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TORRID LLC

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN DIEGO

11 ROSALINDA MARCHBANKS-POWELL, an
individual on behalf of herself and all others
12 similarly situated,

13 Plaintiff,

14 vs.

15 TORRID ADMINISTRATION, INC., a
California corporation; TORRID
16 MERCHANDISING, INC., a California
corporation; TORRID PARENT, INC., a
17 Delaware corporation; TORRID LLC, a
California limited liability company; HOT
18 TOPIC ADMINISTRATION, INC., a
California corporation; HOT TOPIC
19 MERCHANDISING, INC., a California
corporation; HOT TOPIC TENNESSEE, INC.,
20 a California corporation; HOT TOPIC, INC., a
California corporation; and DOES 1 through 50,
21 inclusive,

22 Defendants.

Case No. 37-2020-00008179-CU-OE-NC

ASSIGNED FOR ALL PURPOSES TO
HON. TIMOTHY M. CASSERLY, DEPT. N-31

**CLASS AND PAGA ACTION
SETTLEMENT AGREEMENT AND
STIPULATION**

Date Action Filed: February 11, 2020
Trial Date: None Set

23
24 This Class and PAGA Action Settlement Agreement and Stipulation (the “Agreement” or
25 “Settlement”) is entered into by and between Plaintiff Rosalinda Marchbanks-Powell, on the one
26 hand, and Defendant Torrid LLC, on the other hand, in full settlement of the action styled
27 *Marchbanks-Powell v. Torrid Administration, Inc. et al.*, San Diego Superior Court, Case No. 37-
28 2020-00008179-CU-OE-NC.

DEFINITIONS

1. Action. Action means the lawsuit entitled *Marchbanks-Powell v. Torrid Administration, Inc. et al.*, San Diego Superior Court, Case No. 37-2020-00008179-CU-OE-NC.

2. Aggrieved Employees. Aggrieved Employees means Class Members who worked from March 23, 2019 through December 31, 2020.

3. Class Counsel. Class Counsel means David Yeremian & Associates, Inc. and Davtyan Law Firm, Inc.

4. Class or Class Members. Class or Class Members means anyone who was employed as a non-exempt employee by Torrid LLC at any of its retail store locations in the State of California at any time during the Class Period.

5. Class Notice. Class Notice means the Notice of Class Action Settlement attached as **Exhibit A** to this Agreement, or a substantially similar notice approved by the Court.

6. Class Period. Class Period means the period beginning on February 11, 2016 and extending through December 31, 2020.

7. Class Settlement Payment. Class Settlement Payment means the individual settlement payment paid to a Participating Class Member based on the Participating Class Member's *pro rata* share of the Net Settlement Amount.

8. Defendant. Defendant means Torrid LLC.

9. Effective Date. Effective Date of this Agreement means the date when all of the conditions set forth in Section 56 have occurred.

10. Final Hearing Date. Final Hearing Date means the date set by the Court for the hearing on final approval of the class action settlement embodied in this Agreement.

11. Final Order. Final Order means the proposed order granting final approval of the Parties' settlement, in a form substantially similar to the Final Order attached as **Exhibit B** to this Agreement.

12. Final Judgment. Final Judgment means the proposed judgment in a form substantially similar to the Final Judgment attached as **Exhibit C** to this Agreement.

13. Gross Settlement Amount. Gross Settlement Amount means the total settlement

1 payment Defendant agreed to make under this Agreement.

2 14. LWDA Payment. LWDA Payment means the amount of \$37,500.00, which the
3 Parties have agreed to pay the California Labor & Workforce Development Agency (“LWDA”) out
4 of the Gross Settlement Amount in connection with settlement of the PAGA Claim.

5 15. Named Plaintiff. Named Plaintiff means Rosalinda Marchbanks-Powell.

6 16. Net Settlement Amount. Net Settlement Amount means the settlement amount to be
7 distributed to Participating Class Members after payment of Class Counsel’s attorneys’ fees and
8 costs, any enhancement payment to Named Plaintiff, the PAGA Amount, and settlement
9 administration costs.

10 17. Notice Period. Notice Period means the time period commencing on the date the
11 Class Notice is mailed to Class Members and ending 60 days thereafter.

12 18. PAGA Aggrieved Employee Payment. PAGA Aggrieved Employee Payment means
13 the amount of \$12,500.00, which the Parties have agreed to pay the Aggrieved Employees out of
14 the Gross Settlement Amount in connection with the settlement of the PAGA Claim.

15 19. PAGA Amount. PAGA Amount means the payment of \$50,000.00 to resolve the
16 claim for civil penalties under PAGA. The PAGA Amount is paid from the Gross Settlement
17 Amount and is comprised of the LWDA Payment and PAGA Aggrieved Employee Payment.

18 20. PAGA Claim. PAGA Claim means the claim for civil penalties under the California
19 Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code sections 2698 *et seq.*, “PAGA”)
20 alleged in the Action.

21 21. PAGA Period. PAGA Period means the period beginning on March 23, 2019 and
22 extending through December 31, 2020.

23 22. PAGA Settlement Payment. PAGA Settlement Payment means the individual
24 settlement payment paid to an Aggrieved Employee based on the Aggrieved Employee’s *pro rata*
25 share of the PAGA Aggrieved Employee Payment.

26 23. Parties. Parties means the Named Plaintiff, individually and on behalf of all Class
27 Members, and Defendant.

28 24. Participating Class Member. Participating Class Member means each Class Member

1 who has not timely opted out of this Settlement pursuant to Section 48.

2 25. Preliminary Approval Order. Preliminary Approval Order means an order from the
3 Court preliminarily approving this Settlement. A copy of a proposed Preliminary Approval Order
4 is attached as **Exhibit D** to this Agreement.

5 26. Released Parties. Released Parties means and includes Torrid LLC and its past,
6 present, and future predecessors, successors, assigns, shareholders, members, owners, officers,
7 directors, employees, managers, partners, agents, staffing companies, attorneys, representatives,
8 insurers, and administrators.

9 27. Settled Claims or Released Claims. Settled Claims or Released Claims means any
10 and all claims, known or unknown, contingent or accrued, against Defendant and the Released
11 Parties that have been, or could have been, asserted against Defendant and the Released Parties in
12 the Action based on the facts alleged in the Action that arose during the Class Period. Without
13 limiting the foregoing, and in addition to the foregoing, the Settled Claims include claims for: failure
14 to pay minimum wages including, but not limited to pre and post shift work; failure to pay wages
15 and overtime; failure to provide meal periods or premium payments; failure to provide rest breaks
16 or premium payments; failure to provide accurate, itemized wage statements; failure to timely pay
17 wages during employment or at the time of termination; failure to maintain payroll records; failure
18 to reimburse necessary business expenses; failure to provide paid sick leave; failure to provide
19 suitable seating; alleged violations of Labor Code §§ 201-204, 210, 218.6, 226, 226.3, 226.7, 246,
20 247.5, 248.5, 510, 512, 558, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199,
21 and 2802, the applicable California Wage Orders and California Business and Professions Code
22 Section 17200 *et seq.*; and relief under California Labor Code Section 2698 *et seq.*

23 28. Settlement Administrator. Settlement Administrator shall mean CPT Group, Inc., a
24 neutral third-party administrator chosen by the Parties, subject to approval by the Court.

25 29. Settlement Hearing. Settlement Hearing means the hearing on the Final Hearing
26 Date at which the Court will determine whether to fully and finally approve the fairness and
27 reasonableness of this Agreement.

RECITALS

30. On February 11, 2020, plaintiff Rosalinda Marchbanks-Powell filed a class action complaint against Torrid Administration, Inc.; Torrid Merchandising, Inc.; Torrid Parent, Inc.; Torrid LLC; Hot Topic Administration, Inc.; Hot Topic Merchandising, Inc.; Hot Topic Tennessee, Inc.; and Hot Topic, Inc. in San Diego County Superior Court, Case No. 37-2020-00008179-CU-OE-NC, alleging the following claims: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime Under Labor Code § 510; (3) Meal Period Liability Under Labor Code § 226.7; (4) Rest-Break Liability Under Labor Code § 226.7; (5) Violation of Labor Code § 226(a); (6) Violation of Labor Code § 203; (7) Violation of Labor Code § 204; (8) Failure to Keep Required Payroll Records under Labor Code §§ 1174 and 1174.5; (9) Failure to Reimburse Necessary Business Expenses § 2802; (10) Violation of Labor Code § 246; (11) Violation of Business & Professions Code § 17200 *et seq.*

31. On February 10, 2020, Marchbanks-Powell submitted a PAGA Notice to the LWDA. On May 26, 2020, Marchbanks-Powell filed a First Amended Complaint adding a PAGA claim.

32. On July 9, 2020, Marchbanks-Powell filed a Request for Dismissal as to Defendants Torrid Administration, Inc., Torrid Merchandising, Inc., Torrid Parent, Inc., Hot Topic Administration, Inc., Hot Topic Merchandising, Inc., Hot Topic Tennessee, Inc., and Hot Topic, Inc. On July 15, 2020, the Court dismissed, without prejudice, Defendants Torrid Administration, Inc., Torrid Merchandising, Inc., Torrid Parent, Inc., Hot Topic Administration, Inc., Hot Topic Merchandising, Inc., Hot Topic Tennessee, Inc., and Hot Topic, Inc. for the reasons set forth in Marchbanks-Powell's Request for Dismissal.

33. On August 20, 2020, Defendant filed an Answer to the First Amended Complaint denying all allegations.

34. On October 8, 2020, Marchbanks-Powell submitted an Amended PAGA Notice to the LWDA. On October 28, 2020, Marchbanks-Powell filed a Second Amended Complaint adding a claim for failure to provide suitable seating.

35. Defendant denies that it engaged in any misconduct in connection with the wage-and-hour practices associated with the Class Members. Defendant further denies that it has any

1 liability or engaged in wrongdoing of any kind associated with the claims alleged in the Action.
2 Defendant contends that it has complied with both federal and state wage-and-hour laws, and all
3 other laws regulating its relationship with the Class Members, including the Named Plaintiff.

4 36. During a mediation with mediator Hon. Carl J. West (Ret.), the Parties agreed to a
5 settlement of the Action, subject to Court approval. The Parties further agreed to enter into this
6 Agreement to memorialize their settlement of the Action.

7 37. Class Counsel has investigated the facts relating to the Action. Class Counsel are of
8 the opinion that the settlement documented by this Agreement is fair, reasonable, and adequate, and
9 in the best interest of the Class in light of all known facts and circumstances. While Defendant
10 specifically denies any liability in the Action, Defendant has agreed to enter into this Settlement to
11 avoid the costs associated with defending the Action.

12 **TERMS AND CONDITIONS**

13 NOW, THEREFORE, in consideration of the recitals listed above and the promises and
14 warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of
15 the consideration and undertakings set forth below, Named Plaintiff, individually and on behalf of
16 the Class Members, and Defendant agree that the Action shall be and are finally and fully
17 compromised and settled on the following terms and conditions:

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

1 establish any liability or admission on the part of Defendant or to establish the existence of any
2 condition constituting a violation of, or a non-compliance with, federal, state, local or other
3 applicable law.

4 39. Conditional Nature Of Class Settlement. For settlement purposes *only*, the Parties
5 agree that (a) a class may be certified in the Action pursuant to California Code of Civil Procedure
6 Section 382, and (b) the Action may proceed as PAGA representative action.

7 (a) The Parties intend their Settlement to be contingent upon the preliminary and
8 final approval of each and every term of this Agreement, without material modification. If the Court
9 does not so approve this Agreement, the Parties intend this Agreement to become null and void, and
10 unenforceable, in which event the Settlement terms set forth in this Agreement, including any
11 modifications made with the consent of the Parties, and any action taken or to be taken in connection
12 with this Agreement shall be terminated and shall become null and void and have no further force
13 or effect, and the class certified pursuant to this Agreement will be decertified for all purposes.

