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Attorneys for Plaintiff Gesel Maldonado,
on behalf of herself and others similarly situated

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

GESEL MALDONADO, an individual, on
behalf of herself and others similarly situated,

Plaintiff,

vs.

K & R CORPORATION, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 20STCV27934

CLASS ACTION

Assigned for All Purposes To:
Hon. Elihu M. Berle
Dept. 6, Spring Street Courthouse

**DECLARATION OF DAVID YEREMIAN
IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF JOINT
STIPULATION OF CLASS ACTION
SETTLEMENT AND RELEASE**

*[Filed concurrently with Notice of Motion and
Motion; Memorandum of Points and Authorities;
the Declarations of Alvin Lindsay, Walter
Haines, and Gesel Maldonado; and [Proposed]
Order]*

Date: December 20, 2021
Time: 8:30 a.m.
Location: Department 6

Complaint Filed: July 21, 2019
First Amended Complaint: September 23, 2020
Trial Date: None Set

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1. I am an attorney licensed and admitted to practice before all courts of the State of California, the United States District Court for the Central, Southern, Eastern, and Northern Districts of California, and the Ninth Circuit Court of Appeals. I am the managing attorney of David Yeremian & Associates, Inc., counsel for Plaintiff Gesel Maldonado (“Plaintiff”), on behalf of herself and others similarly situated and employed by Defendant K&R CORPORATION (“Defendant”) (collectively, “the parties”). I and my firm are referred to herein as Class Counsel. I have personal knowledge of the facts herein and if called as a witness, I could and would competently testify.

2. All of the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true. I have represented Plaintiff and the putative Class since the inception of this matter. I submit this Declaration in support of the Motion for Preliminary Approval, filed by Plaintiff, on behalf of herself and other similarly situated employees of Defendant, and without opposition from Defendant, for preliminary approval of the parties' Joint Stipulation of Class Action Settlement and Release of Claims ("Settlement Agreement"), a true and correct copy of which is attached to this Declaration as **Exhibit A**. Also provided for the Court's approval is the Notice of Class Action Settlement ("Class Notice") at Exhibit A to the Settlement. A copy of the parties Memorandum of Understanding, which memorialized the general terms of the Settlement Agreement following mediation on August 23, 2021, is provided at Exhibit B to the Settlement Agreement.

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3. My firm is well-qualified because of our experience, knowledge, and resources to act as counsel and represent Plaintiff and the putative class in this action. My practice is exclusively focused on employment matters, with a substantial percentage devoted to litigating wage, hour, and working-conditions violations on a class-wide basis.

1 4. I graduated from UC Berkeley in 1997 and received my law degree and MBA from
2 UCLA in 2001. I am a member of the Los Angeles County Bar Association and the California
3 Employment Lawyers Association. I have been honored as a Super Lawyers Rising Star in 2009,
4 2010, 2012-2015. I have been named honored as a Super Lawyer since 2016.

5 5. I have been practicing law since 2003. Since 2007, I have focused almost
6 exclusively on representing employees, including in wage-and-hour class actions. During my
7 career I have represented employees in over 100 wage-and-hour class action lawsuits as lead or
8 co-lead counsel (including in the Central, Southern, Eastern and Northern Districts of California),
9 and I have obtained six and seven figure settlements against a range of defendants, including
10 Fortune 500 companies. These cases have involved the gamut of wage-and-hour claims, including
11 claims for failure to pay minimum wages, unpaid wages and overtime, failure to provide meal and
12 rest breaks, failure to reimburse necessary business expenses, inaccurate pay statements, failure to
13 pay timely wages—similar to claims at issue in the present matter.

14 6. I am experienced in prosecuting employment matters, particularly class actions. In
15 addition to the present case, I am also class counsel for dozens of other putative wage-and-hour
16 class-action lawsuits pending in various state and federal jurisdictions throughout California.

17 7. My extensive experience in litigating employment wage and hour matters has been
18 integral in identifying legal issues, evaluating the strengths and weaknesses of a case, and
19 generally negotiating fair and reasonable class action settlements. Practice in the narrow field of
20 wage and hour litigation requires skill and knowledge concerning the constantly evolving
21 substantive law (state and federal), as well as the procedural law of class action litigation. In this
22 action, I am fully equipped to use the skills and knowledge I have developed through more than a
23 decade of prosecuting and defending wage and hour class actions to fairly and adequately
24 represent the interests of the Class. Therefore, on the account of my resources, experience, and
25 knowledge, I am well qualified to act as class counsel and represent Plaintiff and the putative class
26 members in this action.

27 8. In the last several years I have had several contested class cases certified. When
28 necessary we pursue cases on appeal. Owing to my experience, I am well-qualified to evaluate the

1 class claims in this action, to evaluate settlement v. trial and defenses raised. I have negotiated
2 over 100 class action settlements, including many involving the same issues presented in this case.
3 A selection of cases wherein I have served as lead or co-lead class counsel includes: *Galavis v.*
4 *Patina Restaurant Group, LLC* (LASC BC375225; class size approx. 10,000; co-lead counsel);
5 *Milford v. ADT Security Services, Inc.* (CACD CV08-2236; class size approx. 2,000; lead
6 counsel); *Carreon v. Wolfgang Puck Catering and Events, LLC* (LASC BC398569; class size
7 approx. 1,400; lead counsel); *Fluke v. RFG Oil, Inc.* (LASC BC403354; class size approx. 1,400;
8 lead counsel); *Urena v. Camachos Restaurant* (LASC BC365913; class size approx. 887; lead
9 counsel); *Smith v. Rio Rancho Pontiac GMC Buick Inc.* (LASC BC391187; class size approx. 860;
10 lead counsel); *Callela v. Dolce Group* (LASC BC364711; class size approx. 600; lead counsel);
11 *Vasquez v. The Hollywood Pig n Whistle LP* (LASC BC335075; class size approx. 600; lead
12 counsel); *Goldman v. Aorta Restaurant Operating LP* (LASC BC379688; class size approx. 300;
13 lead counsel); *Sink-Crilly v. Centex Homes* (CACD CV09-2476; class size approx. 250; lead
14 counsel); *Utley v. Cranbrook Partners Inc.* (LASC BC392813; class size approx. 200; lead
15 counsel); *Garcia v. California Credits Group* (LASC BC353213; class size approx. 160; lead
16 counsel); *Afanasyev v. Miller Infiniti, Inc.* (LASC BC350788; class size approx. 160; lead
17 counsel); *Morris v. Gymboree, Inc.* (LASC BC393270; class size approx. 150; lead counsel);
18 *Ortega v. AJC Sandblasting, Inc.* (LASC BC378806; class size approx. 140; lead counsel);
19 *Lulejyan v. Jim Falk Motors of Beverly Hills, Inc.* (LASC BC398459; class size approx. 72; lead
20 counsel); *Rylko v. The Griddle Café, Inc.* (LASC BC386126; class size approx. 70; lead counsel);
21 *Healy v. Siemens IT Solutions and Services, Inc.* (Santa Clara Superior Court 108CV113479; class
22 size approx. 60; lead counsel).

23 9. For purposes of this motion, the “Class” is defined as: (a) all persons who, during
24 the Class Period, have previously been or currently are employed in California by Defendant, as
25 an hourly-paid, non-exempt employee and (b) all persons who between April 1, 2021, and October
26 22, 2021, have previously been or currently are employed in California by Piazza Management
27 Corporation, as an hourly-paid, non-exempt employee and who between July 21, 2016, and March
28 31, 2021, were employed in California by Defendant, as an hourly-paid, non-exempt employee.”

1 “Participating Class Member” is defined as all Class Members who have not submitted a
2 complete, valid, and timely request to be excluded from the Settlement pursuant to the instructions
3 provided. The Settlement further defines a PAGA Group and PAGA Period. (Exhibit A,
4 Settlement, ¶¶ 3-4, 7-10). I do not believe that I have any conflicts of interest with the Class or
5 with the Class Representative. I am not related to the Class Representative. I have not previously
6 represented Defendants in any matter. I respectfully submit that I and David Yeremian &
7 Associates, Inc., along with our co-counsel Walter Haines and United Employees Law Group, PC,
8 are well suited to act as Class Counsel in this action, and we have and will continue to vigorously
9 represent the interests of the Class.

10 **PROCEDURAL HISTORY AND BACKGROUND**

11 10. Defendants own and operate several fast food franchise locations, including
12 McDonald’s locations in Long Beach and the Los Angeles area, where Plaintiff was employed.
13 Plaintiff and the Class members and the other aggrieved employees worked as crew members for
14 Defendant from May of 2018 through January of 2020 performing job duties that included, but
15 were not limited to, taking orders, bagging food, cleaning Defendant’s facilities, and cooking. This
16 is a class and PAGA action against K&R Corporation (“Defendant”), which is a McDonalds
17 franchisee operating four restaurant locations. Plaintiff worked for Defendant from May of 2018
18 through January of 2020, and from the start of the liability period on July 21, 2016 through the
19 recent mediation in August, informal discovery established Defendant employed approximately
20 430 crew members at its restaurant locations in California.

21 11. On July 21, 2020, Plaintiff filed her putative Class Action Complaint against
22 Defendant alleging ten causes of action against Defendant. The LWDA was provided notice the
23 next day of Plaintiff’s PAGA claim, and the First Amended Complaint was entered on September
24 23, 2020 with the following eleven class-wide causes of action against Defendant: (1) Failure to
25 Pay Minimum Wages; (2) Failure to Pay Wages and Overtime Under Labor Code § 510; (3)
26 Failure to Keep Required Payroll Records Under Labor Code §§ 1174 and 1174.5; (4) Meal
27 Period Liability Under Labor Code § 226.7; (5) Rest-Break Liability Under Labor Code § 226.7;
28 (6) Violation of Labor Code § 226(a); (7) Violation of Labor Code § 203; (8) Failure to Reimburse

1 Expenses Labor Code § 2802; (9) Violation of Business & Professions Code § 17200 *et seq.*; and
2 (10) Penalties under the PAGA, Labor Code 2698 *et seq.*

3 12. The parties completed their initial status conference with the Court on September
4 21, 2020, and after informing the Court of their intention to schedule a mediation, the Court set a
5 post-mediation status conference for April 16, 2021. The parties scheduled a first mediation for
6 April 26, 2021, and Class counsel provided Defendant's counsel with a comprehensive listing of
7 informal discovery items and numbers and data required for conducting a meaningful mediation,
8 including requesting a sampling of timekeeping and corresponding payroll records.

9 13. Defendant and Defense counsel worked to compile the required data and
10 documents and information requested in informal discovery, but were unable to do so sufficiently
11 in advance of the mediation. Defendant therefore requested that the parties continue the mediation
12 to a later date so that it could compile and complete the necessary informal discovery and Plaintiff
13 agreed. The parties then scheduled a continued mediation with well-respected wage and hour class
14 action mediator Steven J. Rottman for August 23, 2021.

15 14. The Parties reached a settlement at mediation and memorialized the basic terms of
16 the settlement in a Memorandum of Understanding, and worked thereafter to finalize and execute
17 their long form Settlement Agreement now before the Court for preliminary approval. (Exhibit A,
18 Settlement, ¶¶ 32-37). At their post-mediation conference on September 9, 2021, the parties
19 informed the Court of their settlement and the Court set a final approval motion hearing and
20 related dates. The parties stipulated to a continued filing and hearing, and the hearing is presently
21 scheduled for December 20, 2021.

22 15. To facilitate approval of the Settlement as to the PAGA claims, Class Counsel will
23 be submitting the Settlement Agreement to the LWDA concurrently with the filing of this motion
24 pursuant to Labor Code § 2699(1)(2), and can provide proof of submission in advance of the
25 motion for preliminary approval hearing should the Court wish to receive it.

26 16. This is a class and PAGA action against Defendant, which is a McDonalds
27 franchisee operating four restaurant locations in Long Beach and the Los Angeles area. Plaintiff,
28 along with the other Class members, worked as crew members for Defendant, with Plaintiff

1 working there from May of 2018 through January of 2020.

2 17. Plaintiff's Original and Amended Complaints have alleged that she was generally
3 scheduled to work varying shifts from Monday to Friday (5 day work week) for generally 6 to 10
4 hours per shift and usually in the range of 30-40 hours per week. The Complaint alleges that
5 Defendant recorded the time Class Members worked through an electronic time keeping machine
6 that required a finger print and an employee ID number to access. This process on average took
7 anywhere from thirty seconds to one minute, and would take longer depending on the number of
8 employees who were in line waiting to clock in. To the extent timekeeping entries were added
9 through the POS system or otherwise, the act of clocking in and out so many times during a work
10 shift and the delays inherent to it resulted in several minutes of off the clock work per shift. In
11 addition to the other time when employees were working before and after their work periods or
12 during their breaks, Plaintiff has also alleged this waiting time resulted in off the clock work
13 which was not properly compensated and the underpayment of wages to the Class members.

14 18. Defendant produced timekeeping punch records for a substantial percentage of the
15 employees evidencing electronic punches and edits for clocking in and clocking out for their work
16 shifts and in and out for both their meal breaks and rest periods. Plaintiff therefore alleged that
17 management policy required clock entries for rest periods, and those produced evidence of
18 significant numbers of late or shortened breaks, or missed breaks.

19 19. Plaintiff's operative First Amended Complaint has also alleged that on the
20 occasions when Plaintiff worked over eight hours in a work shift, she noted that Defendant
21 underpaid her overtime. Plaintiff also contends Defendant's management would move the hours
22 worked over eight on a shift to another day when she worked less than eight hours to avoid paying
23 overtime for the shift. After review of produced payroll registers and timekeeping records for
24 Plaintiff and the Class members, Plaintiff further argued at mediation various alleged facial
25 violations as to wages and breaks, including for alleged underpaid hours worked and late or
26 otherwise shortened meal and rest breaks.

27 20. Plaintiff further alleged derivative claims for failure to provide accurate wage
28 statements, failure to pay all wages upon separation from employment, unlawful deductions,

1 unfair competition, and for civil penalties and wages under the PAGA. In addition to the
2 derivative Labor Code § 226 violations for inaccurate wage statements, it is believed that
3 Defendants issued wage statements that did not list the total hours worked or were otherwise
4 missing information required under Section 226(a).

5 21. Defendant contends, among other things, that it has complied at all times with all
6 applicable laws and assert that Plaintiff and the Class Members were properly compensated for all
7 time worked, and otherwise treated at all times in compliance with all applicable laws. Defendant
8 denies and continues to deny all of Plaintiff's material allegations. Specifically, Defendant
9 contends (1) it did not fail to pay the Class the minimum wage or overtime compensation; (2) it
10 provided the Class with all meal periods according to law; (3) it provided the Class with all rest
11 periods according to law; (4) it did not fail to timely pay the Class wages due and owing during
12 employment and/or upon separation; (5) it provided the Class with accurate itemized wage
13 statements, consistent with Labor Code § 226; (6) it properly maintained all payroll records; (7) it
14 did not make any unlawful deductions from employees' wages; (8) it did not violate Business &
15 Professions Code §§ 17200, *et seq.*; (9) the PAGA Group is not entitled to penalties under PAGA;
16 and (10) Defendant is not liable for damages, including unpaid wages, liquidated damages,
17 statutory penalties, attorneys' fees, or costs of litigation to the Class. (Exhibit A, Settlement, ¶ 33).

18 22. Despite consistently denying the claimed liability it is facing, and after considering
19 the risks of further litigation, Defendant has concluded that any further defense of this litigation
20 would be protracted and expensive for all parties, and will require substantial investment of
21 Defendants' time, energy, and resources unless this Settlement is approved. (Exhibit A,
22 Settlement, ¶ 36).

23 **INVESTIGATION AND DISCOVERY**

24 23. Before filing the lawsuit, Class Counsel investigated and researched the facts and
25 circumstances underlying the pertinent issues and the law applicable thereto. This required
26 thorough discussions and interviews between Class Counsel and Plaintiff, as well as preliminary
27 research into the various legal issues involved in the case, after conducting their initial
28 investigation. Class Counsel determined that Plaintiff's claims were well-suited for class action

1 adjudication based on what appeared to be a common course of conduct affecting a similarly
2 situated group of employees. (Exhibit A, Settlement, ¶¶ 32-37).

3 24. After filing the lawsuit and in advance of the mediation, Class Counsel conducted a
4 thorough investigation of the facts and claims giving rise to the action, including: (1) conducting
5 formal and informal discovery and meeting and conferring with defense counsel about same; (2)
6 reviewing and analyzing time and pay records as well as employment related policies; (3)
7 Plaintiff's personnel file and other documentation; (4) interviewing Plaintiff and potential Class
8 members; (5) researching the applicable law and potential defenses; (6) constructing damage
9 models based on interpretations of California law; and (7) reviewing information provided by
10 Defendants in response to discovery and in advance of the mediation. (Exhibit A, Settlement, ¶
11 35).

12 25. The Class enumerated in this action is ascertainable because the Class Members
13 may be readily identified by reference to Defendant's records, and Defendant has agreed to share
14 the information from these records with the Settlement Administrator in order to identify and
15 contact the Class members during the administration process. Defendants' records at the time of
16 the mediation reflected approximately 430 Class members. This number will be confirmed
17 following preliminary approval filing when Defendant provides the Class list to the Administrator
18 (i.e. Phoenix Class Action Administrators). To prevent the Class numbers from continuing to
19 increase, the parties agreed the end of the Class Period would be October 22, 2021. Defendant
20 disclosed these Class members worked approximately 27,941 workweeks during the relevant
21 period by the time through August 23, 2021. (Exhibit A, Settlement, ¶ 35).

22 26. Defendants vigorously contested liability, the amount of claimed damages, and the
23 propriety of class certification. (Exhibit A, Settlement, ¶ 38). After Class Counsel analyzed the
24 relevant documents and other gathered data, and provided the Class data to its statistical analysis
25 expert for review and analysis, Class Counsel believed that this case was appropriate for resolution
26 *via* mediation. Given the high level of risk present for both sides, the parties elected to mediate
27 Plaintiff's claims and explore the possibility of settlement. (Exhibit A, Settlement, ¶¶ 32-37).

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1 27. Upon agreeing to schedule mediation, and leading up to their agreement, the parties
2 conducted informal discovery and exchanged details regarding the claims and defenses and the
3 items Plaintiff believed were required to file a motion for class certification or a motion for
4 summary judgment for the PAGA claim and to complete a constructive and meaningful mediation.
5 This data, along with Plaintiff's expert's analysis of it and conclusions drawn from it, also
6 permitted Class counsel to objectively assess the strength and weaknesses of the PAGA and class-
7 wide claims and to appropriately and realistically value them.

8 28. Defendant's counsel and Plaintiff's counsel also worked together to agree on terms
9 for informal discovery in advance of mediation. Plaintiff provided a comprehensive listing of data
10 and items required to which Defendant responded, including by producing all relevant policy
11 related documents.

12 29. Defendant produced payroll register reports and wage statements names and socials
13 are redacted and then also for a percentage of the other Class members. As for the timekeeping
14 records, Defendant produced separate Excel files with punch times for shifts and separate ones
15 with break punches for the Class members. Defendant's counsel also provided substantive
16 responses to all informal discovery requests and a sufficient sampling to ensure the parties could
17 focus with the mediator on valuing the claims and addressing their merits, or lack thereof, rather
18 than trying to establish the salient numbers necessary to meaningfully estimate potential liability
19 and penalty exposure to Defendant.

