

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Sean M. Blakely (SBN 264384)
sblakely@haineslawgroup.com
Neil M. Larsen (SBN 276490)
nlarsen@haineslawgroup.com
Alexandra R. McIntosh (SBN 320904)
amcintosh@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff

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

MARIA TERESA PEREZ, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

ADVANCED BIONICS, LLC, a Delaware
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. 20STCV26408

CLASS ACTION

*[Assigned for all purposes to the Hon.
Kenneth R. Freeman, Dept. SSC-14]*

**DECLARATION OF SEAN M. BLAKELY
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: October 25, 2022
Time: 11:00 a.m.
Dept.: SSC-14

Complaint Filed: July 14, 2020
Trial Date: None set

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I, SEAN M. BLAKELY, declare as follows:

1. I am a Partner with Haines Law Group, APC, counsel for the named Plaintiff Maria Teresa Perez (“Plaintiff”) and the proposed Settlement Class in the above-captioned matter. I am a member in good standing of the bar of the State of California and am admitted to practice in this Court. I have personal knowledge of the facts stated in this declaration and could testify competently to them if called upon to do so.

2. On October 25, 2022, Plaintiff's Motion for Preliminary Approval of Class Action Settlement was called for a hearing. At the hearing, the Court granted preliminary approval of the Parties' Settlement on the condition that Plaintiff and Defendant Advanced Bionics, LLC ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") amend the Settlement Agreement to direct uncashed checks to the State of California Unclaimed Property Fund.

3. In accordance with the Court's ruling, the Parties revised the Settlement Agreement to direct uncashed checks to the Controller of the State of California, to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued. A true and correct copy of the fully-executed amended Settlement Agreement is attached hereto as **Exhibit A**. A redline version of the amended Settlement Agreement reflecting all changes is attached hereto as **Exhibit B**.

4. The Parties revised the Class Notice to indicate that uncashed checks will be distributed to the Controller of the State of California, to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued. A true and correct copy of the revised Class Notice is attached hereto as **Exhibit C**. A true and correct copy of the redline version of the Class Notice reflecting all changes is attached hereto as **Exhibit D**.

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1 I declare under the penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct. Executed on November 9, 2022, at El Segundo, California.

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EXHIBIT A

EXHIBIT A

SETTLEMENT AGREEMENT

This Settlement Agreement (or “Settlement”) is reached by and between Plaintiff Maria Teresa Perez (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on the one hand, and Defendant Advanced Bionics, LLC (“AB” or “Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Neil M. Larsen, and Alexandra R. McIntosh of Haines Law Group, APC (“Class Counsel”). AB is represented by Paul DeCamp and Adriana S. Kosovych of Epstein Becker & Green P.C. (“Defense Counsel”).

Plaintiff filed a proposed class action complaint against AB in Los Angeles County Superior Court, titled *Maria Teresa Perez v. Advanced Bionics, LLC, et al*, Case No. 20STCV26408, on July 14, 2020 (the “Action”). The First Amended Complaint in the Action alleges claims against AB for: (i) minimum wage violations; (ii) failure to pay all overtime wages; (iii) meal period violations; (iv) rest period violations; (v) wage statement violations; (vi) unfair competition; and (vii) civil penalties under the Labor Code Private Attorneys General Act (“PAGA”), Labor Code § 2698 *et seq.* As part of this Settlement, the Parties have agreed to stipulate to the filing of a Second Amended Complaint (“Complaint”) adding a claim for waiting time penalties.

Given the uncertainty of litigation, the Parties wish to settle Plaintiff’s claims on a classwide basis. Accordingly, Plaintiff and AB agree as follows:

1. **Settlement Class.** For purposes of this Settlement Agreement only, Plaintiff and AB stipulate to the certification of a Settlement Class, which shall be defined as:

All current and former non-exempt employees who worked for AB in California at any time from April 6, 2016 through July 9, 2021 (the “Class Period”).

AB represents there are approximately 636 Settlement Class members.

The Parties agree that certification for purpose of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure in a non-settlement context. The Parties also agree that representative treatment for purpose of settlement is not an admission that representative treatment is proper in a non-settlement context. If for any reason this Settlement is not approved or is terminated, this conditional agreement to class certification and representative treatment will not be admissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement.

2. **Releases.**

- A. **Release by Settlement Class.** Once this Settlement Agreement receives final approval and the Court enters judgment, and upon the Settlement being fully funded, Plaintiff and every participating Settlement Class member will release and discharge AB, and its current and former officers, directors, and agents, and the successors and assigns of all such entities and individuals (“Released Parties”), for the duration of the Class Period, from any and all causes of action, claims, rights, damages, punitive or statutory damages, penalties, liabilities, expenses, and losses under California law that were alleged in the operative complaint in the Action or

that could have been alleged based on the facts alleged in the operative complaint in the Action including, but not limited to: (a) any alleged failure by AB (1) to pay minimum wages; (2) to pay overtime wages; (3) to provide meal periods or compensation in lieu thereof; (4) to authorize and permit rest periods or compensation in lieu thereof; (5) to provide compliant wage statements; (6) to timely pay wages at the end of alleged employment; (b) any right or claim for unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*, based on the alleged failures set forth in (a)(1) through (a)(6) above; and (c) any violation of the California Labor Code arising from or related to the conduct alleged in (a)(1) through (a)(6) above, including, without limitation, violation of California Labor Code sections 201–204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198, or any other state statute, rule and/or regulation (Wage Order) during the Class Period (“California Released Claims”). In addition, all Settlement Class members (whether or not they opt out) who worked for AB in California at any point from April 6, 2019 through the end of the Class Period (the “PAGA Period”) shall release any right or claim pursuant to the Private Attorneys General Act of 2004, California Labor Code sections 2698, *et seq.* (the “PAGA”), arising during the PAGA Period based on the facts alleged in the Complaint and Plaintiff’s PAGA letter or that could have been alleged based on the facts alleged in the Complaint and in Plaintiff’s PAGA letter (“PAGA Released Claims”).

- B. **Release by Plaintiff.** In light of Plaintiff’s Class Representative Incentive Award (discussed below), Plaintiff has agreed to release, in addition to the Class Released Claims and PAGA Released Claims described above, all claims, whether known or unknown, under federal or state law, against the Released Parties, to the extent permitted by law, through the date this Settlement is signed by Plaintiff (“Plaintiff’s Released Claims”). Plaintiff understands that this release includes unknown claims and that she is, with respect to Plaintiff’s Released Claims, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

Specifically excluded from Plaintiff’s Released Claims are any claims that cannot be released as a matter of law, such as claims for workers’ compensation benefits or unemployment benefits. No workers’ compensation claims are being resolved under this Settlement.

3. **Gross Settlement Amount.** As consideration, AB agrees to pay a “Gross Settlement Amount” or “GSA” of Two Million Eight Hundred Fifty Thousand Dollars and Zero Cents (\$2,850,000.00) in full and complete settlement of this matter, as follows:
- A. The Parties have agreed to engage Phoenix Settlement Administrators (“Phoenix”) as the “Settlement Administrator” to administer this Settlement.
 - B. The Gross Settlement Amount shall be deposited with the Settlement Administrator within thirty (30) calendar days after the Effective Date. The “Effective Date” of

the settlement agreement shall be the day after both of the following have occurred: (i) final approval of the settlement is granted by the Court, and (ii) Judgment approving the settlement becomes Final. "Final" means the latest of: (i) if there is an appeal of the Court's Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review with the California Supreme Court or a writ of certiorari to the United States Supreme Court, as applicable; (ii) if a petition for review or a writ of certiorari is filed, the date of denial of the petition for review or writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment.

C. This is a non-reversionary settlement. The Gross Settlement Amount includes:

- (1) All payments (including interest) to the Settlement Class;
- (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than \$12,000.00;
- (3) Up to \$7,500.00 for Plaintiff's Class Representative Incentive Award, in recognition of her contributions to the Action and her service to the Settlement Class;
- (4) Class Counsel attorney fees of one-third of the GSA (currently estimated to be \$950,000.00), plus litigation costs and expenses incurred by Class Counsel in relation to the Action as supported by declaration, which are currently estimated to be no greater than \$55,000.00;
- (5) The Parties have set aside \$150,000.00 of the GSA as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties, or \$112,500.00, will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining 25%, or \$37,500.00, will be payable to certain Settlement Class members as the "PAGA Amount" as discussed below.