14 (b) In the event that the Court does not grant preliminary or final approval of the
15 Parties' Settlement, or in the event that this Agreement shall terminate or the Settlement embodied
16 in this Agreement does not become effective for any reason, the Agreement and all negotiations,
17 court orders and proceedings relating the Agreement shall be without prejudice to the rights of the
18 Named Plaintiff, Class Members and Defendant, each of whom shall be restored to their respective
19 positions existing prior to the execution of this Agreement, and evidence relating to the Agreement
20 and all negotiations shall not be discoverable or admissible in the Action or any other litigation.
21 Defendant does not waive, and instead expressly reserves, its right to challenge the propriety of class
22 certification for any purpose should the Court not grant preliminary or final approval of the Parties'
23 Settlement.

24 (c) If the Court grants the Preliminary Approval Order, but does not grant final
25 approval of the Settlement, then the Preliminary Approval Order will be vacated in its entirety. In
26 addition, if the Court does not grant final approval of the Settlement, neither this Agreement, the
27 Preliminary Approval Order, nor any other document in any way relating to the foregoing, shall be
28 relied upon, referred to, or used in any way for class certification proceedings or representative

1 action proceedings in the Action or any other action. Defendant does not waive, and instead
2 expressly reserves, its right to challenge the propriety of class certification for any purpose should
3 the Court not grant final approval of the Settlement.

4 40. Participating Class Member Release Of Claims. As of the occurrence of the
5 Effective Date, the Named Plaintiff and all Participating Class Members do and shall be deemed to
6 have fully, finally, and forever released, settled, compromised, relinquished and discharged any and
7 all of the Released Parties of and from any and all Settled Claims.

8 (a) This release by the Named Plaintiff and each Participating Class Member is
9 intended to settle any and all of the Settled Claims, whether known or unknown, that any of them
10 may have against the Released Parties during the Class Period.

11 (b) As of the occurrence of the Effective Date, the Named Plaintiff and the
12 Participating Class Members shall be permanently enjoined and forever barred from prosecuting
13 any and all Settled Claims released pursuant to this Section 40 against the Released Parties. Thus,
14 subject to and in accordance with this Agreement, even if the Named Plaintiff or any Participating
15 Class Member may hereafter discover facts in addition to or different from those they now know or
16 believe to be true with respect to the subject matter of the Released Claims, they shall be deemed to
17 have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and
18 released any and all Settled Claims, whether known or unknown, suspected or unsuspected,
19 contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore
20 have existed upon any theory of law or equity now existing or coming into existence in the future,
21 including, but not limited to, conduct that is negligent, intentional, with or without malice, or a
22 breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such
23 different or additional facts.

24 (c) The Parties agree for settlement purposes only that, because the Class
25 Members are so numerous, it is impossible or impracticable to have each Class Member execute
26 this Agreement. Accordingly, the Class Notice will advise all Class Members of the binding nature
27 of the release and such notice will have the same force and effect as if the Agreement were executed
28 by each Class Member.

1 (d) The Named Plaintiff and Class Counsel represent, covenant, and warrant that
2 they have not directly or indirectly assigned, transferred, encumbered or purported to assign,
3 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
4 cause of action, or rights released and discharged by this Agreement, except as set forth in this
5 Agreement.

6 41. Aggrieved Employees Release of PAGA Claim: In exchange for the PAGA Amount
7 recited in this Agreement, Named Plaintiff, as the representative for the State of California and all
8 Aggrieved Employees, and on behalf of their current, former, and future heirs, executors,
9 administrators, attorneys, agents, and assigns will forever completely release and discharge the
10 Released Parties from the PAGA Claim. The Aggrieved Employees and the State of California are
11 deemed by operation of the Final Order and Final Judgment to have agreed not to sue or otherwise
12 make a claim against any of the Released Parties for the PAGA Claim.

13 42. Full Release By Named Plaintiff. As of the occurrence of the Effective Date, the
14 Named Plaintiff fully releases and discharges Defendant and the other Released Parties from the
15 Released Claims and any other claims that the Named Plaintiff ever had against the Released Parties
16 through the date of execution of the Agreement. Without limiting the generality of the foregoing,
17 Named Plaintiff specifically and expressly releases to the maximum extent permitted by law any
18 claims against the Released Parties, arising out of or relating to the Named Plaintiff's employment
19 or the termination of her employment with Defendant and any other Released Party. This general
20 release by the Named Plaintiff includes a waiver of her rights under Civil Code Section 1542, which
21 provides: "A general release does not extend to claims that the creditor or releasing party does not
22 know or suspect to exist in his or her favor at the time of executing the release and that, if known
23 by him or her, would have materially affected his or her settlement with the debtor or released party."

24 43. Settlement Payments And Calculation Of Claims. The following table summarizes
25 the allocation of the Gross Settlement Amount:

26 ///

27 ///

28 ///

Gross Settlement Amount of \$ 700,000.00 Is Broken Down As Follows:

- **Approximately \$363,666.67** paid to Class Members on a *pro rata* basis
- **\$50,000.00** for the PAGA Amount
 - **\$37,500.00** for the LWDA Payment
 - **\$12,500.00** for the PAGA Aggrieved Employee Payment
- Class Counsel Attorneys' Fees not to exceed **\$233,333.33**
- Class Counsel Costs not to exceed **\$17,000.00**
- **Up to \$ 10,000.00** for an Enhancement Award for Named Plaintiff Rosalinda Marchbanks-Powell
- Settlement Administration Costs, not to exceed **\$26,000.00**

Subject to final Court approval and the conditions specified in this Agreement, and in consideration of the mutual covenants and promises set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount of Seven Hundred Thousand Dollars and Zero Cents (\$700,000.00). The Gross Settlement Amount includes, but is not limited to, payments to be made to Participating Class Members, Class Counsel's attorneys' fees and costs, any enhancement payment to the Named Plaintiff, PAGA Amount, settlement administration fees and costs, and the employees' share of the payroll taxes. The employer's share of payroll taxes will be paid separately by Defendant. The Parties agree, subject to Court approval, that the Gross Settlement Amount shall be apportioned as follows:

(a) Class Counsel Fees/Costs: At the final approval hearing, Class Counsel will apply to the Court for an award of attorneys' fees of no more than 33⅓% of the Gross Settlement Amount, which equals Two Hundred Thirty Three Thousand Dollars and Thirty Three Cents (\$233,333.33). Class Counsel will also apply to the Court for an award of costs incurred by Class Counsel not to exceed the amount of Seventeen Thousand Dollars and Zero Cents (\$17,000.00). These fees and costs are included in, and shall come from, the Gross Settlement Amount. Class Counsel will be issued an IRS Form 1099 for any fees and costs awarded by the Court pursuant to this Section 43(a). Defendant will not oppose such application for attorneys' fees and costs pursuant to this Section 43(a). Except as provided in this Section 43(a), each party will bear his, her, or its own attorneys' fees, costs, and expenses incurred in the prosecution, defense, or settlement of the Action.

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1 (b) Settlement Administrator Costs: At the final approval hearing, Class Counsel
2 will apply to the Court for approval of settlement administration costs not to exceed the amount of
3 Twenty Six Thousand Dollars and Zero Cents (\$26,000.00). These costs are included in, and shall
4 come from, the Gross Settlement Amount.

5 (c) Enhancements: At the final approval hearing, Class Counsel will apply to
6 the Court for an award of Ten Thousand Dollar and Zero Cents (\$10,000.00) to be paid to the Named
7 Plaintiff as an enhancement award for her services and for assuming the risks associated with this
8 litigation, and as consideration for providing a general release. Defendant will not oppose such
9 application. The enhancement award is included in, and shall come from, the Gross Settlement
10 Amount. Named Plaintiff will be issued an IRS Form 1099 for any enhancement award approved
11 by the Court pursuant to this Section. The enhancement award payable to the Named Plaintiff shall
12 be in addition to any payment she may receive pursuant to Section 43(e), below.

13 (d) PAGA Payment: At the final approval hearing, Class Counsel will apply to
14 the Court for approval of the PAGA Amount of Fifty Thousand Dollars and Zero Cents (\$50,000.00)
15 for claims for civil penalties asserted under PAGA. Class Counsel will submit notice of this
16 Settlement to the LWDA, as required by Labor Code § 2699(l)(2). The Parties agree that 75% of
17 the PAGA Amount (\$37,500.00) will be paid to the LWDA as the LWDA Payment, and the
18 remaining 25% (\$12,500.00) of civil penalties will be allocated to the Aggrieved Employees as the
19 PAGA Aggrieved Employee Payment. The PAGA Aggrieved Employee Payment allocated to
20 Aggrieved Employees will be paid using the same formula as set forth in Section 43(e), but will be
21 limited to pay periods worked during the PAGA Period. Any Class Members who worked during
22 the PAGA Period and who opt out of the Settlement will still be considered Aggrieved Employees
23 for purposes of this Section 43(d) and, therefore, will (i) receive their portion of the PAGA
24 Aggrieved Employee Payment; and (ii) be bound by the release provision of Sections 41 of this
25 Agreement.

26 (e) Class Member Payments of Net Settlement Amount: After deducting the
27 approved amounts specified in Sections 43(a)-(d) above, each Participating Class Member will be
28 entitled to a *pro rata* portion of the remaining amount, which is the Net Settlement Amount. Class

Settlement Payments will be awarded from the Net Settlement Amount based on the respective number of “work weeks” worked by each Participating Class Member during the Class Period. Each Participating Class Member’s share of the Net Settlement Amount will be calculated by dividing the Participating Class Member’s work weeks by the total number of work weeks worked by all Class Members during the Class Period and multiplying this figure by the Net Settlement Amount. The Class Notice will include the number of work weeks that the Class Member worked during the Class Period and the amount the Class Member is estimated to receive under the terms of the Settlement.

Example:

Participating Class Member A was actively employed during the Class Period for 25 work weeks. All Participating Class Members were actively employed a combined total of 100,000 work weeks during the Class Period. Participating Class Member A’s Class Settlement Payment would be calculated as follows:

- 25 work weeks for Participating Class Member A ÷ 100,000 total work weeks for all Participating Class Members = 0.025%.
- Participating Class Member A is entitled to a Class Settlement Payment in an amount that is 0.025% of the Net Settlement Amount.¹

(f) Class Settlement Payments shall be distributed only to Participating Class Members. PAGA Settlement Payments will be distributed to all Aggrieved Employees. The Class Settlement Payments allocated to Class Members who opt out of the Settlement will be distributed to Participating Class Members on a *pro rata* basis based on the formula set forth in Section 43(e).

(g) The Parties agree that, under no circumstances shall Defendant be obligated to pay any amount under this Agreement to any Class Member other than Participating Class Members, with the exception of the PAGA Settlement Payments. In addition, the Parties agree that under no circumstances shall Defendant be obligated to pay more than the Gross Settlement Amount in full settlement of the Action, except for the employer’s share of payroll taxes, which Defendant

¹ The Class Settlement Payment will be rounded to the nearest penny with .5 rounded up.

1 will pay separately. The Parties further agree that no amount of the Gross Settlement Amount shall
2 revert to Defendant.

3 44. No Credit Toward Benefit Plans. The Class Settlement Payments made to
4 Participating Class Members under this Agreement and the PAGA Settlement Payments made to
5 Aggrieved Employees will not be utilized to calculate any additional benefits under any benefit
6 plans to which any Participating Class Member or Aggrieved Employee may be eligible including,
7 but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation
8 plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention
9 that this Agreement will not affect any rights, contributions, or amounts to which any Participating
10 Class Member or Aggrieved Employee may be entitled under any benefit plans.

11 45. Taxation Of Settlement Proceeds. All settlement payments paid to Participating
12 Class Members, Aggrieved Employees, and the Named Plaintiff, will be paid in a net amount after
13 applicable state and federal tax withholdings, including payroll taxes, have been deducted.

14 (a) The Class Settlement Payment shall be reported as follows: (i) 20% of the
15 amount distributed to each Participating Class Member will be considered wages, and will be
16 reported as such to each Participating Class Member on a W-2 Form; (ii) 80.00% of the Class
17 Settlement Payment amount distributed to each Participating Class Member will be considered as
18 penalties and interest on the wages, and will be reported as such to each Participating Class Member
19 on an IRS Form 1099.

20 (b) The PAGA Settlement Payments will be considered penalties and will be
21 reported on an IRS Form 1099.