20 30. The informal production included the company/employee handbook with general
21 policies and procedures, wage statements printed from the company payroll records, and Excel
22 spreadsheets listing the punch times for various pay periods for each store for the beginning and
23 end of each shift and for the beginning and end of each meal period and rest break taken.
24 Defendant's counsel also provided summary numbers to Plaintiff's counsel for such items as the
25 total workweeks and pay periods and employee numbers and the average hourly pay rate. In short,
26 the parties agreed upon the relevant class related numbers necessary to conduct an informed
27 liability exposure analysis. This permitted them to focus on liability and settlement numbers rather
28 than the underlying class data. These numbers are summarized below:

Key Numbers and Data Points

1. The total number of current non-exempt employees: **110** (as of March 18, 2021)
2. The total number of former non-exempt employees between
 - a) July 21, 2016, and the present: **320** (as of March 18, 2021)
 - b) July 21, 2017, and the present: **293** (as of March 18, 2021)
 - c) July 21, 2019, and the present: **138** (as of March 18, 2021)
 - d) TOTAL Employees = 110 + 320 = **430** employees.
3. The total number of workweeks between
 - a) July 21, 2016, and the present: **26,819** (as of June 6, 2021)
 - b) July 21, 2017, and the present: **21,485** (as of June 6, 2021)
 - c) July 21, 2019, and the present: **10,142** (as of June 6, 2021)
4. The total number of pay periods between July 21, 2019, and the present: **4,611** (as of May 31, 2021)
5. The average hourly rate for non-exempt employees in
 - a) 2016 – 2021: Weighted Average: **\$12.62/hr** OT rate = **\$18.92/hr**

31. The parties participated in a private mediation session with a respected class action mediator, Steven A. Rottman, Esq., on August 23, 2021. The parties and mediator worked to arrive at the general terms for resolving this action, subject to Court approval, and executed a Memorandum of Understanding (“MOU”). (Exhibit A, Settlement, ¶¶ 34-36).

32. From Class Counsel’s review of the facts, strengths, and weaknesses of the case, the risks and delays posed by further litigation, and Class Counsel’s own prior litigation experience, Class Counsel believes that the recovery for each Class Member is fair and reasonable taking into consideration the amounts received in other wage and hour class actions, the risks inherent in litigation of this genre, and the reasonable tailoring of each class member’s claim to the settlement award he or she will receive. Further, and based on the settlement negotiations, which were extensive and conducted in good faith and at arm’s length between attorneys with substantial experience litigating class actions and wage and hour cases, the Settlement Agreement was the product of a non-collusive settlement process in which the parties made significant compromises in the interest of reaching a full and complete settlement of the lawsuit. (*See, e.g.*, Exhibit A, Settlement, ¶ 37).

SUMMARY OF SETTLEMENT

33. The parties have executed their Settlement Agreement attached hereto and incorporated herein as **Exhibit A**. Defendants have agreed to settlement on a non-reversionary basis, such that Defendants will pay the entirety of the agreed upon total settlement amount,

referred to as the “Maximum Settlement Amount” and which is \$500,000.00. This amount includes the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment (i.e. fees of \$166,667.00 and costs not to exceed \$15,000), Settlement Administration Costs (\$9,000.00), payment to the Labor and Workforce Development Agency (“LWDA”) and PAGA Group Members for the alleged PAGA penalties (\$28,000.00), and the Class Representative Payment (\$10,000.00), along with the remaining funds to pay all individual settlement payments to the Settlement Class Members. In addition to the Maximum Settlement Amount, Defendant will also be responsible for Employer’s Payroll Taxes which they will pay separately from it. (Exhibit A, Settlement, ¶¶ 13-16, 24, 62(a)-(d)).

34. “Net Settlement Amount” is the Maximum Settlement Amount, less (i) the Class Representative Payment approved by the Superior Court (up to \$10,000) (ii) the Class Counsel Fees Payment approved by the Superior Court (up to \$166,667); (iii) the Class Counsel Litigation Expenses Payment approved by the Superior Court and documented by Class Counsel (up to \$15,000); (iv) the LWDA Payment approved by the Superior Court (i.e. \$21,000, which is 75% of \$28,000); (v) the PAGA Payment approved by the Superior Court (i.e. \$7,000, which is 25% of \$28,000); (vi) the Settlement Administrator Payment approved by the Superior Court (\$9,000); and (vii) any other fees or expenses (other than Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment) incurred in implementing the terms and conditions of this Agreement as approved by the Superior Court. (Exhibit A, Settlement, ¶ 26).

35. The “Class” is defined as: “(a) all persons who, during the Class Period, have previously been or currently are employed in California by Defendant, as an hourly-paid, non-exempt employee and (b) all persons who between April 1, 2021, and October 22, 2021, have previously been or currently are employed in California by Piazza Management Corporation, as an hourly-paid, non-exempt employee and who between July 21, 2016, and March 31, 2021, were employed in California by Defendant, as an hourly-paid, non-exempt employee.” Additionally, “Class Member” is defined as an individual who is a member of the Class (or if any such person is incompetent, deceased, or unavailable due to military service, the person’s legal representative or successor in interest evidenced by reasonable verification). Participating Class Members are those

1 who do not opt-out, and persons currently employed in California by Piazza Management
2 Corporation who were not previously employed by Defendant are excluded from the Class.
3 (Exhibit A, Settlement, ¶¶ 3-4).

4 36. The “PAGA Group” is defined as: “(a) all persons who, during the PAGA Period,
5 have previously been or currently are employed in California by Defendant, as an hourly-paid,
6 non-exempt employee and (b) all persons who between April 1, 2021, and October 22, 2021, have
7 previously been or currently are employed in California by Piazza Management Corporation, as an
8 hourly-paid, non-exempt employee and who between July 21, 2019, and March 31, 2021, were
9 employed in California by Defendant, as an hourly-paid, non-exempt employee . “PAGA Group
10 Member” is defined as an individual who is a member of the PAGA Group (or if any such person
11 is incompetent, deceased, or unavailable due to military service, the person’s legal representative
12 or successor in interest evidenced by reasonable verification).” Additionally, those persons who
13 are currently employed in California by Piazza Management Corporation, as an hourly-paid, non-
14 exempt employee who were never previously employed by Defendant, are specifically excluded as
15 PAGA Group Members. (Exhibit A, Settlement, ¶¶ 8-9).

16 37. Each Class Member who fails to opt out will be a Participating Class Member
17 entitled provisionally to a Settlement Share of the Net Settlement Amount, which the Settlement
18 Administrator will calculate based on a fixed proportional amount per workweek. (Exhibit A,
19 Settlement, ¶¶ 22, 57 and 57(a)-(c)).

20 38. Similarly the “PAGA Payment Share” is the value of each PAGA Group Member’s
21 share of the PAGA Payment (25% of \$28,000 PAGA Payment, i.e. \$7,000), and the Administrator
22 will calculate the PAGA Payment Shares for each PAGA Group Member based on their pay
23 periods worked during the PAGA Period (i.e. July 21, 2019 through October 22, 2021). (Exhibit
24 A, Settlement, ¶¶ 8, 9, 23, 58 and 58(a)-(c)).

25 39. If the Court approves all requested allocations and awards above, the Net
26 Settlement Amount is estimated to be **\$271,333.00**. For the approximately **430** estimated Class
27 Members (if no exclusions), the average gross individual settlement payment share, using a
28 straight average, is **\$631.00**. Any amounts not approved by the Court as a Class Representative

1 Payment, or Class Counsel Fees and Costs, or Settlement Administration costs or for the PAGA
2 claim will be added back to Net Settlement Amount to be distributed to the Settlement Class
3 Members who are Class participants. The parties have selected Phoenix Class Action
4 Administrators as the Settlement Administrator. (Exhibit A, Settlement, ¶¶ 12, 63; *see also* Exhibit
5 A thereto, Class Notice).

6 40. Calculation of Individual Settlement Payments: Each Class Member who fails to
7 opt out will be entitled, provisionally, to a Settlement Share of the Net Settlement Amount, which
8 a Workweek Value multiplied by the number of Workweeks an individual worked. (Exhibit A,
9 Settlement, ¶¶ 57, 57(a)-(c)).

10 41. PAGA Payment Share Calculation: The PAGA Payment Share for each PAGA
11 Group Member will be calculated by multiplying a Pay Period Value by the number of pay
12 periods worked by an individual. (Exhibit A, Settlement, ¶¶ 58, 58(a)-(c)). In light of the binding
13 nature of a PAGA judgment on non-party employees pursuant to *Arias v. Sup. Ct. (Angelo Dairy)*
14 (2009) 46 Cal.4th 969 and *Cardenas v. McLane Foodservice, Inc.* (2011) 796 F.Supp.2d 1246,
15 PAGA Group Members cannot opt-out of the PAGA Group Released Claims and will
16 automatically receive a payment for the amount of each individual's PAGA Payment Share.
17 (Exhibit A, Settlement, ¶ 67).

18 42. For the Settlement Shares paid in exchange for the Participating Class Member
19 Released Claims, twenty percent (20%) of each Settlement Share will represent unpaid wages and
20 the remaining eighty percent (80%) of each Settlement Share will represent penalties and interest.
21 The portion of the Settlement Share representing unpaid wages will be paid to each Participating
22 Class Member subject to any applicable employee-side tax withholdings and deductions, and the
23 Settlement Administrator will issue an IRS Form W-2 to each Participating Class Member for that
24 amount. The portion of the Settlement Share representing penalties shall be paid to the
25 Participating Class Member in full without deductions or withholdings, and the Settlement
26 Administrator will issue an IRS Form 1099 to each Participating Class Member for that amount.
27 Defendant will be responsible for payment of the Employer Payroll Tax attributable to the
28 Settlement Share payments constituting wages. As for the PAGA claims, each PAGA Payment

1 Share is intended to settle the PAGA Group Members' claims for civil penalties. Accordingly,
2 one hundred percent (100%) of each PAGA Payment Share will represent civil penalties and will
3 be paid to the PAGA Group Member in full without deductions or withholdings. (Exhibit A,
4 Settlement, ¶¶ 59-60).

5 43. The Effective Date of the Agreement and the releases is defined as follows: "(i) if
6 no Class Member both objects and files either a timely motion to intervene and/or timely motion
7 to vacate the judgment, then the date the Court enters an order granting Final Approval of the
8 Settlement; (ii) if a Class Member both objects and either files a timely motion to intervene or
9 timely motion to vacate the judgment, then sixty-one (61) days following the date the Court enters
10 an order granting final approval, assuming no appeal is filed; or (iii) if a Class Member both
11 objects and also files a timely motion to intervene or files a motion to vacate the Judgment and
12 also files a timely appeal, then the date of final resolution of that appeal..." (Exhibit A,
13 Settlement, ¶ 28).

14 44. Any checks paid to Participating Class Members and/or PAGA Group Members
15 shall be negotiable for one hundred and eighty (180) calendar days from the date of their issuance.
16 If a check remains uncashed after one hundred and eighty (180) calendar days from the initial
17 mailing, or if a check is returned to the Settlement Administrator as undeliverable during the one
18 hundred eighty-day period, the Settlement Administrator will take all reasonable efforts to identify
19 the Participating Class Member's and/or PAGA Group Member's correct address, including the
20 performance of a "skip-trace." (Exhibit A, Settlement, ¶ 53).

21 45. The funds represented by Settlement Share and/or PAGA Payment Share checks
22 remaining uncashed for more than one hundred and eighty (180) calendar days after issuance will
23 be voided and transmitted to the Controller of the State of California to be held pursuant to the
24 Unclaimed Property Law, California Civil Code Section 1500, *et seq.*, in the names of those
25 Participating Class Members and/or PAGA Group Members who did not cash their checks until
26 such time they claim their property. The Parties agree that this disposition results in no "unpaid
27 residue" under California Civil Procedure Code § 384, as the entire Net Settlement Amount will
28 be paid out to Participating Class Members, whether or not they all cash their settlement checks.

(Exhibit A, Settlement, ¶ 54).

46. Released Claims: As of the date of the Judgment, each Participating Class Member will release the Released Parties from all causes of action and claims that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the Action, including all of the following claims for relief: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide compliant meal periods; (iii) failure to provide compliant rest breaks; (iv) failure to timely pay wages during employment; (v) failure to provide complete, accurate wage statements; (vi) unlawful deductions from wages; (vii) failure to pay wages timely at time of termination or resignation; (viii) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; (ix) all claims under the California Labor Code Private Attorneys General Act of 2004 that could have been premised on the claims, causes of action or legal theories described above or any of the claims, causes of action or legal theories of relief pleaded in the operative Complaint in this Action or in the LWDA Exhaustion Letter Plaintiff served on the LWDA and Defendant; (x) any claim for costs and attorneys' fees and expenses; and (xi) any claim arising from the claims described above under applicable federal, state, local or territorial law as well as applicable regulations and Wage Orders. (collectively, the "Released Claims"). Participating Class Members who cash their checks are deemed to have waived all Released Claims inclusive of claims under the Fair Labor Standards Act. Participating Class Members who do not cash their checks shall be deemed to waive all Released Claims except for a claim under the Fair Labor Standards Act. Released Claims for Class Members who worked for Defendant in California during the Class Period shall have their claims released during the Class Period. (Exhibit A, Settlement, ¶ 64).

47. PAGA Group Released Claims. As of the date of the Judgment, each PAGA Group Member, and without the need to manually sign a release document, shall release the Released Parties and the State of California for claims for civil penalties pursuant to PAGA based upon all causes of action and claims that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the Action and/or the LWDA Exhaustion Letter,

1 including all of the following claims for relief: (i) failure to pay all regular wages, minimum
2 wages and overtime wages due; (ii) failure to provide compliant meal periods; (iii) failure to
3 provide compliant rest breaks; (iv) failure to timely pay wages during employment; (v) failure to
4 provide complete, accurate wage statements; (vi) unlawful deductions from wages; (vii) failure to
5 pay wages timely at time of termination or resignation; (viii) all claims under the California Labor
6 Code Private Attorneys General Act of 2004 that could have been premised on the claims, causes
7 of action or legal theories described above or any of the claims, causes of action or legal theories
8 of relief pleaded in the Action; (ix) any claim for costs and attorneys' fees and expenses under the
9 PAGA; and (x) any PAGA penalty claim arising from the claims described above under applicable
10 federal, state, local or territorial law as well as applicable regulations, including the IWC Wage
11 Orders (collectively, the "PAGA Released Claims"). PAGA Released Claims for PAGA Group
12 Members who worked for Defendant in California during the PAGA Period shall have their claims
13 released during the PAGA Period. (Exhibit A, Settlement, ¶ 65).

14 48. Requests for Exclusion: The settlement amount was a compromise figure, factoring
15 in the inherent risks related to certification, liability and damages. However, considering all of the
16 circumstances of the action and the defenses raised by Defendants against certification, liability
17 and damages, Class Counsel believes that the settlement is fair and reasonable. (Exhibit A,
18 Settlement, ¶¶ 36-37, 73, 87). Notice of the Settlement Agreement will be provided to the Class
19 Members in the form of the **Class Notice** attached to the Settlement Agreement as **Exhibit A**. (See
20 Exhibit A, Settlement, ¶¶ 27, 43; and Class Notice at Exhibit A thereto). The Class Notice
21 includes a summary of the case and settlement terms and provides Class Members with
22 instructions on how to exclude themselves, dispute the amount of pay periods, and object to the
23 settlement. The Class Notice mailed to all Class Members will advise them of their right to opt-out
24 of the Settlement Agreement by requesting exclusion. Any Settlement Class Member who wishes
25 to opt-out from the Settlement Agreement must submit a Request for Exclusion, in writing to the
26 Settlement Administrator postmarked no later than the Response Deadline, which is forty-five (45)
27 days from the date of mailing of the Class Notice. (Exhibit A, Settlement, ¶¶ 44, 44(b)).
28 Additionally, payment from the portion of the PAGA Payment to the PAGA Group if the Class

1 Member is a PAGA Group Member, and will not be bound by the terms of the Settlement and
2 Judgment, except for the release of the PAGA Group Released Claims if the Class Member is a
3 PAGA Group Member, and will not have any right to object, appeal, or comment thereon.
4 (Exhibit A, Settlement, ¶¶ 44(g)). The Settlement Agreement and Class Notice provide further
5 details on the procedures for opting out of the Settlement.

6 49. Objections: Any Class Member who does not request exclusion from the
7 Settlement and who wishes to object to the Settlement must serve on the Settlement Administrator
8 a written statement of objection by the response deadline, which is 45 days after mailing. The
9 written objection must state the Class Member's (i) name, (ii) address, (iii) last four digits of their
10 Social Security number, and (iv) the dates of the Class Member's employment with Defendant.
11 The written objection must state the basis for each objection in clear and concise terms. The
12 written objection shall also state whether the Class Member intends to appear and object at the
13 Final Approval Hearing. A Class Member who does not serve a written objection in the manner
14 and by the deadline specified may appear at the Final Approval Hearing to state their objection to
15 the Settlement. If a Class Member fails to submit a written objection or to appear at the Final
16 Approval hearing to make an oral objection, the Class Member will be deemed to have waived all
17 objections and will be foreclosed from making any objections – whether by appeal or otherwise –
18 to the Settlement. (Exhibit A, Settlement, ¶ 44(c)-(d)); *see also* Class Notice at Exhibit A thereto).
19 The Settlement Agreement and Class Notice provide further details on the procedures for
20 objecting to the Settlement.

21 50. Disputes. If a Class Member and/or PAGA Group Member disputes the number of
22 his or her Individual Workweeks and/or Individual Pay Periods stated in their Class Notice, the
23 Class Member and/or PAGA Group Member must, within forty-five (45) days after the Settlement
24 Administrator initially mails the Class Notice, ask the Settlement Administrator to resolve the
25 matter by returning the Class Notice with a statement of the number of Workweeks and/or Pay
26 Periods that he or she contends were worked and include any documentation the Class Member
27 and/or PAGA Group Member has to support their contention. The Settlement Agreement further
28 addresses the dispute resolution procedures. (Exhibit A, Settlement, ¶ 46; *see also* Class Notice).

1 **STRENGTH OF PLAINTIFF'S CASE BASED ON THE SETTLEMENT AMOUNT**

2 51. Because the Class consists of numerous employees, it was unlikely that the
3 potential monetary claims of individual Class members would have proved viable without the
4 class-action mechanism. The Settlement should be approved in light of two California appellate
5 decisions: *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785 and *Kullar v.*
6 *Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116.

7 52. The strength of the plaintiff's case in light of the settlement amount is deemed by
8 courts to be the "most important." *Clark v. American Residential Services, LLC* (2009) 175
9 Cal.App.4th 785, 799 (citing *Kullar*). Here, Plaintiff alleges that Defendant failed to provide
10 proper meal and rest breaks or provide premium pay in lieu thereof, failed to pay all wages and
11 overtime, failed to provide accurate wage statements, failed to pay minimum wages and overtime,
12 and failed to pay all wages upon termination, all in violation of California law. Plaintiff seeks
13 related violations of California's Business & Professions Code, and penalties pursuant to Labor
14 Code § 2698 *et seq.* Summary calculations for estimated liability for each of these claims follows.