D. AB's share of payroll taxes on any wage portion of the payments to the Settlement Class shall be paid by AB separately from, and in addition to, the Gross Settlement Amount. AB's share of payroll taxes shall be deposited by AB with the Settlement Administrator at the same time it deposits the Gross Settlement Amount.

E. **Plaintiff's Option to Rescind.** The data provided by Defendant prior to mediation reflected that there were 636 Settlement Class members, and that those Settlement Class members worked a total of 65,434 workweeks between July 14, 2016 to July 31, 2020. If the number of Settlement Class members, or the number of workweeks worked by Settlement Class members between July 14, 2016 and July 31, 2020, is actually 5% or more greater than these numbers (i.e., if there are 668 or more Settlement Class members, and/or 68,706 or more workweeks worked during the aforementioned time period), Plaintiff shall have the option, in her sole discretion, to rescind the settlement. However, Defendant may preempt this option by increasing the Gross Settlement Amount commensurate with the amount of increase to Settlement Class members and/or workweeks. For example, if the number of Settlement Class members, and/or the number of workweeks worked

during the aforementioned time period, is 7% greater than the numbers stated herein, then Defendant can preempt Plaintiff's right to rescind by increasing the Gross Settlement Amount by 7%.

- F. **Defendant's Option to Rescind.** AB will have the right to revoke the Settlement if more than five percent (5%) of the Settlement Class members validly opt out of the settlement, as measured by the number of unique Settlement Class members, pursuant to the opt-out provisions described below. Neither Plaintiff, AB, Class Counsel, nor Defense Counsel shall solicit, request, or encourage any Settlement Class member to opt out of the Settlement. AB shall notify Class Counsel and the Settlement Administrator in writing of its intent to exercise its right to rescind within five (5) business days of the date the Settlement Administrator first informs the Parties that more than 5% of Settlement Class members have validly opted out of the Settlement.
4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment from the Settlement ("Settlement Award").

Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiff's Class Representative Incentive Award, the Settlement Administrator's administration costs, and PAGA civil penalties. The remaining amount shall be known as the "Net Settlement Amount" or "NSA." Settlement Awards will be the total of each Settlement Class member's (i) payment from NSA and (ii) payment, if any, from the PAGA Amount, as described below.
- B. Payments from the Net Settlement Amount: The Settlement Administrator will calculate payments from the NSA based on each participating Settlement Class member's proportionate workweeks worked for AB as a non-exempt employee in California ("Workweeks") during the Class Period. Specifically, each participating Settlement Class member's payment from the NSA will be calculated by multiplying the NSA by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked during the Class Period, and the denominator of which is the total Workweeks worked by all participating Settlement Class members during the Class Period.
- C. Payments from the PAGA Amount: In addition to the NSA, 25% of the amount allocated to PAGA civil penalties (i.e., \$37,500.00) has been set aside as the "PAGA Amount," as mentioned above. The PAGA Amount shall be paid to all Settlement Class members (regardless whether they opt out) who worked for AB at any time during the PAGA Period, based on their proportional number of pay periods worked for AB in California during the PAGA Period ("Pay Periods"). Specifically, each Settlement Class member's payment from the PAGA Amount will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Settlement Class member's number of Pay Periods worked during the PAGA Period, and the denominator of which is the total Pay Periods worked by all Settlement Class members during the PAGA Period.

- D. Within seven (7) business days following AB's deposit of the Gross Settlement Amount and the employer's share of payroll taxes with the Settlement Administrator, the Settlement Administrator will calculate Settlement Awards, and provide the same to Class Counsel and Defense Counsel for review and approval. Within five (5) business days of approval by counsel, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members, as well as the Plaintiff's Incentive Award to Plaintiff, the PAGA payment to the LWDA, and Class Counsel's attorneys' fees and costs to Class Counsel. The Settlement Administrator shall simultaneously pay all applicable withholdings to the applicable authorities with the necessary reports, submitting copies to Defense Counsel.
 - E. For purposes of calculating applicable taxes and withholdings for payments to Settlement Class members, each Settlement Award shall be allocated as follows: for amounts paid from the PAGA Amount, 100% penalties; for amounts paid from the Net Settlement Amount, 50% wages, 25% as penalties, and 25% as interest. The Settlement Administrator will be responsible for issuing to participating Settlement Class members an IRS Form W-2 for amounts deemed "wages" and an IRS Form 1099 for the portions allocated as penalties and interest. As stated above, AB is responsible for its share of the payroll taxes on the wage portion of the Settlement Awards, and these taxes will not be deducted from the Gross Settlement Amount. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement are to be treated as earnings, wages, pay, or compensation for any purpose of any applicable bonus, benefit, or retirement plan, unless required by such plans.
 - F. Each Settlement Class member who is mailed a Settlement Award must cash his/her Settlement Award check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et seq., in the name of the Settlement Class member to whom the check was issued.
 - G. Neither Plaintiff nor AB, nor their respective counsel, shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.
5. **Attorneys' Fees and Costs.** Class Counsel will request a total award of attorneys' fees of one-third of the Gross Settlement Amount (currently estimated at \$950,000.00), plus actual costs and expenses as supported by declaration in an amount not to exceed \$55,000.00. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. As noted above, the Settlement Administrator will mail Class Counsel the attorneys' fees and cost award when it mails the Settlement Awards to Settlement Class members. The Settlement Administrator will issue

Class Counsel IRS Forms 1099 when the Settlement Administrator pays the fee and cost award allowed by the Court.

6. **Class Representative Incentive Award.** Plaintiff will request a Class Representative Incentive Award of \$7,500.00 from the Gross Settlement Amount for Plaintiff's release of claims, her time and risks in prosecuting the Action, and her service to the Settlement Class. This award will be in addition to Plaintiff's Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 by the Settlement Administrator. The Settlement Administrator will mail Plaintiff the Class Representative Incentive Award and issue Plaintiff an IRS Form 1099 when it mails the Settlement Awards to participating Settlement Class members.
7. **Settlement Administrator.** The parties will request the appointment of Phoenix as Settlement Administrator. AB will not object to Plaintiff's seeking permission to pay up to \$12,000.00 from the Gross Settlement Amount for the Settlement Administrator's services. The Settlement Administrator shall be responsible for establishing a Qualified Settlement Fund pursuant to Section 468B(g) of the Internal Revenue Code for the purpose of administering the Settlement. The Settlement Administrator will also be responsible for sending notices in English and Spanish, calculating Settlement Awards and preparing all checks and mailings, posting the Judgment to its website, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount only after Settlement Awards have been mailed to Settlement Class members.
8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:
 - A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
 - B. Appointing Paul K. Haines, Neil M. Larsen, and Alexandra R. McIntosh of Haines Law Group, APC as Class Counsel;
 - C. Appointing Plaintiff as Class Representative for the Settlement Class;
 - D. Approving Phoenix as Settlement Administrator;
 - E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
 - F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice and the Notice of Estimated Settlement Award, attached hereto as Exhibits A and B, respectively), and directing the mailing of same; and
 - G. Scheduling a Final Approval hearing.
9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:
 - A. Within ten (10) business days after notice of entry of an order preliminarily approving this Agreement, AB will provide the Settlement Administrator with the name, ID number, last known address, last known phone number, social security number, dates of employment as a non-exempt employee in California (including

the dates of any leaves of absence), for each Settlement Class member (the "Class Data"). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.

