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MAGIC MOUNTAIN, LLC.

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

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

Plaintiff,

v.

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

Defendant.

Case No. 20STCV05708
Related with: 19STCV33422
[Assigned to Hon. William F. Highberger,
Dept. 10]

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

[Complaint Filed: February 14, 2020]

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Attorneys for Plaintiff,

KELLEY ANTON, individually

and on behalf of other individuals similarly situated

1 **STIPULATION AND SETTLEMENT OF CLASS**

2 **AND REPRESENTATIVE ACTION**

3 Subject to final approval by the Court, which counsel and the Parties agree to diligently
4 pursue and recommend in good faith, Plaintiff Kelley Anton ("Plaintiff"), individually and on behalf
5 of all others similarly situated and alleged aggrieved employees, on the one hand, and Defendant
6 Magic Mountain, LLC ("Defendant"), on the other hand (collectively, the "Parties" and individually,
7 a "Party"), hereby agree to the following binding settlement of the class and representative action
8 designated Kelley Anton v. Magic Mountain, LLC, Los Angeles County Superior Court Case No.
9 20STCV05708 (the "Action"), pursuant to the terms and conditions set forth below (the
10 "Settlement," "Settlement Agreement" or "Agreement"). Upon the Effective Date, and the payment
11 by Defendant of all monies due under the Agreement, the Parties shall file a Satisfaction of
12 Judgment with the Court.

13 **I. Definitions.**

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

16 **A. "Action."**

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

19 **B. "Amended Complaint."**

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

25 **C. "Attorneys' Fees and Costs."**

26 The attorneys' fees agreed upon by the Parties and approved by the Court for Class
27 Counsel's litigation and resolution of the Action, and all costs incurred and to be incurred by Class
28 Counsel in the Action, including, but not limited to, costs associated with documenting the

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

D. "Claims Administrator."

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

E. "Claims Administration Costs."

The costs payable from the Class Settlement Amount to the Claims Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, calculating estimated amounts per Class Member, tax reporting, distributing the Class Settlement Amount, and providing necessary reports and declarations, and other duties and responsibilities set forth herein to process this Settlement Agreement, and as requested by the Parties. The Claims Administration Costs will be paid from the Class Settlement Amount, including, if necessary, any such costs in excess of the amount represented by the Claims Administrator as being the maximum costs necessary to administer the Settlement. The Claims Administration Costs are currently estimated not to exceed \$20,000.00. To the extent actual Claims Administration Costs are greater than \$20,000.00, such excess amount will be deducted from the Class Settlement Amount, subject to the Court's approval. The Claims

Administration Costs will be paid no sooner than fifteen (15) calendar days following the Effective Date.

F. “Class Counsel.”

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

G. “Class List.”

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

H. “Class Member(s)” or “Settlement Class.”

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

I. “Class Period.”

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

J. “Class Representative Enhancement Payment.”

The amount to be paid to Plaintiff in recognition of her effort and work in prosecuting the Action on behalf of Class Members and for her general release of claims. Subject to the Court granting Final Approval of this Settlement Agreement, Plaintiff will request Court approval of a Class Representative Enhancement Payment of \$5,000 for Plaintiff. Plaintiff will be issued an IRS Form 1099 in connection with her Class Representative Enhancement Payment. Plaintiff shall be solely and legally responsible for paying any and all applicable taxes on this payment and shall hold Defendant harmless from any claim or liability for taxes, penalties or interest arising as a result of the payment. The Class Representative Enhancement Payment will be paid from the Class Settlement Amount and will be in addition to Plaintiff’s Individual Settlement Payment paid pursuant to the Settlement, and is conditioned on the execution of a stand-alone settlement

1 agreement and general release of claims. Defendant makes no representations as to the tax treatment
2 or legal effect of the payment called for herein, and Plaintiff is not relying on any statement or
3 representation by Defendant or its counsel in this regard.

4 **K. "Class Settlement Amount."**

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

12 **L. "Effective Date."**

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

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

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

24 **N. "Individual Settlement Payment."**

25 Each Class Member's share of the Net Settlement Amount, which shall be distributed to the
26 Class Members as a result of the payment of the amount allocated to such Class Member as set forth
27 herein.

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O. “LWDA Notice.”

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

P. “LWDA Payment.”

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

Q. “Net Settlement Amount.”

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

R. “Notice of Class Action Settlement.”

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

S. “Notice of Objection.”

A Class Member’s valid and timely written objection to the Settlement Agreement. For the Notice of Objection to be valid, it must include the objector’s full name, signature, address, telephone number and a written statement of all grounds for the objection accompanied by legal support, if any, for such objection. The Notice of Objection must be returned by mail or fax to the Claims Administrator at the specified address or facsimile number and postmarked or faxed on or before the Response Deadline. The date of the postmark or fax receipt confirmation will be the

1 exclusive means to determine whether a Notice of Objection has been timely submitted.