15 **Failure to Pay Regular Wages and Overtime**

16 53. Plaintiff alleged that Defendants failed to pay all wages owed, including by
17 requiring off the clock work and by California Labor Code § 1197, which prohibits "Pay of Less
18 Than Minimum Wage" and states, "[t]he minimum wage for employees fixed by the commission
19 is the minimum wage to be paid to employees, and the payment of a less wage than the minimum
20 so fixed is unlawful." Plaintiff further alleged that when Defendant required off the clock work,
21 Plaintiff and the Class members were not being paid for all hours worked, including the time they
22 were under Defendants' "control," such as when performing pre-shift and post-shift tasks or when
23 responding to work requirements while off the clock and or during breaks. Plaintiff further argued
24 the off the clock work let to miscalculated overtime. Defendants argued that these claims were not
25 suitable for class treatment, they did not require off the clock work, they correctly calculated and
26 paid overtime wages under California law.

27 54. Plaintiff estimated the Class members endured approximately 10 minutes of off the
28 clock work per work week, including in the manner described above. From Defendant's numbers,

Defendants employed 430 Class members during the Class Period leading up to mediation, and worked a total of 26,819 workweeks. The regular rate for employees during this period averaged \$12.62/hr according to Defendant. This resulted in the following estimated liability exposure on the wage claims for failure to pay all regular and overtime wages for all hours worked: 26,819 workweeks x 10 min/week x 1 hour/60 min. x \$12.62/hr = **\$56,409.30**.

Meal Periods and Rest Breaks

55. Plaintiff alleged the California Class Members were required to work through their meal periods, nor were they afforded the opportunity to take uninterrupted meal periods in accordance with Cal. Labor Code § 512. Moreover, Plaintiff alleged that what meal periods the California Class Members did receive were often for less than 30 minutes or were interrupted or otherwise “on duty” due to work requirements and demands from customers or managers or were provided after five hours into a work shift or not at all when work shifts extended beyond ten hours, all in violation of Labor Code and applicable Wage Orders. Plaintiff also argued that second meal periods were not provided on shifts over ten hours.

56. For each meal period allegedly missed, of less than 30 minutes, or taken late for which the employee was not provided a reasonable opportunity to take a complete and timely meal period, an employer must pay the employee an additional one hour of compensation. Labor Code §226.7. This additional hour of compensation is referred to as “premium pay.” To comply with these laws, every employer must keep, for each employee, accurate time records showing when the employee begins and ends each work period and takes his or her meal periods.

57. Plaintiff alleged that Defendant consistently failed to provide timely and uninterrupted and complete meal breaks to class members by exerting control over them by requiring them to respond to work requirements and provide customer services. Moreover, Plaintiff alleges that what meal periods the California Class Members did receive were often untimely, all in violation of Labor Code and applicable Wage Orders.

58. Defendants maintained that during the relevant period, Defendants regularly provided Plaintiff and other employees opportunities to take compliant meal breaks and that they maintained lawful meal break policies. Defendants also again contended that differences in how

1 the various employees performed their daily duties would have led to individualized issues
2 predominating and would have defeated class certification.

3 59. Defendant's numbers, and a conservative estimate of two meal period violations
4 per work week (i.e. a violation rate of approx. 40%), resulted in the following calculation for
5 estimated meal period liability resulted: 26,819 work weeks x 2 violations/week x
6 \$12.62/violation = **\$676,911.56**.

7 60. As for rest periods, Plaintiff also estimated the Class members endured a rest break
8 violation on 40% of the shifts they worked in a work week for every work week they worked,
9 including due to the on-duty nature of any breaks that were taken or the control exerted. Plaintiff
10 alleged that Class members were and are under Defendant's control when they are required by
11 policy to respond to job requirements and demands at the expense of their breaks. Defendant
12 denied these allegations, argued the records established compliance, and that they were free to take
13 breaks without interruption. This results in the following estimated liability exposure on the Class
14 claims for failure to authorize and permit Class members to take rest periods, which is the same
15 analysis as for the meal period violations: 26,819 workweeks x 2 violations/week x
16 \$12.62/violation = **\$676,911.56**.

17 **Inaccurate Wage Statement Violations**

18 61. Under Labor Code § 226(a), Plaintiff and the Class are entitled to recover \$50 for
19 initial violations for inaccurate wage statements and \$100 for subsequent violations, up to a
20 maximum of \$4,000 per employee. Plaintiff alleged Defendants issued wage statements to
21 Plaintiff and the Class members that did not accurately list all hours worked by omitting off the
22 clock work and inaccurately listing applicable hourly rates.

23 62. Defendant challenged Plaintiff's claim for Labor Code § 226(e) penalties, including
24 by arguing they were merely derivative of the other claims that lacked merit, and Plaintiff's failure
25 to prove the underlying claims could result in the dismissal of these derivative claims. Defendants
26 also argued that it did not knowingly and intentionally commit these alleged violations. *See, e.g.,*
27 Labor Code § 226(e) (recovery of penalties requires showing there was "a knowing and intentional
28 failure by an employer").

63. From Defendant's numbers, the Class members in the one year SOL for Section 226 claims worked a total of 4,611 pay periods. By using the conservative number of \$50/violation with no subsequent violations, the following calculation resulted: 4,611 pay periods x \$50/pay period = **\$233,586.00**.

Failure to Pay Final Wages at Termination or Separation

64. In allegedly failing to pay the Class Members their minimum wages, overtime wages, and premium pay for deficiently provided meal periods and rest breaks, all discussed above, Plaintiff alleged that Defendant willfully failed to pay these the California Class Members all wages due and certain at the time of termination or within seventy-two (72) hours of resignation, as required under Labor Code § 203.

65. Section 203 further provides that if an employer willfully fails to pay an employee all wages due at termination or within 72 hours of resignation, then that employee's wages shall continue as a penalty until paid for a period of up to thirty (30) days from the date they were due. Because class members stopped working for Defendant but again, allegedly were not paid their full compensation for the reasons discussed above, Plaintiff alleged that Class members did not receive all wages due upon termination of employment.

66. Defendants challenged this claim under Labor Code § 203 with several arguments, including that under Labor Code § 203, employers are only obligated to pay waiting-time penalties if they "willfully" fail to pay wages due and owing at the time of termination or resignation. As Title 8, California Code of Regulations, § 13520 states: "A willful failure to pay wages within the meaning of Labor Code Section 203 occurs when an employer intentionally fails to pay wages to an employee when those wages are due. However, a good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203." Defendants argued its good faith disputes and lack of willfulness would excuse its violations. Defendants maintained that because they had viable defenses in both law and fact, such penalties were subject to a three-year limitations period under Labor Code § 203(b). Defendants also argued that there is no liability under Labor Code § 203 for violations of meal and rest break requirements alone.

67. For the employees who departed from Defendants' employment during the relevant time period, Plaintiff alleged that Defendants have failed to provide all wages due to those employees at the time of their termination or resignation. Therefore, Class Counsel argued waiting-time penalties were triggered and employees are entitled to 30 days of wages at their regular rates of pay. Defendants disclosed 293 total class members in the three-year SOL for Section 203 claims at the time of mediation. We also conservatively figured Class members worked 8 hour shifts for calculation purposes. The average regular hourly rate was \$12.62/hr, and the following calculation resulted. The 203 penalty was calculated by multiplying the number of terminated employees in the 3-year SOL by 30 days and by the average daily hours and by the average rate of pay as follows: employees x 8 hours/day x 30 days x \$12.62/hr = **\$887,438.40**.

PAGA Penalties

68. The Labor Code Private Attorneys General Act, Labor Code § 2698 *et seq.*, allows Plaintiff to obtain civil penalties on behalf of herself and other aggrieved employees for Defendants' violation of any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil penalties are provided in the statute, those civil penalties are recoverable; where no civil penalties are recoverable, Labor Code § 2699(f) establishes civil penalties of one (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code § 2699(i), seventy-five (75) percent of the penalties recovered must be allocated to the Labor and Workforce Development Agency (LWDA), with the remaining twenty-five (25) percent allocated to the affected employees. The limitations period as for all penalties is one year prior to the filing of the complaint.

69. The provisions of the Labor Code potentially triggering PAGA penalties in this case include but are not limited to Labor Code §§ 203, 226(a), 226.3, 226.7, 510, and 1194. PAGA penalties are not mandatory, and are instead permissive. Labor Code § 2699(e)(2) states that “a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” See *Thurman v. Bayshore* (2012)

203 Cal. App. 4th 1112 (substantially reducing PAGA penalties by 30% under this provision). Defendants contested Plaintiff's claim for PAGA penalties.

70. PAGA penalties are also derivative of each and every other claim, and Defendants argued the PAGA claims would be subject to the same defenses as the underlying claims, and as well as additional equitable defenses, including substantial compliance. Finally, under *Amaral v. Cintas Corp.* (2008) 163 Cal.App.4th 1157, Defendants asserted that penalties under PAGA could, at best, be awarded only at the rates obtainable for initial violations under the applicable statutes, because Defendants had never been notified of the alleged violations. *Id.* at 1208-1209. Class counsel therefore calculated a representative PAGA penalty calculation for each type of violation as follows: 4,611 pay periods x \$100/pay period = **\$461,100.00** per violation.

71. However, Class Counsel also estimated any PAGA recovery would be substantially reduced, and applied discounts in light of the countervailing arguments with regard to the other causes of action, and the Court's power to award "a lesser amount than the maximum civil liability." The PAGA allocation agreed upon by the parties therefore is \$28,000.00, subject to the Court's final approval, of which 75% of that amount (\$21,000.00) will be paid to the LWDA out of the Total Settlement Amount, and the remaining 25% (\$7,000.00) will become part of the Net Settlement Amount for distribution to Participating Settlement Class Members. (Exhibit A, Settlement, ¶ 16).

Unfair Business Practices

72. Plaintiff pled this cause of action in order to augment her other causes of action and aid in their prosecution. Business & Professions Code § 17208 extends the statute of limitations on Plaintiff's wage claims, which qualify as unfair business practices, to four years rather than the three years provided by statute.

Summary

73. The foregoing discussion establishes why the settlement amount is adequate in light of the merits of Plaintiff's case. It does so by explaining the legal basis for each of Plaintiff's causes of action, summarizing the evidence that Class Counsel gathered in support of those causes of action, and relating to Defendant's legal and factual arguments that worked to detract from the

1 strength of Plaintiff's case.

2 74. Class Counsel had to apply appropriate discounts in light of the facts and law as
3 discussed above. In addition, meal period liability exposure is limited by the fact that not all class
4 members worked on the same schedule and under the same supervisors making the certification of
5 all class members across all locations less than a certainty. Additionally, the rest break exposure is
6 limited but amenable to calculation by Defendant's practice of recording times for rest breaks.
7 This settlement, like most others, was the product of compromise.

8 75. In light of the above described risks, and those inherent in any contested litigation,
9 a gross recovery of \$500,000 under the Settlement Agreement is an excellent result. If the Court
10 approves all requested allocations and awards above, the Net Settlement Amount is estimated to
11 be **\$271,333.00**. For the approximately 430 estimated Class Members (if no exclusions), the
12 average gross individual settlement payment share, using a straight average, is **\$631.00**.
13 Additionally, by summarizing the potential liability exposure numbers estimated for Plaintiff's
14 main claims as addressed above, Class Counsel estimated **\$3,063,812.92** in potential liability
15 exposure to Defendants for Plaintiff's main claims for damages and penalties.

16 76. The Gross Fund Value of \$950,000.00 therefore represents a recovery for the Class
17 members of approximately **16.32%** of the total maximum liability exposure (\$3,063,812.92)
18 Plaintiff estimated Defendants could face on these class-wide claims. Plaintiff and Class Counsel
19 submits this is an excellent result in the face of uncertainty and the prospects of protracted and
20 contested litigation through class certification, summary judgment, and trial, and this is especially
21 true in light of the operational challenges employers such as Defendant face in the wake of the
22 present coronavirus pandemic.

23 **THE RISK, EXPENSE, AND LIKELY DURATION OF FURTHER LITIGATION,**

24 **RISK OF MAINTAINING CLASS ACTION STATUS THROUGH TRIAL**

25 77. The next *Clark/Kullar* factors recognize that settlements take into consideration the
26 risks and expenses posed by further litigation and, in the class-action context, the risk of non-
27 certification. Consequently, it is proper that trial courts should keep these considerations in mind
28 when judging the adequacy of class action settlements.

1 78. Further litigation of this case posed real risks for a number of reasons. First, there
2 were the risks of unfavorable rulings on the merits of the various indeterminate legal issues
3 outlined in the previous section. Each of Plaintiff's causes of action was subject to some unique
4 indeterminacy, and the derivative causes of action were doubly indeterminate on their own and
5 based on the claims from which they derive.

6 79. The parties disputed the effect of these and other issues on class certification and
7 decertification. Class Counsel maintained that there were several legal and factual questions at
8 issue in the case that could best be decided on a class wide basis. Plaintiff contended that the same
9 policies and practices applied to all class members and therefore common questions were likely to
10 predominate over individual inquiries, especially regarding off the clock work and meal and rest
11 break claims founded upon a control argument. Defendants disputed these contentions and argued
12 that individualized issues would predominate in the putative class to preclude certification, as
13 differences from restaurant to restaurant or shift to shift gave rise to individualized issues.
14 Defendants also argued that its policies were compliant with the law. Plaintiff disputed that
15 argument, asserting that the lawfulness of such policies give rise to common questions amenable
16 to certification. These disputes weighed in favor of entering into this Settlement.

17 80. Finally, it is always preferable to reach a relatively early resolution of a dispute that
18 saves time and money that would otherwise go towards continuing contested litigation. If this case
19 ended up settling after further litigation, the settlement amount would have to account for the
20 additional costs incurred, and there likely would be less amounts available for Class members
21 when a settlement was finalized. This is not just an abstract contention. The parties were moving
22 into the phase of this litigation where they would have had to depose managers, supervisors, and
23 employees in order to establish class certification and then liability for trial. Calling to Class
24 members and gathering of Declarations would have continued in earnest. Potentially, there would
25 have been discovery disputes. The parties were also aware that a class action trial would be a
26 complicated and expensive proceeding, as well as the likelihood of a long, drawn-out appeal
27 process. The settlement provides real and tangible benefits for Class members in the immediate
28 future. In fact, the estimated average recovery for the Settlement Class members in this action over

1 **\$630.00.** The benefits of this Settlement are not insignificant for anyone, especially given the
2 current economic climate. Consequently, the risk and expense of further litigation outweighed the
3 potential benefit that might have otherwise been gained.

4 **NOTICE TO AND REACTION OF CLASS MEMBERS**

5 **TO THE PROPOSED SETTLEMENT**

6 81. It is premature to address this factor now, at the preliminary approval stage, but
7 some observations are in order. First, the notification procedure set out in the Settlement
8 Agreement (at Exhibit A) provides the greatest likelihood that each and every class member will
9 receive the Class Notice (the “Notice”), attached to the Settlement as Exhibit A. Under the
10 Settlement, the Settlement Administrator (Phoenix) will send the Class Notice to each class
11 member via First Class U.S. mail. (Exhibit A, Settlement, ¶ 43). If any Notice Packets are returned
12 undeliverable, the Settlement Administrator will forward them to any address appearing on the
13 returned envelope or, if there is no forwarding address, perform a skip trace before mailing them
14 to any addresses thereby identified. (*Id.* at ¶ 43(c)). This is the best and most practicable way to
15 ensure the greatest possible number of class members will receive the Notice.

16 82. The Class Notice itself fully apprises class members of the nature of the lawsuit,
17 the claims involved, the terms of the settlement, and their options thereunder. It provides for a
18 specific procedure to seek exclusion from the Class, and for lodging objections to the settlement or
19 challenging work weeks. (Exhibit A, Settlement, ¶¶ 43-46; Exhibit A thereto, Class Notice). In the
20 Class Notice, Class members will also receive Class Counsel’s contact information, so they can
21 speak to attorneys conversant with the legal and factual issues involved in this case, as well as the
22 contact information for the Settlement Administrator. The efforts taken to ensure that Class
23 members receive the Class Notice and are well informed about the settlement are reasonable and
24 the best notice practicable under the facts.

25 83. If a class member disputes the number of workweeks stated for that Class member
26 in the Class Notice, the Class member may ask the Settlement Administrator to resolve the matter
27 by submitting information and documents supporting the Class member’s claimed weeks and pay
28 periods to have actually worked for Defendant during the Class Period. (Exhibit A, Settlement, ¶

46). the Settlement Administrator will make a determination of the class member's individual work weeks during the applicable period after consulting with the parties' counsel, and the determination by the Administrator will be binding. (*Id.*).

CONCLUSION AS TO THE CLARK/KULLAR ANALYSIS

84. The foregoing discussion establishes the fairness of the class-action settlement in the instant case, including by analyzing it in light of the *Clark* and *Kullar* decisions. This analysis compels a conclusion that the settlement is fair, reasonable, and adequate. Class Counsel conducted a thorough investigation of the subject wage-and-hour practices and engaged in non-collusive, arm's-length negotiations in order to reach a settlement. Defendants have agreed to pay fair value to settle Plaintiff's claims given the existence of legal uncertainty. From Class Counsel's substantial experience with wage-and-hour class action lawsuits, Class Counsel believes that this case could not have settled on better terms under the circumstances. Request therefore is made that the Settlement be granted preliminary approval so that those persons whom it was intended to benefit will be afforded the opportunity to determine its adequacy for themselves. (Exhibit A, Settlement, ¶¶ 37, 67).

REQUEST FOR ATTORNEYS' FEES

85. Under the Settlement, Class Counsel also requests, without opposition from Defendant, an award of attorneys' fees and costs and expenses incurred in connection with the prosecution of this action, and all of the work remaining to be performed by Class Counsel in documenting the Settlement, securing Court approval of the Settlement, carrying out their duties to see that the Settlement is fairly administered and implemented, and obtaining dismissal of the Lawsuit, as the Class Counsel Fees Payment in an amount not to exceed one-third of the Maximum Settlement Amount (i.e. up to **\$166,667.00**), and for an awarded Class Counsel Litigation Expenses Payment of reasonable costs and expenses in an amount not to exceed **\$15,000.00**, subject to approval by the Court. (Exhibit A, Settlement, ¶¶ 13-14).

86. This request is fair, reasonable, and adequate to compensate Class Counsel for the substantial work they have put into this case and, moreover, the risk they assumed by taking it in the first place. The attorneys' fees award is intended to reimburse Class Counsel for all

1 uncompensated work that they have already done and for all the work they will continue to do in
2 carrying out and overseeing the notification to class members, communicating with class members
3 regarding their claims, and assisting in the administration of the settlement if it is preliminarily
4 approved.

5 87. My firm took this case on a contingent-fee basis against a business represented by a
6 reputable defense firm. When we take contingent cases, we must pay careful attention to the
7 economics involved or one bad case can destroy years of work. Accordingly, when we take
8 contingency cases, we anticipate that we will, if successful, receive a fee that exceeds our normal
9 hourly rate; otherwise, the risk is often too great to bear. Even when we work long hours, the
10 number of hours in a day is limited. Because of this, when we take on one particular matter, we are
11 unable to take on all of the other matters we would otherwise be able to undertake. When Class
12 Counsel became involved in this case, we realized the time commitment that it would entail and
13 we were forced to turn down matters that we otherwise should have been able to handle. In sum,
14 this case claimed a significant portion of Class Counsel's time and attention throughout its
15 pendency.