22 (c) Prior to mailing Class Settlement Payments to Participating Class Members,
23 the Settlement Administrator will calculate, withhold from the Class Settlement Payment, and remit
24 to applicable governmental agencies sufficient amounts as may be owed by Participating Class
25 Members for required withholdings and taxes, including all payroll taxes. The Settlement
26 Administrator will issue appropriate tax forms to each Participating Class Member consistent with
27 the foregoing breakdown. The Parties understand that the Named Plaintiff and Participating Class
28 Members who receive a Class Settlement Payment pursuant to this Agreement shall be solely

1 responsible for any and all tax obligations associated with such receipt.

2 (d) The Parties stipulate that the Settlement Fund (as defined at Section 50) will
3 qualify as a settlement fund pursuant to the requirements of Section 468(B)(g) of the Internal
4 Revenue Code of 1986, as amended, and Section 1.468B-1 *et seq.* of the income tax regulations.
5 Furthermore, the Settlement Administrator is hereby designated as the “Administrator” of the
6 qualified settlement funds for purposes of Section 1.468B-2(k) of the income tax regulations. As
7 such, all taxes imposed on the gross income of the Settlement Fund and any tax-related expenses
8 arising from any income tax return or other reporting document that may be required by the Internal
9 Revenue Service or any state or local taxing body will be paid from the Settlement Fund.

10 (e) All Parties represent and acknowledge that nothing in this Agreement
11 constitutes tax advice regarding the tax treatment of payments under federal, state, or local law.

12 46. Notice Procedure. Within 15 calendar days after entry of the Preliminary Approval
13 Order, Defendant will provide to the Settlement Administrator a list of Class Members that identifies
14 for each Class Member their name, Social Security Number, last-known address, and the number of
15 work weeks worked by each Class Member (the “Class List”) during the Class Period and the PAGA
16 Period. Defendant agrees to provide the Class List in an Excel file or other format reasonably
17 acceptable to the Settlement Administrator. The Settlement Administrator will keep the list
18 confidential and use it only for the purposes described in this Agreement.

19 (a) Upon receipt of the Class List, the Settlement Administrator shall perform a
20 search based upon the National Change of Address Database to update and correct any known or
21 identifiable address changes. The Settlement Administrator shall exercise its best judgment to
22 determine the current mailing address for each Class Member. Within 15 calendar days after receipt
23 of the Class List from Defendant, the Settlement Administrator will send the Class Notice, in
24 English, to each Class Member via First Class U.S. Mail. It shall be presumed that each and every
25 Class Member whose Class Notice is not returned to the Settlement Administrator as undeliverable
26 within 15 calendar days after mailing received the Class Notice.

27 (b) The Settlement Administrator will re-mail any notice packet returned by the
28 United States Postal Service with a forwarding address on or before the expiration of the Notice

1 Period. It shall be conclusively presumed that those Class Members whose re-mailed Class Notice
2 is not returned to the Settlement Administrator as undeliverable within 15 calendar days after re-
3 mailing, received the Class Notice. Class Members who receive a re-mailed Class Notice shall have
4 their Notice Period extended 15 calendar days.

5 (c) The Settlement Administrator will use the appropriate skip tracing and
6 National Change of Address searches to increase the likelihood of delivery of the Class Notice to
7 Class Members, and to re-mail the notice packets returned by the post office without a forwarding
8 address upon locating new or alternate addresses after a reasonable search.

9 (d) Class Counsel will provide to the Court, in connection with seeking final
10 approval of the Settlement, a declaration from the Settlement Administrator confirming that the
11 Class Notice was mailed to all Class Members as required by this Agreement, as well as any
12 additional information Class Counsel deems appropriate to provide to the Court.

13 47. Challenge Procedure. The Class Notice will include a procedure by which a Class
14 Member may challenge the work weeks allocated to the Class Member by submitting a written
15 challenge sent via U.S. Mail to the Settlement Administrator postmarked no later than the expiration
16 of the Notice Period. A Class Member challenging the work weeks must also submit documentary
17 evidence sufficient to prove that Defendant's calculation of the work weeks for the Class Member
18 is incorrect. Upon receipt of notice of any such dispute, the Settlement Administrator shall promptly
19 serve Class Counsel and Defendant's counsel with a copy of the notice of dispute and any
20 accompanying papers. No such notice of dispute shall be effective or considered for any purpose
21 unless it is timely mailed by U.S. mail to and received by the Settlement Administrator as provided
22 above. Defendant shall have the right to respond to the challenge by any Class Member. All
23 information and documents relating to any such disputes will be provided to Class Counsel. The
24 Settlement Administrator will resolve the challenge and make a final and binding determination
25 without hearing or right of appeal. The Settlement Administrator's determination will be subject to
26 review by the Court at the time of the Final Approval Hearing so long as the Participating Class
27 Member submits an objection to the Settlement Administrator's determination at or before the Final
28

1 Approval Hearing.

2 (a) Within 21 calendar days after the close of the Notice Period, the Settlement
3 Administrator will provide Class Counsel and Defendant's counsel with a report listing the amount
4 of all Class Settlement Payments and PAGA Settlement Payments to be made to Participating Class
5 Members and Aggrieved Employees. The report to Class Counsel will not include the names or
6 contact information of Participating Class Members and Aggrieved Employees. After receiving the
7 Settlement Administrator's report, Class Counsel and Defendant's counsel shall review the same to
8 determine if the calculation of payments to Participating Class Members and Aggrieved Employees
9 is consistent with this Settlement Agreement.

10 48. Opt-Out Procedure. Unless a Class Member opts out of the Settlement described in
11 this Agreement, the Class Member will be bound by the terms and conditions of this Agreement,
12 including the release provisions and the Court's Order enjoining all Participating Class Members
13 from pursuing, or seeking to re-open, any of the Settled Claims against the Released Parties. A
14 Class Member will not be entitled to opt out of the Settlement established by this Agreement unless
15 the Class Member does all of the following: (i) makes a written request expressing the Class
16 Member's desire to be excluded (or opt out) of the Settlement; (ii) signs the opt-out request; and
17 (iii) returns the opt-out request so that it is postmarked on or before the expiration of the Notice
18 Period.

19 (a) Upon receipt of any opt-out request within the Notice Period, the Settlement
20 Administrator shall review the request to confirm that the request complies with the opt-out
21 requirements of this Agreement.

22 (b) Any Class Member who fails to submit a timely, complete and valid request
23 to opt out of the Settlement will be barred from opting out of this Agreement or the Settlement,
24 unless otherwise ordered by the Court. The Settlement Administrator will not review or consider
25 any opt-out request postmarked after the end of the Notice Period, but will report its receipt of any
26 such requests to Class Counsel and counsel for Defendant. It shall be presumed that, if an opt-out
27 request is not postmarked on or before the end of the Notice Period, the Class Member did not make
28 the request in a timely manner, unless the Class Member's Notice Period was extended pursuant to

1 Section 46(b) above. A declaration submitted by any Class Member attesting to the mailing of an
2 opt-out request on or before the expiration of the Notice Period in and of itself shall be insufficient
3 to overcome the conclusive presumption that the opt-out request was not postmarked on or before
4 the expiration of the Notice Period. Under no circumstances shall the Settlement Administrator
5 have the authority to extend the deadline for Class Members to submit a request to opt out of the
6 Settlement without Defendant's written consent, except for the 15-day extension of a Class
7 Member's Notice Period due to a re-mailed Class Notice, as set forth in Section 46(b) above.

8 (c) If 5% or more of the Class Members timely opt out of the Settlement,
9 Defendant will have the sole and absolute discretion to withdraw from this Agreement within 15
10 business days after expiration of the Notice Period by providing written notice of such withdrawal
11 to Class Counsel. In the event that Defendant elects to so withdraw, the withdrawal shall have the
12 same effect as a termination of this Agreement for failure to satisfy a condition of settlement, and
13 the Agreement shall become null and void and have no further force or effect, and the class certified
14 pursuant to this Agreement will be decertified for all purposes. If Defendant chooses to terminate
15 this Settlement Agreement under this provision, it shall be responsible to pay the Settlement
16 Administrator's fees and costs. If the Settlement Agreement is terminated for any other reason,
17 including the Court's failure to grant final approval of the Parties' Settlement, then Class Counsel
18 and Defendant will be jointly responsible for the Settlement Administrator's fees and costs.

19 49. Objections To Settlement. Any Class Member may object to the Settlement. Any
20 written objection must be mailed to the Settlement Administrator (who shall promptly provide a
21 copy to Class Counsel and counsel for Defendant) by the close of the Notice Period. Class Counsel
22 will ensure that any written objections get filed with the Court concurrently with the final approval
23 documents. Class Members may also appear at the final fairness hearing to object to the Settlement,
24 whether or not they have objected in writing or notified the Parties that they intend to appear. If a
25 Class Member does not submit a written objection or appear in person to object, either personally
26 or through counsel, such objection shall be deemed waived, unless otherwise ordered by the Court.

27 (a) Written objections to the Settlement must contain at least the following:
28 (i) the objecting Class Member's full name, current address, and signature; (ii) a clear reference to

1 the Action; and (iii) a statement of the specific reasons why the objector believes the Settlement is
2 unfair or objects to the Settlement. All objections shall be signed by the objecting Class Member
3 or the Class Member's legally authorized representative.

4 (b) Class Counsel or Defendant's counsel may, before the final approval hearing,
5 file responses to any written objections submitted to the Court.

6 (c) Unless they opt out of the Settlement as specified in Section 48, Class
7 Members who object to the proposed settlement or the Agreement will remain Participating Class
8 Members, and shall be deemed to have voluntarily waived their right to pursue an independent
9 remedy against Defendant and the other Released Parties. To the extent any Participating Class
10 Member objects to the proposed settlement or Agreement and such objection is overruled in whole
11 or in part, such individuals will be bound by the Court's Final Approval Order.

12 (d) In the event that any person objects to or opposes this proposed settlement or
13 the Agreement, or attempts to intervene in or otherwise enter the Action, the Parties and Class
14 Counsel will use their best efforts to defend the Settlement.

15 50. Funding And Distribution Of Settlement. Within 21 calendar days of the close of
16 the Notice Period, the Settlement Administrator will provide written notice to Class Counsel and
17 Defendant's counsel of the number of Participating Class Members, the total amount payable to all
18 Participating Class Members, the PAGA Aggrieved Employee Payment, the LWDA Payment,
19 attorneys' fees, costs, the enhancement award, and the costs of settlement administration. Within
20 five business days after the Effective Date, Defendant shall remit to the Settlement Administrator
21 the Gross Settlement Amount of \$700,000.00 (the "Settlement Fund"). The delivery by Defendant
22 of the Settlement Fund to the Settlement Administrator will constitute full and complete discharge
23 of the entire obligation of Defendant under this Agreement. No Released Party will have any further
24 obligation or liability to the Named Plaintiff, Participating Class Members, Aggrieved Employees,
25 or Class Counsel under this Agreement, regardless of whether the Named Plaintiff, Participating
26 Class Members, Aggrieved Employees, or Class Counsel receive the payments set forth in this
27 Agreement.

28 ///

1 (a) The distribution of Class Settlement Payments to Participating Class
2 Members and PAGA Settlement Payments to Aggrieved Employees will occur no later than 15
3 calendar days after receipt of the Settlement Fund from the Defendant (“Settlement Proceeds
4 Distribution Deadline”). The Settlement Administrator shall be deemed to have timely distributed
5 Class Settlement Payments and PAGA Settlement Payments if it places in the mail Class Settlement
6 Payments for all Participating Class Members and PAGA Settlement Payments for all Aggrieved
7 Employees by the Settlement Proceeds Distribution Deadline. No person will have any claim
8 against the Settlement Administrator, Defendant, Class Counsel, Defendant’s counsel, or any other
9 agent designated by the Named Plaintiff or Class Counsel based upon the distribution of Class
10 Settlement Payments and PAGA Settlement Payments made substantially in accordance with this
11 Agreement or further orders of the Court.

12 (b) The distribution of the LWDA Payment, attorneys’ fees, costs, and the
13 enhancement award shall occur no later than 15 calendar days after the Settlement Administrator
14 receives the Gross Settlement Amount.