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

12 **T. "Notice Packet."**

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

15 **U. "Plaintiff."**

16 Plaintiff Kelley Anton.

17 **V. "Plaintiff's Released Claims."**

18 Upon the Effective Date, and as a condition of receiving any portion of her Class
19 Representative Enhancement Payment, Plaintiff shall fully and finally release the Released Parties
20 from any and all claims, known and unknown, under federal, state and/or local law, statute,
21 ordinance, regulation, common law, or other source of law, including but not limited to claims
22 arising from or related to her employment with Defendant and her compensation while an employee
23 of Defendant. Plaintiff's Released Claims include, but are not limited to, all claims arising from or
24 related to the Action. Plaintiff's Released Claims include all claims for unpaid wages, including, but
25 not limited to, failure to pay minimum wages, straight time compensation, overtime compensation,
26 double-time compensation, and interest; the calculation of the regular rate of pay; wages related to
27 alleged illegal time rounding; missed meal period, rest period, and recovery period wages/premiums;
28 reimbursement for all necessary business expenses; payment for all hours worked, including off-the-

clock work; wage statements; deductions; failure to keep accurate records; failure to provide suitable seating; unfair business practices; penalties, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs. Plaintiff's Released Claims include all claims arising under the California Labor Code (including, but not limited to, sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 222, 222.5, 223, 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 227.3, 246, 247.5, 248.5, 256, 450, 510, 511, 512, 515, 516, 550, 551, 552, 558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1198.5, 2698 *et seq.*, 2699 *et seq.*, and 2802); all claims arising under: the Wage Orders of the California Industrial Welfare Commission; the California Private Attorneys General Act of 2004 (PAGA); California Business and Professions Code section 17200, *et seq.*; the California Civil Code, to include sections 3287, 3336 and 3294; 8 CCR § 11100; California Code of Civil Procedure § 1021.5; the California common law of contract; claims under the Fair Labor and Standards Act ("FLSA"), including those related to recordkeeping obligations, 29 U.S.C. §§ 201, *et seq.*; 29 CFR 778.223; 29 CFR 778.315; federal common law; and the Employee Retirement Income Security Act, 29 U.S.C. §§ 1001, *et seq.* (ERISA). Plaintiff's Released Claims also include all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way of example only, (as amended) 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), and the California Fair Employment and Housing Act (FEHA); and the law of contract and tort.

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

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

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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.

W. “Preliminary Approval.”

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

X. “Qualified Settlement Account.”

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

Y. “Released Claims.”

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

The Released Claims include all claims for failure to provide accurate, itemized wage statements; failure to provide right to inspect or copy personnel files; failure to keep accurate records; for civil and statutory penalties, including wage statement penalties, record keeping penalties, and penalties for personnel file violations; and attorneys’ fees and costs. The Released Claims also include all such claims arising under: California Labor Code sections 226, 226.3, 1174, 1174.5, 1198, 1198.5. The Release shall also include California Labor Code Sections 2698 *et seq.*, and 2699 *et seq.* to the extent that such penalties are predicated upon alleged violations of asserted in the Action, to include Labor Code Sections 226, 226.3, 1174, 1174.5, 1198, 1198.5; all claims relating to the Released Claims under the California Business and Professions Code section 17200, *et seq.* asserted in the Action, to include claims for failure to provide accurate, itemized wage statements; failure to provide right to inspect or copy personnel files; failure to keep accurate

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

Class Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those Class Members, the Released Claims include any and all claims the Class Members may have under the FLSA arising under or related to the alleged claims during the Class Period. Upon entry of Judgment, Class Members are precluded from filing a wage and hour action under the Fair Labor Standards Act against the Released Parties for claims and/or causes of action encompassed by the Released Claims which are extinguished and precluded pursuant to the holding in *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (2018). This release excludes the release of claims not permitted by law.

Z. “Released Parties.”

Defendant and each of their past, present and future agents, employees, servants, officers, directors, members, owners (whether direct or indirect), general partners, limited partners, trustees, representatives, shareholders, stockholders, mortgagees or ground lessors, attorneys, parents,

1 subsidiaries, equity sponsors, related and/or affiliated companies/corporations and/or partnerships,
 2 divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers,
 3 alleged joint employers, temporary staffing agencies, contractors, affiliates, service providers, alter-
 4 egos, dual employers, alleged dual employers, co-employers, alleged co-employers, alleged alter-
 5 egos, vendors, affiliated organizations, and any person and/or entity alleged to have joint liability,
 6 and all of their respective past, present and future employees, directors, officers, members, owners,
 7 agents, representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries,
 8 other service providers, and assigns and any and all entities and/or persons acting under, by, through
 9 or in concert with any of them (hereinafter referred to collectively as the “Released Parties”), and
 10 each and all of them

11 **1. “Request for Exclusion.”**

12 A notice submitted by a Class Member requesting to be excluded from the Settlement. For
 13 the Request for Exclusion to be valid, it must include the Class Member’s full name, signature,
 14 address, telephone number and a written statement requesting to be excluded from this Settlement.
 15 The Request for Exclusion must be returned by mail or fax to the Claims Administrator at the
 16 specified address or facsimile number and postmarked or faxed on or before the Response Deadline.
 17 The date of the postmark or fax receipt confirmation will be the exclusive means to determine
 18 whether a Request for Exclusion has been timely submitted. A Class Member who does not submit
 19 a timely and valid Request for Exclusion from the Settlement will be deemed a Class Member and
 20 will be bound by all terms of the Settlement Agreement if the Settlement is granted Final Approval
 21 by the Court. Any Class Members who timely submits a valid Request for Exclusion will not
 22 receive payment from the Settlement, and will not be bound by the terms of the Settlement
 23 Agreement or Judgment (with the exception of claims arising under the PAGA). Eligible PAGA
 24 Members will receive their share of the employee portion of the LWDA Payment and will be
 25 deemed to have released any claims arising out of PAGA, regardless of whether they submit a
 26 Request for Exclusion.

