must personally execute this Settlement Agreement.

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The Settlement Agreement consists of 30 pages.

Dated: 10/4/2021

DocuSigned by:

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Plaintiff Kelley Anton

MAGIC MOUNTAIN, LLC


Allison Reddoch, Corporate Counsel

Dated: 10/7/2021

Allison Reddoch, Corporate Counsel

APPROVED AS TO FORM

BRADLEY/GROMBACHER, LLP

Dated: 10/5/2021


Kiley Grombacher
Attorneys for Plaintiff Kelley Anton

Dated: 10/11/2021

**SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP**

By: 
Jason W. Kearnaghan
Attorneys for Defendant Magic Mountain,
LLC