15 (c) If a Participating Class Member’s or Aggrieved Employee’s check is returned
16 to the Settlement Administrator, the Settlement Administrator will make reasonable efforts to re-
17 mail it to the Participating Class Member or Aggrieved Employee at the correct address. It is
18 expressly understood and agreed that the checks for the Class Settlement Payments and PAGA
19 Settlement Payments will become void and no longer available if not cashed within 150 days after
20 mailing. The Settlement Administrator shall report to the Court the total amount that was actually
21 paid to all Participating Class Members and Aggrieved Employees. After the report is received,
22 pursuant to Code of Civil Procedure § 384(b), the Plaintiffs shall request the Court to amend the
23 Final Judgment to direct the Settlement Administrator to pay the sum of the unpaid residue or
24 unclaimed class member funds, plus any accrued interest to the following charity: Voices for
25 Children of San Diego, a nonprofit organization that that recruits, trains, and supports volunteers
26 who speak up for the needs and well-being of children in foster care.

27 (d) Defendant will not be obligated to make any payments contemplated by this
28 Agreement unless and until the Court enters the Final Order and Final Judgment, and after the

1 Effective Date of the Agreement.

2 51. Binding Effect Of Agreement On Class Members. Subject to final Court approval
3 and the occurrence of the Effective Date, and unless otherwise provided in this Agreement, all
4 Participating Class Members will be bound by this Agreement. In addition, unless a Class Member
5 opts out of the settlement described in this Agreement, the Class Member shall be bound by the
6 Court's Order enjoining all Class Members from pursuing, or seeking to reopen, Settled Claims
7 against the Released Parties.

8 52. Binding Effect Of Agreement On Aggrieved Employees and State of California. The
9 Aggrieved Employees and the State of California are deemed by operation of the Final Order and
10 Final Judgment to have agreed not to sue or otherwise make a claim against any of the Released
11 Parties for civil penalties under Labor Code § 558 and Labor Code §§ 2698 *et seq.* for the Released
12 Claims.

13 53. Provisional Approval Of Settlement. Upon execution of this Agreement, the Named
14 Plaintiff will promptly file a motion in the Action requesting that the Court enter the Preliminary
15 Approval Order, in the form substantially similar to that attached as **Exhibit D** to this Agreement.
16 Defendant will not oppose Class Counsel's motion for preliminary approval of the Settlement so
17 long as the motion and supporting papers are consistent with the terms of this Agreement. Class
18 Counsel will provide Defendant's counsel with a reasonable opportunity to review, and provide
19 comments to, the motion for preliminary approval of the Settlement before the motion and
20 supporting papers are filed with the Court. Notwithstanding the foregoing, Defendant may, without
21 opposing the preliminary approval motion, advise the Court if Defendant disagrees with any of the
22 factual statements included by the Named Plaintiff in the motion and supporting papers.
23 Defendant's counsel will meet and confer with Class Counsel regarding any factual statements it
24 disputes before notifying the Court of any disputes.

25 54. Non-Interference With Claims Procedure. The Parties and their counsel agree that
26 they will not seek to solicit or otherwise encourage Class Members to submit requests for exclusion
27 or objections to the Settlement or to appeal from the Final Order or Final Judgment.

28 55. Final Order and Judgment. Named Plaintiff will request, and Defendant will concur

1 in the request, that the Court enter, after the Settlement Hearing finally approving this Agreement,
2 a Final Order and Final Judgment in the forms substantially similar to those attached as **Exhibits B**
3 **and C** to this Agreement. Named Plaintiff will request that the Final Order certify the Participating
4 Class; find that this Agreement is fair, just, equitable, reasonable, adequate and in the best interests
5 of the Class and the Aggrieved Employees; permanently enjoin all Participating Class Members
6 from pursuing, or seeking to reopen, Settled Claims against the Released Parties; permanently enjoin
7 the Aggrieved Employees and the State of California from pursuing a PAGA Claim against the
8 Released Parties for any of the Released Claims; and require the Parties to carry out the provisions
9 of this Agreement.

10 56. Effective Date Of Agreement. The “Effective Date” of this Agreement will be the
11 later of (i) if no objection to the Settlement is made by a Class Member, then the date that the Court
12 enters the Final Judgment; (ii) the 61st day after service of notice of entry of the Final Order and
13 Final Judgment, if no appeal, review, or writ has been filed but an objection to the Settlement is
14 made by a Class Member; or (iii) if an appeal, review, or writ is timely sought from the Final Order
15 or Final Judgment, the day after the Final Order and Final Judgment are affirmed or the appeal,
16 review, or writ is dismissed or denied, and the Final Order and Final Judgment are no longer subject
17 to further judicial review. The Effective Date is conditioned upon the Court’s having entered a Final
18 Order and Final Judgment (**Exhibits B and C**).

19 57. Automatic Voiding Of Agreement If Settlement Not Finalized. If for any reason the
20 settlement set forth in this Agreement does not become final, the Settlement will be null and void
21 and the orders, judgment, and dismissal to be entered pursuant to this Agreement shall be vacated,
22 and the Parties will be returned to the status quo prior to entering this Agreement with respect to the
23 Action, as if the Parties had never entered into this Agreement, and the class certified pursuant to
24 this Agreement will be decertified for all purposes. In addition, in such event, the Agreement and
25 all negotiations, court orders and proceedings relating to this Agreement shall be without prejudice
26 to the rights of any and all parties to this Agreement, and evidence relating to the Agreement and all
27 negotiations shall not be admissible or discoverable in the Action or otherwise.

28 58. No Double Recovery. No person who has already released, assigned, or otherwise

1 forfeited the claims asserted in the Action will be considered a Class Member or entitled to recover
2 under this Agreement.

3 59. No Publicity.

4 (a) Named Plaintiff and Class Counsel agree that they shall not discuss, answer
5 questions about, promote, or publicize the filing of the Action, the Parties' Settlement, this
6 Agreement and its terms, or the negotiations leading to this Agreement with anyone other than the
7 Court or those individuals necessary to effectuate the terms of the Agreement. The prohibition set
8 forth in this Section 59 includes, but is not limited to: (i) publications on any website (including,
9 without limitation, publishing on any Twitter account, Facebook, or blog) of the amount or terms of
10 the Settlement, with or without identifying information; and (ii) the submission of information to
11 Verdicts & Settlements or any other publication that summarizes the results of jury verdicts and
12 settlements.

13 (b) In addition, Class Counsel may respond to questions received from, and
14 discuss any aspect of this Agreement with, Class Members regarding the Settlement.

15 (c) Named Plaintiff and Class Counsel agree that all data and information
16 informally produced by Defendant in connection with the settlement of the Action, including
17 financial information, will be maintained in confidence, and will not be shared with any other
18 persons or entities.

19 60. Invalidation Of Agreement For Failure To Satisfy Conditions. If the Court makes
20 material changes to the material terms or conditions of Sections 1 through 59 of this Agreement that
21 are not agreed to by the Defendant, Defendant shall have the right to terminate this Agreement, in
22 which case Defendant would not be obligated to make any payments to any Class Member, to Class
23 Counsel, or to the Named Plaintiff.

24 61. Modification In Writing. This Agreement may be altered, amended, modified or
25 waived, in whole or in part, only in a writing signed by Class Counsel and Defendant's counsel.
26 This Agreement may not be amended, altered, modified or waived, in whole or in part, orally.

27 62. Ongoing Cooperation. The Named Plaintiff and Defendant will execute all
28 documents and perform all acts necessary and proper to effectuate the terms of this Agreement. The

1 executing of documents must take place prior to the Final Hearing Date. In the event the Parties are
2 unable to reach agreement on the form or content of any document needed to implement the
3 Settlement, or any supplemental provisions that may become necessary to effectuate the terms of
4 the Settlement, the Parties agree to seek the assistance of the Court.

5 63. Notices. All notices, requests, demands and other communications required or
6 permitted to be given pursuant to this Agreement shall be in writing, and shall be delivered
7 personally or by first class mail to the Settlement Administrator approved by the Court and the
8 undersigned persons at their respective addresses as set forth below:

9 **Class Counsel**

10 David Yeremian, Esq.
David Yeremian & Associates, Inc.
11 535 N. Brand Blvd., Suite 705
Glendale, California 91203
12 Telephone: (818) 230-8380

13 and

14 Emil Davtyan, Esq.
Davtyan Law Firm, Inc.
15 880 E. Broadway
Glendale, California 91205
16 (818) 875-2008

17 **Counsel For Defendant**

18 Maria Z. Stearns, Esq.
19 Kenneth J. Zielinski, Esq.
RUTAN & TUCKER, LLP
20 611 Anton Boulevard, Fourteenth Floor
Costa Mesa, California 92626-1931
21 Telephone: (714) 641-5100

22
23 64. Binding on Successors. This Agreement shall be binding and shall inure to the
24 benefit of the Parties and their respective successors, assigns, executors, administrators, heirs and
25 legal representatives.

26 65. Entire Agreement. This Agreement constitutes the full, complete and entire
27 understanding, agreement and arrangement between the Named Plaintiff and the Class Members,
28 on the one hand, and Defendant, on the other hand, with respect to the settlement of the Action and

1 the Settled Claims against the Released Parties. This Agreement supersedes any and all prior oral
2 or written understandings, agreements and arrangements between the Parties with respect to the
3 settlement of the Action and the Settled Claims against the Released Parties. Except those set forth
4 expressly in this Agreement, there are no other agreements, covenants, promises, representations or
5 arrangements between the Parties with respect to the settlement of the Action and the Settled Claims
6 against the Released Parties. The Parties explicitly recognize California Civil Code Section 1625
7 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is
8 to be construed according to its terms, and may not be varied or contradicted by extrinsic evidence,
9 and agree that no such extrinsic oral or written representations or terms shall modify, vary, or
10 contradict the terms of this Agreement.

11 66. Execution In Counterparts. This Agreement may be signed in one or more
12 counterparts. All executed copies of this Agreement, and photocopies thereof (including facsimile
13 and e-mail copies of the signature pages), shall have the same force and effect and shall be as legally
14 binding and enforceable as the original.

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

18 68. Governing Law. This Agreement shall be interpreted, construed, enforced, and
19 administered in accordance with the laws of the State of California, without regard to conflict of law
20 rules.

21 69. Reservation Of Jurisdiction. Notwithstanding the dismissal of the Action and entry
22 of Final Judgment, the Court shall retain jurisdiction for purposes of interpreting and enforcing the
23 terms of this Agreement.

24 70. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
25 and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly
26 against one party than another merely by virtue of the fact that it may have been prepared by counsel
27 for one of the Parties, it being recognized that, because of the arm's-length negotiations between the
28

1 Parties, all Parties have contributed to the preparation of this Agreement.

2 71. Severability. The Parties to this Agreement agree, covenant, and represent that each
3 and every provision of this Agreement shall be deemed to be contractual, and that they shall not be
4 treated as mere recitals at any time or for any purpose. Therefore, the Parties further agree, covenant,
5 and represent that each and every provision of this Agreement shall be considered severable, except
6 for the release provisions of Sections 27, 40, and 41 of this Agreement. If a court of competent
7 jurisdiction finds the release provisions of Sections 27, 40, or 41 of this Agreement to be
8 unenforceable or invalid, then this Agreement shall become voidable and all payments made
9 pursuant to this Agreement shall be returned to Defendant. If a court of competent jurisdiction finds
10 any provision other than the release provisions of Sections 27, 40, or 41 , or part thereof, to be
11 invalid or unenforceable for any reason, that provision, or part thereof, shall remain in full force and
12 effect to the extent allowed by law, and all of the remaining provisions of this Agreement shall
13 remain in full force and effect.

14 72. Representation and Warranties. Class Counsel, Named Plaintiff, and the Class
15 jointly and severally represent and warrant to Defendant that there are no attorneys beyond those
16 named as Class Counsel who have claims for fees arising out of the Action or the contemplated
17 Settlement. To the extent those representations are false or other attorneys do have claims for fees
18 arising out of the Action or this Settlement, Class Counsel and the Class jointly and severally agree
19 to fully indemnify Defendant for any damages it incurs as a result of those claims, including, but
20 not limited to, all attorneys' fees and costs.