27 **AA. “Response Deadline.”**

28 The deadline by which Class Members must mail or fax to the Claims Administrator valid

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

BB. “Satisfaction of Judgment.”

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

CC. “Settlement Payment Check.”

The payment to Class Members. The back of the Settlement Payment Check shall state, immediately below the space where the check is to be endorsed by the payee: “By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the [Action], elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.”

II. Funding of the Class Settlement Amount.

1. Within twenty-one (21) calendar days after the Effective Date of the Settlement, Defendant will make a one-time deposit of all approved and claimed amounts from the Class Settlement Amount into a Qualified Settlement Account to be established by the Claims Administrator. Within fourteen (14) calendar days of the funding of the Settlement, the Claims

1 Administrator will issue payments to: (a) Class Members; (b) the Labor and Workforce
2 Development Agency (LWDA); (c) Plaintiff; and (d) Class Counsel. The Claims Administrator will
3 also issue a payment to itself for Court-approved services performed in connection with the
4 Settlement. Defendant has no obligation to deposit such funds prior to the deadline set forth herein.

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

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

13 **IV. Class Representative Enhancement Payment.**

14 1. In exchange for a general release and in recognition of her effort and work in
15 prosecuting the Action on behalf of Class Members, Defendant agrees not to oppose or impede any
16 application or motion for a Class Representative Enhancement Payment in the amount of up to
17 \$5,000.00. The Class Representative Enhancement Payment will be paid from the Class Settlement
18 Amount and will be in addition to Plaintiff's Individual Settlement Payment paid pursuant to the
19 Settlement, and is conditioned on the execution of a stand-alone settlement agreement and general
20 release of claims. Plaintiff will be solely and legally responsible to pay any and all applicable taxes
21 on the payment made pursuant to this Section and will indemnify and hold Defendant harmless from
22 any claim or liability for taxes, penalties, or interest arising as a result of the payment.

23 **V. Claims Administration Costs.**

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

27 2. The Parties hereby acknowledge that the Claims Administration Costs may increase
28 above the current estimate of \$20,000.00 and that any such additional Claims Administration Costs

that are approved by the Parties' counsel and the Court shall be taken out of the Class Settlement Amount.

VI. Labor and Workforce Development Agency Payment.

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

VII. Net Settlement Amount.

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

VIII. Individual Settlement Payment Calculations.

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

1(a) The Claims Administrator will calculate the total number of pay periods worked by each Class Member ("Individual Pay Periods") and the total number of pay periods worked by all Class Members ("Class Pay Periods") during the Class Period.

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

2. The Individual Settlement Payments made to Class Members under this Settlement, and any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including,

but not limited to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

IX. Claims Administration Process.

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

- a. Establish and maintain a Qualified Settlement Account.
- b. Calculate the Individual Settlement Payment each Class Member is eligible to receive.
- c. Translate the Notice Packet into Spanish by request of Class Members.
- d. Print and mail the Notice Packet.
- e. Establish and maintain a toll-free information telephone support line to assist Class Members who have questions regarding the Notice Packet.
- f. Conduct additional address searches for mailed Notice Packets that are returned as undeliverable.
- g. Process Requests for Exclusion, calculate Class Members' Individual Settlement Payment, field inquiries from Class Members, and administer any Requests for Exclusion. This service will include settlement proceed calculation, printing and issuance of Settlement Payment Checks, and preparation of IRS Form-1099 Tax Forms.
- h. Issuing to Plaintiff, Class Members, and Plaintiff's Counsel any IRS Form-1099, or other tax forms as may be required by law for all amounts paid pursuant to this Settlement.
- i. Provide declarations and/or other information to the Court as requested by the Parties and/or the Court.
- j. Provide weekly status reports to counsel for the Parties.

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

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

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

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

6. Class Members will have an opportunity to dispute the information provided in their Notice Packets. To the extent Class Members dispute the number of pay periods to which they have been credited or the amount of their Individual Settlement Payment, Class Members may produce evidence to the Claims Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a Class Member produces evidence to the contrary, the Claims Administrator will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of eligible pay periods that should be applied and/or the Individual Settlement Payment to which the Class Member may be entitled. The pay period dispute must be returned by mail or fax to the

1 Claims Administrator at the specified address or facsimile number and postmarked or faxed on or
2 before the Response Deadline. The date of the postmark or fax receipt confirmation will be the
3 exclusive means to determine whether a pay period dispute has been timely submitted. All such
4 disputes are to be resolved not later than fourteen (14) calendar days after the Response Deadline.

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

13 8. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
14 Settlement Agreement must sign and postmark or fax a written Request for Exclusion to the Claims
15 Administrator within the Response Deadline. The date of the postmark on the return mailing
16 envelope or the fax receipt confirmation will be the exclusive means to determine whether a Request
17 for Exclusion has been timely submitted. All Requests for Exclusion will be submitted to the
18 Claims Administrator, who will certify jointly to Class Counsel and Defendant's Counsel the
19 Requests for Exclusion that were timely submitted. Any Class Member who does not timely seek
20 exclusion will be bound by the terms of this Settlement Agreement. Any Class Members who
21 timely submits a valid Request for Exclusion will not receive payment from the Settlement, and will
22 not be bound by the terms of the Settlement Agreement or Judgment (with the exception of claims
23 arising under the PAGA). Eligible PAGA aggrieved employees will receive their share of the
24 employee portion of the LWDA Payment and will be deemed to have released any claims arising out
25 of PAGA, regardless of whether they submit a Request for Exclusion.

