

Larry W. Lee (State Bar No. 228175)
Kwanporn "Mai" Tulyathan (State Bar No. 316704)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder (State Bar No. 170131)
Polaris Law Group
501 San Benito Street, Suite 200
Hollister, CA 95023
(831) 531-4214
(831) 634-0333 facsimile

Attorneys for Plaintiff, the Class, and Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

SONDRA HERNANDEZ, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

BENEFIT COSMETICS LLC, a
Delaware limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 34-2020-00278210

**DECLARATION OF MAI TULYATHAN IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: April 27, 2021

Time: 9:00 a.m

Dept.: 32

Reservation No.: 2555930

Complaint Filed: April 10, 2020

Trial Date: None Set

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I, Mai Tulyathan, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, counsel of record for Plaintiff Sondra Hernandez (“Plaintiff”). I have personal knowledge of the facts set forth below and if called to testify, I could and would do so competently.

2. On or about March 9, 2020, Plaintiff sent written notice to the California Labor & Force Development Agency (“LWDA”) of Defendant’s violations of Labor Code §§ 201-203 and 246, pursuant to the PAGA, Labor Code § 2699.3. On April 10, 2020, Plaintiff filed her Complaint and Representative Action Complaint against Defendant in Sacramento County Superior Court, alleging causes of action for: (1) violation of California Labor Code §§ 201-203; and (2) violation of Labor Code § 2698, *et seq.*

3. Plaintiff's class and PAGA claims are predicated upon the following allegations. Plaintiff asserts that Defendant failed to factor non-discretionary incentive wages, including sales commission limitation, monthly sales bonuses, into the calculation of the regular rate of pay for purposes of paying sick pay wages, in violation of Labor Code § 246. As a result, Plaintiff and Plaintiff's employees were underpaid sick pay wages. Based thereon, Plaintiff seeks waiting time penalties and PAGA civil penalties, as well as attorneys' fees and costs.

4. After the filing of the lawsuit, Defendant's counsel informed Plaintiff about the existence of an arbitration agreement executed by the Parties. The Parties then engaged in extensive meet and confer discussions regarding the enforceability of the arbitration agreement. Following the Parties' meet and confer discussions regarding arbitrability, the Parties agreed to participate in private mediation.

5. In connection with mediation, the Parties agreed to exchange informal discovery to facilitate an effective mediation. Through the exchange of informal discovery, Defendant provided necessary data including the number of individuals in the class, the number of individuals in the PAGA group, the number of pay periods at issue, average rates of pay, Defendant's policies, practices, and procedures regarding the payment of monthly and quarterly

1 sales bonuses, and Defendant's policies, practices, and procedures in calculating and paying sick
2 pay leave. Based on the data provided by Defendant, Plaintiff's counsel conducted an analysis
3 of potential maximum exposure for class and PAGA penalties.

4 6. On October 26, 2020, the Parties attended a full-day mediation with experienced
5 wage-and-hour mediator, Michael Loeb, Esq. After thorough investigation and evaluation of the
6 facts and claims, and as a result of arms-length negotiations at mediation facilitated by Mr. Loeb,
7 the Parties reached the current settlement. Attached as **Exhibit A** is a true and correct copy of
8 the Parties' Joint Stipulation of Class and Representative Action Settlement and Release.

9 7. Each side has apprised the other of their respective factual contentions, legal
10 theories and defenses, resulting in negotiations taking place between the Parties.

11 8. Based on the class data provided by Defendant, Plaintiff estimated that Defendant
12 would face potential class-wide waiting time penalties under Labor Code § 203 in the amount of
13 approximately \$731,069 if Plaintiff succeeded at trial. Specifically, Plaintiff estimated the
14 maximum exposure of waiting time penalties due to all class members resulting from the unpaid
15 shorted sick pay wages.

16 9. With respect to potential liability of Plaintiff's PAGA claims, Plaintiff estimated
17 that Defendant could face civil penalties of up to approximately \$87,200 if Plaintiff were
18 successful at trial.

19 10. The total amount of class and PAGA penalties amount to approximately
20 \$818,269, without discounting for potentially losing any of the causes of action. The total
21 settlement amount is **\$175,000**, which is approximately **21.39%** of the maximum class and
22 PAGA penalties.

23 11. Although Plaintiff believes that a class can be certified, Plaintiff also believes in
24 the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff
25 involved in not prevailing on one or more of the causes of action or theories alleged in the
26 operative Complaint, the possibility of non-certification and potential for appeals.

27 12. On a raw average, each Participating Settlement Class Member will recover
28 approximately **\$359.01**. The amount actually paid to each Participating Settlement Class

1 Member may increase or decrease depending on the number of opt-outs, since that may result in
2 a higher Net Class Settlement Amount to be divided proportionally among Participating
3 Settlement Class Members.

4 13. Any remaining monies from uncashed settlement checks will be distributed to
5 Legal Aid At Work. Plaintiff does not have any relationship or connection with or to Legal Aid
6 At Work.

7 14. Attached as **Exhibit B** is a true and correct copy of the proposed “Notice of
8 Settlement of Class and Representative Action Settlement” (“Class Notice”) to be sent to Class
9 Members.

10 15. From the inception of the case, Class Counsel has zealously represented the
11 interests of the Class. Class Counsel engaged in numerous discussions with opposing counsel to
12 obtain informal data on behalf of the Class. This settlement was obtained for the benefit of the
13 Class, as opposed to the individual Class Representative.

14 16. I have spent significant time researching and pursuing the claims that have been
15 alleged in this action. The Parties engaged in informal discovery in connection with mediation,
16 and participated in the exchange of class data and Defendant’s pertinent policies and practices.
17 Based on my review of all the documents and information, and based on my experience in class
18 action litigation, I believe this settlement to be fair, adequate, and reasonable.

19 17. I was retained based upon a contingency fee arrangement wherein Plaintiff’s
20 counsel agreed to advance all costs and receive no fee unless a recovery was accomplished.
21 Specifically, had Plaintiff failed to prevail in this case, counsel for Plaintiff would have spent a
22 significant amount of time, money and other resources without any benefit or return. In addition,
23 had Plaintiff also failed to prevail in the present case, Defendant would have been able to seek
24 costs in connection with their defense of the case.

25 18. I am one of the primary attorneys on this matter. My qualifications are as
26 follows: I received my JD from Loyola Law School in 2017. I received the First Honors Award
27 in Legal Research and Writing, First Honors Award in Appellate Advocacy, and First Honors
28 Award in Civil Litigation Practicum I for achieving the highest grade in those classes. During

1 law school, I was a Staff Editor for Loyola Law Review. I was also an extern at the U.S. District
2 Court, Central District of California, for the Honorable Christina A. Snyder, and a certified law
3 clerk at the San Diego County District Attorney's Office, Collaborative Courts Division, and the
4 Los Angeles County District Attorney's Office, Consumer Protection and Environmental Crimes
5 Division. In 2016, I participated in Loyola Law School's Scott Moot Court Competition, where I
6 placed Top 16 and was awarded the Top Ten Brief Award. In 2017, I participated in the
7 Employment Rights Clinic, an extension of the Division of Labor Standards Enforcement created
8 to investigate retaliation complaints. Upon graduation from law school, I was admitted to the
9 California Bar in December 2017.

10 19. I am currently an associate at the law firm Diversity Law Group, P.C., an
11 employment law firm that has handled numerous wage and hour class and individual actions, on
12 both plaintiff and defense sides. The firm currently has cases in numerous state courts, including
13 the Santa Clara Superior Court, Los Angeles Superior Court, Orange County Superior Court, San
14 Diego County Superior Court, Monterey County Superior Court, as well as the United States
15 District Courts for the Central, Northern, Southern, and Eastern Districts of California.

16 20. I am currently handling numerous wage and hour class action and PAGA
17 lawsuits, including *Magadia v. Wal-Mart Associates, Inc., et al.* (Case Number 5:17-cv-00062-
18 LHK); *Garcia v. Wal-Mart Associates, Inc., et al.* (Case Number 3:18-cv-00500-L-MDD);
19 *Hernandez v. Wells Fargo Bank, N.A.* (Case Number 16CV299319); *Lao v. H & M Hennes &*
20 *Mauritz, L.P.* (Case Number 5:16-cv-333 EJD); *Arroyo v. Int'l Paper Company* (Case Number
21 5:17-cv-06211-BLF); *Baker v. California Forensic Medical Group, Inc., et al.*, Judicial Council
22 Coordination Proceeding No. 4999 (Lead Case No. 17CV003723); and *Garcia v. Apex Systems,*
23 *LLC, et al.* (Case Number RG19014709).

24 21. In 2018, I argued before the California Court of Appeal, Second Appellate
25 District, in the case of *Lee v. California Commerce Club, Inc.* (California Court of Appeal Case
26 Number B276171, LASC Case Number BC596924), and *Perez v. Standard Drywall, Inc.*
27 (California Court of Appeal Case Number A146819, Alameda Sup. Ct. No. RG15761142). In
28 that same year, I also assisted the firm in successfully obtaining class certification and partial

1 summary judgment by the United States District Court, Central District of California in the case
2 of *Magadia v. Wal-Mart Associates, Inc.* (Case Number 17-CV-00062-LHK). I third chaired the
3 bench trial in that same case in December 2018, and obtained a \$102 million judgment for the
4 class against Walmart.