16 88. The requested fees are reasonable for the services provided to Class Members and
17 for the benefits they are to receive. Indeed, even with a requested multiplier under the lodestar
18 theory, Class Counsel's fees will still be justified. Class Counsel will more fully brief the Court on
19 its lodestar in the motion for final approval. My hourly rate, approved before other Courts, has
20 been \$700 per hour starting in 2020. Alvin B. Lindsay is our firm's senior counsel, and his hourly
21 rate has also been \$700 starting in 2020. These rates have now also been approved in several
22 matters. Co-counsel Walter Haines, Esq. of United Employees Law Group, P.C. (see concurrently
23 filed Haines Declaration in support of Preliminary Approval ("Haines Decl.") is an extremely
24 well-respected wage and hour class action litigator, and has been practicing for many years, and
25 also will provide a further declaration in support of final approval and our fees and costs. Our firm
26 attorneys, paralegals, and staff have incurred substantial hours in prosecuting this action, and
27 counsel estimates that no lodestar multiplier will be necessary in cross-check to confirm the
28 reasonableness of the requested fee award. With the additional hours we will incur in taking this

1 action through preliminary approval, claims administration, and final approval, and the time
2 invested by other firm employees, an award of full attorneys' fees requested of **\$166,667.00** is fair
3 and reasonable, subject to further documentation and discussion in connection with final approval.

4 89. Class Counsel's Costs/Expenses reimbursement request at final approval will not
5 exceed fifteen thousand dollars (\$15,000.00). (Exhibit A, Settlement, ¶ 14). Counsel will provide a
6 detailed invoice of its costs at final approval, and will request only reimbursement of reasonably
7 incurred and documented costs specific to litigating this action. Any amounts not approved by the
8 Court as Attorneys' Fees and Costs will be added back to the Net Fund Value to be distributed to
9 the Class Members who do not opt-out. Through the filing of this motion, Class Counsel has
10 incurred approximately \$13,667.36 in litigation costs. Class Counsel will incur additional costs in
11 taking this action through administration, final approval, disbursement, and post-distribution
12 accounting, that will likely take Counsel up to the **\$15,000.00** requested.

13 **ENHANCEMENT TO PLAINTIFF AS THE CLASS REPRESENTATIVE**

14 90. Plaintiff herein is entitled to a reasonable service payment for her efforts and
15 initiative in bringing and helping to prosecute this action. Plaintiff spent a considerable amount of
16 time better apprising herself of her rights, deciding whether remedial action should be taken, how
17 it should be taken, searching for attorneys, and finally contacting Class Counsel, who spent many
18 hours with Plaintiff discussing the case and the law. In the end, Plaintiff decided to vindicate not
19 only her own rights but also those of her co-workers by filing a class action lawsuit.

20 91. Subject to Court approval and in exchange for an individual general release and her
21 efforts in bringing and prosecuting the class claims, and in addition to her Individual Settlement
22 Payment as a member of the Settlement Class, Plaintiff will request in connection with final
23 approval and without opposition from Defendant, a Class Representative Payment of up to
24 **\$10,000.00**. (Exhibit A, Settlement, ¶ 15). Plaintiff has also provided a Declaration in support of
25 preliminary and final approval and the award of her enhancement in connection with Plaintiff's
26 present motion. (*See* Declaration of Gesel Maldonado ("Maldonado Decl."), ¶¶ 3-18).

27 92. By suing Defendants, Plaintiff increased her risk of retaliation by not only
28 prospective employers, but also from Defendant. Plaintiff's lawsuit has now required Defendant to

1 expend considerable resources and has gained notoriety in the community and amongst Plaintiff's
2 co-workers, and Plaintiff justifiably fears the fact that she served as a class representative in a
3 wage and hour class action will not be lost on a prospective employer who has to choose between
4 an applicant who has never sued a prior employer and one who has. Plaintiff contends this risk is
5 particularly real in the information age, where employers can, more easily than ever, perform
6 background checks of prospective employees, sometimes with the stroke of a key.

7 93. But Plaintiff did not allow her fears of the potential repercussions of being class
8 representative deter her from acting for the benefit of Class Members. To the contrary, Plaintiff
9 has been intimately involved in this case since its inception. She has devoted a substantial amount
10 of time to helping Class Counsel effectively develop and prosecute this action at every stage of the
11 litigation. Both before and after the filing of this lawsuit, Plaintiff conferred with Class Counsel on
12 numerous occasions to discuss every aspect of this case. Plaintiff provided Class Counsel with
13 information about Defendant and about the its policies and practices generally, reviewed
14 documents, identified witnesses, responded to inquiries from fellow Class members about the case
15 and its status, consulted Class Counsel throughout the litigation at length, responded to informal
16 discovery inquiries and produced documents, met with counsel and participated in the mediation
17 process, monitored the progress of the litigation with Class Counsel, and reviewed and signed the
18 Settlement Agreement and provided her supporting declaration. Plaintiff estimates she has
19 invested approximately 45 hours in this litigation. (Maldonado Decl., ¶12).

20 94. Class Counsel and Plaintiff submit she has diligently, adequately, and fairly
21 represented the Class Members, and has not placed her interests above any member of the putative
22 Class. The payment to Plaintiff is intended to recognize her time and effort on behalf of the Class.
23 The amount requested is fair and appropriate based on her contribution and involvement. For
24 example, Plaintiff instigated the Lawsuit by bringing these violations to the attention of Class
25 Counsel. She spent several hours answering questions and providing information to Class Counsel
26 throughout the pendency of this action. She identified potential witnesses, explained to Class
27 Counsel day to day business practices of Defendant with regard to work schedules and off the
28 clock work and overtime payments and meal and rest breaks, etc. The parties agree that Plaintiff is

1 entitled to an enhancement for her time and effort in this matter. This sort of payment to a class
2 representative has been a common feature of settlements negotiated by Class Counsel and has
3 been routinely approved by trial courts. This is especially true when the Plaintiff and Class
4 Representative is also providing a general release broader than that of the Class members.

5 95. In light of the foregoing, Plaintiff and Class Counsel believe that the Class
6 Representative Payment in the amount of \$15,000.00 is fair and reasonable. This amount is a far
7 cry from the \$50,000 of enhancement awards to the two named plaintiffs approved by the trial
8 court in *Clark*. See *Clark, supra*, 175 Cal.App.4th at 807. Although Class Counsel appreciates the
9 Court's duty to ensure that class representatives are not overcompensated at the expense of the
10 Class, modest incentive awards in employment class actions, such as the one here, are necessary
11 not only to compensate class representatives for the time they spend in the case, but also, and more
12 importantly, to encourage aggrieved employees to challenge questionable employment practices
13 notwithstanding the very real consequences they may face.

14 **CRITERIA SATISFIED FOR CERTIFICATION OF SETTLEMENT CLASS**

15 96. Plaintiff alleges that the proposed Class satisfy the criteria for certification of a
16 settlement class under California law, as embodied in California Code of Civil Procedure § 382.
17 Defendants have agreed to the conditional certification of the class for settlement purposes only.
18 Defendants do not concede that certification is appropriate outside of this Settlement and preserves
19 all rights to oppose certification if, for any reason, the settlement does not become effective.
20 (Exhibit A, Settlement Agreement, ¶¶ 33, 36, 49-50). In general, courts may take a proposed
21 settlement into account in evaluating the propriety of class certification. See *Dunk v. Ford Motor*
22 *Co.* (1996) 48 Cal.App.4th 1794, 1807 fn. 19. Indeed, a "lesser standard" of scrutiny applies in
23 certifying classes for settlement purposes. *Id.* Therefore the Court should take into consideration
24 the fact that the parties have settled their claims and stipulated to certification for settlement
25 purposes when assessing whether the Settlement is fair and reasonable.

26 97. Numerosity. The putative Class is so numerous that joinder of all members is
27 impractical. Class members are all current and former non-exempt employees of Defendant and
28 Defendant's records establish at least 430 Class Members. Thus, there are a sufficient number of

1 Class Members to warrant conditionally certifying these proceedings as a class action for
2 settlement purposes.

3 98. Ascertainability. Plaintiff alleges that the putative Class is defined in a manner that
4 is precise, objective, and ascertainable. The at least 430 Class Members have already been
5 identified by reference to Defendant's payroll and personnel records.

6 99. Typicality. A class representative's claims are typical when they arise from the
7 same event, practice, or course of conduct that gives rise to the claims of other putative class
8 members, and if their claims rest on the same legal theories. The class representative's claims
9 must be "typical" but not necessarily identical to the claims of other class members. It is sufficient
10 that the representative is similarly situated so that he or she will have the motive to litigate on
11 behalf of all class members. *Classen v. Weller* (1983) 145 Cal.App.3d 27, 47; *B.W.I. Custom*
12 *Kitchens v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347 ("[I]t has never been the law in
13 California that the class representative must have identical interests with the class members."). It is
14 unnecessary that class representative has personally incurred all of the damages suffered by each
15 of the other class members. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 228.

16 100. Plaintiff alleges that her claims are typical of class members' claims because they
17 arose from the same factual basis and are based on the same legal theories. Plaintiff was employed
18 by Defendant during the Class Period subject to the allegedly unlawful meal and rest policies and
19 pay practices at issue in this litigation. Accordingly, Plaintiff is a member of the Class. The central
20 issues of this litigation (whether Defendants failed to provide meal periods and rest breaks,
21 whether off the clock work was required, whether Defendants paid employees for time under its
22 control or paid overtime correctly, etc.), which would arise if this were an individual action
23 brought by Plaintiff, apply to the other Class members as well, and the answers to these questions
24 would determine Defendants' liability as to the entire putative Class. Plaintiff alleges that her
25 claims are typical of the claims of the putative Class, and that the typicality requirement is
26 satisfied.

27 101. Adequacy. A class representative must possess the same interest and suffer the
28 same injury as the class members. "To assure 'adequate' representation, the class representative's

1 personal claim must not be inconsistent with the claims of other members of the class.” *J.P.*
2 *Morgan & Co., Inc. v. Sup.Ct. (Heliotrope General, Inc.)* (2003) 113 Cal.App.4th 195, 212. Thus,
3 the adequacy requirement is satisfied when the class representative’s interests are not antagonistic
4 to those of the class. *McGhee v. Crocker-Citizens Nat. Bank* (1976) 60 Cal.App.3d 442, 451.

5 102. Plaintiff has no conflicts with the Class and her interests are aligned with those of
6 the Class. Plaintiff alleges that her claims are identical to those that would be asserted by the
7 unnamed Class Members. Plaintiff alleges that she has every interest in zealously representing the
8 unnamed Class members. Plaintiff has not shrunk from this responsibility. Indeed, Plaintiff has
9 devoted a substantial amount of time and energy to litigating this action and effecting a settlement.
10 Furthermore, as detailed above, Class Counsel are experienced in wage-and-hour litigation,
11 especially class actions, and have zealously represented the interests of the class in litigating this
12 case. *See supra*, ¶¶ 3-9; *see also* Declaration of Alvin B. Lindsay and the Haines Decl. filed
13 concurrently herewith. Accordingly, the adequacy requirement is satisfied.

14 103. Commonality. Plaintiff alleges that common questions of law or fact in this case
15 predominate over individual questions. This action involves, *inter alia*, a determination about
16 Defendant’s alleged failure to provide meal and rest periods, failure to pay all wages due to
17 allegedly common and unlawful policies, the resulting failure to pay final wages when required,
18 the failure to provide accurate paystubs, and largely derivative claims under the Business &
19 Professions Code and PAGA. Plaintiff contends these practices, including an alleged practice of
20 failing to provide complete meal and rest periods, related meal and rest period policies applicable
21 to the class, an alleged systemic policy of off the clock work, and the alleged failure to provide
22 corresponding premium and overtime payments, that affected Class members in the same way. All
23 Class members were employed during the Class Period. Plaintiff alleges that the operative
24 complaint delineates a common course of conduct applicable to all Class members. Therefore,
25 based on Class Counsel’s investigation, the review of the discovery produced by Defendants, and
26 their discussions with Plaintiff, Plaintiff contends the evidence supports her position that the
27 employment practices and policies of Defendants were consistent and uniform.

1 104. Predominance. Plaintiff alleges that individualized issues do not predominate over
2 the issues of law and fact that are common to the Class as a whole. Plaintiff alleges that the
3 principal issues in controversy are whether Class Members were paid for all hours worked and
4 provided meal and rest breaks. As explained, *supra*, Plaintiff alleges there are common issues of
5 law and fact given that Plaintiff and all Class Members were subjected to the same policies and
6 pay practices during the relevant time period. Plaintiff and Class Members seek meal and rest
7 premiums, unpaid wages and overtime, and penalties for work performed as non-exempt
8 employees for Defendants. Plaintiff alleges that these issues are suitable for common adjudication
9 because all Class Members were allegedly subject to the same employment policies and Plaintiff
10 contends the practices applied uniformly to all Class Members.

11 105. Superiority. Plaintiff alleges that class resolution is superior to other available
12 methods for the fair and efficient adjudication of the controversy. Plaintiff alleges that there is
13 little interest or incentive for Class Members to individually control the prosecution of separate
14 actions. Although the alleged injury resulting from Defendants' policies and practices are
15 allegedly real and significant, the cost of individually litigating each such case against Defendants
16 would easily exceed the value of any relief that could be obtained by any one Class member
17 individually. If Class members are forced to litigate their claims individually this would result in
18 over 400 individual actions against Defendant. Here, the alternative methods of resolution are
19 individual suits for relatively small amounts. Hence, an individual suit would prove uneconomical
20 for potential plaintiffs because litigation costs would dwarf a potential recovery.

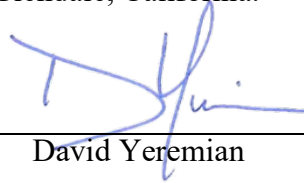
21 106. Except for Plaintiff's case before this Court, Plaintiff is unaware of any other
22 actions by Class Members against Defendant asserting similar claims. Los Angeles County is an
23 appropriate forum for this action given that Defendant employed Class members at restaurant
24 locations here.

25 107. Plaintiff alleges that there are no serious manageability difficulties presented by
26 preliminarily approving the case for settlement purposes. As this case will not go to trial if finally
27 approved, all that would remain is claims administration and responding to possible objectors.
28 Class Counsel respectfully submits the Settlement is within the range of reasonableness to justify

1 granting it preliminary approval so the parties can proceed with the sending the Class Notice and
2 administering the Settlement.

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

5 Executed 19th day of November 2021, at Glendale, California.

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David Yeremian

EXHIBIT A

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Attorneys for Defendant
K & R CORPORATION

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

GESEL MALDONADO, an individual, on
behalf of herself and others similarly situated,

Plaintiff,

vs.

K & R CORPORATION, a California
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 20STCV27934

CLASS ACTION

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

*[Assigned for All Purposes to the Hon. Elihu
M. Berle, Dept. SS6]*

Complaint Filed: July 21, 2020
FAC Filed: September 23, 2020
Trial Date: Not Yet Set

This Joint Stipulation of Class Action Settlement and Release of Claims ("Settlement" or
"Agreement") is made and entered into by and between Plaintiff GESEL MALDONADO

1 (“Plaintiff” or “Class Representative”), individually and on behalf of all putative class members,
2 and Defendant K & R CORPORATION (“Defendant”). Plaintiff and Defendant are collectively
3 referred to herein as “the Parties.”

4 **I. DEFINITIONS**

5 The following definitions are applicable to this Settlement, in addition to other terms defined
6 elsewhere in this Settlement:

7 1. “Superior Court” shall mean the Superior Court of California for the County of Los
8 Angeles.

9 2. The “Action” shall mean the operative Complaint of the civil action commenced on
10 July 21, 2020, filed and maintained by Plaintiff against Defendant in the Superior Court of
11 California, County of Los Angeles, Case No. 20STCV27934.

12 3. The “Class Period” shall mean the period of time from July 21, 2016, through
13 October 22, 2021 (i.e., 60 days from the Parties’ mediation on August 23, 2021).

14 4. “Class” shall mean (a) all persons who, during the Class Period, have previously
15 been or currently are employed in California by Defendant, as an hourly-paid, non-exempt
16 employee and (b) all persons who between April 1, 2021, and October 22, 2021, have previously
17 been or currently are employed in California by Piazza Management Corporation, as an hourly-paid,
18 non-exempt employee and who between July 21, 2016, and March 31, 2021, were employed in
19 California by Defendant, as an hourly-paid, non-exempt employee. “Class Member” shall mean an
20 individual who is a member of the Class (or if any such person is incompetent, deceased, or
21 unavailable due to military service, the person’s legal representative or successor in interest
22 evidenced by reasonable verification). Those persons who are currently employed in California by
23 Piazza Management Corporation, as an hourly-paid, non-exempt employee who were never
24 previously employed by Defendant are specifically excluded as Class Members.

25 5. “Class Counsel” shall mean the attorneys representing Plaintiff in the Action, David
26 Yeremian, Esq. and Alvin B. Lindsay, Esq. of David Yeremian & Associates, Inc. and Walter
27 Haines, Esq. of United Employees Law Group, PC.

28 6. “Defense Counsel” shall mean the attorneys representing Defendant in the Action,

1 Matthew C. Sgnilek, Esq. and Andrea Rosenkranz, Esq. of O'Hagan Meyer.

2 7. "Non-Participating Class Member" shall mean a Class Member who submits a
3 complete, valid, and timely request to be excluded from the Settlement pursuant to the instructions
4 provided in the Class Notice.

5 8. The "PAGA Period" shall mean the period of time from July 21, 2019 through
6 October 22, 2021 (i.e., 60 days from the Parties' mediation on August 23, 2021).

7 9. The "PAGA Group" shall mean (a) all persons who, during the PAGA Period, have
8 previously been or currently are employed in California by Defendant, as an hourly-paid, non-
9 exempt employee and (b) all persons who between April 1, 2021, and October 22, 2021, have
10 previously been or currently are employed in California by Piazza Management Corporation, as an
11 hourly-paid, non-exempt employee and who between July 21, 2019, and March 31, 2021, were
12 employed in California by Defendant, as an hourly-paid, non-exempt . "PAGA Group Member"
13 shall mean an individual who is a member of the PAGA Group (or if any such person is
14 incompetent, deceased, or unavailable due to military service, the person's legal representative or
15 successor in interest evidenced by reasonable verification). Those persons who are currently
16 employed in California by Piazza Management Corporation, as an hourly-paid, non-exempt
17 employee who were never previously employed by Defendant are specifically excluded as PAGA
18 Group Members.

19 10. "Participating Class Member" shall mean all Class Members who have not submitted
20 a complete, valid, and timely request to be excluded from the Settlement pursuant to the instructions
21 provided in the Class Notice.

22 11. "Preliminary Approval" shall mean the Superior Court's preliminary approval of the
23 Settlement without material change that the Parties anticipate will be made following submission of
24 this Agreement to the Court.

25 12. "Settlement Administrator" shall mean Phoenix Settlement Administrators proposed
26 by the Parties and appointed by the Superior Court to administer the Settlement.

27 13. "Class Counsel Fees Payment" shall mean one-third of the Maximum Settlement
28 Amount (currently estimated to be One Hundred and Sixty-Six Thousand, Six Hundred and Sixty-

1 Seven Dollars and Zero Cents (\$166,667.00)) subject to approval by the Superior Court as Class
2 Counsel's attorneys' fees incurred in connection with the Action, including fees incurred in pre-
3 filing investigation, filing of the Action, and all related litigation activities, this Settlement, and all
4 post-Settlement compliance procedures.

5 14. "Class Counsel Litigation Expenses Payment" shall mean the actual litigation
6 expenses and/or costs expended by Class Counsel subject to approval by the Superior Court
7 incurred in connection with the Action, including pre-filing investigation, filing of the Action, and
8 all related litigation activities, this Settlement, and all post-Settlement compliance procedures. Class
9 Counsel's expenses are not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00).