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

27 1. Condition Precedent – Non-Opt Out. This Agreement is expressly conditioned upon
28 Christopher Watson's agreement not to opt out of the Settlement Class as well as the dismissal of his

1 wage statement claims currently pending, including those under Labor Code § 226 and the
2 California Industrial Welfare Commission Wage Orders, and as alleged in the lawsuit entitled
3 Watson v. Magic Mountain, LLC in the Los Angeles Superior Court, Case No. 20STCV28184.
4 Watson will file the necessary pleadings to effectuate the aforementioned dismissal within five (5)
5 business days following final approval of the instant Settlement. If Watson does not comply with
6 the terms of this Section, such non-compliance can be grounds for Defendant's nullification of this
7 Settlement Agreement. It is the sole and exclusive responsibility of Anton and/or proposed Class
8 Counsel to ensure compliance.

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

17 3. Nullification of the Settlement Agreement. In the event: (i) the Court does not enter
18 the Preliminary Approval Order and approve the Released Claims specified herein; (ii) the Court
19 does not finally approve the Settlement as provided herein; (iii) Defendant exercises its option to
20 nullify the Settlement Agreement based on an excessive number of opt-outs, as described in the
21 above Section; or (iv) the Settlement does not become final for any other reason (*e.g.*, an objection
22 by the LWDA), this Settlement Agreement shall be null and void. Any order or judgment entered
23 by the Court in furtherance of this Settlement Agreement shall be treated as void from the beginning,
24 and the Stipulations and Recitals contained herein shall be of no force or effect, and shall not be
25 treated as an admission by the Parties or their counsel. In such a case, the Parties and any funds to
26 be awarded under this Settlement Agreement shall be returned to their respective statuses as of the
27 date and time immediately prior to the execution of this Settlement Agreement, and the Parties shall
28 proceed in all respects as if this Settlement Agreement had not been executed, except that any fees

1 already incurred by the Claims Administrator shall be paid equally by both Parties. Should the
2 Court not approve the requested Attorneys' Fees, Costs award(s), and/or Class Representative
3 Enhancement Payment, this Settlement Agreement shall remain valid and binding and any
4 difference between the requested Attorneys' Fees, Costs award(s), and/or Class Representative
5 Enhancement Payment shall be allocated to the Net Settlement Amount. A reduction of the
6 requested Attorneys' Fees, Costs award(s), and/or Class Representative Enhancement Payment shall
7 not be grounds to nullify the Settlement Agreement. Prior to nullifying the Settlement Agreement,
8 the Party seeking nullification shall notify the other Party in writing at least fifteen (15) business
9 days prior to nullifications. The Parties agree to use their best, good faith, efforts to maintain the
10 terms of the Settlement Agreement and agree to meet and confer prior to nullifying the Settlement
11 Agreement.

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

16 **XI. Certification Reports Regarding Individual Settlement Payment Calculations.**

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

24 2. Uncashed Settlement Checks. Any checks issued by the Claims Administrator to
25 Class Members will be negotiable for one-hundred eighty (180) calendar days. After one-hundred
26 eighty (180) calendar days from the date of mailing, the checks shall become null and void, and any
27 monies remaining in the distribution account shall be distributed to the Controller of the State of
28 California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et seq.,

1 for the benefit of those Settlement Class members who did not cash their checks until such time that
2 they claim their property. The Settling Parties agree that this disposition results in no “unpaid
3 residue” under California Civil Procedure Code § 384, as the entire Settlement Payment will be paid
4 out to Settlement Class members, whether or not they all cash their Settlement Checks. Therefore,
5 Defendant will not be required to pay any interest on said amount.

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

9 **XII. Tax Treatment of Individual Settlement Payments.**

10 All Individual Settlement Payments will be allocated as non-wages. The Individual
11 Settlement Payments will be reported on an IRS Form-1099 by the Claims Administrator. The
12 Claims Administrator will issue a check and IRS Form-1099 for the Individual Settlement Payment.
13 Because there are no wage claims asserted, no withholdings shall be made on the Individual
14 Settlement Payments. The Claims Administrator shall determine the eligibility for, and the amounts
15 of, any Individual Settlement Payments under the terms of this Settlement Agreement. Any disputes
16 not resolved by the Claims Administrator concerning the administration of the Settlement will be
17 resolved by the Court, under the laws of the State of California. Prior to any such involvement of
18 the Court, counsel for the Parties will confer in good faith to resolve the dispute without the
19 necessity of involving the Court.

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

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

26 2. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT
27 (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH
28 PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING

PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS SETTLEMENT AGREEMENT.

XIV. Release by Class Members.

1. No Prior Assignments. The Parties and their counsel 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 right herein released and discharged.

2. It is the desire of Plaintiff, Class Members (except those who exclude themselves from the Settlement), and Defendant to fully, finally, and forever settle, compromise, and discharge

1 the Released Claims. Upon the Final Approval by the Court of this Settlement Agreement, and
2 except as to such rights or claims as may be created by this Settlement Agreement, the Class
3 Members shall fully release and discharge the Released Parties from any and all Released Claims for
4 the entire Class Period. This release shall be binding on all Class Members who have not timely
5 submitted a valid and complete Request for Exclusion, including each of their respective attorneys,
6 agents, spouses, executors, representatives, guardians ad litem, heirs, successors, and assigns, and
7 shall inure to the benefit of the Released Parties, who shall have no further or other liability or
8 obligation to any Class Member with respect to the Released Claims, except as expressly provided
9 herein.