5 22. I have also been approved as class counsel in numerous other wage/hour class
6 actions. Most recently, I was approved as class counsel in the cases *Garcia v. Wal-Mart*
7 *Associates, Inc., et al.* (Case Number 3:18-cv-00500-L-MDD), *Richert v. Samaritan, LLC, et al.*
8 (Case Number 17CV314186), *Song v. THC – Orange County, Inc.* (Case No. 8-17-cv-965-JLS
9 (DFM)), and *Hernandez v. Wells Fargo Bank National Ass’n, et al* (Case No. 16-CV-299319).
10 Moreover, I was granted final approval as class counsel in *California Forensic Medical Group*
11 *Wage and Hour Cases* (Case No. JCCP4999), *Valles v. Community Hospital of the Monterey*
12 *Peninsula* (Case No. 17CV003452), *Chavez v. Hugo Boss Retail, Inc.* (Case No. 18CV322644),
13 *Hernandez v. Wells Fargo Bank National Ass’n, et al* (Case No. 16-CV-299319), *Mendez v.*
14 *Falcon Trading Company* (Case No. 19CV004512), and *Khan v. Amy’s Kitchen, Inc.* (Case No.
15 SCV-266127).

16 23. My co-counsel and I will adequately represent the Class Members in this action.
17 Plaintiff’s Counsel have and will zealously represent Plaintiff and the Class and pursue this
18 lawsuit to its conclusion. I have no conflicts with the Class and will adequately represent the
19 Class.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct.

22 Executed on this 5th day of April 2021, at Los Angeles, California.

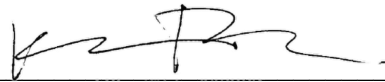
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26 Mai Tulyathan
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EXHIBIT A

1 *[Counsel listed on following page]*

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SACRAMENTO**

11
12 SONDRA HERNANDEZ, as an individual
13 and on behalf of all others similarly situated,

14 Plaintiff,

15 vs.

16 BENEFIT COSMETICS LLC, a Delaware
17 limited liability company; and DOES 1
18 through 50, inclusive.

19 Defendants.

Case No. 34-2020-00278210

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

1 Larry W. Lee (SBN 228175)
lwlee@diversitylaw.com
2 Kwanporn "Mai" Tulyathan (SBN 316704)
ktulyathan@diversitylaw.com
3 **DIVERSITY LAW GROUP, P.C.**
515 S. Figueroa Street, Suite 1250
4 Los Angeles, California 90071
Telephone: (213) 488-6555
5 Facsimile: (213) 488-6554

6 William L. Marder (SBN 170131)
bill@polarislawgroup.com
7 **POLARIS LAW GROUP LLP**
501 San Benito Street, Suite 200
8 Hollister, California 95023
Telephone: (831) 531-4214
9 Facsimile: (831) 634-0333

10 Attorneys for Plaintiff
SONDRA HERNANDEZ
11

12 Emilie C. Woodhead (SBN 240464)
ewoodhead@winston.com
13 Jason S. Campbell (SBN 285044)
JsCampbell@winston.com
14 **WINSTON & STRAWN, LLP**
333 S. Grand Avenue
15 Los Angeles, California 90071
Telephone: (213) 625-1700
16 Facsimile: (213) 615-1750

17 Attorneys for Defendant
BENEFIT COSMETICS LLC
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1 **I. INTRODUCTION**

2 This Joint Stipulation of Class and Representative Action Settlement and Release
3 ("Settlement Agreement" or "Agreement") is made and entered into by and between Plaintiff
4 Sondra Hernandez and Defendant Benefit Cosmetics LLC. It sets forth the Parties' class and
5 representative action settlement to resolve all of the claims asserted in the above-captioned action
6 and any claims that could have been alleged in the above-captioned action and is subject to Court
7 approval.

8 **II. DEFINITIONS**

9 The following definitions are applicable to the Settlement Agreement. Definitions
10 contained elsewhere in the Settlement Agreement also shall be applicable.

11 1. "Action" means *Sondra Hernandez v. Benefit Cosmetics LLC*, Sacramento County
12 Superior Court Case No. 34-2020-00278210.

13 2. "Class Counsel" means Larry W. Lee and Mai Tulyathan of Diversity Law Group,
14 P.C., and William L. Marder of Polaris Law Group LLP.

15 3. "Class Counsel Award" means the total amount to be paid to Class Counsel,
16 including Class Counsel Fees and Class Counsel Expenses, subject to the Court's final approval of
17 the Settlement. Any amount of Class Counsel Award not awarded to Class Counsel shall be added
18 to the Net Class Settlement Amount.

19 4. "Class Counsel Expenses" means the amount of actual litigation expenses Class
20 Counsel incurred in connection with this Action, including without limitation, their pre-filing
21 investigation, their filing of the Action and all related litigation activities, the costs associated with
22 mediation and resolution of this Action, this Settlement and filing for Court approval, and all post-
23 Settlement compliance procedures. Defendant agrees not to object to a request that the Court
24 approve Class Counsel Expenses of up to Fifteen Thousand Dollars (\$15,000.00).

25 5. "Class Counsel Fees" means the amount of attorneys' fees paid to compensate Class
26 Counsel for their services rendered, and to be rendered, to Plaintiff and the Class in connection
27 with the Action. Defendant agrees not to oppose Class Counsel Fees of up to 35 percent of the
28 Gross Settlement Amount (\$175,000.0), i.e. the sum of Sixty-One Thousand and Two Hundred

1 Fifty Dollars (\$61,250.00), subject to the Court's final approval of the Settlement.

2 6. "Class List" means a list of Settlement Class Members and PAGA Representative
3 Action Members that Defendant will compile from its records, which shall include, to the extent
4 available in Defendant's business records: each Settlement Class Member's and each PAGA
5 Representative Action Member's full name; last known address and phone number; employee ID
6 number; and Social Security number. The Class List shall be formatted as a Microsoft Excel
7 spreadsheet or equivalent format and shall be provided to the Settlement Administrator after
8 Preliminary Approval of this Settlement.

9 7. "Class Period" means the period from May 6, 2017, through October 19, 2020.

10 8. "Complaint(s)" means the Complaint filed in Sacramento County Superior Court on
11 May 6, 2020 (Case No. 34-2020-00278210) and any amendments thereto.

12 9. "Court" means the Superior Court of California for the County of Sacramento.

13 10. "Defendant" means Benefit Cosmetics LLC.

14 11. "Defense Counsel" means Winston & Strawn LLP.

15 12. "Effective Date" means the latest of: (i) if there is an appeal of the Court's
16 judgment, the date the order and judgment approving the Settlement are affirmed on appeal, the
17 date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari
18 to the California Supreme Court; (ii) if a petition for writ of certiorari is filed, the date of denial of
19 the petition for writ of certiorari, or the date the order and judgment approving the settlement are
20 affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for
21 filing or noticing any appeal of the order approving the settlement and/or entry of judgment.

22 13. "Final Approval" means the Court order granting final approval of the Settlement
23 Agreement.

24 14. "Gross Settlement Amount" means the total amount of One Hundred Seventy-Five
25 Thousand Dollars (\$175,000.00) that Defendant is required to pay under this Settlement
26 Agreement for full and complete settlement of the Action, which will satisfy: the Individual Class
27 Settlement Payments to Participating Settlement Class Members, the Individual PAGA Settlement
28 Payments to PAGA Representative Action Members, the Representative Service Award to

1 Plaintiff, the portion of the PAGA Amount to be paid to the LWDA, the Settlement Administration
2 Costs to the Settlement Administrator, and the Class Counsel Award. In no event will Defendant
3 ever be required to pay more than the Gross Settlement Amount of \$175,000.00, except that
4 Defendant shall pay the employer's share of the payroll taxes separately from and in addition to
5 the Gross Settlement Amount. Any interest that accrues in the escrow account created by the
6 Settlement Administrator shall also be added to the Gross Settlement Amount. No portion of the
7 Gross Settlement Amount shall revert back to Defendant.

8 15. "Individual PAGA Payment" means each Representative Action Member's share of
9 the PAGA Amount calculated in accordance with the calculations described in Paragraph III.13.b
10 of this Settlement.

11 16. "Individual Settlement Share" means each Participating Settlement Class Member's
12 share of the Net Class Settlement Amount calculated in accordance with the calculations described
13 in Paragraph III.13.a of this Settlement. Payment of an Individual Settlement Share shall be
14 referred to as an "Individual Class Settlement Payment."

15 17. "LWDA" means the California Labor and Workforce Development Agency.

16 18. "Net Class Settlement Amount" means the portion of the Gross Settlement Amount
17 remaining after deduction of the Representative Service Award, the Settlement Administration
18 Costs, the Class Counsel Award, and the PAGA Amount. The entire Net Class Settlement Amount
19 will be distributed to Participating Settlement Class Members.

20 19. "Notice of Settlement" means the notice (substantially in the form attached hereto
21 as Exhibit A) that the Court approves and orders to be sent to all Settlement Class Members and
22 PAGA Representative Action Members advising them of the terms of the Settlement and their
23 rights under the Settlement Agreement.

24 20. "PAGA Amount" means an amount not to exceed \$20,000.00 attributable to
25 Plaintiff's claims pursuant to the California Private Attorneys General Act of 2004, California
26 Labor Code section 2698 *et seq.* ("PAGA"), which shall be allocated between the LWDA and
27 PAGA Representative Action Members as described in Paragraph III.3 of this Agreement.