- B. Within ten (10) business days from receipt of the Class Data, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii) update the addresses of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member, and provide Class Counsel and Defense Counsel with its calculations for their approval; (iv) provide Class Counsel and Defense Counsel with formatted versions of the Notice Packets to be sent to Settlement Class members; and (v) after receiving approval from all counsel, mail a Notice Packet (in English and Spanish) to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator on or before sixty (60) calendar days after the date of the initial mailing of the Notice Packets (the "Response Deadline"). The Request for Exclusion is a document prepared by the Settlement Class member that must: (1) contain the Settlement Class member's name, address, telephone number, and last four digits of his/her Social Security number; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from this settlement, except a Request for Exclusion not containing a Settlement Class member's last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who excludes himself or herself from the Settlement Class will not be entitled to any recovery under this Settlement Agreement (except for any share from the PAGA Amount, if applicable), will not be bound by the terms of the Settlement Agreement (except for release of the PAGA Released Claims, if applicable), and will not have any right to object, appeal, or comment thereon. The Settlement Administrator will provide the Parties with weekly updates regarding the number of Requests for Exclusion received. The Parties and their counsel agree not to take any action to encourage any Settlement Class member to opt out of the settlement.
- D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement by either (a) submitting a written objection to the Settlement Administrator as explained in the Class Notice; and/or (b) objecting orally at the Final Approval Hearing. The Settlement Administrator shall, within two (2) business days of receipt, serve any written objection(s) as received on Class Counsel and Defense Counsel, and Class Counsel shall then file all such objections with the Court. Defense Counsel and Class Counsel shall file and serve any

responses to written objections no later than five (5) calendar days prior to the Final Approval hearing. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name, current address, and telephone number, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence supporting the objection; and (4) be postmarked no later than the Response Deadline. A Settlement Class member who wishes to object but who fails to comply with the procedures set forth herein and/or in the Class Notice shall be deemed not to have objected. Any attorney who intends to represent an objecting Settlement Class member at the Final Approval hearing must submit a Notice of Appearance to the Court and serve it on all Parties on or before the Response Deadline. The Parties and their counsel agree not to take any action to encourage any Settlement Class member to object to the settlement.

- E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to Settlement Class members shall contain a Notice of Estimated Settlement Award, in which shall be disclosed the amount of the Settlement Class member's estimated Settlement Award as well as all of the information that was gleaned from AB's records in order to calculate the Settlement Award, including their number of Workweeks worked during the Class Period and number of Pay Periods, if any, worked during the PAGA Period. Settlement Class members will have the opportunity, should they disagree with AB's records regarding the information stated in their Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with counsel for the Parties to determine whether an adjustment to the Settlement Class member's Settlement Award is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Award under the terms of this Settlement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Settlement Class member and the Parties.
- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within three (3) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member within two (2) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline, whichever is later, to submit a Request for Exclusion, Objection, or dispute, as applicable. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline, if

applicable. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet need not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defense Counsel to provide notice of the proposed settlement.

10. **Final Approval.** Following preliminary approval and the close of the period for submitting Requests for Exclusion, Objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:
 - A. Granting final approval of the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
 - B. Approving Plaintiff's and Class Counsel's application for attorneys' fees, costs, Class Representative Incentive Award, PAGA civil penalties to the LWDA, and settlement administration costs; and
 - C. Entering judgment pursuant to California Rule of Court 3.769.
11. **Right to Revoke.** The Gross Settlement Amount, the Net Settlement Amount, and the release are material and essential to the settlement. If these terms are materially modified by the Court, Defendant shall have the right to revoke the settlement, although Defendant will meet and confer with Plaintiff in good faith to attempt to revise the Settlement in order to obtain Court approval before exercising its option to revoke. Final approval of the settlement is a material and essential term. If the settlement does not receive final approval, the Parties shall have the right to revoke the settlement. If Defendant revokes the Settlement under this provision because of a material modification to the Settlement, or under its Option to Rescind in Section 3(F) above, Defendant shall be responsible for any costs incurred by the Settlement Administrator through the date Defendant provides notice of its intent to revoke the Settlement. If the Settlement is revoked by Plaintiff under her Right to Rescind in Section 3(E) above, then Plaintiff shall be responsible for any costs incurred by the Settlement Administrator through the date Plaintiff provides notice of her intent to revoke the Settlement. If the Settlement is otherwise revoked by the Parties under this provision, the settlement administration costs incurred by the Settlement Administrator shall be split evenly by the Parties.
12. **Non-Admission of Liability.** AB denies liability as to the matters alleged in the Complaint. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification or representative treatment is appropriate in any context other than this settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code § 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code § 1152.
13. **Confidentiality.** Plaintiff and Class Counsel agree that, prior to filing a Motion for Preliminary Approval, they will not disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, to any person

or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein, and except to Plaintiff's spouse or to her attorneys or tax preparers as necessary for those professionals to provide their professional services to Plaintiff.

14. **Continuing Jurisdiction.** Except as otherwise specifically provided for herein, the Court shall retain jurisdiction to construe, interpret and enforce this Settlement, to supervise all notices, the administration of the Settlement, and to hear and adjudicate any dispute arising from or related to the Settlement. The Parties agree that the Court has jurisdiction over the Settlement pursuant to California Code of Civil Procedure, Section 664.6.
15. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by counsel for all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.
16. **Enforcement Action.** In the event either Party brings an action to enforce the terms of this Settlement, the prevailing party in such action shall be entitled to recover his/her/its reasonable attorneys' fees and costs incurred.
17. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to AB: Paul DeCamp, Epstein, Becker & Green, P.C., 1227 25th Street, NW, Washington, D.C. 20037; pdecamp@ebglaw.com

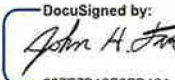
if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, CA 90245; phaines@haineslawgroup.com
18. **Applicable Law.** All terms and conditions of this Settlement Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law or choice of law principles.
19. **Captions and Interpretations.** Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.
20. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.
21. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

22. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Settlement. This Settlement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

AGREED TO AND APPROVED BY:

DATED: 11/04/2022, 2022

Advanced Bionics, LLC

By:  
John Tanouye Victoria E. Carr-Brendel, PhD
Its: VP Finance President/GVP Cochlear Implants

DATED: 11/02/, 2022

Maria Teresa Perez


Plaintiff and Class Representative

APPROVED AS TO FORM:

DATED: 11/8/2022, 2022

EPSTEIN, BECKER & GREEN, P.C.

By: Paul DeCamp
Paul DeCamp
Attorneys for Defendant

DATED: November 2, 2022

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Attorneys for Plaintiff

EXHIBIT B

EXHIBIT B

SETTLEMENT AGREEMENT

This Settlement Agreement (or “Settlement”) is reached by and between Plaintiff Maria Teresa Perez (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on the one hand, and Defendant Advanced Bionics, LLC (“AB” or “Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, ~~Tuvia Korobkin~~, Neil M. Larsen, and Alexandra R. McIntosh of Haines Law Group, APC (“Class Counsel”). AB is represented by Paul DeCamp and Adriana S. Kosovych of Epstein Becker & Green P.C. (“Defense Counsel”).

Plaintiff filed a proposed class action complaint against AB in Los Angeles County Superior Court, titled *Maria Teresa Perez v. Advanced Bionics, LLC, et al*, Case No. 20STCV26408, on July 14, 2020 (the “Action”). The First Amended Complaint in the Action alleges claims against AB for: (i) minimum wage violations; (ii) failure to pay all overtime wages; (iii) meal period violations; (iv) rest period violations; (v) wage statement violations; (vi) unfair competition; and (vii) civil penalties under the Labor Code Private Attorneys General Act (“PAGA”), Labor Code § 2698 *et seq.* As part of this Settlement, the Parties have agreed to stipulate to the filing of a Second Amended Complaint (“Complaint”) adding a claim for waiting time penalties.

Given the uncertainty of litigation, the Parties wish to settle Plaintiff’s claims on a classwide basis. Accordingly, Plaintiff and AB agree as follows:

1. **Settlement Class.** For purposes of this Settlement Agreement only, Plaintiff and AB stipulate to the certification of a Settlement Class, which shall be defined as:

All current and former non-exempt employees who worked for AB in California at any time from April 6, 2016 through July 9, 2021 (the “Class Period”).

AB represents there are approximately 636 Settlement Class members.

The Parties agree that certification for purpose of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure in a non-settlement context. The Parties also agree that representative treatment for purpose of settlement is not an admission that representative treatment is proper in a non-settlement context. If for any reason this Settlement is not approved or is terminated, this conditional agreement to class certification and representative treatment will not be admissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement.