10 **XV. Preliminary Approval Hearing.**

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

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

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

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

26 1. Upon expiration of the Response Deadline, and with the Court's permission, a Final
27 Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of the
28 Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement

1 Payments; (b) the LWDA Payment; (c) the Attorneys' Fees and Costs; (d) the Class Representative
2 Enhancement Payment; and (e) all Claims Administration Costs.

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

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

19 **XVII. Judgment and Continued Jurisdiction.**

20 1. The Court shall retain jurisdiction with respect to the interpretation, implementation,
21 and enforcement of the terms of this Settlement Agreement and all orders and judgments entered in
22 connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court
23 for purposes of interpreting, implementing, and enforcing the Settlement embodied in this
24 Settlement Agreement and all orders and judgments entered in connection therewith.

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

27 **XVIII. Other Provisions.**

28 1. Exhibits Incorporated by Reference. The terms of this Settlement include the terms

1 set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
2 herein. Any Exhibits to this Settlement are an integral part of the Settlement.

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

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

10 4. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
11 and represent they are expressly authorized by the Parties whom they represent to negotiate this
12 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
13 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
14 documents required to effectuate the terms of this Settlement Agreement. The Parties and their
15 counsel will cooperate with each other and use their best efforts to effect the implementation of the
16 Settlement. If the Parties are unable to reach agreement on the form or content of any document
17 needed to implement the Settlement, or on any supplemental provisions that may become necessary
18 to effectuate the terms of this Settlement, the Parties may seek the assistance of Jeffrey Krivis, Esq.
19 (mediator) to resolve such disagreement.

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

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

25 7. Execution and Counterparts. This Settlement Agreement is subject only to the
26 execution of all Parties. However, the Settlement Agreement may be executed in one or more
27 counterparts. All executed counterparts and each of them, including facsimile and scanned copies of
28 the signature page, will be deemed to be one and the same instrument.

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

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

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

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

22 12. Non-Admission of Liability. The Parties enter into this Settlement Agreement to
23 resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of
24 continued litigation. In entering into this Settlement Agreement, Defendant does not admit, and
25 specifically deny, they have violated any federal, state, or local law; violated any regulations or
26 guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal
27 requirements; breached any contract; violated or breached any duty; engaged in any
28 misrepresentation or deception; or engaged in any other unlawful conduct with respect to their

employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

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

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

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

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

17. Representation by Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement

1 Agreement and that this Settlement Agreement has been executed with the consent and advice of
2 counsel and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that there
3 are no liens on the Settlement Agreement.

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

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

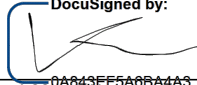
9 20. Confidentiality. Neither Plaintiff nor Plaintiff's Counsel shall issue any press release
10 or announcement of any kind related in any way to the Settlement. Plaintiff and Plaintiff's Counsel
11 agree that, prior to Preliminary Approval of the Settlement, they will keep the terms of this
12 Settlement confidential except for purposes of communicating with Plaintiff only. Plaintiff shall be
13 informed that the Settlement is confidential and shall be advised to keep the Settlement confidential.
14 From and after Preliminary Approval of the Settlement, the Class Members (including Plaintiff and
15 Class Counsel) may: (1) as required by law; (2) as required under the terms of the Settlement; or (3)
16 as required under counsel's duties and responsibilities as Class Counsel, comment regarding the
17 specific terms of the Settlement. In all other cases, Plaintiff and Class Counsel agree to limit their
18 statements regarding the terms of the Settlement, whether oral, written or electronic (including the
19 world wide web), to say the Class Action has been resolved and that Plaintiff and Class Counsel are
20 satisfied with the Settlement terms. Nothing in this Section is intended to interfere with Class
21 Counsel's duties and obligations to faithfully discharge their duties as Class Counsel, including but
22 not limited to, communicating with Class Members regarding the Settlement. This Settlement shall
23 not be advertised or mentioned on any source, including Plaintiff's Counsels' personal or firm
24 website(s).

25 21. Binding Agreement. The Parties warrant that they understand and have full authority
26 to enter into this Settlement, intend that this Settlement Agreement will be fully enforceable and
27 binding on all Parties, and agree that it will be admissible and subject to disclosure in any
28 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.

The Settlement Agreement consists of 29 pages.

Dated: 3/22/2022

DocuSigned by:

Plaintiff Kelley Anton

MAGIC MOUNTAIN, LLC

Dated:

Allison Reddoch, Corporate Counsel

APPROVED AS TO FORM

BRADLEY/GROMBACHER, LLP

Dated: 3/22/2022


Kiley Grombacher
Attorneys for Plaintiff Kelley Anton

Dated:

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

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

1 otherwise might apply under federal or state law. Plaintiff, and not her respective representative(s),
2 must personally execute this Settlement Agreement.