28 21. "PAGA Period" means the period from March 9, 2019, through October 19, 2020.

22. “PAGA Released Claims” means any and all claims, known and unknown, for civil penalties under the California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*, that were asserted in any complaint in the Action and/or Plaintiff’s letter(s) to the LWDA, and/or that could have been asserted in any complaint in the Action or Plaintiff’s letter to the LWDA based on the facts and/or allegations alleged in any complaint in the Action and/or Plaintiff’s letter to the LWDA. The PAGA Released Claims includes, but is not limited to, claims for PAGA civil penalties premised on California Labor Code sections 201-203 and 245-249; the rate of payment for sick leave, underpayment of sick leave pay; timeliness of payment of wages; and/or payment of unpaid sick leave pay at termination. The release shall include all the above claims through Preliminary Approval.

23. “PAGA Representative Action Members” means all current and former non-exempt employees of Defendant in the State of California who were paid sick pay in the same pay period as any non-discretionary incentive wages, including without limitation, monthly sales bonuses, quarterly sales bonuses, and/or commissions, during the PAGA Period. Defendant represents that there are approximately 872 pay periods in which PAGA Representative Action Members were paid sick pay in the same pay period as any non-discretionary incentive wages, including without limitation, monthly sales bonuses, quarterly sales bonuses, and/or commissions, during the PAGA Period.

24. “Participating Settlement Class Members” means all Settlement Class Members who do not submit a valid letter requesting to be excluded from the Settlement, consistent with the terms set forth in the Settlement Agreement.

25. “Parties” means Plaintiff and Defendant, collectively.

26. “Plaintiff” means the named plaintiff in the Action, Sondra Hernandez.

27. “Preliminary Approval” means the Court order granting preliminary approval of the Settlement Agreement.

28. “Qualified Settlement Account” means the account established by the Settlement Administrator, into which the Gross Settlement Amount shall be deposited. In addition, and as an amount separate from the Gross Settlement Amount, Defendant shall also transmit the employer-

1 side taxes on the wage portion of the Individual Class Settlement Payments to the Settlement
2 Administrator for deposit into the Qualified Settlement Account. The Settlement Administrator
3 shall establish an interest-bearing escrow account under this Settlement.

4 29. "Released Class Claims" means any and all claims, known or unknown, that were
5 asserted in any complaint in the Action and/or Plaintiff's letter(s) to the LWDA; and/or any and all
6 claims, known or unknown, that could have been asserted in any complaint in the Action or
7 Plaintiff's letter to the LWDA based on the facts and/or allegations alleged in any complaint in the
8 Action or Plaintiff's letter to the LWDA. This release includes, but is not limited to, claims for or
9 related to: the rate of payment for sick leave; underpayment of sick leave; timeliness of payment of
10 wages; payment of unpaid sick leave pay at termination; waiting time penalties; any unpaid wages
11 or compensation related to any or all of the foregoing; any premium payments related to any or all
12 of the foregoing; restitution for any of the foregoing; any penalties, including statutory and civil
13 penalties, related to any or all of the foregoing; attorneys' fees or costs related to any or all of the
14 foregoing; and/or any other damages (including general and/or compensatory damages) or
15 amounts related to any or all of the foregoing. The Released Class Claims includes, but is not
16 limited to, any and all claims pursuant to: California Labor Code sections 201-203, 245-249
17 (Healthy Workplace, Healthy Families Act) and the California IWC Wage Orders relating to sick
18 leave pay. The release shall include all the above claims through Preliminary Approval.

19 30. "Released Parties" means Defendant; its parent or subsidiary corporations; each of
20 their present, former, or future owners, officers, directors, shareholders, partners, employees,
21 insurers, successors, predecessors, contractors, assigns, and managing agents; any and all agents,
22 legal representatives and/or attorneys of all of the foregoing entities and individuals; and any
23 entities that Plaintiff, a Settlement Class Member, or a PAGA Representative Action Member may
24 assert are joint employers with Defendant.

25 31. "Representative Service Award" means the amount that the Court authorizes to be
26 paid to Plaintiff, in addition to her Individual Class Settlement Payment and Individual PAGA
27 Payment (if any), in recognition of her efforts and work in prosecuting the Action on behalf of
28 Settlement Class Members and PAGA Representative Action Members. Subject to the Court's

1 final approval, the Parties agree that Plaintiff shall be paid up to Ten Thousand Dollars
2 (\$10,000.00) from the Gross Settlement Amount.

3 32. "Response Deadline" means the deadline by which Settlement Class Members must
4 postmark their request to be excluded from the Settlement or dispute of information in the Notice
5 of Settlement, via mail, to the Settlement Administrator. The Response Deadline is also the
6 deadline by which Settlement Class Members must serve any objections on Counsel for the Parties
7 and the Settlement Administrator. The Response Deadline shall be forty-five (45) calendar days
8 from the initial mailing of the Notice of Settlement by the Settlement Administrator, unless the
9 45th day falls on a Sunday or federal holiday, in which case the Response Deadline will be
10 extended to the next day on which the U.S. Postal Service is open.

11 33. "Settlement Administration Costs" means the expenses payable from the Gross
12 Settlement Amount to the Settlement Administrator for administering the Settlement, including,
13 but not limited to, printing, distributing, and tracking forms and notices for the Settlement, tax
14 reporting, establishing a Qualified Settlement Amount, administering and distributing payments
15 from the Gross Settlement Amount pursuant to the terms of the Settlement Agreement, and
16 providing necessary reports and declarations, as requested by the Parties. Any portion of the
17 Settlement Administration Costs not approved by the Court shall be added to the Net Class
18 Settlement Amount.

19 34. "Settlement Administrator" means Phoenix Settlement Administrators, the third-
20 party class action settlement administrator mutually agreed to by the Parties to handle the
21 administration of the Settlement, subject to approval by the Court.

22 35. "Settlement Agreement" or "Agreement" means this Joint Stipulation of Class and
23 Representative Action Settlement and Release.

24 36. "Settlement Class" and "Settlement Class Member(s)" means all of Defendant's
25 non-exempt employees in the State of California who: (1) were paid both sick pay and non-
26 discretionary incentive wages, including monthly sales bonuses, quarterly sales bonuses, and/or
27 commissions, in the same pay period and (2) whose employment ended (either voluntarily or
28 involuntarily) during the Class Period. As of October 19, 2020 there were 172 Settlement Class

Members during the Class Period.

37. “Settlement” means the Parties’ agreement to compromise the Action, the material terms of which are set forth in the Settlement Agreement.

III. TERMS OF AGREEMENT

1. Terms of Agreement Subject to Court Approval. All terms set forth in the Settlement Agreement are subject to Court approval. The Parties stipulate to class certification only for purposes of the Settlement. Plaintiff shall apply to the Court for approval of the Settlement Agreement and for class certification solely for purposes of effectuating the Settlement. Defendant shall not oppose this application. If, for any reason, the Settlement is not approved, the stipulation to certification will be void. The Parties further agree that certification for purposes of the Settlement is not an admission that class certification is proper under the standard applied to contested certification motions and that the Settlement will not be admissible in this, or any other, legal process as evidence that (i) a class should be certified, (ii) representative treatment is appropriate, or (iii) Defendant is liable to Plaintiff or any of the Settlement Class Members.

2. Funding of the Gross Settlement Amount. Within fifteen (15) calendar days of the Effective Date, Defendant shall deposit into the Qualified Settlement Account the Gross Settlement Amount and employer-side taxes on the wage portion of the Individual Class Settlement Payments. The funds in the Qualified Settlement Account shall be used to pay: (1) Individual Class Settlement Payments; (2) Individual PAGA Settlement Payments; (3) the LWDA’s portion of the PAGA Amount; (4) the Class Counsel Award; (5) the Representative Service Award payment; (6) Settlement Administration Costs; and (7) all employer’s and employee’s withholdings and taxes associated with the wage-portion of Individual Class Settlement Shares.

3. PAGA Amount. Subject to Court approval, \$20,000.00 from the Gross Settlement Amount shall be designated for satisfaction of the PAGA Released Claims. Pursuant to PAGA, Seventy-Five Percent (75%), or \$15,000, of the PAGA Amount shall be paid to the LWDA and Twenty-Five Percent (25%), or \$5,000, shall be distributed proportionally among the PAGA Representative Action Members on a per capita basis. If the PAGA Amount is adjusted by the

1 Court, it shall be adjusted by using funds from the Gross Settlement Amount and in no event shall
2 increase the Gross Settlement Amount.

3 4. Representative Service Award. In exchange for a general release, and in recognition
4 of Plaintiff's efforts and work in prosecuting the Actions on behalf of Settlement Class Members
5 and PAGA Representative Action Members, Defendant agrees not to oppose any application or
6 motion for a Representative Service Award payment to Plaintiff not to exceed \$10,000.00. The
7 Representative Service Award payment, which shall be paid from the Gross Settlement Amount,
8 shall be in addition to the Plaintiff's Individual Class Settlement Payment and Individual PAGA
9 Settlement Payment (if any) paid pursuant to the Settlement. The Settlement Administrator shall
10 issue an IRS Form 1099 for the Representative Service Award. Plaintiff shall be solely and legally
11 responsible to pay any and all applicable taxes on the payments made pursuant to this Paragraph
12 and shall hold Defendant harmless from any claim or liability for taxes, penalties, or interest
13 arising as a result of the payment. Any reduction in the amount of the Representative Service
14 Award by the Court shall remain in the Net Class Settlement Amount to be distributed to
15 Participating Settlement Class Members.