21 73. Authorization to Act. With respect to themselves, each of the Parties to this
22 Agreement and their agents or counsel represents, covenants and warrants that (a) they have full
23 power and authority to enter into and consummate all transactions contemplated by this Agreement
24 and have duly authorized the execution, delivery and performance of this Agreement; and (b) the
25 person executing this Agreement has the full right, power and authority to enter into this Agreement
26 on behalf of the party for whom they have executed this Agreement, and the full right, power and
27 authority to execute any and all necessary instruments in connection with this Agreement, and to
28

1 fully bind such party to the terms and obligations of this Agreement.

2 74. Representation By Counsel. The Parties acknowledge that they have been
3 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
4 and that this Agreement has been executed with the consent and advice of counsel. Further, the
5 Named Plaintiff and Class Counsel warrant and represent that there are no liens on the Agreement,
6 and that after entry by the Court of the Final Order and Final Judgment, the Settlement Administrator
7 may distribute funds to Participating Class Members, Aggrieved Employees, Class Counsel, and the
8 Named Plaintiff as provided by this Agreement.

9 75. Authorization By Named Plaintiff. The Named Plaintiff authorizes Class Counsel to
10 sign this Agreement and further agree not to request to be excluded from the Class and not to object
11 to any terms of this Agreement. Any such request by Named Plaintiff for exclusion or objection
12 shall therefore be void and of no force or effect.

13 76. Attorneys' Fees and Costs. No Participating Class Member, Aggrieved Employee,
14 or Class Counsel, or any other attorney acting for any Participating Class Member or Aggrieved
15 Employee, may recover or seek to recover any amounts for fees, costs, or disbursements from the
16 Released Parties or the Net Settlement Amount except as expressly provided in this Agreement.

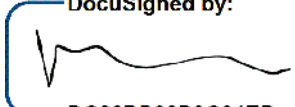
17 77. No Reliance on Representations. The Parties have made such investigations of the
18 facts and the law pertaining to the matters described in this Agreement as they deem necessary, and
19 have not relied, and do not rely, on any statement, promise, or representation of fact or law, made
20 by any of the other Parties, or any of their agents, employees, attorneys, or representatives, with
21 regard to any of their rights or asserted rights, or with regard to the advisability of making and
22 executing this Agreement, or with respect to any such matters. No representations, warranties, or
23 inducements have been made to any party concerning this Agreement.

24 78. No Collateral Attack. This Agreement shall not be subject to collateral attack by any
25 Class Member or any recipient of the Class Notice after the Final Order, Final Judgment and
26 dismissal. Such prohibited collateral attacks shall include but not be limited to claims that the Class
27 Member failed for any reason to receive timely notice of the procedure for disputing the calculation
28

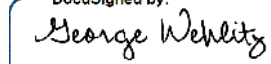
1 of the Class Settlement Payment or PAGA Settlement Payment, or for opting out of the Settlement.

2 IT IS SO AGREED:

3
4 Dated: December 29, 2020

DocuSigned by:

By: DC62DB80B8C04ED...
Rosalinda Marchbanks-Powell
Plaintiff/Class Representative

5
6
7 Dated: 1/27/2021, 2020

Torrid LLC
DocuSigned by:

By: 255054B7956B49E...
George Wehlitz
Title: CFO

8
9
10 APPROVED AS TO FORM AND CONTENT

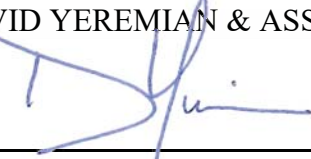
11
12 Dated: January 27, 2021

RUTAN & TUCKER, LLP

By:
Maria Z. Stearns
Attorneys for Defendant Torrid LLC

13
14
15
16 APPROVED AS TO FORM AND CONTENT AND
17 AGREE TO BE BOUND BY SECTION 59:

18 Dated: 1/7/2021, 2020

DAVID YEREMIAN & ASSOCIATES, INC.

By:
David Yeremian
Attorneys for Plaintiff Rosalinda
Marchbanks-Powell

19
20
21
22
23 Dated: 1/4/2021, 2020

DAVTYAN LAW FIRM, INC.

By:
Emil Davtyan
Attorneys for Plaintiff Rosalinda
Marchbanks-Powell

Exhibit “A”

Exhibit “A”

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

ROSALINDA MARCHBANKS-POWELL; *et al.*

Plaintiff,

vs.

TORRID ADMINISTRATION, INC., *et al.*,

Defendants.

Case No. 37-2020-00008179-CU-OE-NC

ASSIGNED FOR ALL PURPOSES TO
HON. TIMOTHY M. CASSERLY, DEPT. N-31

NOTICE OF PROPOSED CLASS ACTION
SETTLEMENT AND FINAL FAIRNESS
HEARING

YOU MAY BE ENTITLED TO BENEFITS FROM THIS SETTLEMENT. YOUR ESTIMATED SETTLEMENT AMOUNT IS \$ [REDACTED]. PLEASE CONTINUE READING TO LEARN HOW THIS SETTLEMENT AFFECTS YOUR RIGHTS.

Notice is given that a proposed class action settlement (the “Class Settlement”) has been reached between plaintiff Rosalinda Marchbanks-Powell (“Plaintiff”) and defendant Torrid LLC (“Defendant”). The lawsuit is a class action lawsuit entitled *Marchbanks-Powell v. Torrid Administration, Inc. et al.* (the “Litigation” or “Action”).

The Class Settlement will resolve all Settled Claims made against Defendant and other Released Parties, as that term is defined in the Settlement Agreement, on behalf of the Class, i.e., all non-exempt employees who worked for Torrid LLC at any of its retail store locations in the State of California during the period between February 11, 2016 and December 31, 2020 (the “Class Period”).

A. PURPOSE OF THIS NOTICE

The Court has ordered that this Class Notice be sent to you because Defendant’s records reflect that you are a potential member of the Class. The purpose of this Notice is to: (a) provide a brief description of the Litigation; (b) inform you of the proposed Settlement; and (c) discuss your rights and options with respect to the Litigation and the Settlement.

B. DESCRIPTION OF THE LITIGATION

The Action was filed by Plaintiff on behalf of all non-exempt employees who worked for Defendant during the Class Period. As alleged in the Action, Plaintiff claims that Class Members were wrongfully denied wages and overtime compensation, meal and rest breaks, accurate wage statements, reimbursement of business expenses, reporting time pay, and other rights guaranteed under the California Labor Code.

The Action alleges claims against Defendant for (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime Under Labor Code § 510; (3) Meal Period Liability Under Labor Code § 226.7; (4) Rest-Break Liability Under Labor Code § 226.7; (5) Violation of Labor Code § 226(a); (6) Violation of Labor Code § 203; (7) Violation of Labor Code § 204; (8) Failure to Keep Required Payroll Records under Labor Code §§ 1174 and 1174.5; (9) Failure to Reimburse Necessary Business Expenses § 2802; (10) Violation of Labor Code § 246; (11) Violation of Business & Professions Code § 17200 *et seq.*; (12) Penalties Pursuant to Labor Code § 2698 *et seq.*; and (13) Failure to Provide Suitable Seating. Defendant denies each and all of the claims and contentions alleged by the Plaintiff.

The Court has made no ruling on the merits of Plaintiff's class claims or Defendant's defenses. The Court will decide whether to give final approval to the Class Settlement at a hearing scheduled for [REDACTED], 2021, at [REDACTED] a.m., in Department N-31 of the San Diego County Superior Court, located at The North County Regional Center, 325 South Melrose Dr., Vista, CA 92081.

Attorneys for the Class ("Class Counsel") in the Litigation are:

CLASS COUNSEL

David Yeremian, Esq.
David Yeremian & Associates, Inc.
535 N. Brand Blvd., Suite 705
Glendale, California 91203
Telephone: (818) 230-8380

and

Emil Davtyan, Esq.
Davtyan Law Firm, Inc.
880 E. Broadway
Glendale, California 91205
(818) 875-2008

Defendant's counsel in the Litigation are:

Maria Z. Stearns, Esq.
Kenneth J. Zielinski, Esq.
RUTAN & TUCKER, LLP
611 Anton Boulevard, Fourteenth Floor
Costa Mesa, California 92626-1931
Telephone: (714) 641-5100
Facsimile: (714) 546-9035

C. YOUR OPTIONS

If you fit within the above description of the Class, you have several options. Your rights regarding each option, and the procedure you must follow to select each option, are explained below.

1. OPTION 1: Do Nothing and Remain a Member of the Class and Participate in the Settlement.

If you want to participate in the Class Settlement and receive a Settlement Payment, DO NOT TAKE ANY ACTION. You will automatically be included in the Settlement and will receive the Settlement Payment as detailed below. If you move, make sure you contact the Settlement Administrator at the following address or phone number:

TORRID LLC SETTLEMENT ADMINISTRATOR
[REDACTED]

YOUR ESTIMATED SETTLEMENT AMOUNT IS \$_____. This amount is based on the number of work weeks during which you worked in a non-exempt position during the Class Period, which is _____ work weeks. The settlement amount is just an estimate of your individual class settlement payment (“Settlement Payment”). The exact Settlement Payment allocated to you will not be determined until the class notice process is completed and the Court grants final approval of the Class Settlement.

If you believe the number of work weeks stated above is incorrect and you wish to challenge it, you must send the enclosed dispute form to the Settlement Administrator, stating that you believe the number of work weeks is incorrect. This form must be postmarked no later than [date]. You must include documentary evidence sufficient to prove that Defendant’s calculation of work weeks for you is incorrect. You must also provide your name and telephone number. Defendant will have the right to respond to the challenge by any Class Member. The Settlement Administrator will resolve the challenge and make a final and binding determination without hearing or right of appeal. The Settlement Administrator’s determination will be subject to review by the Court at the time of the final approval hearing. If you want confirmation that your correspondence has been received by the Settlement Administrator, you may send your letter by certified U.S. Mail with a return receipt request.

If you choose to participate in the Class Settlement, you will be bound by all the terms set forth in the Class Settlement, including a full release of claims for the matters being settled in the Action.

2. OPTION 2: Opt Out of the Class and Receive Nothing Under the Class Settlement

If you do not want to remain a member of the Class, you can request exclusion from the Class (i.e., “opt out”). You can opt out of the Class by completing the Opt-Out Form included with this notice and sending it to the Settlement Administrator at the above-stated address, such that it is **postmarked** no later than [date]. This Opt-Out Form must be **signed** by you.

If you opt out of the Class, you will no longer be a member of the Class, you will be barred from participating in this Class Settlement, you will receive NO Settlement Payment or other benefit from this Class Settlement. By opting out of the Class, you will retain whatever individual rights or claims you may have, if any, against Defendant, and you will be free to pursue them on an individual basis, if you choose to do so.

3. OPTION 3: Object to the Settlement

If you are a Class Member who does not opt out of the Class Settlement, you may object to the Class Settlement, personally or through an attorney, by submitting your objection to the Settlement Administrator (**TBD**), at the address set forth above. All written objections must be signed and must contain your address, telephone number and a reference to the case name and number. All objections must be sent to the Settlement Administrator at the above-stated address, such that it is **postmarked** no later than [date]. Your written objection should clearly explain why you object to the Class Settlement and must state whether you (or someone on your behalf) intend to appear at the final fairness hearing on [date]. Your failure to timely submit your objection to the Settlement Administrator may preclude your objection from being heard at the final fairness hearing. If you object to the Class Settlement and if the Court approves the Class Settlement as set forth in the Settlement Agreement, you will be bound by the terms of the Class Settlement in the same way as a Class Member who does not object.

D. SUMMARY OF TERMS OF SETTLEMENT

The principal terms of the Class Settlement reached between Plaintiff and Defendant are summarized below.

1. Settlement Terms

The Settlement provides that (a) Defendant will pay \$700,000 (the “Settlement Amount”) to resolve all class and PAGA claims asserted in the Action, enhancement awards, and Class Counsel’s attorneys’ fees and costs, as described more fully below; and (b) Defendant will stipulate to the certification of the Class for settlement purposes only, conditioned upon the Court granting final approval of the Settlement.