3
4 *The Settlement Agreement consists of 29 pages.*

5 Dated: _____

6 Plaintiff Kelley Anton

7 **MAGIC MOUNTAIN, LLC**

8
9 Dated: 3/23/22

10 By: Amanda Goedike
11 Its: Director of Administration

12 **APPROVED AS TO FORM**

BRADLEY/GROMBACHER, LLP

13 Dated: _____

14 Kiley Grombacher
15 Attorneys for Plaintiff Kelley Anton

16
17 Dated: 3/23/22

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

19 By: [Signature]
20 Jason W. Kearnaghan
21 Attorneys for Defendant Magic Mountain,
22 LLC
23
24
25
26
27
28

EXHIBIT 1

NOTICE OF CLASS ACTION SETTLEMENT

To: All current and former hourly-paid employees of Defendant who worked in California at any time from February 14, 2016 through the date of Preliminary Approval (the “Settlement Class”).

*A court authorized this Class Notice. It is not a solicitation from a lawyer.
This is not a lawsuit against you and you are not being sued. However, your legal rights will be
affected by the Settlement described in this Class Notice.*

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT AND LAWSUIT	
DO NOTHING TO RECEIVE A PAYMENT	The estimated amount of your Individual Settlement Payment is shown in Section I. If you wish to receive it, no further action is required.
CHANGE CONTACT INFORMATION	If you need to change your contact information, provide the Settlement Administrator with your updated contact information to ensure your Individual Settlement Payment is mailed to the correct mailing address.
EXCLUDE YOURSELF	You can exclude yourself from the Settlement (except for the PAGA claim). If you request to be excluded, you will maintain the right to file your own lawsuit for the same claims (except the PAGA claim) and you will not receive any payment for that portion of the Individual Settlement Payment. If you worked for Magic Mountain, LLC during the PAGA Period (defined below), you cannot exclude yourself from the PAGA portion of the Settlement. You will still receive an Individual Settlement Payment for your pro rata share of the PAGA Amount (defined below) and you do not have the right to file your own lawsuit for the same PAGA claim.
OBJECT	If you think the Settlement is not fair, you can mail a written objection to the Settlement Administrator and it will be considered by the Court. You may also ask to speak in Court about why you think the Settlement is not fair at the time of the hearing on final approval. If the Settlement is approved, you will be bound by the terms of the Settlement and the Class Released Claims described in this Class Notice.

I. YOUR ESTIMATED INDIVIDUAL SETTLEMENT PAYMENT

According to Magic Mountain, LLC's ("Magic Mountain") records, your total number of Individual Pay Periods you worked as a hourly paid employee for Magic Mountain in California during the period from February 14, 2016 through [earlier of date of preliminary approval] is [insert number] (the "Settlement Class Period").

Based on this information, your Individual Settlement Payment is estimated to be \$ [redacted].

The number of Individual Pay Periods shown above was determined based upon Magic Mountain's records. If you believe the number of Individual Pay Periods is incorrect, you may send a letter to the Settlement Administrator stating what you believe the correct number of Individual Pay Periods are, together with any information or documentation that supports your belief.

To be considered, you must submit your dispute and supporting evidence, if any, to the Settlement Administrator at the address shown in Section V below of this Class Notice, postmarked on or before _____, 2022 [60 days after initial mailing]. The Settlement Administrator will resolve any dispute based on Magic Mountain's records and any information you provide.

Before any payments can be made pursuant to the terms of the Settlement discussed in this Class Notice, the Court must first decide whether to finally approve it. The Court will consider the fairness of the Settlement at a final approval hearing, which has been set for _____, 2022, in Department 10, Superior Court of California, County of Los Angeles located at 312 North Spring Street, Los Angeles, CA 90012. The date and time of the hearing may change without notice.

II. BACKGROUND INFORMATION

1. What is this Lawsuit about?

Plaintiff Kelley Anton sued Magic Mountain on behalf of herself and the Settlement Class. Her Lawsuit alleges that Magic Mountain issued inaccurate wage statements, failed to keep proper records and/or failed to comply with requirements for personnel files. She also sought penalties under the California Labor Code including the Private Attorneys General Act ("PAGA").

2. What is a class action and why is this case a class action?

In a class action, one or more people, called class representatives, sue on behalf of a group of people who they allege have similar claims. The group is called a "class." One court resolves the issues for everyone in the class, except for those people who exclude themselves from the class. In this case, Ms. Anton has been preliminarily appointed as the Class Representative. She alleges her claims involve legal and factual questions common to the group of hourly paid employees who worked for Magic Mountain in California during the period from February 14, 2016, through [date of preliminary approval].

3. Has the Court decided who is right?

Magic Mountain denies the allegations in the Lawsuit. The Court has not entered judgment or decided Magic Mountain engaged in any of the wrongdoing alleged in the Lawsuit. By preliminarily approving the Settlement and authorizing this Class Notice, the Court is not suggesting either side would win or lose if this case went to trial. Instead of a trial, the Parties agreed to the Settlement described in this Class Notice. That way, they avoid the cost, risk and uncertainty of trial, and the affected current and former non-exempt employees receive compensation. Ms. Anton and Class Counsel believe the Settlement is fair, reasonable and adequate and in the best interests of all members of the Settlement Class.

4. How do I participate in the Settlement as a Settlement Class Member?

If you want to receive your share of the Settlement monies paid under the Settlement, you do not need to do anything except keep the Settlement Administrator informed of any changes to your mailing address to which the Individual Settlement Payment will be mailed. The amount estimated for you is shown in Section I above.