16 5. Settlement Administration Costs. The Settlement Administrator shall be paid for the
17 costs of administration of the Settlement and distribution of all payments from the Gross
18 Settlement Amount. The estimate of the Settlement Administration Costs is \$7,000.00. These
19 costs, which shall be paid from the Gross Settlement Amount, shall be used to administer the
20 Settlement, including, *inter alia*, preparing the required tax reporting on the Individual Settlement
21 Payments, issuing 1099 and W-2 IRS Forms, distributing the Notices of Settlement, establishing a
22 Qualified Settlement Account, calculating Individual Class Settlement Payments and Individual
23 PAGA Settlement Payments, processing exclusion requests, distributing the Net Class Settlement
24 Amount as directed by the Court and as set forth herein, and providing necessary reports and
25 declarations. No fewer than ten (10) calendar days before the Final Approval hearing, the
26 Settlement Administrator shall provide the Court and all counsel for the Parties with a statement
27 detailing the Settlement Administration Costs. The Parties agree to cooperate in the settlement
28 administration process and to make all reasonable efforts to control and minimize the costs and

1 expenses incurred in the administration of the Settlement. An IRS Form 1099 shall be issued to the
2 Settlement Administrator. Any portion of the Settlement Administration Costs that are not used or
3 which are not awarded by the Court will not revert to Defendant, but instead will be part of the Net
4 Class Settlement Amount for distribution to Participating Settlement Class Members. If the
5 Settlement Administration Costs exceed \$7,000.00, such cost will be deducted from the Net Class
6 Settlement Amount.

7 6. Payment of Class Counsel Award. Defendant agrees not to oppose any application
8 or motion by Class Counsel for Class Counsel Fees not to exceed \$61,250.00, and Class Counsel
9 Costs not to exceed \$15,000.00. The Class Counsel Award shall be paid out of the Gross
10 Settlement Amount. Any portion of the Class Counsel Award not awarded to Class Counsel shall
11 be returned to the Net Class Settlement Amount for distribution to Participating Settlement Class
12 Members. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the
13 payment made pursuant to this Paragraph. IRS Form 1099 shall be provided to Class Counsel for
14 the payments made pursuant to this Paragraph.

15 7. Notice Procedure. The Settlement Administrator shall be responsible for the
16 following notice procedure.

17 a. Delivery of the Class List. Within fifteen (15) calendar days after
18 Preliminary Approval, Defendant shall provide the Class List to the Settlement Administrator. The
19 Settlement Administrator shall keep the Class List confidential and shall not disclose it to anyone,
20 except: (i) to carry out reasonable efforts described below; (ii) if a Settlement Class Member seeks
21 information from Class Counsel regarding the Settlement, the Settlement Administrator may share
22 information with Class Counsel that is contained in the Class List regarding that particular
23 Settlement Class Member to the extent necessary to respond to the question or issue, except that
24 the Settlement Administrator will not share Social Security Numbers with Class Counsel; or (iii)
25 pursuant to Defendant's express written authorization.

26 b. Notice by First-Class U.S. Mail. Within ten (10) calendar days of receiving
27 the Class List, the Settlement Administrator shall send the Notice of Settlement to all Settlement
28 Class Members and PAGA Representative Action Members via First Class U.S. Mail using the

1 most current mailing addresses identified. The Settlement Administrator shall conduct reasonable
2 verification measures relating to the addresses before the mailing.

3 c. Procedure for Lost and Undeliverable Notices. Any Notice of Settlement
4 returned to the Settlement Administrator as non-delivered on or before the Response Deadline
5 shall be sent to the forwarding address affixed thereto. If no forwarding address is provided, the
6 Settlement Administrator shall promptly attempt to determine a correct address using a skip-trace,
7 or other search using the name, address and/or Social Security number of the Settlement Class
8 Member and/or PAGA Representative Action Member involved, and shall re-mail the Notice of
9 Settlement. If after performing a skip-trace search, the Settlement Class Member's Notice of
10 Settlement is again returned to the Settlement Administrator as non-deliverable, that Settlement
11 Class Member will be deemed a Participating Settlement Class Member, and the Settlement
12 Administrator will have no further obligation to undertake efforts to obtain an alternative address.
13 If after performing a skip-trace search, the PAGA Representative Action Member's Notice of
14 Settlement is again returned to the Settlement Administrator as non-deliverable, the Settlement
15 Administrator will have no further obligation to undertake efforts to obtain an alternative address.
16 The Response Deadline for any Settlement Class Member who is re-mailed a Notice of Settlement
17 shall be extended fifteen (15) calendar days from the original Response Deadline. If the Response
18 Deadline for any Settlement Class Member is later than the original 45 calendar day deadline, the
19 Settlement Administrator shall include a letter with the Notice of Settlement advising the
20 Settlement Class Member of the adjustment to the Response Deadline.

21 8. Request for Exclusion Procedure. The Notice of Settlement shall give Settlement
22 Class Members instructions on how to exclude themselves, or "opt out," from the Settlement.

23 a. Settlement Class Members who wish to opt out of the Settlement shall notify
24 the Settlement Administrator in writing by mail that they want to exclude themselves (*i.e.*, opt out)
25 from the Settlement. The request to opt out sent to the Settlement Administrator must be
26 postmarked no later than the Response Deadline.

27 b. The proposed order granting Preliminary Approval of the Settlement will
28 provide, and the Notice of Settlement will instruct Settlement Class Members, that, to be valid, a

1 written request to opt out of the Settlement Agreement must include the Settlement Class Member's
2 name, address, last four digits of his/her social security number, and signature and state the
3 following: I wish to opt-out of the settlement of the lawsuit titled *Hernandez v. Benefit Cosmetics*
4 *LLC* (or words to the similar effect).

5 c. A Settlement Class Member who properly and timely submits a request to opt
6 out of the Settlement Agreement will not become a Participating Settlement Class Member, will not
7 be allowed to object to this Settlement Agreement, and will not be bound by the Settlement
8 Agreement.

9 d. Counsel for the Parties shall not discourage any Settlement Class Member
10 from participating in, objecting to, or opting out of the Settlement.

11 e. If ten percent (10%) or more of the Settlement Class Members opt out, then
12 Defendant shall have the right, in its sole discretion, to void and revoke the Settlement Agreement
13 and its stipulation to class certification. After the Settlement Administrator sends its report of the
14 final number of Settlement Class Members who have opted out, the Defendant shall have ten (10)
15 calendar days from the receipt of the Settlement Administrator's report to notify the Class Counsel
16 in writing of its intent to revoke the Settlement Agreement and the conditional class certification. In
17 the event that Defendant exercises its option to revoke the Settlement Agreement, Defendant agrees
18 to pay the Settlement Administration Costs incurred by the Settlement Administrator up to the date
19 of Defendant's notice to revoke.

20 9. Objections. Any Settlement Class Member who has not timely and properly opted
21 out (i.e., any Participating Settlement Class Member) may object to the proposed Settlement of the
22 Released Class Claims in writing. To object, a Participating Settlement Class Member must submit
23 his/her written objection by the Response Deadline. A Participating Settlement Class member is
24 not required to provide advance notice of the intent to appear at the Final Approval Hearing. All
25 written objections must include: (a) the objector's full name, current address, and telephone
26 number; (b) the case name and number (*Hernandez v. Benefit Cosmetics LLC*, Case No. 34-2020-
27 00278210); (c) the basis of the objection, including the reasons why the objector believes that the
28 Court should find that the Settlement is not in the best interests of the Settlement Class and why

1 the Settlement should not be approved; and (d) any and all supporting papers (including, without
2 limitation, all briefs, written evidence, and declarations) for which the objection is based. The
3 written objection must be mailed to the Settlement Administrator, who will forward the objection
4 to the Parties for submission to the Court, and be postmarked on or before the Response Deadline.
5 The postmark date of the mailing shall be deemed the exclusive means for determining that a
6 written objection is timely. Settlement Class Members who fail to make objections in the manner
7 specified above shall be deemed to have waived any objections and shall be foreclosed from
8 making any objections (whether by appeal or otherwise) to the Settlement. Settlement Class
9 Members shall be permitted to withdraw their objections in writing by submitting a withdrawal
10 statement to the Settlement Administrator, orally at the Final Approval hearing, or as otherwise
11 ordered by the Court. A Settlement Class Member who fails to make objections in a manner
12 specified above and by the deadline specified in this Paragraph will be deemed to have waived any
13 objection and will be foreclosed from making any objections to the Settlement (whether by appeal
14 or otherwise).

15 10. The Settlement Terms Bind All Settlement Class Members Who Do Not Opt-Out.

16 Any Settlement Class Member who does not affirmatively opt-out of the Settlement Agreement by
17 submitting a timely and valid letter requesting exclusion from the Settlement, consistent with the
18 terms of the Settlement Agreement, shall be bound by all of its terms, including those pertaining to
19 the Released Class Claims and PAGA Released Claims, as well as any judgment that may be
20 entered by the Court after it grants Final Approval of the Settlement.