- Attorneys’ Fees and Costs. Class Counsel will apply to the Court for an award of attorneys’ fees of no more than \$233,333.33, which is approximately 33⅓% of the Settlement Amount. In addition, Class Counsel will seek reimbursement of costs of no more than \$17,000, as well as settlement administration costs of \$26,000. The attorneys’ fees and costs will be paid out of the Settlement Amount.
- Class Representative Enhancement Award. Plaintiff will request an enhancement award of \$10,000. The enhancement award will be paid out of the Settlement Amount.
- PAGA Payment. Plaintiff will request a payment pursuant to the Private Attorneys General Act (“PAGA”) of \$50,000, of which 75% (or \$37,500) will be paid to the Labor & Development Workforce Agency, and 25% (or \$12,500) will be paid to Aggrieved Employees, as defined by the Settlement Agreement. This PAGA payment will be paid out of the Settlement Amount.
- Payments To Participating Class Members. After the deductions from the total Settlement Amount, the remaining amount of approximately \$363,666.67 will remain to be distributed to Participating Class Members based on each Class Member’s work weeks during which the Class Member worked during the Class Period.

Settlement Payment To You: Section C of this Notice includes the estimated amount that you are entitled to receive under the Class Settlement. The individual settlement payments to Class Members will vary based on a number of factors, including the number of Class Members who participate. The Settlement Payment will be mailed to you within approximately 90 days of the Court’s Order granting final approval of the Class Settlement. If you change your address, please notify the Settlement Administrator.

Taxes: For purposes of this settlement, 20% of your Settlement Payment will be considered wages, 80% of your Settlement Payment will be considered penalties and interest. Prior to mailing your Settlement Payment, the Settlement Administrator will calculate and deduct from your Settlement Payment an amount necessary to pay the required withholdings and taxes, including all payroll taxes. The Settlement Administrator will remit that money to the appropriate governmental agencies. The Settlement Administrator will also issue you appropriate tax forms, including an IRS Form 1099 and W-2 Form. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

2. Release

The Settlement provides that each Class Member who does not opt out of the Settlement fully releases and discharges Defendant and the Released Parties (as defined in the Settlement Agreement) from any and all claims, known or unknown, contingent or accrued, against Defendant and the Released Parties that arose during the Class Period and have been, or could have been, asserted against Defendant or any of the other Released

Parties and that arise from the facts, matters, transactions or occurrences alleged in the Action. Without limiting the foregoing, and in addition to the foregoing, the Settled Claims include claims for: failure to pay minimum wages; failure to pay wages and overtime; failure to provide meal periods; failure to provide rest breaks; failure to provide accurate, itemized wage statements; failure to provide wages upon termination (waiting time penalties); failure to pay wages on time; failure to maintain payroll records; failure to reimburse necessary business expenses; failure to provide paid sick leave; alleged violations of Labor Code §§ 201-204, 210, 218.6, 226, 226.3, 226.7, 246, 247.5, 248.5, 510, 512, 558, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802, the applicable California Wage Orders and California Business and Professions Code Section 17200 *et seq.* In addition, with respect to Aggrieved Employees, the Settled Claims include claims under California Labor Code sections 2698 *et seq.* that arose during the PAGA Period.

A complete statement of the release of claims is contained in the Settlement Agreement and is binding on all Class Members who do not opt out of the Class Settlement. A copy of the Settlement Agreement may be obtained from the Settlement Administrator.

3. Conditions Of The Settlement

The Class Settlement is conditioned upon the Court entering an Order at or following the final fairness hearing approving the Class Settlement as fair, reasonable, and adequate and in the best interests of the Class.

4. No Admission Of Liability

Defendant does not admit any wrongdoing or liability, and specifically denies any liability or wrongdoing. The Class Settlement reflects a compromise of disputed claims and does not mean that Defendant violated any state wage requirements or is liable for any of the allegations made by Plaintiff.

E. FAIRNESS HEARING ON PROPOSED SETTLEMENT

You are not required to attend the final fairness hearing or file an objection, although you may do both. The final fairness hearing on the fairness and adequacy of the Class Settlement, the plan of distribution, costs of administration, the enhancement awards to Plaintiff, and Class Counsel's request for attorneys' fees and costs will be held on [REDACTED] a.m., in Department N-31 of the San Diego County Superior Court, located at The North County Regional Center, 325 South Melrose Dr., Vista, CA 92081. The final fairness hearing may be continued to another date without further notice. If you plan to attend the final fairness hearing, you may contact Class Counsel to confirm the date and time.

Any Class Member who does not object in the manner provided above shall be deemed to have approved the Settlement and to have waived any objections, and shall be forever foreclosed from objecting to the fairness or adequacy of the proposed Settlement, the plan of distribution, the payment of attorneys' fees and costs, the administration process, the enhancement award to Named Plaintiff, or any other aspect of the Settlement. If the Settlement is not approved, the Action will continue to be prepared for class certification, trial, or other judicial resolution.

F. ADDITIONAL INFORMATION

This Notice only summarizes the Action and the Class Settlement. For more information, you may inspect the Court files at the San Diego County Superior Court, located at The North County Regional Center, 325 South Melrose Dr., Vista, CA 92081, from 8:30 a.m. to 4:00 p.m., Monday through Friday or you can view the case records online at the court's website: <http://courtindex.sdcourt.ca.gov/CISPublic/enter>. Any questions regarding

this Class Notice or the Action may be directed to the Settlement Administrator at the above address and telephone number. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact Class Counsel at the address and telephone number set forth above. If your address changes or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

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

Marchbanks-Powell v. Torrid Administration, Inc., et al.
San Diego Superior Court, Case No. 37-2020-00008179-CU-OE-NC

OPT-OUT FORM

MAIL OR FAX TO:
c/o CPT Group, Inc.

Fax: (***) ***-****

IF YOU WISH TO PARTICIPATE IN THE SETTLEMENT AND RECEIVE THE PAYMENT SPECIFIED IN THE CLASS NOTICE THAT YOU RECEIVED, **DO NOT** FILL OUT THIS FORM.

COMPLETE THIS FORM **ONLY IF** YOU WISH TO EXCLUDE YOURSELF FROM THE CLASS SETTLEMENT. IF YOU EXCLUDE YOURSELF, YOU **WILL NOT** RECEIVE THE PAYMENT SPECIFIED IN THE CLASS NOTICE.

I request to be excluded from the Class Settlement in the matter of *Marchbanks-Powell v. Torrid Administration, Inc., et al.*, San Diego Superior Court, Case No. 37-2020-00008179-CU-OE-NC. I understand that, by submitting this Opt-Out Form, I will no longer be eligible for the payment specified in the Class Notice that I received.

Sign your name here

Date

Print your name here

IF YOU WISH TO BE EXCLUDED FROM THE CLASS SETTLEMENT, YOU MUST MAIL OR FAX THIS OPT-OUT FORM BY _____, 2021 TO THE FOLLOWING ADDRESS OR FAX:

c/o CPT Group, Inc.

Fax: (***) ***-****

[BAR CODE OR CLASS MEMBER ID WILL BE INCLUDED HERE]

Marchbanks-Powell v. Torrid Administration, Inc., et al.
San Diego Superior Court, Case No. 37-2020-00008179-CU-OE-NC

DISPUTE FORM

Claim #:
«First1» «Last1»
«c/o»
«Address1» «Address2»
«City», «ST» «Zip» «Country»

Name/Address Changes (if any):

_____ First Name	_____ Last Name	
_____ Address		
_____ City	_____ State	_____ Zip

If your name or address is different from those shown above, print corrections on the lines to the right.

Your estimated settlement amount (shown below) is based on your work weeks worked during the Class Period. Your estimated settlement amount is a proportion of the total number of work weeks worked by all Class Members.

Class Period:	Covered Period Start Date – Covered Period End Date
Work weeks	«Work weeks»
Estimated Settlement Amount:	«Estimated Amount»

Your actual settlement amount may be higher or lower based on the number of Class Members who opt-out, the Court's rulings related to fees, costs, incentive payments, and other factors. Unless you believe that any information above is inaccurate, you do not need to do anything to receive your settlement amount.

DO NOT fill out the portion below or return this form *UNLESS* you believe any of the information above is not accurate or your address is incorrect. If you would like to dispute the above information, please sign and date the below, and mail it to the Settlement Administrator along with supporting evidence or information on or before **Response Date**.

OPTION TO DISPUTE

☐ I wish to dispute the number of work weeks worked during the Class Period. I believe that I worked _____ work weeks for Torrid LLC during the Class Period. I have enclosed documentation substantiating my dispute. **I recognize that my dispute will not be reviewed without documentary evidence to support my dispute.** I understand that by submitting this dispute, the Settlement Administrator will review the Defendant's records and make a determination based on those records and the records I submit, and that this determinations will be final and binding.

_____ Sign your name here	_____ Date
_____ Print your name here	_____ Telephone Number

YOU MUST MAIL OR FAX THIS DISPUTE FORM BY _____, 2021 TO THE FOLLOWING ADDRESS OR FAX:

c/o CPT Group, Inc.

Fax: (***) ***-****

If you want confirmation that your correspondence has been received by the Settlement Administrator, you may send your letter by certified U.S. Mail with a return receipt request.

Exhibit “B”

Exhibit “B”

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

ROSALINDA MARCHBANKS-POWELL, an
individual on behalf of herself and all others
similarly situated,

Plaintiff,

vs.

TORRID ADMINISTRATION, INC., a
California corporation; TORRID
MERCHANDISING, INC., a California
corporation; TORRID PARENT, INC., a
Delaware corporation; TORRID LLC, a
California limited liability company; HOT
TOPIC ADMINISTRATION, INC., a
California corporation; HOT TOPIC
MERCHANDISING, INC., a California
corporation; HOT TOPIC TENNESSEE, INC.,
a California corporation; HOT TOPIC, INC., a
California corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 37-2020-00008179-CU-OE-NC

ASSIGNED FOR ALL PURPOSES TO
HON. TIMOTHY M. CASSERLY, DEPT. N-31

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT, AWARD OF
FEES, COSTS, AND INCENTIVE AWARD**

Hearing

Reservation No.

Date:

Time:

Dept.: N-31

Date Action Filed: February 11, 2020

Trial Date: None Set

1 This matter having come before the Court on [REDACTED], 2021 for a scheduled
2 Final Hearing and entry of an Order Granting Final Approval of Class Action Settlement and
3 Stipulation (“Final Order”) consistent with the Court’s [REDACTED], 2021 Preliminary
4 Approval Order, and as set forth in the Parties’ Class Action Settlement Agreement (“Settlement
5 Agreement” or “Settlement”), and due and adequate notice having been given to Class Members
6 as required by the Preliminary Approval Order, and the Court having considered all papers filed
7 and proceedings, and having received no objections to approval of the Settlement, and determining
8 that the Settlement is fair, adequate and reasonable, and otherwise being fully informed and good
9 cause appearing,

10 **IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

11 1. This Final Order incorporates the Settlement Agreement. Unless otherwise
12 provided, all capitalized terms used in this Final Order shall have the same meaning as defined in
13 the Settlement Agreement. For purposes of this Final Order and the accompanying Judgment, the
14 term “Defendant” means Torrid LLC.

15 2. Consistent with the definitions provided in the Settlement Agreement, the Class
16 consists of all non-exempt employees who worked for Torrid LLC at any of its retail store
17 locations in the State of California during the Class Period. [The following individuals have
18 excluded themselves from the Settlement and, therefore, are not part of the Plaintiff Class: list
19 individuals.]

20 3. Because adequate notice has been disseminated and all potential Class Members
21 have been given an opportunity to opt out of the Action, the Court has jurisdiction over the subject
22 matter of this proceeding and over all parties to this proceeding, including all Class Members. In
23 addition, the Court has personal jurisdiction over all Class Members with respect to the Action and
24 the Settlement.