10 15. "Class Representative Payment" shall mean the special payment made to Plaintiff in
11 her capacity as Class Representative to compensate her for prosecuting the Action, and performing
12 work in support of the Action, in the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00),
13 subject to approval by the Superior Court.

14 16. "LWDA Payment" shall mean the payment to the California Labor and Workforce
15 Development Agency ("LWDA") constituting seventy-five percent (75%) of the value assigned to
16 the claim for penalties under the California Labor Code Private Attorneys General Act, California
17 Labor Code Section 2698, *et seq.* ("PAGA"). Specifically, Twenty-One Thousand Dollars and Zero
18 Cents (\$21,000.00), which shall constitute the LWDA's seventy-five percent (75%) share of
19 Twenty-Eight Thousand Dollars and Zero Cents (\$28,000.00) in civil penalties paid under this
20 Settlement. The remaining Seven Thousand Dollars and Zero Cents (\$7,000.00) in civil penalties
21 shall be distributed on a *pro rata* basis based upon the number of pay periods worked by each
22 PAGA Group Member ("PAGA Payment").

23 17. "Settlement Administrator Payment" shall mean the payment to the Settlement
24 Administrator for its fees and expenses in administering this Settlement.

25 18. "Workweek" shall mean any week in which a Class Member actually performed paid
26 work for Defendant during the Class Period as an hourly-paid, non-exempt employee.

27 19. "Individual Workweeks" shall mean the number of Workweeks for an individual
28 Class Member.

1 20. “Pay Period” shall mean any pay period in which a Class Member actually received
2 payment from Defendant as an hourly-paid, non-exempt employee.

3 21. “Individual Pay Periods” shall mean the number of Pay Periods for an individual
4 PAGA Group Member.

5 22. “Settlement Share” shall mean the value of each Participating Class Member’s share
6 of the Net Settlement Amount as provided by this Agreement.

7 23. “PAGA Payment Share” shall mean the value of each PAGA Group Member’s share
8 of the PAGA Payment as provided by this Agreement.

9 24. “Maximum Settlement Amount” shall mean the maximum settlement amount of Five
10 Hundred Thousand Dollars and Zero Cents (\$500,000.00) payable by Defendant as provided by this
11 Agreement, unless that amount is increased pursuant to Paragraph 25 below, exclusive of the
12 normal employer’s share of any payroll taxes attributable to the Settlement Share payments
13 allocated to wages. Defendant’s payment of the normal employer’s share of payroll taxes will be
14 made separately and shall not come from the Maximum Settlement Amount.

15 25. Defendant represent that as of August 23, 2021, the number of Workweeks in the
16 Class Period is approximately 27,941. Should the number of Workweeks as of October 22, 2021
17 (i.e., 60 days from the Parties’ mediation on August 23, 2021) increase by 10% or more (i.e., to
18 more than 30,736 Workweeks), the Maximum Settlement Amount shall increase by the same
19 number of percentage points above 10% as the actual number of Workweeks above 27,941. For
20 example, if as of the earlier of the date of Preliminary Approval or October 22, 2021 (i.e., 60 days
21 from the Parties’ mediation on August 23, 2021) the number of Workweeks during the Class Period
22 is 31,294 (i.e., 12% above 27,941), then the Maximum Settlement Amount shall increase by 2%
23 (i.e., to \$510,000.00).

24 26. “Net Settlement Amount” shall mean the Maximum Settlement Amount, less (i) the
25 Class Representative Payment approved by the Superior Court; (ii) the Class Counsel Fees Payment
26 approved by the Superior Court; (iii) the Class Counsel Litigation Expenses Payment approved by
27 the Superior Court; (iv) the LWDA Payment approved by the Superior Court; (v) the PAGA
28 Payment approved by the Superior Court; (vi) the Settlement Administrator Payment approved by

1 the Superior Court; and (vii) any other fees or expenses (other than Class Counsel Fees Payment
2 and Class Counsel Litigation Expenses Payment) incurred in implementing the terms and conditions
3 of this Agreement as approved by the Superior Court.

4 27. "Class Notice" shall mean the Notice of Proposed Settlement, Preliminary Approval
5 of Settlement, and Hearing Date for Final Court Approval, a sample of which is attached hereto as
6 **Exhibit A**. The Class Notice shall further contain (i) a Class Member's first and last name, (ii) last
7 known address, (iii) employee identification number, if applicable, (iv) the Class Member's
8 Individual Workweeks, (v) the PAGA Group Member's Individual Pay Periods, if applicable; (vi)
9 the Class Member's estimated amount of the Settlement Share; and (vii) the PAGA Group
10 Member's estimated PAGA Payment Share, if applicable. The Class Notice shall also provide the
11 Class Members with instructions on how to opt-out of and/or object to the Settlement.

12 28. "Effective Date" shall mean the following occurrences: (i) if no Class Member both
13 objects and files either a timely motion to intervene and/or timely motion to vacate the judgment,
14 then the date the Court enters an order granting Final Approval of the Settlement; (ii) if a Class
15 Member both objects and either files a timely motion to intervene or timely motion to vacate the
16 judgment, then sixty-one (61) days following the date the Court enters an order granting final
17 approval, assuming no appeal is filed; or (iii) if a Class Member both objects and also files a timely
18 motion to intervene or files a motion to vacate the Judgment and also files a timely appeal, then the
19 date of final resolution of that appeal (including any requests for rehearing and/or petitions for
20 certiorari), resulting in final and complete judicial approval of the Settlement in its entirety, with no
21 further challenge to the Settlement being possible. The occurrence of the Effective Date is a
22 prerequisite to any obligation of Defendant to pay any funds into the Settlement Account.

23 29. "Final Approval Hearing" shall mean the hearing to be conducted by the Superior
24 Court to determine whether to finally approve and implement the terms of this Settlement.

25 30. "Judgment" shall mean the Order of Final Judgment entered by the Superior Court
26 that the Parties anticipate will be entered following a Final Approval Hearing on the Settlement in
27 this Action.

28 31. "Employer's Payroll Taxes" shall mean Defendant's share of all payroll taxes

1 payable to any and all government agencies incurred for any payments of Settlement Shares to
2 Participating Class Members pursuant to this Settlement.

3 **II. RECITALS**

4 32. On July 21, 2020, Plaintiff commenced the Action against Defendant by filing a
5 Complaint in the Superior Court. In the Complaint, Plaintiff, on behalf of herself and all others
6 similarly situated alleged causes of action for: (1) Failure to Pay Minimum Wages; (2) Failure to
7 Pay Overtime Wages; (3) Failure to Keep Required Payroll Records; (4) Failure to Provide Meal
8 Periods or Compensation in Lieu Thereof; (5) Failure to Provide Rest Periods or Compensation in
9 Lieu Thereof; (6) Failure to Provide Accurate Itemized Wage Statements; (7) Unlawful Deductions;
10 (8) Failure to Timely Pay Final Wages; and (9) Violation of Business and Professions Code §
11 17200, *et seq.* On July 22, 2020, Class Counsel counsel, on behalf of Plaintiff and the PAGA
12 Group, gave written notice to the Labor Workforce and Development Agency (“LWDA”) of the
13 Labor Code violations Defendant is alleged to have violated (“LWDA Exhaustion Letter”). On
14 September 23, 2020, Plaintiff amended her Complaint to add a cause of action for (9) Civil
15 Penalties pursuant to Labor Code § 1197.1; and (13) Civil Penalties pursuant to Labor Code § 2699,
16 *et seq.* Based on these allegations, Plaintiff alleged that she and all others similarly situated were
17 entitled to unpaid wages, liquidated damages, statutory penalties, civil penalties, attorneys’ fees, and
18 costs of litigation, among other remedies.

19 33. Defendant denies and continues to deny all of Plaintiff’s material allegations.
20 Specifically, Defendant contend (1) it did not fail to pay the Class the minimum wage or overtime
21 compensation; (2) it provided the Class with all meal periods according to law; (3) it provided the
22 Class with all rest periods according to law; (4) it did not fail to timely pay the Class wages due and
23 owing during employment and/or upon separation; (5) it provided the Class with accurate itemized
24 wage statements, consistent with Labor Code Section 226; (6) it properly maintained all payroll
25 records; (7) it did not make any unlawful deductions from employees’ wages; (8) it did not violate
26 Business & Professions Code Section 17200, *et seq.*; (9) the PAGA Group is not entitled to
27 penalties under PAGA; and (10) Defendant is not liable for damages, including unpaid wages,
28 liquidated damages, statutory penalties, attorneys’ fees, or costs of litigation to the Class.

1 34. In connection with the Action, and in order to work toward a mediated resolution
2 without the time and expense of formal discovery, the Parties produced voluminous documents and
3 data (including, by Defendant, human resources documents and policies, time records, and payroll
4 data during the Class Period) which were reviewed, investigated, and analyzed by Class Counsel.

5 35. On August 23, 2021, the Parties in Action participated in a full day of mediation
6 before an experienced employment and class action mediator, Steve Rottman, Esq., which resulted
7 in a settlement of the Action (the "Mediation").

8 36. The Settlement described in this Agreement represents a compromise and settlement
9 of highly disputed claims. Nothing in this Settlement is intended or will be construed as an
10 admission by Defendant that Plaintiff's claims in the Action have any merit or that it has any
11 liability to Plaintiff, the Class, the PAGA Group or the State on those claims, or as an admission by
12 Plaintiff that Defendant's defenses in Action have any merit. This Settlement is intended to fully,
13 finally, and forever compromise, release, resolve, discharge, and settle the released claims subject to
14 the terms and conditions set forth in this Settlement.

15 37. Based on its own thorough, independent investigation and evaluation of this case,
16 Class Counsel is of the opinion that the Settlement of this Action with Defendant for the
17 consideration and on the terms set forth in this Settlement is fair, reasonable, adequate, and in the
18 best interest of the Class in light of all known facts and circumstances, including the risk of
19 significant costs and delay, the risk of non-certification of the Class, the defenses asserted by
20 Defendant including the risks of adverse determinations on the merits and numerous potential
21 appellate issues. Although Defendant contends that it has no liability in the Action, Defense
22 Counsel shares Class Counsel's belief that the Settlement represents a fair and adequate settlement
23 given the respective risks associated with the case.

24 38. Based on the foregoing Recitals, the Parties agree as follows:

25 **III. PROCEDURE FOR APPROVING SETTLEMENT**

26 39. **Motion for Preliminary Approval of Settlement by the Superior Court.** Plaintiff
27 will move the Superior Court for an order granting Preliminary Approval of the Settlement, setting
28 a date for the Final Approval Hearing no earlier than 120 days from the date of the order granting

1 Preliminary Approval of the Settlement, and approving the Class Notice (attached as **Exhibit A** to
2 this Stipulation) (“Motion for Preliminary Approval”). Any unresolved disagreement among the
3 Parties concerning the Class Notice or other documents necessary to implement the Settlement will
4 be referred first to Steve Rottman, Esq., and if no resolution is reached, then to the Superior Court.

5 40. At the hearing on the Motion for Preliminary Approval, the Parties anticipate that
6 they will jointly appear, support the granting of the Motion for Preliminary Approval, and obtain an
7 order granting Preliminary Approval, granting approval of the Class Notice, and setting a date for
8 the Final Approval Hearing no earlier than 120 days from the date of the order granting Preliminary
9 Approval.

10 41. Should the Superior Court require any amendments to this Agreement or the Motion
11 for Preliminary Approval, the Parties agree to work jointly to resolve any issues in order to secure
12 the Superior Court’s Preliminary Approval.

13 42. Should the Superior Court decline to preliminarily approve any material aspects of
14 the Settlement, the Settlement will be null and void and the Parties will have no further obligations
15 under it. In such event, the Parties shall be returned to their respective positions as of the date and
16 time immediately prior to the execution of this Agreement, and the Parties shall proceed in all
17 respects as if this Agreement had not been executed.

18 43. **Class Notice.** After the Superior Court enters its order granting Preliminary
19 Approval, every Class Member will be provided with the Class Notice (in English and Spanish)
20 which will include the Class Notice completed to reflect the order granting Preliminary Approval of
21 the Settlement and the Class Member’s information as follows:

22 (a) Within twenty-one (21) days after the Motion for Preliminary Approval is
23 granted, Defendant will provide to the Settlement Administrator the “Class Members’ Data,” which
24 shall consist of an electronic database containing (i) each Class Member’s first and last name, (ii)
25 last known mailing address, (iii) the Class Member’s Social Security number or Tax ID, (iv) the
26 Class Member’s employee identification number, if applicable, based on Defendant’s payroll
27 records, (v) the Class Member’s total number of Individual Workweeks, and (vi) the Class/PAGA
28 Group Members’ total number of Individual Pay Periods, if applicable. If any or all of the Class

1 Members' Data are unavailable to Defendant, Defendant will so inform Class Counsel prior to the
2 date on which Defendant is required to submit the Class Members' Data to the Settlement
3 Administrator and the Parties will make their best efforts to reconstruct or otherwise agree upon the
4 Class Members' Data prior to when it must be submitted to the Settlement Administrator. If the
5 Parties are unable to agree, the dispute will be resolved by the Settlement Administrator as provided
6 in Paragraph 46. This information will otherwise remain confidential and will not be disclosed to
7 anyone, except as required to applicable taxing authorities, as required to carry out the reasonable
8 efforts to identify Class Member information as described in this Paragraph 43(c), pursuant to
9 Defendant's express written authorization, or by order of the Superior Court.

10 (b) Within seven (7) days after receiving the Class Members' Data, or as soon
11 thereafter as it is able to do so, the Settlement Administrator will mail the Class Notice to all
12 identified Class Members via first-class U.S. Mail using the mailing address information provided
13 by Defendant, unless modified by any updated address information that the Settlement
14 Administrator obtains in the course of administration of the Settlement.

15 (c) If a Class Notice is returned by the U.S. Postal Service because of an
16 incorrect address, the Settlement Administrator will promptly, and not later than five (5) days from
17 receipt of the returned packet, search for a more current address for the Class Member and re-mail
18 the Class Notice to the Class Member. The Settlement Administrator will use the Class Members'
19 Data and otherwise work with Defense Counsel or utilize its own resources such as skip traces to
20 find a more current address. The Settlement Administrator will be responsible for taking reasonable
21 steps, consistent with its agreed-upon job parameters, court orders, and fee, to trace the mailing
22 address of any Class Member for whom a Class Notice is returned by the U.S. Postal Service.
23 These reasonable steps shall include the tracking of all undelivered mail; performing address
24 searches for all mail returned without a forwarding address; and promptly re-mailing to Class
25 Members for whom new addresses are found. Any such Class Members who failed to receive a
26 Class Notice, or who were subject to a re-mailing of the Class Notice as described herein shall be
27 given an additional fourteen (14) days to opt out or object to the Settlement.

28 (d) The Settlement Administrator will inform Class Counsel and Defense

1 Counsel of the number of returned Class Notices it receives and Class Notices re-mailed in a
2 weekly status report.

3 (e) Not later than ten (10) court days prior to the Final Approval Hearing, the
4 Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its
5 compliance with its obligations under this Settlement. The declaration will be filed with the papers
6 submitted with the Motion for Final Approval. Prior to the Final Approval Hearing, the Settlement
7 Administrator will supplement its declaration of due diligence if any material changes occur from
8 the date of the filing of its prior declaration.

9 44. **Participating Class Members; Requests for Exclusion from Class Settlement;**
10 **and Objections to Settlement.** Class Members may submit requests to be excluded from the effect
11 of the Settlement; or objections to the Settlement, pursuant to the following procedures:

12 (a) **Participating Class Members.** Each Class Member shall be deemed to be a
13 Participating Class Member unless they submit a complete, timely, and valid request to be excluded
14 from the effect of the Settlement as provided below. All Participating Class Members shall be
15 bound by the provisions and releases contained in this Settlement.

16 (b) **Request for Exclusion from Settlement.** Class Members who wish to
17 exclude themselves from the Settlement (“opt out” of the Settlement) must submit to the Settlement
18 Administrator, not later than forty-five (45) days after the date that the Settlement Administrator
19 first mails the Class Notices, an Exclusion Request (“the Exclusion Period”). Exclusion Requests
20 may be submitted to the Settlement Administrator via U.S. Mail only. Class Members must
21 complete, sign, date, and timely return an Exclusion Request to the Settlement Administrator to
22 exclude themselves from the Settlement, setting forth their (i) name, (ii) address, (iii) last four digits
23 of their Social Security number, and (iv) the following statement or a similar statement: “I wish to
24 exclude myself from the settlement reached in the matter of *Maldonado v. K & R Corporation*. I
25 understand that by excluding myself, I will not receive any money from the Class settlement
26 reached in this matter.” A Class Member who does not complete and submit a valid and timely
27 Exclusion Request in the manner and by the deadline specified above will remain a Participating
28 Class Member and, if the Court approves the Settlement, will be bound by all terms and conditions

of the Settlement and by the Judgment. A Class Member who timely submits a valid Exclusion Request will not participate in, or be bound by, the Settlement of the Judgment and will not receive any payment pursuant to the Settlement except for a payment from the portion of the PAGA Payment to the PAGA Group if the Class Member is a PAGA Group Member, and will not be bound by the terms of the Settlement, except for the release of the PAGA Group Released Claims if the Class Member is a PAGA Group Member, and will not have any right to object, appeal, or comment thereon. To be valid, Exclusion Requests must be completed in full, signed, and returned to the Settlement Administrator before the expiration of the Exclusion Period. Non-Participating Class Members will not be permitted to file objections to the Settlement and/or appear at the Final Approval Hearing to voice any objections to the Settlement. Members of the PAGA Group cannot seek to exclude themselves from the Settlement of the PAGA claim, but retain all rights to exclude themselves from the Class Settlement as delineated herein. The Settlement Administrator will provide Class Counsel, Defense Counsel, and the Superior Court with only the names of the Non-Participating Class Members.

(c) **Objections to Settlement.** The Class Notice will provide that any Class Member who does not request exclusion from the Settlement and who wishes to object to the Settlement must serve on the Settlement Administrator, not later than forty-five (45) days after the Settlement Administrator initially mails the Class Notice, a written objection to the Settlement which sets forth the grounds for the objection and the other information required by Paragraph 44(d). The objection must be served as follows:

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c/o _____

(d) The written objection must state the Class Member's (i) name, (ii) address, (iii) last four digits of their Social Security number, and (iv) the dates of the Class Member's

1 employment with Defendant. The written objection must state the basis for each objection in clear
2 and concise terms. The written objection shall also state whether the Class Member intends to
3 appear and object at the Final Approval Hearing. A Class Member who does not serve a written
4 objection in the manner and by the deadline specified may appear at the Final Approval Hearing to
5 state their objection to the Settlement. If a Class Member fails to submit a written objection or to
6 appear at the Final Approval hearing to make an oral objection, the Class Member will be deemed
7 to have waived all objections and will be foreclosed from making any objections – whether by
8 appeal or otherwise – to the Settlement.

9 (e) If a Class Member submits both a Request for Exclusion and a written
10 objection, the Settlement Administrator shall attempt to contact and determine whether the Class
11 Member would like to withdraw either the Request for Exclusion or the objection. If the Class
12 Member does not withdraw the Request for Exclusion or if the Settlement Administrator cannot
13 contact a Class Member who submits both a Request for Exclusion and an objection, the Request
14 for Exclusion shall be valid and it shall be presumed that the Class Member does not wish to
15 participate in the Settlement.

16 (f) If the Superior Court rejects the Class Member's objection, or if the Superior
17 Court approves the settlement despite any objections, the Class Member will be deemed to be a
18 Participating Class Member and will be bound by the terms of this Settlement.