2. **Releases.**

- A. **Release by Settlement Class.** Once this Settlement Agreement receives final approval and the Court enters judgment, and upon the Settlement being fully funded, Plaintiff and every participating Settlement Class member will release and discharge AB, and its current and former officers, directors, and agents, and the successors and assigns of all such entities and individuals (“Released Parties”), for the duration of the Class Period, from any and all causes of action, claims, rights, damages, punitive or statutory damages, penalties, liabilities, expenses, and losses

under California law that were alleged in the operative complaint in the Action or that could have been alleged based on the facts alleged in the operative complaint in the Action including, but not limited to: (a) any alleged failure by AB (1) to pay minimum wages; (2) to pay overtime wages; (3) to provide meal periods or compensation in lieu thereof; (4) to authorize and permit rest periods or compensation in lieu thereof; (5) to provide compliant wage statements; (6) to timely pay wages at the end of alleged employment; (b) any right or claim for unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*, based on the alleged failures set forth in (a)(1) through (a)(6) above; and (c) any violation of the California Labor Code arising from or related to the conduct alleged in (a)(1) through (a)(6) above, including, without limitation, violation of California Labor Code sections 201–204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198, or any other state statute, rule and/or regulation (Wage Order) during the Class Period (“California Released Claims”). In addition, all Settlement Class members (whether or not they opt out) who worked for AB in California at any point from April 6, 2019 through the end of the Class Period (the “PAGA Period”) shall release any right or claim pursuant to the Private Attorneys General Act of 2004, California Labor Code sections 2698, *et seq.* (the “PAGA”), arising during the PAGA Period based on the facts alleged in the Complaint and Plaintiff’s PAGA letter or that could have been alleged based on the facts alleged in the Complaint and in Plaintiff’s PAGA letter (“PAGA Released Claims”).

- B. **Release by Plaintiff.** In light of Plaintiff’s Class Representative Incentive Award (discussed below), Plaintiff has agreed to release, in addition to the Class Released Claims and PAGA Released Claims described above, all claims, whether known or unknown, under federal or state law, against the Released Parties, to the extent permitted by law, through the date this Settlement is signed by Plaintiff (“Plaintiff’s Released Claims”). Plaintiff understands that this release includes unknown claims and that she is, with respect to Plaintiff’s Released Claims, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

Specifically excluded from Plaintiff’s Released Claims are any claims that cannot be released as a matter of law, such as claims for workers’ compensation benefits or unemployment benefits. No workers’ compensation claims are being resolved under this Settlement.

3. **Gross Settlement Amount.** As consideration, AB agrees to pay a “Gross Settlement Amount” or “GSA” of Two Million Eight Hundred Fifty Thousand Dollars and Zero Cents (\$2,850,000.00) in full and complete settlement of this matter, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators (“Phoenix”) as the “Settlement Administrator” to administer this Settlement.

- B. The Gross Settlement Amount shall be deposited with the Settlement Administrator within thirty (30) calendar days after the Effective Date. The “Effective Date” of the settlement agreement shall be the day after both of the following have occurred: (i) final approval of the settlement is granted by the Court, and (ii) Judgment approving the settlement becomes Final. “Final” means the latest of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review with the California Supreme Court or a writ of certiorari to the United States Supreme Court, as applicable; (ii) if a petition for review or a writ of certiorari is filed, the date of denial of the petition for review or writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment.
- C. This is a non-reversionary settlement. The Gross Settlement Amount includes:
- (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than \$12,000.00;
 - (3) Up to \$7,500.00 for Plaintiff’s Class Representative Incentive Award, in recognition of her contributions to the Action and her service to the Settlement Class;
 - (4) Class Counsel attorney fees of one-third of the GSA (currently estimated to be \$950,000.00), plus litigation costs and expenses incurred by Class Counsel in relation to the Action as supported by declaration, which are currently estimated to be no greater than \$55,000.00;
 - (5) The Parties have set aside \$150,000.00 of the GSA as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties, or \$112,500.00, will be payable to the Labor & Workforce Development Agency (“LWDA”), and the remaining 25%, or \$37,500.00, will be payable to certain Settlement Class members as the “PAGA Amount” as discussed below.
- D. AB’s share of payroll taxes on any wage portion of the payments to the Settlement Class shall be paid by AB separately from, and in addition to, the Gross Settlement Amount. AB’s share of payroll taxes shall be deposited by AB with the Settlement Administrator at the same time it deposits the Gross Settlement Amount.
- E. **Plaintiff’s Option to Rescind.** The data provided by Defendant prior to mediation reflected that there were 636 Settlement Class members, and that those Settlement Class members worked a total of 65,434 workweeks between July 14, 2016 to July 31, 2020. If the number of Settlement Class members, or the number of workweeks worked by Settlement Class members between July 14, 2016 and July 31, 2020, is actually 5% or more greater than these numbers (i.e., if there are 668 or more Settlement Class members, and/or 68,706 or more workweeks worked during the aforementioned time period), Plaintiff shall have the option, in her sole discretion, to rescind the settlement. However, Defendant may preempt this option by increasing the Gross Settlement Amount commensurate with the amount of

increase to Settlement Class members and/or workweeks. For example, if the number of Settlement Class members, and/or the number of workweeks worked during the aforementioned time period, is 7% greater than the numbers stated herein, then Defendant can preempt Plaintiff's right to rescind by increasing the Gross Settlement Amount by 7%.

- F. **Defendant's Option to Rescind.** AB will have the right to revoke the Settlement if more than five percent (5%) of the Settlement Class members validly opt out of the settlement, as measured by the number of unique Settlement Class members, pursuant to the opt-out provisions described below. Neither Plaintiff, AB, Class Counsel, nor Defense Counsel shall solicit, request, or encourage any Settlement Class member to opt out of the Settlement. AB shall notify Class Counsel and the Settlement Administrator in writing of its intent to exercise its right to rescind within five (5) business days of the date the Settlement Administrator first informs the Parties that more than 5% of Settlement Class members have validly opted out of the Settlement.

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment from the Settlement ("Settlement Award").

Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiff's Class Representative Incentive Award, the Settlement Administrator's administration costs, and PAGA civil penalties. The remaining amount shall be known as the "Net Settlement Amount" or "NSA." Settlement Awards will be the total of each Settlement Class member's (i) payment from NSA and (ii) payment, if any, from the PAGA Amount, as described below.
- B. Payments from the Net Settlement Amount: The Settlement Administrator will calculate payments from the NSA based on each participating Settlement Class member's proportionate workweeks worked for AB as a non-exempt employee in California ("Workweeks") during the Class Period. Specifically, each participating Settlement Class member's payment from the NSA will be calculated by multiplying the NSA by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked during the Class Period, and the denominator of which is the total Workweeks worked by all participating Settlement Class members during the Class Period.
- C. Payments from the PAGA Amount: In addition to the NSA, 25% of the amount allocated to PAGA civil penalties (i.e., \$37,500.00) has been set aside as the "PAGA Amount," as mentioned above. The PAGA Amount shall be paid to all Settlement Class members (regardless whether they opt out) who worked for AB at any time during the PAGA Period, based on their proportional number of pay periods worked for AB in California during the PAGA Period ("Pay Periods"). Specifically, each Settlement Class member's payment from the PAGA Amount will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Settlement Class member's number of Pay Periods worked during

the PAGA Period, and the denominator of which is the total Pay Periods worked by all Settlement Class members during the PAGA Period.

- D. Within seven (7) business days following AB's deposit of the Gross Settlement Amount and the employer's share of payroll taxes with the Settlement Administrator, the Settlement Administrator will calculate Settlement Awards, and provide the same to Class Counsel and Defense Counsel for review and approval. Within five (5) business days of approval by counsel, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members, as well as the Plaintiff's Incentive Award to Plaintiff, the PAGA payment to the LWDA, and Class Counsel's attorneys' fees and costs to Class Counsel. The Settlement Administrator shall simultaneously pay all applicable withholdings to the applicable authorities with the necessary reports, submitting copies to Defense Counsel.
 - E. For purposes of calculating applicable taxes and withholdings for payments to Settlement Class members, each Settlement Award shall be allocated as follows: for amounts paid from the PAGA Amount, 100% penalties; for amounts paid from the Net Settlement Amount, 50% wages, 25% as penalties, and 25% as interest. The Settlement Administrator will be responsible for issuing to participating Settlement Class members an IRS Form W-2 for amounts deemed "wages" and an IRS Form 1099 for the portions allocated as penalties and interest. As stated above, AB is responsible for its share of the payroll taxes on the wage portion of the Settlement Awards, and these taxes will not be deducted from the Gross Settlement Amount. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement are to be treated as earnings, wages, pay, or compensation for any purpose of any applicable bonus, benefit, or retirement plan, unless required by such plans.
 - F. Each Settlement Class member who is mailed a Settlement Award must cash his/her Settlement Award check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing ~~will be deposited by the Settlement Administrator with cy-pres recipient Bet Tzedek Employment Rights Project~~ shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et seq., in the name of the Settlement Class member to whom the check was issued.
 - G. Neither Plaintiff nor AB, nor their respective counsel, shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.
5. **Attorneys' Fees and Costs.** Class Counsel will request a total award of attorneys' fees of one-third of the Gross Settlement Amount (currently estimated at \$950,000.00), plus actual costs and expenses as supported by declaration in an amount not to exceed \$55,000.00. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection

with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. As noted above, the Settlement Administrator will mail Class Counsel the attorneys' fees and cost award when it mails the Settlement Awards to Settlement Class members. The Settlement Administrator will issue Class Counsel IRS Forms 1099 when the Settlement Administrator pays the fee and cost award allowed by the Court.