25 4. Distribution of the Class Notice directed to the Class Members, as set forth in the
26 Settlement Agreement, has been completed in conformity with the Preliminary Approval Order,
27 including individual notice to all Class Members who could be identified through reasonable effort,
28 and the best notice practicable under the circumstances. The Class Notice provided due and

1 adequate notice of the proceedings and of the matters set forth in the Preliminary Approval Order,
2 including the proposed Settlement as set forth in the Settlement Agreement and fully satisfied the
3 requirements of California law, the California and United States Constitutions (including the Due
4 Process Clause), the requirements of Code of Civil Procedure § 382 and California Rules of Court
5 rule 3.766, and any other applicable law. The Class Notice also provided due and adequate notice
6 to Class Members of their right to exclude themselves from the Settlement, as well as their right to
7 object to any aspect of the proposed Settlement.

8 5. For the reasons set forth in the Preliminary Approval Order and in the transcript of
9 the proceedings of the preliminary approval hearing, which are adopted and incorporated by
10 reference, the Court finds the Settlement was entered into in good faith and further finds that the
11 Settlement is fair, reasonable, and adequate, and in the best interests of each of the parties and the
12 Participating Class Members. Named Plaintiff has satisfied the standards and applicable
13 requirements for final approval of this class action Settlement under California law, including the
14 provisions of California Code of Civil Procedure section 382, California Rule of Court 3.769, and
15 Federal Rule of Civil Procedure 23, approved for use by the California state courts in *Vasquez v.*
16 *Superior Court*, 4 Cal. 3d 800, 821 (1971).

17 6. The Court approves the Settlement as set forth in the Settlement Agreement and
18 finds that the Settlement is, in all respects, fair, adequate, and reasonable, and directs the Parties to
19 effectuate the Settlement according to the terms outlined in the Settlement Agreement. The Court
20 finds that the Settlement was reached as a result of intensive, serious, and non-collusive arms-
21 length negotiations. In granting final approval of the Settlement Agreement, the Court considered
22 the nature of the claims, the amounts and kinds of benefits paid in settlement, the allocation of
23 settlement proceeds among the Participating Class Members, and the fact that a settlement
24 represents a compromise of the parties' respective positions rather than the result of a finding of
25 liability at trial. Additionally, the Court finds that the terms of the Settlement Agreement had no
26 obvious deficiencies and did not improperly grant preferential treatment to any individual Class
27 Member. Accordingly, the Court finds that the Settlement Agreement was entered into in good
28 faith. The Court makes final its earlier provisional certification of the Class, as set forth in the

1 Preliminary Approval Order.

2 7. As of the date of this Final Order, the Named Plaintiff and all Participating Class
3 Members shall be bound by the releases set forth in the Settlement Agreement. Except as to such
4 rights or claims that may be created by the Settlement, all Class Members as of the date of this
5 Final Order who did not timely opt-out are forever barred and enjoined from prosecuting or seeking
6 to reopen the Settled Claims, and any other claims released by the Settlement Agreement, against
7 the Released Parties.

8 8. Neither the Settlement nor any of the terms set forth in the Settlement Agreement
9 are admissions by Defendant, or any of the other Released Parties, of liability on any of the
10 allegations alleged in the Action, nor is this Final Order a finding of the validity of any claims in
11 the Action, or of any wrongdoing by Defendant or any of the other Released Parties.

12 9. The Court confirms David Yeremian & Associates, Inc. and Davtyan Law Firm,
13 Inc. as Class Counsel, and finds that Class Counsel has adequately represented the Class for
14 purposes of entering into and implementing the Settlement.

15 10. The Court finds the \$700,000 Gross Settlement Amount provided for under the
16 Settlement to be fair and reasonable. Defendant is required to make all payments necessary to fund
17 the Settlement in accordance with the terms of the Settlement Agreement.

18 11. Pursuant to the terms of the Settlement, and the authorities, evidence, and argument
19 set forth in Class Counsel's application, an award of attorneys' fees in the amount of \$233,333.33
20 and for costs and expenses in the amount of \$17,000 as final payment for and complete satisfaction
21 of any and all attorneys' fees and costs incurred by and/or owed to Class Counsel is hereby granted.
22 The Court finds that Class Counsel's request falls within the range of reasonableness and that the
23 result achieved justifies the award and that the requested expenses were reasonably incurred. The
24 payment of fees and costs to Class Counsel shall be made from the Gross Settlement Amount in
25 accordance with the terms of the Settlement Agreement. The Court shall examine the final
26 accounting at a Compliance Hearing set on [REDACTED], 2021. (Note: This will be no
27 sooner than 190 days after the settlement becomes final, as the checks will be valid at least 150
28 days, plus a reasonable number of days for administration of the mailings by the administrator.)

1 12. It is ordered that an enhancement award of \$10,000 for the Named Plaintiff
2 Rosalinda Marchbanks-Powell is fair and reasonable as a service award for her service to the class.

3 13. The Court also approves a payment of \$50,000 for claims asserted under
4 California's Private Attorneys General Act ("PAGA Payment"), with 75% of the PAGA Payment
5 (\$37,500) paid to the California Labor & Workforce Development Agency and the other 25%
6 (\$12,500) added to the Net Settlement Amount to be paid to the Aggrieved Employees (as defined
7 in the Settlement Agreement). The PAGA Payment is included in, and shall come from, the Gross
8 Settlement Amount. The PAGA Payment shall be made from the Gross Settlement Amount in
9 accordance with the terms of the Settlement Agreement.

10 14. The Court further approves the payment of \$26,000 to CPT Group, Inc. to cover the
11 costs of administration as provided for in the Settlement Agreement. The payment authorized by
12 this paragraph shall be made in accordance with the terms of the Settlement Agreement.

13 15. The Court finds the settlement payments from the Net Settlement Amount provided
14 for under the Settlement Agreement to be fair and reasonable. Accordingly, the Court approves
15 and orders the calculations and the payments to be made and administered to the Participating
16 Class Members in accordance with the terms of the Settlement Agreement. The settlement
17 payments authorized by this paragraph shall be made in accordance with the terms of the
18 Settlement Agreement. It is also ordered that, after 180 days from the date of distribution of
19 settlement funds to the Class, the funds from any uncashed and voided checks will be tendered to
20 Voices for Children of San Diego, a nonprofit organization that that recruits, trains, and supports
21 volunteers who speak up for the needs and well-being of children in foster care.

22 16. Paragraphs 10-16 of this Final Order cover all settlement payments, claims for
23 attorneys' fees and expenses, costs or disbursements incurred by Class Counsel or any other
24 counsel representing Named Plaintiff or other Class Members, or incurred by Named Plaintiff or
25 the Class Members, or any of them, in connection with or related in any manner to the Action, the
26 Settlement, the administration of the Settlement, and the Settled Claims. Defendant shall not be
27 required to pay any additional amounts in connection with the Settlement other than those amounts
28 specifically set forth in the Settlement Agreement.

1 17. If the Settlement does not become final and effective in accordance with the terms
2 of the Settlement Agreement, then this Final Order and all orders entered in connection with the
3 Final Order, including the accompanying Judgment, shall be rendered null and void and shall be
4 vacated.

5 18. Without affecting the finality of the Settlement, this Order, or accompanying
6 Judgment, this Court shall, pursuant to California Rule of Court 3.769(h), retain exclusive and
7 continuing jurisdiction over the above-captioned action and the Parties, including all Participating
8 Class Members, relating to the Action and the administration, consummation, enforcement and
9 interpretation of the Settlement Agreement, this Final Order, and for any other necessary purpose.

10 19. The terms of the Settlement Agreement and this Final Order are binding on the
11 Named Plaintiff and all other Participating Class Members and Aggrieved Employees, as well as
12 their heirs, executors and administrators, successors and assigns, and those terms shall have *res*
13 *judicata* and other preclusive effect in all pending and future claims, lawsuits or other proceedings
14 maintained by or on behalf of any such persons, to the extent those claims, lawsuits or other
15 proceedings assert Settled Claims, whether known or unknown, as set forth in Paragraphs 37
16 through 39 of the Settlement Agreement.

17 20. Neither this Final Order nor the Settlement Agreement (nor any other document
18 referred to in this Final Order, nor any action taken to carry out this Final Order) is, may be
19 construed as, or may be used as, an admission or concession by or against the Defendant or the
20 Released Parties of the validity of any claim or any actual or potential fault, wrongdoing or liability.
21 Entering into or carrying out the Settlement Agreement, and any negotiations or proceedings
22 related to it, shall not be construed as, or deemed evidence of, an admission or concession as to the
23 Defendant's denials or defenses and shall not be offered or received in evidence in any action or
24 proceeding against any party in any court, administrative agency or other tribunal for any purpose
25 whatsoever, except as evidence of the settlement or to enforce the provisions of this Final Order
26 and the Settlement Agreement; *provided, however*, that this Final Order and the Settlement
27 Agreement may be filed in any action against or by the Defendant or the Released Parties to support
28 a defense of *res judicata*, collateral estoppel, release, waiver, good-faith settlement, judgment bar

1 or reduction, full faith and credit, or any other theory of claim preclusion, issue preclusion or
2 similar defense or counterclaim.

3 21. There is no reason to delay the enforcement of this Order and the accompanying
4 Judgment.

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6 IT IS SO ORDERED.

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9 Dated: _____, 2021

JUDGE OF THE SUPERIOR COURT

Exhibit “C”

Exhibit “C”

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

ROSALINDA MARCHBANKS-POWELL, an
individual on behalf of herself and all others
similarly situated,

Plaintiff,

vs.

TORRID ADMINISTRATION, INC., a
California corporation; TORRID
MERCHANDISING, INC., a California
corporation; TORRID PARENT, INC., a
Delaware corporation; TORRID LLC, a
California limited liability company; HOT
TOPIC ADMINISTRATION, INC., a
California corporation; HOT TOPIC
MERCHANDISING, INC., a California
corporation; HOT TOPIC TENNESSEE, INC.,
a California corporation; HOT TOPIC, INC., a
California corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 37-2020-00008179-CU-OE-NC

ASSIGNED FOR ALL PURPOSES TO
HON. TIMOTHY M. CASSERLY, DEPT. N-31

[PROPOSED] JUDGMENT

Hearing

Reservation No.
Date:
Time:
Dept.: N-31

Date Action Filed: February 11, 2020
Trial Date: None Set

1 **PURSUANT TO THE ORDER GRANTING FINAL APPROVAL OF CLASS**
2 **ACTION SETTLEMENT ENTERED ON** [REDACTED], **2021, IT IS ORDERED,**
3 **ADJUDGED AND DECREED AS FOLLOWS:**

4 1. The Class and PAGA Action Settlement Agreement and Stipulation (the
5 “Settlement” or “Settlement Agreement”), attached as **Exhibit 1**, shall be incorporated into this
6 Judgment as though all terms are set forth in full. The capitalized terms in this Judgment shall
7 have the meanings set forth in the Settlement Agreement.

8 2. Judgment is entered pursuant to the terms of the Settlement Agreement. All Class
9 Members who did not timely opt out of the Settlement are subject to the terms of the Settlement
10 Agreement. All Aggrieved Employees and the State of California are subject to the terms of the
11 Settlement Agreement.

12 3. Without affecting the finality of the Judgment, the Court shall retain exclusive and
13 continuing jurisdiction over the above-captioned action and the parties, including all Participating
14 Class Members, for purposes of supervising, administering, implementing, enforcing, and
15 interpreting the Settlement Agreement and the Final Order.

16
17 **IT IS SO ORDERED.**

18
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20 DATED: _____, 2021

JUDGE OF THE SUPERIOR COURT

Exhibit “D”

Exhibit “D”

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

ROSALINDA MARCHBANKS-POWELL, an individual on behalf of herself and all others similarly situated,

Plaintiff,

vs.

TORRID ADMINISTRATION, INC., a California corporation; TORRID MERCHANDISING, INC., a California corporation; TORRID PARENT, INC., a Delaware corporation; TORRID LLC, a California limited liability company; HOT TOPIC ADMINISTRATION, INC., a California corporation; HOT TOPIC MERCHANDISING, INC., a California corporation; HOT TOPIC TENNESSEE, INC., a California corporation; HOT TOPIC, INC., a California corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 37-2020-00008179-CU-OE-NC

ASSIGNED FOR ALL PURPOSES TO
HON. TIMOTHY M. CASSERLY, DEPT. N-31

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT,
APPROVING FORM OF NOTICE TO
THE CLASS, CERTIFYING THE
SETTLEMENT CLASS, AND SETTING
FINAL APPROVAL HEARING**

Hearing

Reservation No. [redacted]

Date: [redacted]

Time: [redacted]

Dept.: N-31

Date Action Filed: February 11, 2020
Trial Date: None Set

1 **RECITALS**

2 On [DATE], plaintiff Rosalinda Marchbanks-Powell (the “Named Plaintiff”), individually
3 and on behalf of the Class, and Defendant entered into a class action settlement, the terms and
4 conditions of which are set forth in the parties’ Class Action Settlement Agreement and Stipulation
5 (collectively, the “Settlement” or “Settlement Agreement”). Unless otherwise provided in this
6 Order, all capitalized terms shall have the same meaning as set forth in the Settlement Agreement.