5. How do I ask to be excluded?

If you exclude yourself, referred to as “opting out,” you will not receive a share in the class portion of the money paid under the Settlement, but you keep your right to sue the Released Parties on your own. Note that, if you worked for Magic Mountain during the PAGA Period, you cannot “opt out” of that portion of the Settlement and you will still receive a share of the PAGA Amount even if you ask to be excluded from the Settlement.

If you wish to be excluded from the Settlement, you must sign and return the enclosed Request for Exclusion postmarked on or before _____, 2022. *[forty-five (45) calendar days from the initial mailing]*. The Request for Exclusion must include your name, the last four digits of your social security number, address and your dated signature. If your Request for Exclusion is not properly filled out or is untimely, you will remain a member of the Settlement Class, will be bound by the terms of the Settlement, and will be issued the Individual Settlement Payment referenced in Section I above.

If you return a valid and timely Request for Exclusion, the amounts you would have otherwise received will be distributed on a pro-rata basis to the participating members of the Settlement Class. No portion of the Maximum Settlement Amount will be returned to Magic Mountain.

6. May I object to the Settlement?

If you do not think the Settlement is fair, you can object to the Settlement and tell the Court you do not agree with the Settlement or some part of it. The Court will consider your views when deciding whether to grant final approval of the Settlement. This is the process to tell the Court if you think the Settlement as a whole is unfair. If you only believe your Individual Settlement Payment was miscalculated, please use the process shown in Section I of this Notice.

To object to the Settlement, you must submit a written objection to the Settlement Administrator at the address shown in Section V, by _____, 2022 [*forty-five (45) calendar days from the initial mailing*] and/or appear at the hearing on final approval of the Settlement, set for _____, at _____ in Department 10, Superior Court of California, County of Los Angeles located at 312 North Spring Street, Los Angeles, CA 90012, to state your objection. The date and time of the hearing may change without notice.

If you choose to object, you will still receive an Individual Settlement Payment if the Court grants final approval of the Settlement. If the Court overrules your objection, you will continue to be a Settlement Class Member, subject to the terms of the Settlement, and you will be mailed your Individual Settlement Payment.

7. What happens if I do nothing at all?

By doing nothing, should the Court grant final approval of the proposed Settlement, your Individual Settlement Payment will be mailed to you by the Settlement Administrator, and you will be bound by the terms of the Settlement.

III. SUMMARY OF SETTLEMENT TERMS

8. Maximum Settlement Amount.

Magic Mountain will pay a Maximum Settlement Amount of \$420,000 to fully resolve the claims in the Lawsuit, which will be subject to the following Court-approved deductions:

- a) Administration Costs:** The Court has tentatively approved a payment of up to \$20,000.00 to the appointed Settlement Administrator, Phoenix Settlement Administrators, for the Administration Costs it incurs in administering the Settlement.
- b) Attorneys' Fees and Costs Payment:** The Court has preliminarily appointed Bradley/Grombacher, LLP as attorneys to represent Ms. Anton and the Settlement Class, ("Class Counsel") in this Lawsuit. Class Counsel will ask the Court to approve an Attorneys' Fees and Costs Payment in the amount of \$140,000.00, plus out-of-pocket litigation costs not to exceed \$15,000.00. Class Counsel has been prosecuting the Lawsuit on behalf of the Settlement Class on a contingency fee basis (that is, without being paid to date) while advancing litigation costs and expenses.
- c) Class Representative Enhancement Payment:** Class Counsel will also ask the Court to approve a Class Representative Enhancement Payment in the amount of \$5,000.00 to Plaintiff Kelley Anton to compensate her for acting as the sole representative of the Settlement Class, initiating the Lawsuit, his work, and risks undertaken for payment of Magic Mountain's costs of suit in the event this case had been lost.

d) PAGA Payment: A payment of \$40,000 will be attributed to civil penalties under PAGA, which will be apportioned pursuant to PAGA as follows: \$30,000 (75%) to be paid to the California's Labor and Workforce Development Agency and \$10,000 (25%) (the "PAGA Amount") to be distributed to all Settlement Class Members who worked at least one day during the PAGA Period, regardless of whether they submit a valid Request for Exclusion.

9. Allocation to Settlement Class Members.

After the Court-approved deductions described above, the remainder of the Maximum Settlement Amount, estimated to be \$210,000.00 will be distributed to all participating Settlement Class Members based on the number of Individual Pay Periods he or she worked during the Settlement Class Period in relation to the aggregate number of pay periods worked by all Settlement Class Members.

Unless you submit a timely and valid Request for Exclusion, this Individual Settlement Check will be mailed to you approximately two months following the Court's final approval of the Settlement.

For tax purposes, the Individual Settlement Payments will be allocated 100% to penalties and interest for which IRS 1099 Forms shall be issued. Settlement Class Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

IV. RELEASED CLAIMS

If approved by the Court, the Settlement will bar any Settlement Class Member who does not submit a valid Request for Exclusion from bringing certain claims against the Released Parties. "Released Parties" means Magic Mountain and each of their past, present and future agents, employees, servants, officers, directors, members, owners (whether direct or indirect), general partners, limited partners, trustees, representatives, shareholders, stockholders, mortgagees or ground lessors, attorneys, parents, subsidiaries, equity sponsors, related and/or affiliated companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, alleged joint employers, temporary staffing agencies, contractors, affiliates, service providers, alter-egos, dual employers, alleged dual employers, co-employers, alleged co-employers, alleged alter-egos, vendors, affiliated organizations, and any person and/or entity alleged to have joint liability, and all of their respective past, present and future employees, directors, officers, members, owners, agents, representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns and any and all entities and/or persons acting under, by, through or in concert with any of them ("Released Parties".)