6. **Class Representative Incentive Award.** Plaintiff will request a Class Representative Incentive Award of \$7,500.00 from the Gross Settlement Amount for Plaintiff's release of claims, her time and risks in prosecuting the Action, and her service to the Settlement Class. This award will be in addition to Plaintiff's Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 by the Settlement Administrator. The Settlement Administrator will mail Plaintiff the Class Representative Incentive Award and issue Plaintiff an IRS Form 1099 when it mails the Settlement Awards to participating Settlement Class members.
7. **Settlement Administrator.** The parties will request the appointment of Phoenix as Settlement Administrator. AB will not object to Plaintiff's seeking permission to pay up to \$12,000.00 from the Gross Settlement Amount for the Settlement Administrator's services. The Settlement Administrator shall be responsible for establishing a Qualified Settlement Fund pursuant to Section 468B(g) of the Internal Revenue Code for the purpose of administering the Settlement. The Settlement Administrator will also be responsible for sending notices in English and Spanish, calculating Settlement Awards and preparing all checks and mailings, posting the Judgment to its website, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount only after Settlement Awards have been mailed to Settlement Class members.
8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:
 - A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
 - B. Appointing Paul K. Haines, ~~Tuvia Kerobkin~~, Neil M. Larsen, and Alexandra R. McIntosh of Haines Law Group, APC as Class Counsel;
 - C. Appointing Plaintiff as Class Representative for the Settlement Class;
 - D. Approving Phoenix as Settlement Administrator;
 - E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
 - F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice and the Notice of Estimated Settlement Award, attached hereto as Exhibits A and B, respectively), and directing the mailing of same; and
 - G. Scheduling a Final Approval hearing.
9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within ten (10) business days after notice of entry of an order preliminarily approving this Agreement, AB will provide the Settlement Administrator with the name, ID number, last known address, last known phone number, social security number, dates of employment as a non-exempt employee in California (including the dates of any leaves of absence), for each Settlement Class member (the “Class Data”). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
- B. Within ten (10) business days from receipt of the Class Data, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class members; (ii) update the addresses of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member, and provide Class Counsel and Defense Counsel with its calculations for their approval; (iv) provide Class Counsel and Defense Counsel with formatted versions of the Notice Packets to be sent to Settlement Class members; and (v) after receiving approval from all counsel, mail a Notice Packet (in English and Spanish) to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator on or before sixty (60) calendar days after the date of the initial mailing of the Notice Packets (the “Response Deadline”). The Request for Exclusion is a document prepared by the Settlement Class member that must: (1) contain the Settlement Class member’s name, address, telephone number, and last four digits of his/her Social Security number; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from this settlement, except a Request for Exclusion not containing a Settlement Class member’s last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who excludes himself or herself from the Settlement Class will not be entitled to any recovery under this Settlement Agreement (except for any share from the PAGA Amount, if applicable), will not be bound by the terms of the Settlement Agreement (except for release of the PAGA Released Claims, if applicable), and will not have any right to object, appeal, or comment thereon. The Settlement Administrator will provide the Parties with weekly updates regarding the number of Requests for Exclusion received. The Parties and their counsel agree not to take any action to encourage any Settlement Class member to opt out of the settlement.
- D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement by either (a) submitting a written objection to the Settlement Administrator as explained in the Class Notice; and/or (b) objecting

orally at the Final Approval Hearing. The Settlement Administrator shall, within two (2) business days of receipt, serve any written objection(s) as received on Class Counsel and Defense Counsel, and Class Counsel shall then file all such objections with the Court. Defense Counsel and Class Counsel shall file and serve any responses to written objections no later than five (5) calendar days prior to the Final Approval hearing. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name, current address, and telephone number, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence supporting the objection; and (4) be postmarked no later than the Response Deadline. A Settlement Class member who wishes to object but who fails to comply with the procedures set forth herein and/or in the Class Notice shall be deemed not to have objected. Any attorney who intends to represent an objecting Settlement Class member at the Final Approval hearing must submit a Notice of Appearance to the Court and serve it on all Parties on or before the Response Deadline. The Parties and their counsel agree not to take any action to encourage any Settlement Class member to object to the settlement.

- E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to Settlement Class members shall contain a Notice of Estimated Settlement Award, in which shall be disclosed the amount of the Settlement Class member's estimated Settlement Award as well as all of the information that was gleaned from AB's records in order to calculate the Settlement Award, including their number of Workweeks worked during the Class Period and number of Pay Periods, if any, worked during the PAGA Period. Settlement Class members will have the opportunity, should they disagree with AB's records regarding the information stated in their Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with counsel for the Parties to determine whether an adjustment to the Settlement Class member's Settlement Award is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Award under the terms of this Settlement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Settlement Class member and the Parties.
- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within three (3) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member within two (2) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as

undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline, whichever is later, to submit a Request for Exclusion, Objection, or dispute, as applicable. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline, if applicable. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet need not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defense Counsel to provide notice of the proposed settlement.

10. **Final Approval.** Following preliminary approval and the close of the period for submitting Requests for Exclusion, Objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:
 - A. Granting final approval of the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
 - B. Approving Plaintiff's and Class Counsel's application for attorneys' fees, costs, Class Representative Incentive Award, PAGA civil penalties to the LWDA, and settlement administration costs; and
 - C. Entering judgment pursuant to California Rule of Court 3.769.
11. **Right to Revoke.** The Gross Settlement Amount, the Net Settlement Amount, and the release are material and essential to the settlement. If these terms are materially modified by the Court, Defendant shall have the right to revoke the settlement, although Defendant will meet and confer with Plaintiff in good faith to attempt to revise the Settlement in order to obtain Court approval before exercising its option to revoke. Final approval of the settlement is a material and essential term. If the settlement does not receive final approval, the Parties shall have the right to revoke the settlement. If Defendant revokes the Settlement under this provision because of a material modification to the Settlement, or under its Option to Rescind in Section 3(F) above, Defendant shall be responsible for any costs incurred by the Settlement Administrator through the date Defendant provides notice of its intent to revoke the Settlement. If the Settlement is revoked by Plaintiff under her Right to Rescind in Section 3(E) above, then Plaintiff shall be responsible for any costs incurred by the Settlement Administrator through the date Plaintiff provides notice of her intent to revoke the Settlement. If the Settlement is otherwise revoked by the Parties under this provision, the settlement administration costs incurred by the Settlement Administrator shall be split evenly by the Parties.
12. **Non-Admission of Liability.** AB denies liability as to the matters alleged in the Complaint. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification or representative treatment is appropriate in any context other than this settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code § 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code § 1152.

13. **Confidentiality.** Plaintiff and Class Counsel agree that, prior to filing a Motion for Preliminary Approval, they will not disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein, and except to Plaintiff's spouse or to her attorneys or tax preparers as necessary for those professionals to provide their professional services to Plaintiff.
14. **Continuing Jurisdiction.** Except as otherwise specifically provided for herein, the Court shall retain jurisdiction to construe, interpret and enforce this Settlement, to supervise all notices, the administration of the Settlement, and to hear and adjudicate any dispute arising from or related to the Settlement. The Parties agree that the Court has jurisdiction over the Settlement pursuant to California Code of Civil Procedure, Section 664.6.
15. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by counsel for all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.
16. **Enforcement Action.** In the event either Party brings an action to enforce the terms of this Settlement, the prevailing party in such action shall be entitled to recover his/her/its reasonable attorneys' fees and costs incurred.
17. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:
- if to AB: Paul DeCamp, Epstein, Becker & Green, P.C., 1227 25th Street,
NW, Washington, D.C. 20037; pdecamp@ebglaw.com
- if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite
180, El Segundo, CA 90245; phaines@haineslawgroup.com
18. **Applicable Law.** All terms and conditions of this Settlement Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law or choice of law principles.
19. **Captions and Interpretations.** Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.
20. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

21. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.
22. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Settlement. This Settlement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

AGREED TO AND APPROVED BY:

DATED: _____, 202~~21~~⁴

Advanced Bionics, LLC

By: _____

Its: _____

DATED: _____, 202~~21~~⁴

Maria Teresa Perez

Plaintiff and Class Representative

APPROVED AS TO FORM:

DATED: _____, 202~~21~~⁴

EPSTEIN, BECKER & GREEN, P.C.