7 The motion of Named Plaintiff for an order preliminarily approving the settlement of this
8 action, approving the form of notice to the class, certifying the settlement class for settlement
9 purposes, and setting a final approval hearing came on for hearing in Department N-31 of this
10 Court on [DATE]. Appearing at the hearing were [insert name] of David Yeremian & Associates,
11 Inc. and [insert name] of Davtyan Law Firm, Inc. on behalf of Rosalinda Marchbanks-Powell and
12 the proposed Class and [insert name] of Rutan & Tucker, LLP on behalf of Defendant.

13 This Court, having fully considered Plaintiff’s Motion, the Memorandum of Points and
14 Authorities in support, the Declarations in support, the Settlement Agreement, the proposed form
15 of Class Notice, and the oral argument presented to the Court, finds that: (1) the proposed
16 settlement appears fair, reasonable and adequate, and that a final hearing should be held after notice
17 to the Class (defined below) of the proposed settlement to determine if the Settlement Agreement
18 and settlement are fair, reasonable, and adequate such that a Final Order and Judgment should be
19 entered in this action based upon the Settlement Agreement and (2) the PAGA Settlement Payment
20 is fair and adequate and the PAGA Settlement Payment should be approved.

21 **THE COURT ORDERS AND MAKES DETERMINATIONS AS FOLLOWS:**

22 **ORDER PROVISIONALLY CERTIFYING SETTLEMENT CLASS AND**
23 **APPOINTMENT OF CLASS REPRESENTATIVES AND CLASS COUNSEL**

24 1. The Court finds that certification of the following class, for settlement purposes
25 only, is appropriate:

26 All non-exempt employees who worked for Torrid LLC at any of its retail store
27 locations in the State of California during the Class Period as defined in the
28 Settlement Agreement. The Class Period means the period beginning on February

11, 2016 and extending through the date of December 31, 2020.

2 2. The Court grants preliminary approval of the terms and conditions contained in the
3 Settlement Agreement. The Court finds that the terms of the Settlement Agreement are within the
4 range of possible approval at the final approval hearing.

5 3. The Court preliminarily finds, for settlement purposes only, that the Class meets
6 (i) the ascertainability and numerosity requirements; (ii) the commonality requirement because, in
7 the absence of class certification and settlement, each individual Class Member would have to
8 litigate core common issues of law and fact, all relating to Defendant's alleged wage-and-hour
9 violations asserted in the action; (iii) the typicality requirement because the Named Plaintiff and
10 the Class Members' claims all arise from the same alleged events and course of conduct, and are
11 based on the same legal theories; and (iv) the adequacy of representation requirement because the
12 Named Plaintiff has the same interests as all members of the Class, and they are represented by
13 experienced and competent counsel.

14 4. The Court further finds, preliminarily and for settlement purposes only, that
15 common issues predominate over individual issues in this litigation and that class treatment is
16 superior to the other means of resolving this dispute. Employing the class device here will not
17 only achieve economies of scale for Class Members with individual claims, but also conserve the
18 resources of the judicial system and preserve public confidence in the integrity of the system by
19 avoiding the waste and delay of repetitive proceedings. In addition, certifying the class will prevent
20 inconsistent adjudications of similar issues and claims.

21 5. For settlement purposes only, the Court finds that the Named Plaintiff, Rosalinda
22 Marchbanks-Powell, is an adequate representative and appoints her as such. The Court further
23 finds that David Yeremian of David Yeremian & Associates, Inc. and Emil Davtyan of Davtyan
24 Law Firm, Inc. have adequately represented the Named Plaintiff and the Class in this litigation,
25 and the Court appoints them as Class Counsel.

26 6. The Court appoints CPT Group, Inc. to perform the duties of a Settlement
27 Administrator for the purpose of issuing the Class Notice and administering the Settlement.

28 7. The Court recognizes that certification under this Order is for *settlement purposes*

1 *only*, and shall not constitute or be construed as a finding by the Court, or an admission on the part
2 of Defendant, that this action is appropriate for class treatment for litigation purposes. Entry of
3 this Order is without prejudice to the rights of Defendant to oppose class certification in the action,
4 should the proposed Settlement Agreement not be granted final approval.

5 **PRELIMINARY APPROVAL OF THE SETTLEMENT AGREEMENT**

6 8. The Court has reviewed the Settlement Agreement and the proposed Class Notice,
7 which is attached as an exhibit to the Settlement Agreement. The Court finds, on a preliminary
8 basis, that the Settlement Agreement appears to be within the range of reasonableness of a
9 settlement that could ultimately be given final approval by this Court. It appears to the Court on a
10 preliminary basis that:

11 a. The settlement amount is fair and reasonable to all Class Members when
12 balanced against the probable outcome of further litigation relating to liability and damages issues;

13 b. Extensive and costly investigation and research have been conducted such
14 that counsel for the parties at this time are reasonably able to evaluate their respective positions;

15 c. Settlement at this time will avoid additional substantial costs, such as those
16 that have already been incurred by both parties, as well as avoid the delay and risks that would be
17 presented by the further prosecution of this litigation; and

18 d. The proposed settlement has been reached as the result of intensive, serious,
19 and non-collusive arm's-length negotiations.

20 9. The Court further approves the following representative group of employees as
21 governed by the Settlement Agreement with respect to the PAGA Claim: Class Members who
22 worked from March 23, 2019 through December 31, 2020.

23 10. The Court grants approval of the PAGA Settlement Payment pursuant to the terms
24 and conditions contained in the Settlement Agreement. The Court finds that the terms of the PAGA
25 settlement are fair and reasonable and approves the PAGA settlement pursuant to Labor Code
26 § 2699(1)(2).

27 11. Because a PAGA action is not a class action, Class Members may not opt out of, or
28 object to, the PAGA Settlement Payment.

1 12. If the Court does not grant final approval of the Settlement Agreement, approval of
2 the PAGA settlement will be vacated.

3 **APPROVAL OF DISTRIBUTION OF THE CLASS NOTICE**

4 **AND TIMELINE FOR SENDING CLASS NOTICE**

5 13. This Court finds that the Class Notice fairly and adequately advises the potential
6 Class Members of the terms of the Settlement and the process for the Class Members to obtain the
7 benefits available under the Settlement Agreement, as well as the right of Class Members to opt
8 out of the class, to file documentation in opposition to the proposed settlement, and to appear at
9 the settlement hearing to be conducted on the date set by the Court. The Court further finds that
10 the Class Notice and proposed distribution of such Class Notice by first-class mail to each
11 identified Class Member at their last known address comports with all constitutional requirements,
12 including those of due process under the United States and California constitutions, and meets the
13 requirements of Code of Civil Procedure § 382 and California Rules of Court rule 3.766.
14 Accordingly, good cause appearing therefore, the Court hereby approves the proposed Class
15 Notice, attached as Exhibit 1.

16 14. The Settlement Administrator shall, as soon as practicable, but no later than
17 [REDACTED], 2021 [not less than 45 days following the date of this Order], cause the Class Notice
18 to be mailed by first class mail to all known members of the Class certified by this Court in this
19 action to the most recent address in Defendant's business records for each known member of the
20 Class. The mailing of the Class Notices directed in this Order constitutes the best notice practicable
21 under the circumstances and sufficient notice to all members of the Class.

22 15. The costs of claims administration, including the cost of printing and mailing the
23 Class Notices shall be paid from the Settlement Amount. Such costs shall be withheld from the
24 Settlement Amount by the Settlement Administrator pursuant to the terms of the Settlement
25 Agreement.

26 16. Each member of the Class who wishes to be excluded from the Class must submit
27 a request to be excluded from the Settlement by the deadline set forth in the Class Notice. Any
28 Class Member who does not submit a timely request to be excluded from the Settlement consistent

1 with the terms of the Settlement Agreement shall be bound by the terms of the Settlement
2 Agreement, even if such Class Member has previously initiated or subsequently initiates individual
3 litigation against Defendant or other proceedings encompassed by the Settled Claims defined in
4 the Settlement Agreement.

5 17. If Class Members representing more than 5% of the Class timely opt out of the
6 Settlement, Defendant shall have the sole and absolute discretion to withdraw from the Settlement
7 Agreement within 15 business days after expiration of the Notice Period. Defendant will provide
8 written notice of such withdrawal to Class Counsel. In the event that Defendant elects to so
9 withdraw, the withdrawal shall have the same effect as a termination of the Settlement Agreement
10 for failure to satisfy a condition of Settlement, and the Settlement Agreement shall become null
11 and void and have no further force or effect, and the class certified pursuant to this Agreement will
12 be decertified for all purposes.

13 **OBJECTIONS TO SETTLEMENT**

14 18. Any member of the Class who has not timely elected to be excluded from the Class,
15 and who wishes to object to the fairness, reasonableness or adequacy of the Settlement Agreement
16 or the proposed settlement, or to the award of attorneys' fees and costs, shall provide to the
17 Settlement Administrator a written statement of the objection, as well as the specific reasons, if
18 any, for each objection. The Settlement Administrator will promptly transmit any objections it
19 receives to Class Counsel and Defendant's counsel.

20 19. All written objections must be signed by the Class Member or the Class Member's
21 representative and must include the information specified in the Class Notice.

22 20. A Class Member may appear either in person or through personal counsel at the
23 Final Hearing to object to the Settlement. If represented by personal counsel, the counsel will be
24 hired at the Class Member's expense.

25 21. Class Counsel and Defendant's counsel shall promptly furnish each other with
26 copies of any and all objections or written requests for exclusion that come into their possession.

27 **FINAL APPROVAL FAIRNESS HEARING**

28 22. The Court grants Plaintiff's motion to set a settlement hearing for final approval of

1 the Settlement Agreement on [REDACTED], 2021, at [REDACTED] in Department N-31 of this
2 Court ("Final Hearing"), as set forth in the Class Notice, to determine whether the proposed
3 settlement of this action is fair, reasonable and adequate and should be finally approved. The Court
4 will also consider at the Final Hearing whether applications for Plaintiff's attorneys' fees and
5 expenses and enhancement award to the Named Plaintiff should be granted and, if so, in what
6 amounts.

7 23. Members of the Class who have not timely elected to be excluded from the Class
8 and who object to the proposed Settlement may appear and present such objections at the
9 Settlement Hearing in person or by counsel, provided that the objecting Class Member complied
10 with the requirements to object to the Settlement. No person shall be heard, and no briefs or papers
11 shall be received or considered, unless the requirements to object to the Settlement have been
12 satisfied, except as this Court may permit for good cause shown.

13 24. Class Counsel shall file Plaintiff's memorandum of points and authorities in support
14 of the final approval of the Settlement Agreement and their request for approval of the attorneys'
15 fees, enhancement award, and litigation costs no later than [REDACTED] days prior to the Final
16 Hearing. After the Final Hearing, the Court may enter a Final Order and Final Judgment in
17 accordance with the Settlement Agreement that will adjudicate the rights of all Class Members.

18 25. All discovery and other pretrial proceedings in this action are stayed and suspended
19 until further order of this Court, except such actions as may be necessary to implement the
20 Settlement Agreement and this Order.

21 26. If, for any reason, the Court does not grant final approval of the Settlement, all
22 evidence and proceedings held in connection therewith shall be without prejudice to the status quo
23 ante rights of the parties to the litigation as more specifically set forth in the Settlement Agreement.

24 **IT IS SO ORDERED.**

25
26
27 DATED: _____, 2021

28 _____
JUDGE OF THE SUPERIOR COURT