21 11. No PAGA Opt-Out. No PAGA Representative Action Member may opt out of or be

22 excluded from participating in the settlement of the PAGA Released Claims. All PAGA
23 Representative Action Members shall be bound by the judgment entered herein and will have
24 released the PAGA Released Claims if/when the Court grants final approval of this settlement. If
25 the Court grants final approval of the Settlement, the occurrence of the Effective Date shall forever
26 bar Plaintiff, the LWDA, and any other representative, proxy, or agent thereof, including but not
27 limited to any and all PAGA Representative Action Members from pursuing any action pursuant to
28 PAGA against the Released Parties.

12. Certification Reports Regarding Requests for Exclusion and Disputes. The Settlement Administrator shall provide Class Counsel and Defense Counsel a weekly report which certifies: (a) the number of Settlement Class Members who have submitted a letter requesting exclusion from the Settlement, including a statement as to whether the letter is valid or defective; (b) whether any Settlement Class Member has submitted a challenge to any information contained in their Notice of Settlement; and (c) the number of returned, undeliverable and/or re-mailed Notices of Settlement. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

13. Settlement Share Calculations. The Settlement Administrator shall determine the amounts of any Individual Settlement Shares and Individual PAGA Payments.

a. The Net Class Settlement Amount shall be allocated proportionally among Participating Settlement Class Members on a per capita basis.

b. Twenty-five percent of the PAGA Amount (\$5,000.00) shall be allocated proportionally to the PAGA Representative Action Members on a per capita basis.

c. The Notice of Settlement shall state the recipient's estimated Individual Class Settlement Share and Individual PAGA Settlement Payment.

14. Tax Allocation of Individual Settlement Shares and Individual PAGA Payments.

a. The Individual Class Settlement Shares shall be allocated 10 percent (10%) as W-2 wages and 90 percent (90%) as 1099 payments for penalties and interest. The Individual Class Settlement Shares will be paid to Participating Settlement Class Member subject to reduction for all employees' share of typical withholdings and taxes associated with the wage-portion of the Individual Class Settlement Shares.

b. The Individual PAGA Payments made to PAGA Representative Action Members shall be allocated 100 percent (100%) as 1099 payments for penalties.

15. Payment of Settlement Amounts. The Settlement Administrator shall have the authority and obligation to make all payments, credits, and disbursements, calculated in accordance with the methodology set out in the Settlement Agreement and orders of the Court.

1 a. The Settlement Administrator's duties include, and are not limited to,
2 reporting payments under the Settlement to all required taxing and other authorities, taking and
3 transmitting the appropriate employee's and employer's share of withholdings and taxes with
4 respect to the wage-portion of the Individual Settlement Share, and issuing IRS Forms W-2 and
5 1099. No person shall have any claim against Defendant, Defense Counsel, Plaintiff, Settlement
6 Class Members, PAGA Representative Action Members, Class Counsel, or the Settlement
7 Administrator based on distributions and payments made in accordance with the Settlement
8 Agreement.

9 b. With respect to Participating Settlement Class Members and PAGA
10 Representative Action Members whose Notice of Settlement are undeliverable, settlement checks
11 shall be sent to the last address obtained by the Settlement Administrator with respect to the
12 Participating Settlement Class Member and/or PAGA Representative Action Member.

13 16. Distribution Timing. Within ten (10) calendar days after Defendant deposits the
14 Gross Settlement Amount into the Qualified Settlement Account, the Settlement Administrator
15 shall distribute the Gross Settlement Amount and associated tax payments, including Individual
16 Class Settlement Payments to Participating Settlement Class Members, Individual PAGA
17 Settlement Payments to PAGA Representative Action Members, the Representative Service Award
18 to Plaintiff, the portion of the PAGA Amount to be paid to the LWDA, and Class Counsel Award
19 to Class Counsel. The Settlement Administrator shall also issue a payment to itself for the services
20 performed in connection with the Settlement.

21 17. Non-Negotiated Settlement Checks. Any checks issued by the Settlement
22 Administrator to Participating Settlement Class Members and PAGA Representative Action
23 Members shall be negotiable for one hundred and eighty (180) calendar days. Those funds
24 represented by settlement checks returned as undeliverable and the funds which correspond with
25 the settlement checks that are not negotiated within one hundred and eighty (180) calendar days
26 after issuance shall be tendered, with interest, if any, to Legal Aid at Work.

27 18. Settlement Administrator's Final Report(s). Not less than ten (10) calendar days
28 after the Response Deadline, the Settlement Administrator shall provide Class Counsel and

1 Defense Counsel a report showing: (i) the number of Notices of Settlement mailed; (ii) the number
2 of returned and undelivered Notices of Settlement; (iii) the number of re-mailed Notices of
3 Settlement; (iv) the number of total undeliverable Notices of Settlement after re-mailing; (iv) the
4 number of address traces performed for undeliverable Notices of Settlement after re-mailing; (v)
5 the number of Notices of Settlement undeliverable from traced addresses; (vi) the final number of
6 Settlement Class Members who have submitted objections; and (vii) the final number of
7 Settlement Class Members who have submitted valid letters requesting exclusion from the
8 Settlement. Upon completion of administration of the Settlement, the Settlement Administrator
9 shall provide written certification/declaration of such completion to counsel for all Parties and the
10 Court, if requested by the Parties.

11 19. Release of Claims By Participating Settlement Class Members. Upon the date
12 Defendant transfers the Gross Settlement Amount to the Settlement Administrator, and except as
13 to such rights or claims as may be created by the Settlement Agreement, each and every
14 Participating Settlement Class Member, on behalf of themselves and their heirs and assigns, shall
15 release the Released Parties from the Released Class Claims.

16 20. Release of Claims By PAGA Representative Action Members. Upon the date
17 Defendant transfers the Gross Settlement Amount to the Settlement Administrator, and except as
18 to such rights or claims as may be created by the Settlement Agreement, each and every PAGA
19 Representative Action Member, on behalf of themselves and their heirs and assigns, shall release
20 the Released Parties from the PAGA Released Claims.

21 21. General Release by Plaintiff Only. Upon the date Defendant transfers the Gross
22 Settlement Amount to the Settlement Administrator, Plaintiff shall release the Released Class
23 Claims and PAGA Released Claims against the Released Parties, and Plaintiff makes the
24 additional following General Release in favor of the Released Parties:

25 a. Plaintiff individually hereby unconditionally waives and forever releases the
26 Released Parties from any and all demands, damages, debts, liabilities, actions, causes of action
27 and claims of every kind and nature whatsoever, whether now known or unknown, suspected or
28 unsuspected, contingent or non-contingent, whether or not concealed or hidden, arising or accruing

1 at any time prior to the Effective Date, which now exist, or heretofore have existed, upon any
2 theory of law or equity, including, without limitation, This release will include, but will not be
3 limited to, all claims under the Fair Employment and Housing Act, Americans with Disabilities
4 Act, and Title VII of the Civil Rights Act of 1964. Plaintiff is deemed by operation of the order
5 granting Final Approval to have agreed not to sue or otherwise make a claim against any of the
6 Released Parties for any claim.

7 b. Plaintiff acknowledges that she has had the opportunity to review, and has
8 reviewed, California Civil Code section 1542, which provides:

9 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
10 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
11 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
12 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
13 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
14 PARTY.

15 Being fully informed of this provision of the Civil Code and understanding its provisions, Plaintiff
16 agrees to waive any rights under that section, and acknowledges that the Settlement Agreement
17 and the release contained herein extends to all claims that she has or might have against the
18 Released Parties, including those which are presently unknown to her.

19 22. Final Approval Hearing and Entry of Judgment. Upon expiration of the deadlines to
20 postmark a letter requesting exclusion from the Settlement, or objections to the Settlement
21 Agreement, and with the Court's permission, a Final Approval hearing shall be conducted to
22 finally determine the fairness of the Settlement, along with the amounts properly payable for
23 (a) Individual Class Settlement Payments, (b) the Class Counsel Award, (c) the Representative
24 Service Award Payment, (c) Individual PAGA Settlement Payments, (d) payment to the LWDA,
25 and (e) all Settlement Administration Costs. Plaintiff's Counsel will be responsible for drafting the
26 attorneys' fees and costs application to be heard at the Final Approval hearing.

27 23. Judgment and Continued Jurisdiction. Upon Final Approval of the Settlement by the
28 Court or after the Final Approval hearing, the Parties shall present a proposed judgment to the
Court for its approval. After entry of the judgment, the Court shall have continuing jurisdiction
under Code of Civil Procedure section 664.6 solely for purposes of addressing: (a) the

1 interpretation and enforcement of the terms of the Settlement, (b) Settlement administration
2 matters, and (c) such post-judgment matters as may be appropriate under court rules or as set forth
3 in this Agreement. The Parties further understand and agree that if an action is brought to enforce
4 Defendant's payment of the Gross Settlement Amount pursuant to the terms of this Settlement
5 Agreement, the prevailing party shall be entitled to its/her reasonable attorneys' fees and costs.

6 24. No Solicitation of Settlement Objections or Exclusions. The Parties agree to use
7 their best efforts to carry out the terms of the Settlement Agreement. At no time shall any of the
8 Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to submit
9 either a letter requesting exclusion from the Settlement or written objections to the Settlement
10 Agreement or to appeal from the Court's final judgment.