By: _____

Paul DeCamp
Attorneys for Defendant

DATED: _____, 202~~21~~⁴

HAINES LAW GROUP, APC

By: _____

Paul K. Haines
Attorneys for Plaintiff

EXHIBIT C

EXHIBIT C

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

MARIA TERESA PEREZ,

Plaintiff,

vs.

ADVANCED BIONICS, LLC

Defendant.

Case No. 20STCV26408

**NOTICE OF PENDENCY OF CLASS ACTION
AND PROPOSED SETTLEMENT**

To: All current and former non-exempt employees who worked for Advanced Bionics, LLC ("AB") in California at any time from April 6, 2016 through July 9, 2021 ("Class Period")

**PLEASE READ THIS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT.**

Why should you read this Notice?

The Los Angeles County Superior Court ("Court") has granted preliminary approval of a proposed class action settlement (the "Settlement") in *Maria Teresa Perez v. Advanced Bionics, LLC*, Los Angeles County Superior Court Case No. 20STCV26408 (the "Action"). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from the Settlement. AB's records show that you were employed by AB in California as a non-exempt employee at some point between April 6, 2016 and July 9, 2021 and are therefore part of the proposed "Settlement Class." The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Action, to inform you of the terms of the proposed Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment. If final judgment is entered in this case, it will be posted to the Settlement Administrator's website, www.phoenixclassaction.com.

What is this case about?

Plaintiff Maria Teresa Perez ("Plaintiff") has filed a lawsuit alleging that AB violated California law by: (i) failing to pay all overtime wages; (ii) failing to pay at least minimum wage for all hours worked; (iii) failing to authorize and permit rest periods; (iv) failing to provide meal periods; (v) failing to issue accurate itemized wage statements; (vi) failing to pay all wages owing upon separation of employment; and, as a result of the above, (vii) engaging in unlawful business practices. In addition, Plaintiff seeks recovery of derivative civil penalties under the California Labor Code Private Attorneys General Act ("PAGA"), interest, and attorneys' fees and costs. Plaintiff is known as the "Class Representative." Plaintiff's attorneys, who also represent the interests of all Settlement Class members, are known as "Class Counsel."

AB has denied and continues to deny that it has done anything wrong, and believes it has acted in compliance with all applicable laws and that Plaintiff's claims have no merit. AB also denies that it owes any wages, restitution, penalties, or other damages. By agreeing to settle, AB is not admitting liability on any of the factual allegations or claims asserted in the Action or that the Action can or should proceed as a class action in a non-settlement context.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, AB has concluded that it is in its best interests to settle the Action on the terms summarized in this Notice. After AB provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's-length negotiations between the parties.

The Class Representative and Class Counsel also support the Settlement. Among the reasons for support are the defenses to liability potentially available to AB, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by AB, your decision about whether to participate in the Settlement will not affect your employment. California law and AB's company policies strictly prohibit unlawful retaliation. AB will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of the Settlement Class member's decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff / the Settlement Class: HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Neil M. Larsen nlarsen@haineslawgroup.com Alexandra R. McIntosh amcintosh@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	Attorneys for AB: EPSTEIN BECKER & GREEN P.C. Paul DeCamp pdecamp@ebglaw.com Adriana S. Kosovych akosovych@ebglaw.com 1227 25th Street, NW Washington, D.C. 20037 Tel.: (202) 861-0900 Fax: (202) 296-2882 www.ebglaw.com
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court granted preliminary approval of the Settlement on behalf of a Settlement Class consisting of all current and former non-exempt employees of AB who worked for AB in California and at any time from April 6, 2016 through July 9, 2021 (the "Class Period"). Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release claims against AB as specifically described below.

AB has agreed to pay \$2,850,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Action, including claims by Settlement Class members, attorneys' fees, costs, settlement administration costs, PAGA civil penalties, and the Class Representative's enhancement award.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$12,000 from the Gross Settlement Amount to pay the Settlement administration costs.

Attorneys' Fees and Expenses. Class Counsel will ask for fees of up to one-third of Gross Settlement Amount, currently estimated to be \$950,000, as reasonable compensation for the work Class Counsel performed, and will continue to perform, in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$55,000 for reimbursement of verified costs Class Counsel incurred in connection with the Action.

Class Representative Enhancement Award. Class Counsel will ask the Court to approve an enhancement award of \$7,500 to the Class Representative. This award is to compensate the Class Representative for her service and extra work provided on behalf of the Settlement Class members.

PAGA Civil Penalties. The parties have agreed to allocate \$150,000 of the Gross Settlement Amount as alleged civil penalties for the settlement of Plaintiff's PAGA claim. Pursuant to the requirements of the PAGA, seventy-five percent (75%) of that amount, or \$112,500, will be paid to the California Labor &

Workforce Development Agency (“LWDA”). The remaining \$37,500 has been designated as the “PAGA Amount” and will be paid to certain Settlement Class members as described below.

Calculation of Settlement Class Members’ Settlement Awards. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated to be approximately \$1,675,500. Together with the \$37,500 PAGA Amount, the total amount to be distributed to Settlement Class members is estimated to be \$1,713,000. Settlement Class member payments, known as “Settlement Awards,” will be calculated as follows:

- (i) NSA distribution: The NSA will be distributed to all participating Settlement Class members (i.e., those Settlement Class members who do not opt out of the Settlement), and will be allocated proportionally based on each participating Settlement Class member’s total weeks worked for AB in California (“Workweeks”) during the Class Period.
- (ii) In addition to the NSA, \$37,500 of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above, and will be allocated to all Settlement Class members (whether or not they opt out) who worked for AB in California at any time from April 6, 2019 to July 9, 2021 (the “PAGA Period”), in proportion to the number of pay periods that each Settlement Class member worked for AB in California during the PAGA Period.

Deposit of Gross Settlement Amount. The Gross Settlement Amount will be deposited by AB with the Settlement Administrator within thirty (30) calendar days of the “Effective Date” as defined in the Settlement. If there are no objections to the Settlement and the Court grants final approval of the Settlement, then the Effective Date will be 60 days after the date of final approval.

Payments to Settlement Class Members: Approximately twelve (12) business days after AB’s deposit of the Gross Settlement Amount, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to Settlement Class members.

Allocation and Taxes. For tax purposes, Settlement Awards shall be treated as follows: for payments from the PAGA Amount, 100% penalties; for payments from the NSA, 50% wages, 25% penalties, and 25% interest. The Settlement Administrator will issue IRS forms W-2 for all amounts designated as “wages,” and will issue IRS forms 1099 for all amounts designated as penalties and interest. Settlement Class members are responsible for the proper income tax treatment of the Settlement Awards. The Settlement Administrator, AB and its counsel, and Plaintiff and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement and the Settlement becomes final, the Class Representative, and every member of the Settlement Class (except those who opt out) will release and discharge AB, and its current and former officers, directors, and agents, and the successors and assigns of all such entities and individuals (“Released Parties”), for the duration of the Class Period, from any and all causes of action, claims, rights, damages, punitive or statutory damages, penalties, liabilities, expenses, and losses under California law that were alleged in the operative complaint in the Action or that could have been alleged based on the facts alleged in the operative complaint in the Action including, but not limited to: (a) any alleged failure by AB (1) to pay minimum wages; (2) to pay overtime wages; (3) to provide meal periods or compensation in lieu thereof; (4) to authorize and permit rest periods or compensation in lieu thereof; (5) to provide compliant wage statements; (6) to timely pay wages at the end of alleged employment; (b) any right or claim for unfair business practices in violation of California Business & Professions Code sections 17200, et seq., based on the alleged failures set forth in (a)(1) through (a)(6) above; and (c) any violation of the California Labor Code arising from or related to the conduct alleged in (a)(1) through (a)(6) above, including, without limitation, violation of California Labor Code sections 201–204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198, or any other state statute, rule and/or regulation (Wage Order) during the Class Period (“California Released Claims”). In addition, all Settlement Class members (whether or not they opt out) who worked for AB in California at any point during the PAGA Period shall release any right or claim pursuant to the PAGA, arising during the PAGA Period based on the facts alleged

in the Complaint and Plaintiff's PAGA letter or that could have been alleged based on the facts alleged in the Complaint and in Plaintiff's PAGA letter ("PAGA Released Claims").