The Settlement will fully release and discharge the Released Parties from any and all claims, rights, demands, liabilities and causes of action of any nature or description asserted in the Action, arising from or related to the facts and claims alleged in the Action, as

amended, or that could have been alleged in the Action based on the facts and claims alleged in the operative Second Amended Complaint and/or letters sent to the California Labor and Workforce Development Agency dated February 13, 2020 and July 24, 2020 (“LWDA Letters”), as amended.

The Released Claims include all claims for failure to provide accurate, itemized wage statements; failure to provide right to inspect or copy personnel files; failure to keep accurate records; for civil and statutory penalties, including wage statement penalties, record keeping penalties, and penalties for personnel file violations; and attorneys’ fees and costs. The Released Claims also include all such claims arising under: California Labor Code sections 226, 226.3, 1174, 1174.5, 1198, 1198.5. The Release shall also include California Labor Code Sections 2698 et seq., and 2699 et seq. to the extent that such penalties are predicated upon alleged violations of asserted in the Action, to include Labor Code Sections 226, 226.3, 1174, 1174.5, 1198, 1198.5; all claims relating to the Released Claims under the California Business and Professions Code section 17200, et seq. asserted in the Action, to include claims for failure to provide accurate, itemized wage statements; failure to provide right to inspect or copy personnel files; failure to keep accurate records; for civil and statutory penalties, including wage statement penalties, record keeping penalties, and penalties for personnel file violation; the Release shall also include all claims relating to the Released Claims under the Wage Orders of the California Industrial Welfare Commission (including IWC Wage Order No. 10-2001 and 8 CCR § 11100) for failure to provide accurate, itemized wage statements; failure to provide right to inspect or copy personnel files; failure to keep accurate records; for civil and statutory penalties, including wage statement penalties, record keeping penalties, and penalties for personnel file violation. As noted above, the Released Claims shall include those for penalties pursuant to the California Private Attorneys General Act of 2004 (PAGA) for Labor Code violations, to include Sections 226, 226.3, 1174, 1174.5, 1198 1198.5, for which Plaintiff has provided the requisite notice to the LWDA; claims under the Fair Labor and Standards Act (“FLSA”), including those related to recordkeeping obligations, 29 U.S.C. §211(c); 29 C.F.R. §§ 516, et seq.; and all state and federal law equivalents arising from or related to the facts and claims alleged in the Action and/or LWDA letters or that could have been alleged in the Action and/or LWDA letters; California Civil Code sections 3287, 3288; and California Code of Civil Procedure § 1021.5. This release excludes the release of claims not permitted by law.

Class Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those Class Members, the Released Claims include any and all claims the Class Members may have under the FLSA arising under or related to the alleged claims during the Class Period. Upon entry of Judgment, Class Members are precluded from filing a wage and hour action under the Fair Labor Standards Act against the Released Parties for claims and/or causes of action encompassed by the Released Claims which are extinguished and precluded pursuant to the holding in *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (2018). This release excludes the release of claims not permitted by law.

Participating Settlement Class Members, in exchange for their Individual Settlement Payments, give up their right to sue or otherwise make a claim against any of the Released Parties for the Class Released Claims. All Settlement Class Members, regardless of their participation, give up their right to sue or otherwise make a claim against any of the Released Parties for the PAGA claim.

V. ADDITIONAL INFORMATION

This Class Notice is only a summary of the Lawsuit and the Settlement. Any questions about this Class Notice, your estimated Individual Settlement Payment, objections or Requests for Exclusion may be made to the Settlement Administrator at the address shown immediately below. The Settlement Administrator's toll-free number is also provided. You may also contact Class Counsel at the addresses and telephone numbers shown below.

<u>Settlement Administrator</u>	<u>Class Counsel</u>
Anton v. Magic Mountain LLC Class Action Settlement Administrator c/o Phoenix Settlement Administrators (800) xxx-xxxx	Bradley/Grombacher, LLP Kiley Grombacher 31365 Oak Crest Drive, Suite 240 Westlake Village, CA 91361 (855) 665-0725

Checks not cashed or deposited after 180 days will be voided and the sent 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.

For more information, you may view documents relevant to this Lawsuit and settlement by accessing the Court's records in person or online, in the manner set forth below. The Court's records include the Second Amended Complaint, the Motion for Preliminary Approval of Class Action Settlement, the Order Granting the Motion for Preliminary Approval, supplemental papers filed in support of preliminary approval, and the Court's Order Granting Preliminary Approval of Class Action Settlement.

You may inspect the Court's files about the Lawsuit at the Office of the Clerk of the Court, Superior Court of California for the County of Los Angeles. Please note that, due to the ongoing COVID-19 pandemic, public access to the court may be limited.

You may also access the Court's electronic case file using the following steps:

1. Go to <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>
2. When prompted, enter case number 20STCV05708 and click "Submit".
3. Once on the case page, you can access documents, upcoming hearings, and other information.

**PLEASE DO NOT CONTACT THE COURT, MAGIC MOUNTAIN AND/OR
MAGIC MOUNTAIN's ATTORNEYS OR ANY OF THE RELEASED PARTIES
WITH INQUIRIES.**