19 (g) A Class Member who timely submits a valid Exclusion Request will not
20 participate in, or be bound by, the Settlement or the Judgment and will not receive any payment
21 pursuant to the Settlement except for a payment from the portion of the PAGA Payment to the
22 PAGA Group if the Class Member is a PAGA Group Member, and will not be bound by the terms
23 of the Settlement and Judgment, except for the release of the PAGA Group Released Claims if the
24 Class Member is a PAGA Group Member, and will not have any right to object, appeal, or
25 comment thereon.

26 45. **Report.** Not later than seven (7) days after the deadline for submission of requests
27 to be excluded and/or objections, the Settlement Administrator will provide Defendant, through
28 Defense Counsel, with a complete and accurate list of names for all Participating Class Members,

1 all Non-Participating Class Members, all PAGA Group members, and all Class Members who
2 objected to the settlement. The report shall also be accompanied by an itemized calculation of the
3 Settlement Shares for each Participating Class Member. The Settlement Administrator shall also
4 provide both Parties with a report identifying the number of Participating Class Members, the
5 number of Non-Participating Class Members, the number of PAGA Group members, and the
6 number of Class Members who submitted a valid, timely, and complete objection. Class Counsel
7 shall also receive a list of Class Members who object to the Settlement.

8 **46. Resolution of Class Member and PAGA Group Member Disputes.** If a Class
9 Member and/or PAGA Group Member disputes the number of his or her Individual Workweeks
10 and/or Individual Pay Periods stated in their Class Notice, the Class Member and/or PAGA Group
11 Member must, within forty-five (45) days after the Settlement Administrator initially mails the
12 Class Notice, ask the Settlement Administrator to resolve the matter by returning the Class Notice
13 with a statement of the number of Workweeks and/or Pay Periods that he or she contends were
14 worked and include any documentation the Class Member and/or PAGA Group Member has to
15 support their contention. The Settlement Administrator shall notify Defendant of the dispute and
16 provide them with a copy of the Class Notice and any documentation received in support of the
17 dispute within three (3) court days of receipt thereof. Defendant shall review their payroll and
18 personnel records and verify the correct number of Workweeks and/or Pay Periods within five (5)
19 court days of the Settlement Administrator's notification. Defendant's records will have a
20 rebuttable presumption of accuracy. After consultation with Class Counsel, Defense Counsel, and
21 the applicable Class Member and/or PAGA Group Member, the Settlement Administrator will,
22 within three (3) court days of Defendant's verification, make a determination of the Class Member's
23 and/or PAGA Group Member's number of Workweeks and/or Pay Periods and that determination
24 will be final, binding on the Parties and the Class Member and/or PAGA Group Member, and is not
25 appealable.

26 **47. No Solicitation of Objection; Right to Void.** Neither the Parties, nor their
27 respective counsel, will directly or indirectly solicit or otherwise encourage any Class Member to
28 exclude him or herself from the Settlement, object to the Settlement, and/or appeal from the

Judgment. If ten percent (10%) or more of the Class Members submit a complete, valid, and timely request to be excluded from the Settlement and are deemed to be Non-Participating Class Members, then Defendant shall have the unilateral right to void this Settlement. Defendant may do so by giving notice to Plaintiff and the Court of its election to void the Settlement not later than fourteen (14) days after the Settlement Administrator issues its report identifying the number of Participating Class Members, the number of Non-Participating Class Members, and the number of Class Members who objected to the settlement as described in Paragraph 44(c). Notwithstanding any other provisions in this Settlement, no sums shall be payable by Defendant in the event that this Settlement is voided as provided for herein.

48. Additional Briefing and Final Approval.

(a) Not later than sixteen (16) court days before the Final Approval Hearing, the Plaintiff will prepare and the Parties will jointly file with the Superior Court a Motion for Final Approval of the Settlement, including payment of the Settlement Administrator's Payment, and a memorandum in support of their motion ("Motion for Final Approval"). Not later than sixteen (16) court days before the Final Approval Hearing, Plaintiff and Class Counsel will serve on Defendant and file with the Superior Court a Motion for Awards of the Class Representative Payment, Class Counsel Fees Payment, and the Class Counsel Litigation Expenses Payment, pursuant to this Settlement, and memoranda in support of its motion. Plaintiff will seek fees pursuant to *Laffitte v. Robert Half Intern., Inc.* (2016) 1 Cal. 5th 480, 503. Plaintiff will not seek additional fees from Defendant or an increase in the Maximum Settlement Amount as part of the Motion for awards of the Class Representative Payment, Class Counsel Fees Payment, and the Class Counsel Litigation Expenses Payment.

(b) Not later than five (5) court days before the Final Approval Hearing, the Parties shall be entitled to file and serve a response to any Class Member's objection to the Settlement and/or reply in support of their Motion for Final Approval, to the extent that any opposition to said Motion is filed. Plaintiff and Class Counsel may file a reply in support of their Motion for Awards of the Class Representative Payment, Class Counsel Fees Payment, and the Class Counsel Litigation Expenses Payment, to the extent that any opposition to said Motion is

1 filed.

2 (c) If the Superior Court ultimately does not grant final approval of the
3 Settlement or grants final approval conditioned on any material change to the Settlement that is not
4 agreed to by one of the Parties, then either Party will have the right to void the Settlement. If the
5 Settlement is voided in this manner, the Parties will have no further obligations under the
6 Settlement, including any obligation by Defendant to pay any amounts that otherwise would have
7 been payable under this Settlement, except that the voiding Party will pay the Settlement
8 Administrator's reasonable fees and expenses incurred as of the date that the Party exercises the
9 right to void the Settlement under this paragraph. For the purposes of this paragraph, a "material
10 change" is a change to the terms outlined in the accepted Memorandum of Understanding, a copy of
11 which is attached hereto as **Exhibit B**. However, an award by the Superior Court of a lesser amount
12 than that sought by Plaintiff and Class Counsel for the Class Representative Payment, the Class
13 Counsel Fees Payment, and/or the Class Counsel Litigation Expenses Payment, will not constitute a
14 material change to the Settlement within the meaning of this paragraph.

15 (d) Upon final approval of the Settlement by the Superior Court at or after the
16 Final Approval Hearing, the Parties will present for the Superior Court's approval and entry a
17 Proposed Final Order and Judgment. The entry of the Final Order and Judgment shall permanently
18 bar all Participating Class Members from prosecuting against Defendant any claims or causes of
19 action of any kind up through the date of Final Approval, which were or could have been brought in
20 this Action, whether known or unknown, as well as all claims as set forth in the Release contained
21 in Section V of this Agreement.

22 (e) After entry of the Judgment, the Superior Court will have continuing
23 jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Settlement,
24 (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as
25 may be appropriate under court rules or applicable law.

26 49. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms
27 and conditions of this Settlement, Plaintiff, Participating Class Members, Defendant, and their
28 respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights

1 to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, a
2 motion for new trial, a motion under Code of Civil Procedure Section 473, and any extraordinary
3 writ, and the Judgment therefore will become non-appealable by them at the time it is entered. The
4 waiver of appeal does not include any waiver of the right to oppose any appeal, appellate
5 proceedings, or post-judgment proceedings. If an appeal is taken from the Judgment, the time for
6 consummation of the Settlement (including making payments under the Settlement) will be
7 suspended until such time as the appeal is finally resolved and the Judgment, consistent with the
8 terms of this Settlement, becomes Final.

9 **50. Vacating, Reversal, or Material Modification of Judgment on Appeal or**
10 **Review.** If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other
11 motion, petition, writ, or application, the reviewing court vacates, reverses, or modifies the
12 Judgment such that there is a material modification to the Settlement, and that court's decision is
13 not completely reversed and the Judgment is not fully affirmed on review by a higher court, then
14 either Party will have the right to void the Settlement, which the Party must do by giving written
15 notice to the other Parties, the reviewing court, and the Superior Court, not later than fourteen (14)
16 days after the reviewing court's decision vacating, reversing, or materially modifying the Judgment
17 becomes final. For the purposes of this paragraph, a "material change" is a change to the terms
18 outlined in the accepted Memorandum of Understanding, a copy of which is attached hereto as
19 **Exhibit B.** A vacation, reversal, or modification of the Superior Court's award of the Class
20 Representative Payment, the Class Counsel Fees Payment, and/or Class Counsel Litigation
21 Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment
22 within the meaning of this paragraph.

23 **51. Establishment of Settlement Account.** The Settlement Administrator shall
24 establish a Settlement Account within ten (10) days of the Effective Date and notify the Parties
25 when the Settlement Account has been established. The Settlement Administrator shall also
26 provide Defendant with an itemized statement for the total amount to be deposited into the
27 Settlement Account, which shall equal the Maximum Settlement Amount ("Settlement Account
28 Deposit"). Within ten (10) days after receiving notification of the Settlement Account and

1 statement for the Settlement Account Deposit, Defendant shall pay into the Settlement Account an
2 amount equal to the Settlement Account Deposit. Defendant shall have no obligation to pay any
3 additional funds into the Settlement Account.

4 **52. Payment of Settlement Shares and PAGA Payment Shares.** The Settlement
5 Administrator shall pay to each Participating Class Member his or her Settlement Share and to each
6 PAGA Group Member his or her PAGA Payment Share from the Settlement Account. The
7 Settlement Administrator shall pay each Settlement Share by sending a check in the appropriate
8 amount after withholdings to the Participating Class Member at the address indicated in the Class
9 Member's Data. The Settlement Administrator shall pay each PAGA Payment Share by sending a
10 check in the appropriate amount to the PAGA Group Member at the address indicated in the PAGA
11 Group Member's Data. Such payment shall be sent by the Settlement Administrator via U.S. Mail
12 within fourteen (14) days of its receipt of the Settlement Account Deposit from Defendant.

13 **53. Uncashed Settlement Share and PAGA Payment Share Checks.** Any checks
14 paid to Participating Class Members and/or PAGA Group Members shall be negotiable for one
15 hundred and eighty (180) calendar days from the date of their issuance. A Participating Class
16 Member must cash his or her Settlement Share check within one hundred and eighty (180) calendar
17 days after it is mailed to him or her. A PAGA Group Member must cash his or her PAGA Payment
18 Share check within one hundred and eighty (180) calendar days after it is mailed to him or her. If a
19 check remains uncashed after one hundred and eighty (180) calendar days from the initial mailing,
20 or if a check is returned to the Settlement Administrator as undeliverable during the one hundred
21 eighty-day period, the Settlement Administrator shall take all reasonable efforts to identify the
22 Participating Class Member's and/or PAGA Group Member's correct address, including the
23 performance of a "skip-trace." If an updated address can be identified, the Settlement
24 Administrator shall issue another check to the Participating Class Member and/or PAGA Group
25 Member and mail it to the Participating Class Member and/or PAGA Group Member at his or her
26 updated address. If an updated address for the Participating Class Member and/or PAGA Group
27 Member cannot be identified, if a reissued check is once again returned to the Settlement
28 Administrator as undeliverable, or if the reissued check remains uncashed after one hundred eighty

(180) calendar days, the Settlement Administrator will keep an accounting of such funds and shall give notice to the Parties of the total balance of uncashed Settlement Shares and/or PAGA Payment Shares. A Participating Class Member who fails to negotiate or receive their Settlement Share check despite the procedures described above shall nevertheless remain bound by the Settlement and the releases contained herein. A PAGA Group Member who fails to negotiate or receive their PAGA Payment Share check despite the procedures described above shall nevertheless remain bound by the Settlement and the releases contained herein.

54. The funds represented by Settlement Share and/or PAGA Payment Share checks remaining uncashed for more than one hundred and eighty (180) calendar days after issuance shall be voided and then shall be transmitted to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code Section 1500, *et seq.*, in the names of those Participating Class Members and/or PAGA Group Members who did not cash their checks until such time they claim their property. The Parties agree that this disposition results in no “unpaid residue” under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to Participating Class Members, whether or not they all cash their settlement checks.

55. **Final Report by Settlement Administrator to Superior Court.** Within ten (10) days after final disbursement of all funds from the Settlement Account, the Settlement Administrator will serve on the Parties and file with the Superior Court a declaration providing a final summary report on the disbursements of all funds from the Settlement Account. Within ten (10) days after transmission of any remaining unclaimed funds to Controller of the State of California the Settlement Administrator will serve on the Parties and file with the Superior Court a declaration providing a final summary report on the transmission of any remaining unclaimed funds to Controller of the State of California as outlined Paragraph 54.

IV. SETTLEMENT TERMS AND CONDITIONS

56. **Conditional Certification for Settlement Purposes.** Solely for the purposes of effectuating this Settlement, and subject to Court approval, the Parties hereby stipulate to the conditional certification of the following Settlement Class: “all persons who, during the Class Period, have previously been or currently are employed in California by Defendant as an hourly-

1 paid non-exempt employee.” The Parties agree that if for any reason the Settlement is not
2 preliminarily and/or finally approved, the conditional certification of the Settlement Class will be of
3 no force or effect, does not constitute an admission by Defendant that class certification is proper,
4 and will not be deemed admissible in this or any other proceeding, and that the Parties will litigate
5 the issue of class certification.

6 **57. Settlement Shares.** Subject to the terms and conditions of this Settlement, the
7 Settlement Administrator will calculate the Settlement Shares for each Class Member within ten
8 (10) days after Defendant provide the Settlement Administrator with the Class Members’ Data. The
9 Settlement Share for each Class Member will be calculated as follows, understanding that the
10 formulas below do not constitute an admission by either Party, and are intended only to provide a
11 practical means to simplify and administer the claims process:

12 **(a) Number of Class Members and Workweeks.** Defendant shall determine
13 the total number of Class Members and the aggregate number of Workweeks for those Class
14 Members as of the time of Preliminary Approval. This information shall be provided to the
15 Settlement Administrator along with the Class Members’ Data as described in Paragraph 43(a)
16 above.

17 **(b) Calculation of the Workweek Value.** The Settlement Administrator shall
18 determine the value of a Workweek (“Workweek Value”) by taking the Net Settlement Amount and
19 dividing it by the sum of all Class Members’ Workweeks who do not opt out of the Settlement.

20 **(c) Calculation of Settlement Shares.** The Settlement Administrator shall
21 assign to each Participating Class Member a Settlement Share which shall be equal to the
22 Workweek Value multiplied by each Participating Class Member’s Individual Workweeks. Upon
23 calculation of the Participating Class Members’ Settlement Shares, the Settlement Administrator
24 shall furnish to Class Counsel and Defense Counsel a worksheet containing a list of employee
25 identification numbers for the Class Members with their corresponding Individual Workweeks and
26 Settlement Shares.

27 **58. PAGA Payment Shares.** Subject to the terms and conditions of this Settlement, the
28 Settlement Administrator will calculate the PAGA Payment Shares for each PAGA Group Member

1 within ten (10) days after Defendant provide the Settlement Administrator with the PAGA Group
2 Members' Data. The PAGA Payment Share for each PAGA Group Member will be calculated as
3 follows, understanding that the formulas below do not constitute an admission by either Party, and
4 are intended only to provide a practical means to simplify and administer the claims process:

5 (a) **Number of PAGA Group Members and Pay Periods.** Defendant shall
6 determine the total number of PAGA Group Members and the aggregate number of Pay Periods for
7 those PAGA Group Members as of the time of Preliminary Approval. This information shall be
8 provided to the Settlement Administrator along with the Class Members' Data as described in
9 Paragraph 43(a) above.

10 (b) **Calculation of the Pay Period Value.** The Settlement Administrator shall
11 determine the value of a Pay Period ("Pay Period Value") by taking the PAGA Payment amount
12 and dividing it by the sum of all PAGA Group Members' Pay Periods.

13 (c) **Calculation of PAGA Payment Shares.** The Settlement Administrator shall
14 assign to each PAGA Group Member a PAGA Payment Share which shall be equal to the Pay
15 Period Value multiplied by each PAGA Group Member's Individual Pay Periods. Upon calculation
16 of the PAGA Group Members' PAGA Payment Shares, the Settlement Administrator shall furnish
17 to Class Counsel and Defense Counsel a worksheet containing a list of employee identification
18 numbers for the PAGA Group Members with their corresponding Individual Pay Periods and
19 PAGA Payment Shares.

20 59. **Taxes and Withholdings.** Each Settlement Share is intended to settle the Class
21 Members' claims for unpaid wages and penalties. Accordingly, twenty percent (20%) of each
22 Settlement Share shall represent unpaid wages and the remaining eighty percent (80%) of each
23 Settlement Share shall represent penalties and interest. The portion of the Settlement Share
24 representing unpaid wages shall be paid to each Participating Class Member subject to any
25 applicable employee-side tax withholdings and deductions, and the Settlement Administrator shall
26 issue an IRS Form W-2 to each Participating Class Member for that amount. The portion of the
27 Settlement Share representing penalties shall be paid to the Participating Class Member in full
28 without deductions or withholdings, and the Settlement Administrator shall issue an IRS Form 1099

1 to each Participating Class Member for that amount. Each Participating Class Member shall be
2 individually responsible for their own share of applicable income tax withholdings and deductions
3 from the Settlement Share attributable to the portion of the settlement for which an IRS Form 1099
4 will be issued. Defendant shall be responsible for payment of the Employer Payroll Tax attributable
5 to the Settlement Share payments constituting wages. The Employer's Payroll Tax shall not be
6 deducted from the Maximum Settlement Amount and shall not be included in any payments of
7 Settlement Shares. The Parties agree and understand that Defendant have not made any
8 representations regarding the tax obligations or consequences, if any, related to this Settlement. The
9 Parties agree that Defendant and each Participating Class Member are solely responsible for
10 determining the tax consequences of payments made pursuant to this Settlement and for paying
11 taxes, if any, which are determined to be owed by each of them on such payments (including
12 penalties and interest related thereto) by any taxing authority, whether state, local, or federal.

13 60. Each PAGA Payment Share is intended to settle the PAGA Group Members' claims
14 for civil penalties. Accordingly, one hundred percent (100%) of each PAGA Payment Share shall
15 represent civil penalties. The PAGA Payment Share shall be paid to the PAGA Group Member in
16 full without deductions or withholdings, and the Settlement Administrator shall issue an IRS Form
17 1099 to each PAGA Group Member for that amount, to the extent the PAGA Group Member's
18 PAGA Payment Share is Six Hundred Dollars and Zero Cents (\$600.00) or more. Each PAGA
19 Group Member shall be individually responsible for their own share of applicable income tax
20 withholdings and deductions for his or her PAGA Payment Share.

21 61. **Total Payment Amount.** In no event will Defendant be required to pay more than
22 the Maximum Settlement Amount for distribution to the Plaintiff, Class Counsel, Participating
23 Class Members, PAGA Group Members, LWDA, Settlement Administrator, or for any other costs
24 or expenses not otherwise enumerated. However, Defendant shall be responsible for paying any
25 Employer Payroll Taxes for the payment of Settlement Shares attributable to wages, which shall not
26 be paid from the Settlement Account and shall not be included in the Maximum Settlement
27 Amount.

28 62. **Payments to Plaintiff and Class Counsel and Others.** Subject to the terms and

1 conditions of this Settlement, the Settlement Administrator will make the following payments out of
2 the Maximum Settlement Amount as follows:

3 (a) **To Plaintiff:** In addition to his Settlement Share, Plaintiff will apply to the
4 Superior Court for a Class Representative Payment in an amount not to exceed Ten Thousand
5 Dollars and Zero Cents (\$10,000.00). Defendant will not oppose this Class Representative Payment.
6 The Settlement Administrator will pay the Class Representative Payment approved by the Superior
7 Court out of the Maximum Settlement Amount. Payroll tax withholding and deductions will not be
8 taken from the Class Representative Payment and an IRS Form 1099 will be issued to Plaintiff for
9 this payment.