Conditions of Settlement. By granting preliminary approval of the Settlement, the Court has determined that the Settlement falls within the range of possible approval as fair, reasonable, and adequate. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement.

How can I claim money from the Settlement?

Do Nothing. You do not need to do anything if you want to receive payment from and participate in the Settlement. If you do nothing, you will be entitled to your Settlement Award based on the number of Workweeks you worked for AB in California during the Class Period and the number of pay periods, if any, you worked for AB in California during the PAGA Period. Your estimated individual Settlement Award is included in the enclosed Notice of Estimated Settlement Award. You also will be bound by the Settlement, including the release of claims stated herein.

Check Cashing Deadline and Uncashed Checks. You must cash or deposit your Settlement Award checks within 180 days from the date that the Settlement Administrator mails the check to you. If you do not cash or deposit your check within 180 days, your check will be voided and the funds will be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et seq., in your name until such time that you claim the funds.

What other options do I have?

Disputing Information in Notice of Estimated Settlement Award. Your estimated Settlement Award has been calculated and is included in the enclosed Notice of Estimated Settlement Award. As stated above, your estimated Settlement Award is based on the number of Workweeks you worked for AB in California during the Class Period and the number of pay periods, if any, you worked for AB in California during the PAGA Period. The information contained in AB's records regarding each of these factors is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than **<<RESPONSE DEADLINE>>**. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.** The parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator's decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the class portion of the Settlement, you may exclude yourself by sending to the Settlement Administrator a written "Request for Exclusion" letter or postcard, postmarked no later than **<<RESPONSE DEADLINE>>**, with your full name (as well as any former names you used while you were employed by AB), your current address, telephone number, last 4 digits of your social security number, and your signature. The Request for Exclusion should state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE PEREZ V. ADVANCED BIONICS, LLC LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS PORTION OF THE SETTLEMENT OF THIS LAWSUIT."

Send the Request for Exclusion directly to the Settlement Administrator at **<<INSERT ADMINISTRATOR CONTACT INFO>>**. Any person who submits a valid and timely Request for Exclusion shall, upon receipt, no longer be a Settlement Class member with respect to the class claims, shall be barred from participating in the class portion of the Settlement, and shall receive no benefits from the class portion of the Settlement. Any person who submits a valid and timely Request for Exclusion will also lack standing to submit any objection to the Settlement. However, all Settlement Class members who worked for AB during the PAGA Period (even those who submit a valid timely Request for Exclusion) will be bound by the PAGA portion of the Settlement and will receive a portion of the PAGA Amount.

Objecting to the Settlement. If you do not submit a Request for Exclusion, you have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, in writing, you must mail a written Objection to the Settlement Administrator. Any written Objection must include your full name (as well as any former names used while employed by AB), current address and phone number, last 4 digits of your social security number, the name and contact information of any attorney representing you, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection, including any supporting papers, briefs, written evidence, declarations, and/or other evidence. All written objections or other correspondence must state the name and number of the case, which is *Maria Teresa Perez v. Advanced Bionics, LLC*, Los Angeles County Superior Court Case No. 20STCV26408. Any written Objections must be postmarked on or before <<RESPONSE DEADLINE>>.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing. You do not need to submit a written objection in order to appear and/or object at the Final Approval Hearing. You have the right to appear either in person or through your own attorney at this hearing. If you wish to appear at the Final Approval Hearing and/or retain an attorney to represent you at the hearing, you must do so at your own expense. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case, which is *Maria Teresa Perez v. Advanced Bionics, LLC*, Los Angeles County Superior Court Case No. 20STCV26408.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object. In other words, by submitting an Objection, you are not excluding yourself from the Settlement.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department SSC-14 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. At the Final Approval Hearing, the Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of expenses, the incentive award to the Class Representative, and the Settlement administration costs. The Final Approval Hearing may be postponed without further notice to the Settlement Class. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing at their own expense.**

If you plan on attending the hearing or otherwise visiting the Court, please consult the Court's website, <http://www.lacourt.org>, for information regarding court operations during COVID-19 as well as any face covering and social distancing requirements.

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012, during regular court hours. You may also contact the Settlement Administrator or Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT.

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

EXHIBIT D

EXHIBIT D

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

MARIA TERESA PEREZ,

Plaintiff,

vs.

ADVANCED BIONICS, LLC

Defendant.

Case No. 20STCV26408

**NOTICE OF PENDENCY OF CLASS ACTION
AND PROPOSED SETTLEMENT**

To: All current and former non-exempt employees who worked for Advanced Bionics, LLC ("AB") in California at any time from April 6, 2016 through July 9, 2021 ("Class Period")

**PLEASE READ THIS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT.**

Why should you read this Notice?

The Los Angeles County Superior Court ("Court") has granted preliminary approval of a proposed class action settlement (the "Settlement") in *Maria Teresa Perez v. Advanced Bionics, LLC*, Los Angeles County Superior Court Case No. 20STCV26408 (the "Action"). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from the Settlement. AB's records show that you were employed by AB in California as a non-exempt employee at some point between April 6, 2016 and July 9, 2021 and are therefore part of the proposed "Settlement Class." The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Action, to inform you of the terms of the proposed Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment. If final judgment is entered in this case, it will be posted to the Settlement Administrator's website, www.phoenixclassaction.com.

What is this case about?

Plaintiff Maria Teresa Perez ("Plaintiff") has filed a lawsuit alleging that AB violated California law by: (i) failing to pay all overtime wages; (ii) failing to pay at least minimum wage for all hours worked; (iii) failing to authorize and permit rest periods; (iv) failing to provide meal periods; (v) failing to issue accurate itemized wage statements; (vi) failing to pay all wages owing upon separation of employment; and, as a result of the above, (vii) engaging in unlawful business practices. In addition, Plaintiff seeks recovery of derivative civil penalties under the California Labor Code Private Attorneys General Act ("PAGA"), interest, and attorneys' fees and costs. Plaintiff is known as the "Class Representative." Plaintiff's attorneys, who also represent the interests of all Settlement Class members, are known as "Class Counsel."

AB has denied and continues to deny that it has done anything wrong, and believes it has acted in compliance with all applicable laws and that Plaintiff's claims have no merit. AB also denies that it owes any wages, restitution, penalties, or other damages. By agreeing to settle, AB is not admitting liability on any of the factual allegations or claims asserted in the Action or that the Action can or should proceed as a class action in a non-settlement context.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, AB has concluded that it is in its best interests to settle the Action on the terms summarized in this Notice. After AB provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's-length negotiations between the parties.

The Class Representative and Class Counsel also support the Settlement. Among the reasons for support are the defenses to liability potentially available to AB, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by AB, your decision about whether to participate in the Settlement will not affect your employment. California law and AB's company policies strictly prohibit unlawful retaliation. AB will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of the Settlement Class member's decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff / the Settlement Class:	Attorneys for AB:
HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Tuvia Korobkin tkorobkin@haineslawgroup.com 2155 Campus Drive, Suite 180 Neil M. Larsen nlarsen@haineslawgroup.com Alexandra R. McIntosh amcintosh@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	EPSTEIN BECKER & GREEN P.C. Paul DeCamp pdecamp@ebglaw.com Adriana S. Kosovych akosovych@ebglaw.com 1227 25th Street, NW Washington, D.C. 20037 Tel.: (202) 861-0900 Fax: (202) 296-2882 www.ebglaw.com

What are the terms of the Settlement?

On **<<PRELIM APPROVAL DATE>>**, the Court granted preliminary approval of the Settlement on behalf of a Settlement Class consisting of all current and former non-exempt employees of AB who worked for AB in California and at any time from April 6, 2016 through July 9, 2021 (the "Class Period"). Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release claims against AB as specifically described below.

AB has agreed to pay \$2,850,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Action, including claims by Settlement Class members, attorneys' fees, costs, settlement administration costs, PAGA civil penalties, and the Class Representative's enhancement award.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$12,000 from the Gross Settlement Amount to pay the Settlement administration costs.

Attorneys' Fees and Expenses. Class Counsel will ask for fees of up to one-third of Gross Settlement Amount, currently estimated to be \$950,000, as reasonable compensation for the work Class Counsel performed, and will continue to perform, in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$55,000 for reimbursement of verified costs Class Counsel incurred in connection with the Action.