11 25. Nullification of Settlement Agreement. The Settlement Agreement shall be null and
12 void and any order or judgment entered by the Court in furtherance of the Settlement shall be
13 treated as void from the beginning if: (i) the Defendant exercises its option to rescind the
14 Settlement Agreement under the terms and conditions as set forth in Paragraph III.8.(c); (ii) the
15 Court does not finally approve the Settlement as provided herein; (iii) the Court does not enter a
16 final judgment as provided herein; or (iv) the Settlement does not become final for any other
17 reason. In such a case, the Parties shall be returned to their respective statuses as of the date and
18 time immediately prior to the execution of the Settlement Agreement and the Parties shall proceed
19 in all respects as if the Settlement Agreement had not been executed. In the event an appeal is filed
20 from the Court's final judgment, or any other appellate review is sought prior to the Effective
21 Date, administration of the Settlement shall be stayed pending final resolution of the appeal or
22 other appellate review (unless otherwise agreed to by the Parties).

23 **IV. DUTIES OF THE PARTIES PRIOR TO PRELIMINARY APPROVAL AND**
24 **BETWEEN PRELIMINARY AND FINAL APPROVAL**

25 26. Promptly after execution of the Settlement Agreement, Plaintiff shall move the
26 Court for Preliminary Approval of the Settlement and obtain entry of an order accomplishing the
27 following:

- 28 a. Preliminarily approving the Settlement;

- b. Approving as to form and content the proposed Notice of Settlement;
- c. Directing the mailing of the Notice of Settlement;
- d. Preliminarily appointing Plaintiff and Class Counsel as representatives of the Settlement Class Members and PAGA Representative Action Members;
- e. Preliminarily approving the application for the Class Counsel Award;
- f. Preliminarily setting the Representative Service Award;
- g. Preliminarily approving settlement administration services to be provided by the Settlement Administrator and Settlement Administration Costs;
- h. Preliminarily approving the PAGA Amount; and
- i. Scheduling the Final Approval hearing, which is a fairness hearing on the question of whether the proposed Settlement Agreement should be finally approved as fair, reasonable, and adequate.

27. The Parties shall submit the Settlement Agreement in support of Plaintiff's unopposed motion for Preliminary Approval of the Settlement. Plaintiff shall provide Defendant no fewer than three (3) business days to review the motion for Preliminary Approval, and shall not file the motion for Preliminary Approval or any other documents until Defendant has approved their contents.

28. Class Counsel will file a motion for Final Approval of the Settlement and supporting documents with the Court at least sixteen (16) court days before the Final Approval hearing or such other date as the Court directs. Supporting documents include: (a) a declaration by the Settlement Administrator of due diligence and proof of mailing of the Notice of Settlement, and of the delivery results of the Settlement Administrator's mailings including tracing and re-mailing efforts; (b) a proposed order granting Final Approval; (c) a proposed final judgment. Class Counsel will send Defense Counsel the motion for Final Approval of the Settlement for review, comments, and changes no less than three (3) business days prior to filing the motion. Defendant shall have three (3) business days in which to provide its comments. The Parties will meet and confer and agree upon the proposed order granting Final Approval and the proposed final judgment. Defendant will not oppose Final Approval of the Settlement.

29. Class Counsel will submit a proposed order and judgment for Final Approval. The proposed order and judgment shall include the following findings and orders:

- a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing that its terms and provisions be carried out;
- b. Approving the payment of the Representative Service Award to Plaintiff;
- c. Approving Class Counsel's application for the Class Counsel Award;
- d. Approving the PAGA Amount; and
- e. Providing that the Court will retain jurisdiction to oversee administration and enforcement of the terms of the Settlement and the Court's orders.

V. DUTIES OF THE PARTIES AFTER FINAL COURT APPROVAL

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

- a. Should an appeal be taken from the Final Approval of the Settlement, all Parties will support the Final Approval order on appeal.
- b. Class Counsel and Defense Counsel will reasonably assist the Settlement Administrator as needed or requested in the process of identifying and locating Settlement Class Members and/or PAGA Representative Action Members;
- c. Class Counsel will ensure that the Settlement Administrator will certify to the Court completion of all payments required to be made by the Settlement Agreement.

VI. OTHER PROVISIONS.

31. No Admission. Nothing contained herein, nor the consummation of the Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the other Released Parties. The Parties have entered into the Settlement Agreement with the intention of avoiding further disputes and litigation with their attendant inconvenience and expenses. The Settlement Agreement is a settlement document and, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408 and/or any other similar law, shall be inadmissible in evidence in any proceeding, except an action

or proceeding to approve the Settlement, and/or interpret or enforce the Settlement.

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

<u>To Plaintiff's Counsel:</u>	<u>To Defendant's Counsel:</u>
DIVERSITY LAW GROUP, P.C. Larry W. Lee Kwanporn "Mai" Tulyathan 515 S. Figueroa Street, Suite 1250 Los Angeles, California 90071 POLARIS LAW GROUP LLP William L. Marder 501 San Benito Street, Suite 200 Hollister, California 95023	WINSTON & STRAWN LLP Emilie C. Woodhead Jason S. Campbell 333 S. Grand Ave., 38th Floor Los Angeles, California 90071

33. Tax Liability. The Parties make no representations as to the tax treatment or legal effect of the payments called for hereunder, and Settlement Class Members are not relying on any statement or representation by the Parties in this regard. Settlement Class Members and PAGA Representative Action Members understand and agree that each will be solely responsible for the payment of any taxes and penalties assessed on the payments which are issued to them, as described herein, and will defend, indemnify, and hold the Parties free and harmless from and against any claims resulting from treatment of such payments as non-taxable damages.

34. Exhibits and Headings. The terms of this Agreement include the terms set forth in any attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits are an integral part of the Settlement. The descriptive headings of any paragraphs or sections of the Settlement Agreement are inserted for convenience of reference only and do not constitute a part of the Settlement Agreement.

35. Amendment or Modification. Unless otherwise provided herein, the Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

1 36. Entire Agreement. The Settlement Agreement, any supplemental written agreement
2 subsequently incorporated, and any attached Exhibits constitute the entire Settlement Agreement
3 among these Parties, and no oral or written representations, warranties or inducements have been
4 made to any Party concerning the Settlement Agreement or its Exhibits other than the
5 representations, warranties and covenants contained and memorialized in such documents.

6 37. Authorization to Enter Into Settlement Agreement. The signatories hereto represent
7 that they are fully authorized to enter into the Settlement Agreement and bind the Parties hereto to
8 the terms and conditions hereof.

9 38. Mutual Full Cooperation. The Parties and their counsel will cooperate with each
10 other and use their best efforts to affect the implementation of the Settlement. Any disputes arising
11 out of or relating to this Settlement Agreement will be submitted to mediator Michael J. Loeb for
12 resolution. The Parties will split the costs of the mediator for any such time incurred by the
13 mediator in reaching such resolution, and all Parties will bear their own attorneys' fees and other
14 costs incurred.

15 39. Binding on Successors and Assigns. The Settlement Agreement shall be binding
16 upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors,
17 administrators and successors. The Parties hereto represent, covenant, and warrant that they have
18 not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or
19 encumber to any person or entity any portion of any liability, claim, demand, action, cause of
20 action or rights herein released and discharged except as set forth herein.

21 40. Participating Settlement Class Member and PAGA Representative Action Member
22 Signatories. It is agreed that because the Participating Settlement Class Members and PAGA
23 Representative Action Members are numerous, it is impossible or impractical to have each
24 Participating Settlement Class Member and PAGA Representative Action Member execute the
25 Settlement Agreement. The Notice of Settlement will advise all Settlement Class Members and
26 PAGA Representative Action Members of the binding nature of the release and, upon Final
27 Approval, such shall have the same force and effect as if the Settlement Agreement were executed
28 by each Participating Settlement Class Member and PAGA Representative Action Member.

41. California Law Governs. All terms of the Settlement Agreement and the exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

42. Counterparts. The Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic, pdf, DocuSign, and scanned copies of the signature page, shall be deemed to be one and the same instrument provided that counsel for the Parties to the Settlement Agreement shall exchange among themselves original signed counterparts.

43. Plaintiff's Waiver of Right to be Excluded. Plaintiff agrees that by signing the Settlement Agreement, she is bound by the terms herein stated and further agrees not to request to be excluded from the Settlement Class.

44. Confidentiality Preceding Preliminary Approval. Plaintiff and Class Counsel agree that the terms of the Settlement (including, but not limited to, the Gross Settlement Amount), the negotiations leading to the Settlement, and all documents related to the Settlement shall not be discussed with, publicized or promoted to the public, except as necessary to seek approval of the Settlement Agreement, effectuate and/or enforce the terms of the Settlement Agreement. Notwithstanding the foregoing, Plaintiff and Class Counsel may tell the public in general only that certain claims "have been resolved by the Parties." Plaintiff and Class Counsel will not publish or publicize the Settlement Amount and will not issue any press releases except that Plaintiff and Class Counsel may disclose in legal proceedings a summary of the terms of the Settlement. For the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel is allowed to disclose the name of the Parties in the action and the venue/case number of this action (but not any other details regarding the Settlement) for such limited purposes.

SIGNATURES ON THE FOLLOWING PAGE

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1 Dated: 3/12/2021, 2020

DocuSigned by:



Plaintiff Sondra Hernandez

3 Dated: _____, 2020

BENEFIT COSMETICS LLC

By: Jennifer Baxter

Its: Vice President, Human Resources, America

8 **APPROVED AS TO FORM:**

10 Dated: March 15, 2021

DIVERSITY LAW GROUP, P.C.