10 (b) **To Class Counsel:** Class Counsel will apply to the Superior Court for the
11 Class Counsel Fees Payment in an amount not to exceed One Hundred and Sixty-Six Thousand, Six
12 Hundred and Sixty-Seven Dollars and Zero Cents (\$166,667.00), or one-third (1/3) of the
13 Maximum Settlement Amount. Class Counsel will also submit to the Superior Court a
14 memorandum of costs for the Class Counsel Litigation Expenses Payment in an amount not to
15 Fifteen Thousand Dollars and Zero Cents (\$15,000.00) as request reasonable costs of suit to be paid
16 from the Maximum Settlement Amount. Defendant will not oppose these requests. The Settlement
17 Administrator will pay the amounts approved by the Superior Court out of the Maximum Settlement
18 Amount. Withholding and deductions will not be taken from the Class Counsel Fees Payment or
19 Class Counsel Litigation Expenses Payment and one or more IRS Forms 1099 will be issued to
20 Class Counsel with respect to those payments.

21 (c) **To the LWDA:** As part of their Motions for Preliminary and Final
22 Approval, the Parties will jointly apply to the Superior Court for approval of the LWDA Payment in
23 the amount of Twenty-One Thousand Dollars and Zero Cents (\$21,000.00), which shall constitute
24 the LWDA's seventy-five percent (75%) share of Twenty-Eight Thousand Dollars and Zero Cents
25 (\$28,000.00) in civil penalties paid under this Settlement. The remaining Seven Thousand Dollars
26 and Zero Cents (\$7,000.00) in civil penalties shall be distributed on a *pro rata* basis based upon the
27 number of pay periods worked by each PAGA Group Member ("PAGA Payment").

28 (d) **To the Settlement Administrator:** The Settlement Administrator will be

1 paid from the Maximum Settlement Amount its reasonable fees and expenses as approved by the
2 Superior Court, which are estimated not to exceed Nine Thousand Dollars and Zero Cents
3 (\$9,000.00).

4 **63. Appointment of Settlement Administrator.** The Parties will ask the Superior
5 Court to appoint Phoenix Class Action Administrators, a qualified and experienced administrator
6 based in California where the Action is venued, to serve as the Settlement Administrator, which, as
7 a condition of appointment, will agree to be bound by this Agreement with respect to the
8 performance of its duties and its compensation. The Settlement Administrator's duties will include
9 (i) calculating Settlement and PAGA Payment Shares; (ii) preparing, printing, and mailing the Class
10 Notice to all Class Members; (iii) using reasonable measures to contact all Class Members,
11 including conducting a National Change of Address search on all Class Members before mailing the
12 Class Notice to each Class Member's address; (iv) re-mailing the Class Notice to the Class
13 Member's new address for those Class Members whose address had changed; (v) setting up a toll-
14 free telephone number to receive calls from Class Members; (vi) receiving requests for exclusion
15 and objections to the Settlement; (vii) providing the Parties with weekly status reports about the
16 delivery of Class Notices and any requests for exclusion and objections; (viii) issuing the checks to
17 effectuate the payments due under the Settlement; (ix) using reasonable measures to deliver issued
18 checks to Participating Class Members, including use of a "skip-trace" for undeliverable checks;
19 and (x) otherwise administering the Settlement pursuant to this Agreement including paying and
20 reporting the employer's share of the payroll taxes to the appropriate taxing agency. The Settlement
21 Administrator will have the final authority to resolve all disputes concerning the calculation of a
22 Participating Class Member's Settlement Share and/or PAGA Group Member's PAGA Payment
23 Share, subject to the terms set forth in this Agreement. The Settlement Administrator's reasonable
24 fees and expenses are estimated to not exceed Nine Thousand Dollars and Zero Cents (\$9,000.00)
25 and will be paid out of the Maximum Settlement Amount, as set forth herein, subject to Court
26 approval.

27 **V. RELEASE OF CLAIMS**

28 **64. Participating Class Members Released Claims.** As of the date of the Judgment,

each Participating Class Member, and without the need to manually sign a release document, shall release the Released Parties from all causes of action and claims that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the Action, including all of the following claims for relief: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide compliant meal periods; (iii) failure to provide compliant rest breaks; (iv) failure to timely pay wages during employment; (v) failure to provide complete, accurate wage statements; (vi) unlawful deductions from wages; (vii) failure to pay wages timely at time of termination or resignation; (viii) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; (ix) all claims under the California Labor Code Private Attorneys General Act of 2004 that could have been premised on the claims, causes of action or legal theories described above or any of the claims, causes of action or legal theories of relief pleaded in the operative Complaint in this Action or in the LWDA Exhaustion Letter Plaintiff served on the LWDA and Defendant; (x) any claim for costs and attorneys' fees and expenses; and (xi) any claim arising from the claims described above under applicable federal, state, local or territorial law as well as applicable regulations and Wage Orders. (collectively, the "Released Claims"). Participating Class Members who cash their checks are deemed to have waived all Released Claims inclusive of claims under the Fair Labor Standards Act. Participating Class Members who do not cash their checks shall be deemed to waive all Released Claims except for a claim under the Fair Labor Standards Act. Released Claims for Class Members who worked for Defendant in California during the Class Period shall have their claims released during the Class Period.

65. **PAGA Group Released Claims.** As of the date of the Judgment, each PAGA Group Member, and without the need to manually sign a release document, shall release the Released Parties and the State of California for claims for civil penalties pursuant to PAGA based upon all causes of action and claims that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the Action and/or the LWDA Exhaustion Letter, including all of the following claims for relief: (i) failure to pay all regular wages, minimum wages

1 and overtime wages due; (ii) failure to provide compliant meal periods; (iii) failure to provide
2 compliant rest breaks; (iv) failure to timely pay wages during employment; (v) failure to provide
3 complete, accurate wage statements; (vi) unlawful deductions from wages; (vii) failure to pay
4 wages timely at time of termination or resignation; (viii) all claims under the California Labor Code
5 Private Attorneys General Act of 2004 that could have been premised on the claims, causes of
6 action or legal theories described above or any of the claims, causes of action or legal theories of
7 relief pleaded in the Action; (ix) any claim for costs and attorneys' fees and expenses under the
8 PAGA; and (x) any PAGA penalty claim arising from the claims described above under applicable
9 federal, state, local or territorial law as well as applicable regulations, including the IWC Wage
10 Orders (collectively, the "PAGA Released Claims"). PAGA Released Claims for PAGA Group
11 Members who worked for Defendant in California during the PAGA Period shall have their claims
12 released during the PAGA Period.

13 66. Released Parties includes Defendant and its past, present and/or future, direct and/or
14 indirect, officers, directors, members, managers, employees, agents, representatives, attorneys,
15 including but not limited to O'Hagan Meyer, insurers, partners, investors, shareholders,
16 administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors,
17 assigns, and joint venturers. Released Parties shall also include Piazza Management Corporation
18 solely as to those Class Members and PAGA Group Members who between April 1, 2021, and
19 October 22, 2021, have previously been or currently are employed in California by Piazza
20 Management Corporation, as an hourly-paid, non-exempt employee and who between July 21,
21 2016, and March 31, 2021, were employed in California by Defendant, as an hourly-paid, non-
22 exempt employee.

23 67. In light of the binding nature of a PAGA judgment on non-party employees pursuant
24 to *Arias v. Sup. Ct. (Angelo Dairy)* (2009) 46 Cal.4th 969 and *Cardenas v. McLane Foodservice,*
25 *Inc.* (2011) 796 F.Supp.2d 1246, individuals otherwise meeting the definition of a Class Member
26 who exclude themselves from the Settlement shall nonetheless receive a payment for the amount of
27 each such individual's estimated share of the PAGA Payment and shall have released PAGA
28 claims, as outlined in Paragraph 65.

68. The Released Claims and PAGA Released Claims described in Paragraphs 64 & 65 expressly exclude all claims made by a Participating Class Member and/or PAGA Group Member for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, claims while classified as exempt, and claims outside of the Class Period and/or PAGA Period.

69. **Class Counsel.** As of the Effective Date, and except as otherwise provided by this Settlement, Class Counsel and any counsel associated with Class Counsel waive any further claims to costs and attorneys' fees and expenses against Defendant or the Releasees arising from or related to the Action, including but not limited to claims based on the Labor Code, the Code of Civil Procedure, PAGA, the Fair Labor and Standards Act, the Business and Professions Code, or any other contract, statute or law ("Class Counsel Released Claims").

70. **No Effect on Other Benefits.** The payment of Settlement Shares and/or PAGA Payment Shares will not result in any additional employee benefit payments (such as 401(k), vacation, or bonus) and shall not have any effect on the eligibility for, or calculation of, any employee benefit.

VI. DUTIES OF THE PARTIES

71. **Mutual Full Cooperation.** The Parties agree to cooperate fully with one another to accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not be limited to, execution of such other documents and the taking of such other actions as may reasonably be necessary to fulfill the terms of this Settlement unless the Court denies the Settlement with prejudice. The Parties shall use their best efforts, including all efforts contemplated by this Stipulation and any other efforts that may become necessary by court order or otherwise, to effectuate this Stipulation and the terms set forth herein. As soon as practicable after execution of this Stipulation, Class Counsel, with the cooperation of Defendant and Defense Counsel, shall take all necessary and reasonable steps to secure the Court's approval of this Stipulation. The Parties will work together to make any non-material modifications of the Settlement requested by the Court to obtain approval of the Parties' Settlement.

72. **Duty to Support and Defend the Class Settlement.** The Parties agree to abide by

1 all of the terms of the Settlement in good faith and to support the Settlement fully and to use their
2 best efforts to defend this Settlement from any legal challenge, whether by appeal or collateral
3 attack.

4 73. **Duties Prior to Court Approval.** Class Counsel shall promptly submit this
5 Stipulation to the Court for preliminary approval and determination by the Court as to its fairness,
6 adequacy, and reasonableness. Promptly upon execution of this Stipulation, Class Counsel shall
7 apply to the Court for the entry of a preliminary order, scheduling a hearing on the question of
8 whether the proposed Class Settlement should be approved as fair, reasonable, and adequate as to
9 the Class Members, approving as to form and content the proposed Class Notice attached hereto as
10 **Exhibit A**, respectively, and directing the mailing of the Class Notice to Settlement Class Members.

11 74. **Non-Monetary Relief and Catalyzation of Policy Change.** Although Defendant
12 denies any liability of any kind associated with the claims alleged in the Lawsuit, denies any
13 liability or intentional wrongdoing, Defendant revised and updated its meal and rest period policies
14 and practices.

15 **VII. MISCELLANEOUS TERMS**

16 75. **No Admission of Liability.** Defendant deny that they have engaged in any unlawful
17 activity, have failed to comply with the law in any respect, or have any liability to anyone under the
18 claims asserted in the Action. This Settlement is entered into solely for the purpose of
19 compromising highly disputed claims. Nothing in this Settlement is intended or will be construed
20 as an admission of liability or wrongdoing by Defendant, an admission by Plaintiff that any of her
21 claims were non-meritorious, or any defense asserted by Defendant was meritorious. This
22 Settlement and the fact that Plaintiff and Defendant were willing to settle the Action will have no
23 bearing on, and will not be admissible in connection with, any litigation (other than solely in
24 connection with the Settlement).

25 76. The Parties also agree that this release constitutes a resolution of a good faith dispute
26 concerning wages and complies with Labor Code Section 206.5, which reads in part:

27
28 “Execution of release of claim or right on account of wages due.

1 No employer shall require the execution of any release of any
2 claim or right on account of wages due, or to become due, or made,
3 or made as an advance on wages to be earned, unless payment of
4 those wages has been made.”

5
6 77. Whether or not the Judgment becomes Final, neither the Settlement, any document,
7 statement, proceeding or conduct related to the Settlement, nor any reports or accounting of those
8 matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be
9 evidence for any purpose adverse to Defendant or any other beneficiary of the releases granted
10 under this Settlement (the “Released Parties”), including, but not limited to, evidence of a
11 presumption, concession, indication or admission by any of the Released Parties of any liability,
12 fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in
13 evidence against any of the Released Parties, or any other civil, criminal or administrative action or
14 proceeding except for purposes of effectuating this Settlement.

15 78. Notwithstanding Paragraph 77 of this Settlement, any and all provisions of this
16 Settlement may be admitted in evidence and otherwise used in any and all proceedings to enforce
17 any or all terms of this Settlement, or in defense of any claims released or barred by this Settlement.

18 79. **Non-Disparagement.** Plaintiff and Class Counsel agree not to make any untruthful,
19 malicious, disparaging or defamatory statements, allegations, comments or communications,
20 regardless of form (whether written, oral, electronic, including but not limited to Glassdoor, Yelp,
21 or otherwise), regarding the Released Parties. Plaintiff and Class Counsel further agree not to
22 encourage authorize or permit any such statements, allegations, comments or communications to be
23 made by others on their behalf. To the extent Plaintiff and/or Class Counsel have posted any
24 negative comments about the Released Parties on Glassdoor, Yelp, or other websites, Plaintiff
25 and/or Class Counsel agree to request that these comments be removed and to provide a copy of
26 such request to Defense Counsel within 30 days of the execution of this Agreement.

27 80. **Waiver of Reemployment.** Plaintiff acknowledges that she has no intent to re-apply
28 for employment with Defendant. Plaintiff further acknowledges that Defendant or any related,

1 successor, parent, or subsidiary companies has the right to refuse rehire Plaintiff for non-
2 discriminatory and non-retaliatory reasons and Plaintiff acknowledges that Defendant's position is
3 that such legitimate non-discriminatory and non-retaliatory reasons exist.

4 **81. Integrated Agreement.** After this Settlement is signed and delivered by all Parties
5 and their counsel, this Settlement and its exhibits will constitute the entire agreement between the
6 Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties,
7 covenants, or inducements have been made to any Party concerning this Settlement or its exhibits
8 other than the representations, warranties, covenants, and inducements expressly stated in this
9 Settlement and its exhibits.

10 **82. Attorney Authorization.** Class Counsel and Defense Counsel warrant and represent
11 that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action
12 required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms,
13 and to execute any other documents required to effectuate the terms of this Settlement. The Parties
14 and their counsel will cooperate with each other and use their best efforts to affect the
15 implementation of the Settlement. In the event the Parties are unable to reach agreement on the
16 form or content of any document needed to implement the Settlement, or on any supplemental
17 provisions that may become necessary to effectuate the terms of this Settlement, the Parties will
18 seek the assistance of mediator Steve Rottman, Esq., and if no resolution is reached the Superior
19 Court, and in all cases all such documents, supplemental provisions and assistance of the court will
20 be consistent with this Settlement.

21 **83. Modification of Agreement.** This Agreement, and any and all parts of it, may be
22 amended, modified, changed, or waived only by an express written instrument signed by all Parties,
23 their successors-in-interest, and/or the Parties' respective counsel, as authorized.

24 **84. Settlement Binding on Successors.** This Settlement Agreement will be binding
25 upon, and inure to the benefit of, the successors of each of the Parties.

26 **85. Applicable Law.** All terms and conditions of this Settlement and its exhibits will be
27 governed by and interpreted according to the laws of the State of California, without giving effect to
28 any conflict of law principles or choice of law principles.

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

4 87. **Fair Settlement.** The Parties and their respective counsel believe and warrant that
5 this Settlement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at
6 this Settlement through arms-length negotiations, taking into account all relevant factors, current
7 and potential.

8 88. **Headings.** The descriptive heading of any section or paragraph of this Settlement is
9 inserted for convenience of reference only and does not constitute a part of this Settlement.

10 89. **Notice.** All notices, demands or other communications given under this Settlement
11 will be in writing and deemed to have been duly given as of the third business day after mailing by
12 U.S. Mail, addressed as follows:

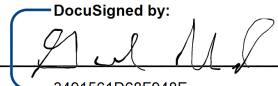
13 *To Class Counsel:* DAVID YEREMIAN & ASSOCIATES, INC.
14 David Yeremian, Esq.
15 Alvin B. Lindsay, Esq.
16 535 N. Brand Blvd., Suite 705
17 Glendale, California 91203

18 *To Defense Counsel:* Matthew C. Sgnilek, Esq.
19 Andrea Rosenkranz, Esq.
20 O'HAGAN MEYER
21 4695 MacArthur Court, Suite 210
22 Newport Beach, CA 92660

23 90. **Execution in Counterpart.** This Settlement may be executed in one or more
24 counterparts. All executed counterparts and each of them will be deemed to be one and the same
25 instrument provided that counsel for the Parties will exchange between themselves original signed
26 counterparts. Facsimile signatures, scanned PDF signatures, and electronic signatures will be
27 presumptive evidence of execution of the original, which shall be produced on reasonable request.
28 Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

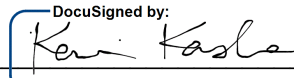
1 DATED: 10/20/2021

GESEL MALDONADO

DocuSigned by:

3491561D68F948E...

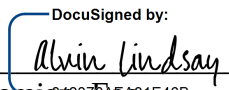
5 DATED: 10/25/2021

K & R CORPORATION

By: 
B2A8031FE009454...
Its: President

10 DATED: 10/22/2021

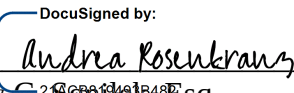
DAVID YEREMIAN & ASSOCIATES, INC.

By: 
David Yeremian, Esq.
Alvin B. Lindsay, Esq.

Attorney for Plaintiff
GESEL MALDONADO

16 DATED: 10/20/2021

O'HAGAN MEYER

By: 
Matthew C. Sginek, Esq.
Andrea Rosenkranz, Esq.

Attorneys for Defendant
K & R CORPORATION

Exhibit “A”

Gesel Maldonado v. K & R Corporation
Los Angeles County Superior Court Case No. 20STCV27934



<<PSA ID>>

<<First Last>>

<<Address>>

<<City, State, Zip, Country>>

Name/Address Changes (if any):

NOTICE OF CLASS ACTION SETTLEMENT

If you are or were a non-exempt, hourly employee of K & R Corporation at any time between July 21, 2016, and October 22, 2021, or if you are or were a non-exempt, hourly employee of Piazza Management Corporation who was previously employed by K & R Corporation between July 21, 2016, and March 31, 2021, you may be able entitled to receive money from a Class Action Settlement.

A court approved this notice. This is not a solicitation from a lawyer. You are not being sued.

PLEASE READ THIS NOTICE.

Your legal rights are affected whether you act or don't act. Your legal rights and options—and the deadlines to use them—are explained in this notice.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE SETTLEMENT PAYMENT	You are not required to take action to receive a payment. If you do nothing, you will automatically receive a payment from the Settlement if the Court finally approves the Settlement. In exchange, you will be bound by the Settlement including the release of all claims covered by the Settlement.
REQUEST EXCLUSION	Request to be excluded and receive no benefits from the Settlement. If you submit a Request for Exclusion, you will not receive a settlement payment.
OBJECT	If you wish to object to the Settlement, you may submit a written objection and supporting papers to the Settlement Administrator. Any written objections will be provided to the Court. You may also offer your oral comments at the Final Approval Hearing. In order to object, you must not have excluded yourself from the Settlement.