Class Representative Enhancement Award. Class Counsel will ask the Court to approve an enhancement award of \$7,500 to the Class Representative. This award is to compensate the Class Representative for her service and extra work provided on behalf of the Settlement Class members.

PAGA Civil Penalties. The parties have agreed to allocate \$150,000 of the Gross Settlement Amount as alleged civil penalties for the settlement of Plaintiff's PAGA claim. Pursuant to the requirements of the PAGA, seventy-five percent (75%) of that amount, or \$112,500, will be paid to the California Labor & Workforce Development Agency ("LWDA"). The remaining \$37,500 has been designated as the "PAGA Amount" and will be paid to certain Settlement Class members as described below.

Calculation of Settlement Class Members' Settlement Awards. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount ("NSA"), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated to be approximately \$1,675,500. Together with the \$37,500 PAGA Amount, the total amount to be distributed to Settlement Class members is estimated to be \$1,713,000. Settlement Class member payments, known as "Settlement Awards," will be calculated as follows:

- (i) NSA distribution: The NSA will be distributed to all participating Settlement Class members (i.e., those Settlement Class members who do not opt out of the Settlement), and will be allocated proportionally based on each participating Settlement Class member's total weeks worked for AB in California ("Workweeks") during the Class Period.
- (ii) In addition to the NSA, \$37,500 of the Gross Settlement Amount has been designated as the "PAGA Amount" as described above, and will be allocated to all Settlement Class members (whether or not they opt out) who worked for AB in California at any time from April 6, 2019 to July 9, 2021 (the "PAGA Period"), in proportion to the number of pay periods that each Settlement Class member worked for AB in California during the PAGA Period.

Deposit of Gross Settlement Amount. The Gross Settlement Amount will be deposited by AB with the Settlement Administrator within thirty (30) calendar days of the "Effective Date" as defined in the Settlement. If there are no objections to the Settlement and the Court grants final approval of the Settlement, then the Effective Date will be 60 days after the date of final approval.

Payments to Settlement Class Members: Approximately twelve (12) business days after AB's deposit of the Gross Settlement Amount, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to Settlement Class members.

Allocation and Taxes. For tax purposes, Settlement Awards shall be treated as follows: for payments from the PAGA Amount, 100% penalties; for payments from the NSA, 50% wages, 25% penalties, and 25% interest. The Settlement Administrator will issue IRS forms W-2 for all amounts designated as "wages," and will issue IRS forms 1099 for all amounts designated as penalties and interest. Settlement Class members are responsible for the proper income tax treatment of the Settlement Awards. The Settlement Administrator, AB and its counsel, and Plaintiff and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement and the Settlement becomes final, the Class Representative, and every member of the Settlement Class (except those who opt out) will release and discharge AB, and its current and former officers, directors, and agents, and the successors and assigns of all such entities and individuals ("Released Parties"), for the duration of the Class Period, from any and all causes of action, claims, rights, damages, punitive or statutory damages, penalties, liabilities, expenses, and losses under California law that were alleged in the operative complaint in the Action or that could have been alleged based on the facts alleged in the operative complaint in the Action including, but not limited to: (a) any alleged failure by AB (1) to pay minimum wages; (2) to pay overtime wages; (3) to provide meal periods or compensation in lieu thereof; (4) to authorize and permit rest periods or compensation in lieu thereof; (5) to provide compliant wage statements; (6) to timely pay wages at the end of alleged employment; (b) any right or claim for unfair business practices in violation of California Business & Professions Code sections 17200, et seq., based on the alleged failures set forth in (a)(1) through (a)(6) above; and (c) any violation of the California Labor Code arising from or related to the conduct alleged in (a)(1) through (a)(6) above, including, without limitation, violation of California Labor Code sections 201–204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198, or any other state statute, rule and/or regulation (Wage Order) during the Class Period ("California Released Claims"). In addition, all Settlement Class members

(whether or not they opt out) who worked for AB in California at any point during the PAGA Period shall release any right or claim pursuant to the PAGA, arising during the PAGA Period based on the facts alleged in the Complaint and Plaintiff's PAGA letter or that could have been alleged based on the facts alleged in the Complaint and in Plaintiff's PAGA letter ("PAGA Released Claims").

Conditions of Settlement. By granting preliminary approval of the Settlement, the Court has determined that the Settlement falls within the range of possible approval as fair, reasonable, and adequate. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement.

How can I claim money from the Settlement?

Do Nothing. You do not need to do anything if you want to receive payment from and participate in the Settlement. If you do nothing, you will be entitled to your Settlement Award based on the number of Workweeks you worked for AB in California during the Class Period and the number of pay periods, if any, you worked for AB in California during the PAGA Period. Your estimated individual Settlement Award is included in the enclosed Notice of Estimated Settlement Award. You also will be bound by the Settlement, including the release of claims stated herein.

Check Cashing Deadline and Uncashed Checks. You must cash or deposit your Settlement Award checks within 180 days from the date that the Settlement Administrator mails the check to you. If you do not cash or deposit your check within 180 days, your check will be voided and the funds will be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et seq., in your name until such time that you claim the funds. ~~from the check will escheat to the cy-pres recipient, Bet Tzedek Employment Rights Project.~~

What other options do I have?

Disputing Information in Notice of Estimated Settlement Award. Your estimated Settlement Award has been calculated and is included in the enclosed Notice of Estimated Settlement Award. As stated above, your estimated Settlement Award is based on the number of Workweeks you worked for AB in California during the Class Period and the number of pay periods, if any, you worked for AB in California during the PAGA Period. The information contained in AB's records regarding each of these factors is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than **<<RESPONSE DEADLINE>>**. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.** The parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator's decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the class portion of the Settlement, you may exclude yourself by sending to the Settlement Administrator a written "Request for Exclusion" letter or postcard, postmarked no later than **<<RESPONSE DEADLINE>>**, with your full name (as well as any former names you used while you were employed by AB), your current address, telephone number, last 4 digits of your social security number, and your signature. The Request for Exclusion should state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE PEREZ V. ADVANCED BIONICS, LLC LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS PORTION OF THE SETTLEMENT OF THIS LAWSUIT."

Send the Request for Exclusion directly to the Settlement Administrator at **<<INSERT ADMINISTRATOR CONTACT INFO>>**. Any person who submits a valid and timely Request for Exclusion shall, upon receipt, no longer be a Settlement Class member with respect to the class claims, shall be barred from participating in the class portion of the Settlement, and shall receive no benefits from the class portion of the Settlement. Any person who submits a valid and timely Request for Exclusion will also lack standing to submit any objection to the Settlement. However, all Settlement Class members who worked for AB during the PAGA

Period (even those who submit a valid timely Request for Exclusion) will be bound by the PAGA portion of the Settlement and will receive a portion of the PAGA Amount.

Objecting to the Settlement. If you do not submit a Request for Exclusion, you have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, in writing, you must mail a written Objection to the Settlement Administrator. Any written Objection must include your full name (as well as any former names used while employed by AB), current address and phone number, last 4 digits of your social security number, the name and contact information of any attorney representing you, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection, including any supporting papers, briefs, written evidence, declarations, and/or other evidence. All written objections or other correspondence must state the name and number of the case, which is *Maria Teresa Perez v. Advanced Bionics, LLC*, Los Angeles County Superior Court Case No. 20STCV26408. Any written Objections must be postmarked on or before <<RESPONSE DEADLINE>>.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing. You do not need to submit a written objection in order to appear and/or object at the Final Approval Hearing. You have the right to appear either in person or through your own attorney at this hearing. If you wish to appear at the Final Approval Hearing and/or retain an attorney to represent you at the hearing, you must do so at your own expense. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case, which is *Maria Teresa Perez v. Advanced Bionics, LLC*, Los Angeles County Superior Court Case No. 20STCV26408.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object. In other words, by submitting an Objection, you are not excluding yourself from the Settlement.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department SSC-14 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. At the Final Approval Hearing, the Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of expenses, the incentive award to the Class Representative, and the Settlement administration costs. The Final Approval Hearing may be postponed without further notice to the Settlement Class. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing at their own expense.**

If you plan on attending the hearing or otherwise visiting the Court, please consult the Court's website, <http://www.lacourt.org>, for information regarding court operations during COVID-19 as well as any face covering and social distancing requirements.

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012, during regular court hours. You may also contact the Settlement Administrator or Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT.

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.