By: Larry Lee

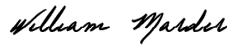
Kwanporn "Mai" Tulyathan

Attorneys for Plaintiff, the Class, and Aggrieved
Employees

15 Dated: March 12, 2021

POLARIS LAW GROUP LLP

DocuSigned by:



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By: William L. Marder

Attorneys for Plaintiff, the Class, and Aggrieved
Employees

20 Dated: _____, 2021

WINSTON & STRAWN LLP

By: Jason S. Campbell

Attorneys for Defendant

1 Dated: _____, 2020

Plaintiff Sondra Hernandez

2
3 Dated: March 9, 2020

BENEFIT COSMETICS LLC

4
5 

By: Jennifer Baxter

6 Its: Vice President, Human Resources, America

7
8 **APPROVED AS TO FORM:**

9
10 Dated: _____, 2021

DIVERSITY LAW GROUP, P.C.

11
12 By: Larry Lee

Kwanporn "Mai" Tulyathan

13 Attorneys for Plaintiff, the Class, and Aggrieved
14 Employees

15 Dated: _____, 2021

POLARIS LAW GROUP LLP

16
17 By: William L. Marder

18 Attorneys for Plaintiff, the Class, and Aggrieved
19 Employees

20 Dated: March 18, 2021

WINSTON & STRAWN LLP

21 

22 By: Jason S. Campbell

23 Attorneys for Defendant

EXHIBIT B

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

SONDRA HERNANDEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

BENEFIT COSMETICS LLC, a Delaware limited
liability company; and DOES 1 through 50,
inclusive.

Defendants.

Case No. **34-2020-00278210**

**NOTICE OF SETTLEMENT OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT**

To: All of Benefit Cosmetic LLC's: (a) non-exempt employees in California who were paid both sick pay and non-discretionary incentive wages, including monthly sales bonuses, quarterly sales bonuses, and/or commissions in the same pay period and whose employment ended (either voluntarily or involuntarily) from May 6, 2017 through October 19, 2020 and (b) non-exempt employees in California who were paid sick pay in the same pay period as any non-discretionary incentive wages, including without limitation, monthly sales bonuses, quarterly sales bonuses, and/or commissions from March 9, 2019 through October 19, 2020.

**PLEASE READ THIS NOTICE CAREFULLY: IT MAY AFFECT YOUR LEGAL RIGHTS.
YOU MAY BE ENTITLED TO COMPENSATION FROM THIS SETTLEMENT.**

A court approved this notice. This is not an advertisement.
You are not being sued. However, your legal rights are affected whether you act or not.

I. INTRODUCTION

You received this Notice because the records of Benefit Cosmetics LLC ("Benefit") show that you (a) were employed as a non-exempt employee in California, were paid both a non-discretionary incentive wage and sick pay in the same period, and terminated your employment with Benefit (either voluntarily or involuntarily) at some time from May 6, 2017 through October 19, 2020 ("Settlement Class Members") or (b) were employed as a non-exempt employee in California and were paid sick pay in the same pay period as any non-discretionary incentive wage from March 9, 2019 through October 19, 2020 ("PAGA Representative Action Members").

This Notice is to inform you that a proposed class and representative action settlement of the above-captioned action (the "Action") pending before the Superior Court of the State of California for the County of Sacramento (the "Court") has been reached by the parties and has been granted preliminary approval by the Court.

As a Settlement Class Member and/or PAGA Representative Action Member, you are entitled to compensation under the Settlement. The Settlement affects your legal rights, except for Settlement Class Members who "opt-out" of the Settlement. The purpose of this Notice is to: (1) describe the Action; (2) inform you of the terms of the Settlement; and (3) inform you of your rights and options in connection with the Settlement before the Court decides whether to grant final approval of the Settlement. Benefit will not fire, punish, or otherwise retaliate against you because you choose to participate or not participate in this Settlement, or because you object to the Settlement.

II. SUMMARY OF THE ACTION

On May 6, 2020, Plaintiff Sondra Hernandez (“Plaintiff”) filed a class and representative action complaint against Benefit in the Superior Court of the State of California for the County of Sacramento. Plaintiff alleges in the Action that, during the applicable time period, Benefit failed to correctly and timely pay sick pay wages to its employees according to the requirements of the California Labor Code. Plaintiff asserted her claims as a class action and as a representative action under the California Labor Code Private Attorneys General of 2004 (“PAGA”). Plaintiff seeks allegedly unpaid sick leave pay, statutory penalties, civil penalties, and interest related to these claims.

By agreeing to settle, Benefit does not admit, and expressly denies, liability on any of the factual allegations or claims in the case and that the case can or should proceed as a class and/or representative action. The Court has not ruled on the merits of Plaintiff’s claims or Benefit’s defenses.

III. WHO IS PART OF THE SETTLEMENT CLASS?

The Court granted preliminary approval of the Settlement on behalf of a Settlement Class defined as:

All of Benefit Cosmetics LLC’s non-exempt employees in the State of California who: (1) were paid both sick pay and non-discretionary incentive wages, including monthly sales bonuses, quarterly sales bonuses, and/or commissions, in the same pay period and (2) whose employment ended (either voluntarily or involuntarily) from May 6, 2017 through October 19, 2020.

The Court also granted preliminary approval of the Settlement on behalf of a PAGA Class defined as:

All of Benefit Cosmetics LLC’s non-exempt employees in the State of California who were paid sick pay in the same pay period as any non-discretionary incentive wages, including without limitation, monthly sales bonuses, quarterly sales bonuses, and/or commissions, from March 9, 2019 through October 19, 2020.

The Court also preliminarily approved Plaintiff to serve as Class Representative and the following lawyers and firms to serve as Class Counsel: Larry W. Lee and Kwanporn “Mai” Tulyathan of Diversity Law Group, P.C., and William L. Marder of Polaris Law Group LLP.

IV. SUMMARY OF SETTLEMENT TERMS

The proposed Settlement provides for a total payment by Benefit in the amount \$175,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Action and obtain a release of claims as described below. The total amount to be distributed to participating Settlement Class Members will be the Gross Settlement Amount minus the following: (a) settlement administration costs not to exceed \$7,000.00; (b) a Representative Service Award to Plaintiff not to exceed \$10,000.00, for her work and efforts in prosecuting the Action, and for undertaking the risks of costs (in the event the outcome of this lawsuit was not favorable); (c) Class Counsel’s attorneys’ fees not to exceed \$61,250.00; (d) Class Counsel’s litigation costs not to exceed \$15,000.00; (e) payment to the Labor and Workforce Development Agency in the amount of \$15,000.00; and (f) \$5,000.00 to be distributed proportionally among PAGA Representative Action Members. Class Counsel’s attorneys’ fees and costs, and Plaintiff’s Representative Service Award remain subject to Court approval.

Net Class Settlement Amount. The remaining amount after these payments have been made is referred to as the “Net Class Settlement Amount” and is estimated to be \$61,750.00. The Net Settlement Amount will be paid entirely to Settlement Class Members who do not request to be excluded from the Settlement (“opt-out”), to be distributed in the manner set forth below. The Court has tentatively approved these payments to be made from the Gross Settlement Amount, and the final payment of these amounts is subject to final Court approval.

Calculation of Individual Settlement Share Payments.

- A. The Net Class Settlement Amount shall be allocated proportionally among Settlement Class Members who do not opt out ("Participating Settlement Class Members") on a per capita basis.
- B. \$5,000.00 shall be allocated proportionally to the PAGA Representative Action Members on a per capita basis.

Tax Treatment.

Ten percent (10%) of each Individual Settlement Share will be treated as wages that are subject to typical payroll taxes and withholdings, and W-2 reporting. The remaining ninety percent (90%) of each Individual Settlement Share will be allocated as penalties and interest subject to IRS Form 1099 reporting. Defendant shall pay the employer's share of the payroll taxes separately from and in addition to the Gross Settlement Amount.

One hundred percent (100%) of each Individual PAGA Payment to Representative Action Members will be allocated as penalties and interest subject to IRS Form 1099 reporting. Any and all tax obligations arising from any payments to Participating Settlement Class Members and PAGA Representative Action Members will be the sole responsibility of the individual receiving such payment(s). Participating Settlement Class Members and PAGA Representative Action Members shall be exclusively liable for any and all tax liability. Participating Settlement Class Members and PAGA Representative Action Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

Releases. Upon Final Approval of the Settlement, each Participating Settlement Class Member and PAGA Representative Action Members shall fully and finally release the Released Parties as follows:

- A. Participating Settlement Class Members shall release the Released Parties from any and all claims, known or unknown, that were asserted in any complaint in the Action and/or Plaintiff's letter(s) to the LWDA; and/or any and all claims, known or unknown, that could have been asserted in any complaint in the Action or Plaintiff's letter to the LWDA based on the facts and/or allegations alleged in any complaint in the Action or Plaintiff's letter to the LWDA. This release includes, but is not limited to, claims for or related to: the rate of payment for sick leave; underpayment of sick leave; timeliness of payment of wages; payment of unpaid sick leave pay at termination; waiting time penalties; any unpaid wages or compensation related to any or all of the foregoing; any premium payments related to any or all of the foregoing; restitution for any of the foregoing; any penalties, including statutory and civil penalties, related to any or all of the foregoing; attorneys' fees or costs related to any or all of the foregoing; and/or any other damages (including general and/or compensatory damages) or amounts related to any or all of the foregoing. The Released Class Claims includes, but is not limited to, any and all claims pursuant to: California Labor Code sections 201-203, 245-249 (Healthy Workplace, Healthy Families Act) and the California IWC Wage Orders relating to sick leave pay. Participating Settlement Class Members shall release the Released Class Claims from May 6, 2017, through Preliminary Approval.
- B. PAGA Representative Action Members shall release the Released Parties from any and all claims, known and unknown, for civil penalties under the California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*, that were asserted in any complaint in the Action and/or Plaintiff's letter(s) to the LWDA, and/or that could have been asserted in any complaint in the Action or Plaintiff's letter to the LWDA based on the facts and/or allegations alleged in any complaint in the Action and/or Plaintiff's letter to the LWDA. The PAGA Released Claims include, but are not limited to, claims for PAGA civil penalties premised on California Labor Code sections 201-203 and 245-249; the rate of payment for sick leave, underpayment of sick leave pay; timeliness of payment of wages; and/or payment of unpaid sick leave pay at termination. PAGA Representative Action

Members shall release the PAGA Released Claims from March 9, 2019, through Preliminary Approval.

“Released Parties” means Defendant; its parent or subsidiary corporations; each of their present, former, or future owners, officers, directors, shareholders, partners, employees, insurers, successors, predecessors, contractors, assigns, and managing agents; any and all agents, legal representatives and/or attorneys of all of the foregoing entities and individuals; and any entities that Plaintiff, a Settlement Class Member, or a PAGA Representative Action Member may assert are joint employers with Defendant.

V. RIGHT TO COMPENSATION FROM THE SETTLEMENT

- A. Settlement Class Members will receive a portion of the Net Class Settlement Amount and be bound by the terms of the Settlement unless they opt-out of the Settlement according to the instructions below. YOUR ESTIMATED SHARE OF THE NET CLASS SETTLEMENT AMOUNT IS \$<< >>. This amount is an estimated amount, and your final Individual Settlement Share Payment can differ from this amount (i.e., it could be higher or lower) and will be calculated as set forth above.
- B. PAGA Representative Action Members will receive a portion of the \$5,000.00 amount allocated to PAGA. YOUR SHARE OF THE PAGA AMOUNT IS \$<< >>. Because PAGA penalties can only be sought by the State of California, you **cannot** exclude yourself from the PAGA portion of the Settlement if the Court gives final approval to the Settlement. Even if you exclude yourself from the class action portion of the settlement, you will still receive your portion of the PAGA payment, will release the PAGA Released Claims, and will be barred from asserting any claim against Defendants pursuant to PAGA based on the PAGA Released Claims.

Unless you inform the Settlement Administrator of an updated address, your payment(s) will automatically be mailed to the address this Class Notice was mailed to. The Settlement Administrator may be contacted at:

Hernandez v. Benefit Cosmetics LLC Settlement Administration
Phoenix Settlement Administrators
www.phoenixclassaction.com
1411 N. Batavia Street, Suite 105
Orange, CA 92867
(800) 784-2174

PLEASE BE SURE TO KEEP THE SETTLEMENT ADMINISTRATOR UPDATED ON ANY CHANGES TO YOUR ADDRESS.

VI. RIGHT TO OPT-OUT FOR SETTLEMENT CLASS MEMBERS

If you are a Settlement Class Member and you do not wish to participate in the class action portion of the Settlement, you may exclude yourself from the Settlement by opting out. **If you opt-out, you will not receive any compensation from the Net Class Settlement Amount, and you will not be bound by the release of the Released Class Claims.** You will, however, remain bound by the judgment entered herein as to the PAGA Released Claims if/when the Court grants final approval of the Settlement.

To opt-out of the class action portion of the Settlement, you must submit a signed, written request to the Settlement Administrator to be excluded from the Settlement no later than <<Response Deadline>>. The request for exclusion must: (a) state your full name, address, and the last four (4) digits of your Social Security number; (b) state that you want to opt out of this Settlement (i.e. “I wish to opt-out of the settlement of the lawsuit entitled *Hernandez v. Benefit Cosmetics LLC*, Case No. 34-2020-00278210.”); and (c) be signed by you.

If you timely mail a request to opt-out from the class action portion of the Settlement and later decide to withdraw your request, you can do so in writing by submitting a withdrawal statement to the Settlement Administrator, orally at the final approval hearing on [Date of Final Approval Hearing], or as otherwise ordered by the Court.

Notwithstanding the foregoing, no PAGA Representative Action Member may opt out of or be excluded from participating in the settlement of the PAGA claims alleged in the Action or from the PAGA Released Claims pursuant to the Settlement Agreement. If the Court grants final approval of the Settlement, the occurrence of the Effective Date shall forever bar Plaintiff, the LWDA, and any other representative, proxy, or agent thereof, including but not limited to any and all PAGA Representative Action Members, from pursuing any action pursuant to PAGA regarding the PAGA Released Claims against the Released Parties.

All Participating Settlement Class Members and all PAGA Representative Action Members shall be bound by the judgment entered herein if/when the Court grants final approval of this settlement. The Court will hold a Final Approval Hearing on [Date of Final Approval Hearing] to decide whether to give final approval to the settlement (see Section VIII).

VII. RIGHT TO OBJECT FOR SETTLEMENT CLASS MEMBERS

If you are a Settlement Class Member who has **not** opted out and believes that the Court should not grant final approval of the Settlement, you may object to the proposed Settlement by providing reasons why you think the Court should not approve the Settlement. To object, you must submit a written objection to the Settlement Administrator. Your written objection must include (a) the objector's full name, current address, and telephone number, (b) the case name and number (*Hernandez v. Benefit Cosmetics LLC*, Case No. Case No. 34-2020-00278210), (c) the basis of the objection, including the reasons why the objector believes that the Court should find that the Settlement is not in the best interests of the Settlement Class and why the Settlement should not be approved, and (d) any and all supporting papers for which the objection is based. The written objection must be mailed to the Settlement Administrator <<Settlement Admin>>, and must be postmarked on or before <<Response Deadline>>.

Any attorney who intends to represent an individual objecting to the Settlement must submit a notice of appearance with the Court and serve counsel for all parties at the below addresses and the Settlement Administrator, at least ten (10) calendar days before the Final Approval hearing.

<u>Class Counsel</u>	<u>Counsel for Benefit Cosmetics, LLC</u>
Larry W. Lee Kwanporn "Mai" Tulyathan DIVERSITY LAW GROUP, P.C. 515 S. Figueroa Street, Suite 1250 Los Angeles, California 90071 Telephone: (213) 488-6555 Facsimile: (213) 488-6554 William L. Marder POLARIS LAW GROUP LLP 501 San Benito Street, Suite 200 Hollister, California 95023 Telephone: (831) 531-4214 Facsimile: (831) 634-0333	Emilie C. Woodhead Jason S. Campbell WINSTON & STRAWN LLP 333 S. Grand Avenue, 38th Floor Los Angeles, CA 90071 Telephone: (213) 615-1700 Facsimile: (213) 615-1750

All objections or other correspondence must state the name and number of the case, which is *Hernandez v. Benefit Cosmetics LLC*, Sacramento County Superior Court Case No. 34-2020-00278210.

If you timely mail a written objection and later decide to withdraw your objection, you may do so in writing by submitting a withdrawal statement to the Settlement Administrator, or by withdrawing orally at the Final Approval Hearing on [Date of Final Approval Hearing].

If you object to the class action portion of the Settlement and your objection is overruled by the Court, you will still be deemed a Participating Settlement Class Member, and, if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Participating Settlement Class Members who do not object and you will receive a settlement payment. Objecting to the Settlement will **not** exclude you from receiving a portion of the settlement payment. Any Participating Settlement Class Member who does not timely object in the manner provided above shall have waived any objection to the Settlement, whether by appeal or otherwise.

VIII. HEARING ON THE SETTLEMENT

The Final Approval Hearing will be held at [a.m. on], 2021 in Department 32 in the Gordon D. Schaber Courthouse of the Superior Court of the State of California for the County of Sacramento located at 720 9th Street, Sacramento, CA 95814. The hearing may be continued without further notice. You are not required to attend the Final Approval Hearing, although any Participating Settlement Class Member is welcome to attend the hearing. A Participating Settlement Class member is not required to provide advance notice of the intent to appear at the Final Approval hearing.

At the hearing, the Court will determine: (i) whether the Action should finally be certified as a class action for settlement purposes; (ii) whether the Settlement should be given the Court's final approval as fair, reasonable, adequate and in the best interests of the Participating Settlement Class Members; (iii) whether the Participating Settlement Class Members should be bound by the terms of the Settlement; (iv) the amount of the Class Counsel Fees and Class Counsel Expenses (attorneys' fees and litigation costs and expenses to Class Counsel); and (v) the amount to be awarded to Plaintiff for her Representative Service Award. The Court will also rule on any written objections from Settlement Class Members, as well as arguments for and against the proposed Settlement.

IX. ADDITIONAL INFORMATION

This Notice is only a summary of the Action and the Settlement. Settlement Class Members and PAGA Representative Action Members should contact the Settlement Administrator or Class Counsel at the addresses and telephone numbers listed above with any questions regarding the Settlement.

For a nominal fee, the pleadings and other records in this litigation, including the Settlement Agreement, may be examined online at the Sacramento County Superior Court website at:

<https://www.saccourt.ca.gov/>

**PLEASE DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, OR THE JUDGE
WITH QUESTIONS.**