1. Why should you read this notice?

A proposed settlement (the "Settlement") has been reached in a class action lawsuit entitled *Gesel Maldonado v. K & R Corporation* Los Angeles County Superior Court Case No. 20STCV27934 (the "Action" or "Lawsuit"). The Defendant in the Action is K & R Corporation (referred in this Notice as "Defendant.")

The Court has granted preliminary approval of a "Settlement Class" defined as follows:

All persons who, during the Class Period, have previously been or currently are employed in California by Defendant, as an hourly-paid, non-exempt employee and all persons who between April 1, 2021, and October 22, 2021, have previously been or currently are employed in California by Piazza Management Corporation, as an hourly-paid, non-exempt employee and who between July 21, 2016, and March 31, 2021, were employed in California by Defendant, as an hourly-paid, non-exempt employee.

The Court has also granted preliminary approval of a “PAGA Group” defined as follows:

All persons who, during the PAGA Period, have previously been or currently are employed in California by Defendant, as an hourly-paid, non-exempt employee and all persons who between April 1, 2021, and October 22, 2021, have previously been or currently are employed in California by Piazza Management Corporation, as an hourly-paid, non-exempt employee and who between July 21, 2019, and March 31, 2021, were employed in California by Defendant, as an hourly-paid, non-exempt

Defendant’s employment records indicate that you meet one or both of these definitions, which makes you a member of the Settlement Class (referred to in this Notice as a “Class Member”) and possibly a member of the PAGA Group (referred to in this Notice as a “PAGA Group Member”). The Court directed that this Notice be sent to all Class Members and PAGA Group Members to inform you about the case and your rights and options before the Court decides to approve the Settlement. If the Court approves the Settlement, and after any appeals are resolved, payments will be made to Class Member who have not opted out of the Settlement and all PAGA Group Members.

This Notice explains the Lawsuit, the Settlement, your legal rights and options, what benefits are available and how to get them.

2. What is this Lawsuit about?

On September 23, 2020, Plaintiff Gesel Maldonado filed the operative class action complaint against the Defendant alleging several violations of California wage and hour laws. Plaintiff filed the Action on behalf of herself and on behalf of all current and former non-exempt, hourly employees. By Plaintiff’s Complaint, Plaintiff alleges that the Defendant: (1) failed to pay at least the minimum wage for all hours worked; (2) failed to pay overtime wages; (3) failed to provide compliant meal periods; (4) failed to provide compliant rest periods; (5) failed to provide accurate wage statements and maintain required payroll records; (6) failed to timely pay wages at separation; (7) made unlawful deductions from employees’ wages; (8) violated California’s Unfair Competition Law; and (9) owed civil penalties under California’s Private Attorneys General Act of 2004, California Labor Code §§ 2698-2699.5 (“PAGA”). Defendant vigorously denies all the claims and contentions made in the Lawsuit and maintains it has fully complied with the law. However, Defendant has agreed to settle the Lawsuit to avoid the expense of litigation.

3. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a Settlement. This allows the Parties to avoid the risk and uncertainty of trial and any subsequent appeal, and all affected employees who have not opted out of the Settlement will receive compensation. The Settlement is not an admission of liability by Defendant. The Class Representative and the attorneys believe the Settlement is fair, reasonable and adequate, and in the best interests of all Class Members.

4. What are the terms of the Settlement?

Defendant will pay Five Hundred Thousand Dollars and Zero Cents (\$500,000.00) to settle the Action (the “Maximum Settlement Amount”). The Maximum Settlement Amount includes: (a) all Settlement Payments to Participating Class Members; (b) the Service Award to the Class Representative; (c) the Class Counsel’s attorneys’ fees and costs; (d) a payment to the California Labor and Workforce Development Agency for civil penalties brought under PAGA; (e) all PAGA Payments to the PAGA Group Members; and (f) the reasonable fees and costs of the Settlement Administrator. Defendant will pay their portion of all payroll taxes resulting from the Settlement in addition to the Maximum Settlement Amount.

The Court has preliminarily approved the following payments from the Maximum Settlement Amount. Class Counsel will request that the Court award Class Counsel up to one-third (1/3) of the Maximum Settlement Amount or up to One Hundred and Sixty-Six Thousand, Six Hundred and Sixty-Seven Dollars and Zero Cents (\$166,667.00) in attorneys’ fees and up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) in out-of-pocket litigation costs, up to Ten Thousand Dollars and Zero Cents (\$10,000.00) for Settlement Administration Costs for the third-party Settlement Administrator, and up to Ten Thousand Dollars and Zero Cents (\$10,000.00) for the Service Award for the Class Representative in recognition of her time and service to the Class in pursuing the Action and in fulfilling her obligations as the Class Representative. Additionally, the Settlement provides for a payment of Twenty Eight Thousand Dollars and Zero Cents (\$28,000.00) (the “LWDA Payment”) to resolve PAGA Group Members’ claims under PAGA, of which Seven Thousand Dollars and Zero Cents (\$7,000.00) will be distributed to the PAGA Group Members and Twenty-One Thousand Dollars and Zero Cents (\$21,000.00) will be paid to the California Labor and Workforce Development Agency (“LWDA”). This allocation of the PAGA Payment is required by California law. The final amounts of these various payments are all subject to Court approval.

After deductions of the preceding Court-approved payments, the remaining amount—the “Net Settlement Amount”—will be distributed to those Class Members who have not opted out of the Settlement (the “Participating Class Members”). No portion of the Maximum Settlement Amount will be returned to Defendant.

5. How much can I expect to receive?

Each Participating Class Member will receive a *pro rata* share of the Net Settlement Amount based on the number of workweeks the person worked for Defendant as a non-exempt, hourly employee during the Class Period, defined as the period of time from July 21, 2016, through October 22, 2021. Any workweek in which a Class Member worked at least one day shall be counted as a workweek.

To calculate a Class Member’s Individual Settlement Payment, the Net Settlement Amount will be divided by the aggregate total number of workweeks of all Participating Class Members, resulting in the “Workweek Value.” Each Participating Class Member’s Individual Settlement Payment will be calculated by multiplying each individual Participating Class Member’s total number of workweeks by the Workweek Value.

Your Compensable Workweeks are: <<Workweeks>>

Your Estimated Individual Settlement Payment is: \$<<Est.SettlementAmt>>

All settlement payments are subject to taxation. Each Individual Settlement Payment will be allocated as follows: (a) 20% as wages that will be subject to deductions and withholdings for the employee’s share of state and federal payroll taxes; and (b) 80% as penalties and interest that will not be subject to deductions and withholdings. Each Participating Class Member will receive an IRS Form W-2 with respect to the portion of the Settlement Payment allocated to wages and an IRS Form-1099 with respect to the portion of the Settlement Payment allocated to

penalties and interest, unless said payment is less than or equal to \$600.00. Prior to mailing Settlement checks, the Settlement Administrator will calculate and deduct the employee's required withholdings and payroll taxes from the "wage" portion of the Settlement payment. Defendant will separately pay the employer's share of payroll taxes with respect to the "wage" portion of each Settlement payment.

Please note that each Participating Class Members will be responsible for his/her share of taxes attributable to the receipt of an Individual Settlement Payment. The Parties and their attorneys cannot provide and will not provide any advice regarding tax obligations. Class Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

Each PAGA Group Member will receive a *pro rata* share of the PAGA Payment based on the number of pay periods the person worked for Defendant as a non-exempt, hourly employee during the PAGA Period, defined as the period of time from July 21, 2019, through October 22, 2021. Any pay period in which a Class Member worked at least one day shall be counted as a pay period.

To calculate a PAGA Group Member's Individual PAGA Payment, the PAGA Payment will be divided by the aggregate total number of pay periods of all PAGA Group Members, resulting in the "Pay Period Value." Each PAGA Group Member's Individual Settlement Payment will be calculated by multiplying each individual PAGA Group Member's total number of pay periods by the Pay Period Value.

Your Compensable Pay Periods are: <<PayPeriods>>

Your Estimated Individual PAGA Payment is: \$<<Est.PAGAPaymentAmt>>

All settlement payments are subject to taxation. Each Individual PAGA Payment will be allocated as follows: 100% as penalties that will not be subject to deductions and withholdings. Each PAGA Group Member will receive an IRS Form-1099 for his or her Individual PAGA Payment, unless said payment is less than or equal to \$600.00.

Please note that each PAGA Group Member will be responsible for his/her share of taxes attributable to the receipt of an Individual PAGA Payment. The Parties and their attorneys cannot provide and will not provide any advice regarding tax obligations. Class Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

6. What if I disagree with the number of workweeks and/or pay periods credited to me in this Notice?

The information concerning the number of workweeks and/or pay periods you worked as an hourly, non-exempt employee during the Class Period and/or PAGA Period is based on Defendant's records. To dispute this number of workweeks and/or pay periods credited to you, you must send written notice to the Settlement Administrator. To be valid, your written dispute of weeks worked must: (1) include your full name, address, telephone number, and last four digits of the Social Security number; and (2) be accompanied by satisfactory evidence of the actual weeks worked as an hourly, non-exempt employee for Defendant during the Class Period and/or PAGA Period, including any supporting documentation (e.g., copies of your pay stubs). To be timely, your written dispute of workweeks and/or pay periods worked must be mailed by first-class U.S. Mail, or the equivalent, to the Settlement Administrator *at the address provided below*, and be postmarked on or before [REDACTED], 2022.

The Parties and the Settlement Administrator will promptly evaluate the evidence submitted and discuss in good faith how many workweeks and/or pay periods should be credited to the Class Member and/or PAGA Group

Member. The Settlement Administrator will make the final decision as to how many workweeks and/or pay periods should be credited to the Class Member and/or PAGA Group Member and report the outcome to the Class Member and/or PAGA Group Member.

7. How and when will I get a payment? How do I update my address?

How do I receive money from the Settlement? You do not need to do anything to receive your Individual Settlement Payment and/or Individual PAGA Payment. Just watch your mail for a check and cash it when you get it. If you do not exclude yourself from the Settlement, you will automatically receive money from the Settlement. You do not need to make a claim or take any other action to receive your share of the Settlement.

When will I receive my Settlement payment? Class Members who do not opt out of the Settlement will receive their payments only after the Court grants final approval to the Settlement and after any appeals are resolved. PAGA Group Members will receive their payments only after the Court grants final approval to the Settlement and after any appeals are resolved. If there are appeals, resolving them can take time. Please be patient.

Settlement payment checks must be cashed soon after receipt. The Settlement checks will be able to be cashed for 180 days after they are issued. After 180 days, the Settlement checks will no longer be able to be cashed. Any funds represented by Settlement checks remaining uncashed for more than 180 days after issuance shall be transmitted to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Code of Civil Procedure Section 1500, *et seq.* in the names of those Participating Class Members and/or PAGA Group Members who did not cash their checks until such time they claim their property.

Change of address. It is your responsibility to keep a current address on file with the Settlement Administrator to ensure that you receive your Settlement payment. If you change your address, or if this notice was not mailed to your correct address, you should immediately provide your current address to the Settlement Administrator. The Settlement Administrator can be reached at (800) ###-####, or at the address provided below.

8. What claims are being released by the Settlement?

If the Settlement is approved by the Court, a Judgment will be entered by the Court. Upon the Effective Date of the Judgment, all Participating Class Members shall release the Released Parties from the Released Claims for the Class Period, which is defined as the period of time between July 21, 2016, through October 22, 2021.

The Released Claims are defined as all causes of action and claims that were alleged or could have been alleged under the Labor Code, state or local wage and hour laws and Wage Orders, whether known or unknown, based on the facts and legal theories contained in the Complaint and/or LWDA Exhaustion Letter, including but not limited to: (i) claims for unpaid minimum wages (Lab. Code §§ 1194, 1197, 1197.1); (ii) claims for unpaid overtime (Lab. Code §§ 510, 1198); (iii) claims for non-compliant meal periods and/or associated premiums (Lab. Code §§ 226.7, 512(a)); (iv) claims for non-compliant rest periods and/or associated premiums (Lab. Code § 226.7); (v) claims for wage statement violations (Lab. Code § 226(a)); (vi) claims for payroll records violations (Cal. Lab. Code §§ 1174, 1174.5); (vii) claims for failure to timely pay wages upon termination of employment and associated waiting time penalties (Cal. Lab. Code §§ 201-203); (viii) claims for unlawful deductions (Cal. Lab. Code § 221); (ix) claims for violations of California Business & Professions Code, §§ 17200, *et seq.* arising out of the aforementioned claims; (x) claims for civil penalties arising under the Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698-2699.5) (“PAGA”) arising out of the aforementioned claims; (xi) claims that the Class Member is an “aggrieved employee” under PAGA with respect to any of the aforementioned claims released herein; and (xii) claims for attorneys’ fees, costs and expenses for all causes of action and claims that

were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the Complaint. The Participating Class Members who cash their Settlement checks further acknowledge that they are releasing any claims they have against Defendant under the Fair Labor Standards Act (“FLSA”) (collectively, the “Released Claims”). Other than for Plaintiff, claims of Participating Class Members, if any, for vested benefits, wrongful termination, unemployment insurance, disability benefits, social security, workers’ compensation, claims while classified as exempt, and claims outside of the Class Period are not encompassed within the definition of “Released Claims.” The Released Parties include Defendant and its past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, including but not limited to O’Hagan Meyer, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers. Released Parties shall also include Piazza Management Corporation solely as to those Class Members who between April 1, 2021, and October 22, 2021, have previously been or currently are employed in California by Piazza Management Corporation, as an hourly-paid, non-exempt employee and who between July 21, 2016, and March 31, 2021, were employed in California by Defendant, as an hourly-paid, non-exempt employee.

Any Class Member who does not request exclusion by the applicable deadline will be considered to have accepted the release and to have waived any and all of the Released Claims against the Released Parties.

If the Settlement is approved by the Court, a Judgment will be entered by the Court. Upon the Effective Date of the Judgment, all PAGA Group Members shall release the Released Parties from the PAGA Released Claims for the PAGA Period, which is defined as the period of time between July 21, 2019, through October 22, 2021.

The PAGA Released Claims are defined as all claims for civil penalties pursuant to PAGA that were alleged or reasonably could have been alleged under the Labor Code, state or local wage and hour laws and Wage Orders, whether known or unknown, based on the facts and legal theories contained in the operative Complaint and/or facts and theories contained in the operative Complaint and underlying and/or LWDA Exhaustion Letter, including but not limited to: (i) claims for unpaid minimum wages (Lab. Code §§ 1194, 1197, 1197.1); (ii) claims for unpaid overtime (Lab. Code §§ 510, 1198); (iii) claims for non-compliant meal periods and/or associated premiums (Lab. Code §§ 226.7, 512(a)); (iv) claims for non-compliant rest periods and/or associated premiums (Lab. Code § 226.7); (v) claims for wage statement violations (Lab. Code § 226(a)); (vi) claims for payroll records violations (Cal. Lab. Code §§ 1174, 1174.5); (vii) claims for failure to timely pay wages upon termination of employment and associated waiting time penalties (Cal. Lab. Code §§ 201-203); (viii) claims for unlawful deductions (Cal. Lab. Code § 221); (ix) claims for civil penalties arising under the Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698-2699.5); (x) claims that the Class Member is an “aggrieved employee” under PAGA with respect to any of the aforementioned claims released herein; and (xi) claims for attorneys’ fees, costs and expenses for all causes of action and claims that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the operative Complaint. Other than for Plaintiff, claims of PAGA Group Members, if any, for vested benefits, wrongful termination, unemployment insurance, disability benefits, social security, workers’ compensation, claims while classified as exempt, and claims outside of the PAGA Period are not encompassed within the definition of “PAGA Released Claims.” The Released Parties include Defendant and its past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, including but not limited to O’Hagan Meyer, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers. Released Parties shall also include Piazza Management Corporation solely as to those PAGA Group Members who between April 1, 2021, and October 22, 2021, have previously been or currently are employed in California by Piazza Management Corporation, as an hourly-paid, non-exempt employee and who between July 21, 2019, and March 31, 2021, were employed in California by Defendant, as an hourly-paid, non-exempt employee.

PAGA Group Members cannot opt out of or object to the foregoing PAGA Release.

9. What are my options?

a. **Participate in the Settlement and Receive a Settlement Payment.** If you want to participate in the Settlement, you do not have to do anything. You will receive your Individual Settlement Payment automatically if the Settlement is finally approved by the Court. If applicable, you will receive your Individual PAGA Payment automatically if the Settlement is finally approved by the Court.

b. **Exclude yourself from the Settlement.** If you do not want to be part of the Settlement, you can request to be excluded from the Settlement by mailing a written Request for Exclusion to the Settlement Administrator. If you exclude yourself, you will not receive your Individual Settlement Payment, you will not be subject to the terms of the Settlement, and you will retain whatever rights you may currently have. To be valid, your Request for Exclusion must include: (1) include your full name, address, and last four digits of the Social Security number; (2) a clear statement that you wish to opt out of, or be excluded from, the Settlement in *Maldonado v. K & R Corporation*, Los Angeles County Superior Court Case No. 20STCV27934; (3) a clear statement that you understand that by opting out, you will not receive any monies from the settlement; and (4) your signature. To be timely, a Request for Exclusion must be mailed by first-class U.S. Mail, or the equivalent, to the Settlement Administrator at the address provided below and be postmarked on or before [REDACTED], 2022.

If applicable, you may not exclude yourself from the PAGA Group and will be bound by the PAGA Released Claims.

b. **Object to the Settlement.** If you're a Class Member, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views. If the Court rejects your objection and finally approves the Settlement, you will still be bound by the terms of the Settlement, but you will also receive a monetary award.

To object, you may submit a written objection stating why you object to the Settlement, or you may simply appear at the Final Approval Hearing set for [REDACTED], 2022 at [REDACTED] a.m. in the Los Angeles County Superior Court and discuss your objection with the Court and the Parties at your own expense. Written objections must include: (i) your full name, current address, and last four digits of the Social Security number; (ii) the approximate dates of your employment at Defendant; (iii) the case name and number (e.g., *Maldonado v. K & R Corporation*, Los Angeles County Superior Court Case No. 20STCV27934); (iv) a written statement of all grounds for the objection accompanied by any legal support for such objection; (iv) copies of any papers, briefs, or other documents on which the objection is based, if any; (v) your signature; and (vi) a statement of whether you intend to appear at the Final Approval Hearing, either in person or by counsel. To be timely, a written objection must be mailed by first-class U.S. Mail to the Settlement Administrator at the address provided below and be postmarked on or before [REDACTED], 2022.

Please note that you cannot both exclude yourself and object to the Settlement. In order for you to object to this Settlement, or any term of it, you may not submit a Request for Exclusion.

10. Who are the attorneys representing the Plaintiff and the Settlement Class and the PAGA Group?

The Court has appointed the following lawyers as "Class Counsel" to represent all Class Members and PAGA Group Members:

DAVID YEREMIAN & ASSOCIATES, INC.
David Yeremian, Esq.
Alvin B. Lindsay, Esq.
535 N. Brand Blvd., Suite 705
Glendale, California 91203
Telephone: (818) 230-8380

UNITED EMPLOYEES LAW GROUP, PC
Walter Haines
5500 Bolsa Ave., Suite 201
Huntington Beach, CA 92649
Telephone: (310) 652-2242

You will not be charged for these lawyers.

11. How will the attorneys for the Settlement Class and the PAGA Group be paid?

All payments for Class Counsel's attorneys' fees and costs will be made from the Maximum Settlement Amount. Class Counsel intends to request an award of attorneys' fees up to one-third (1/3) of the Maximum Settlement Amount, or up to One Hundred and Sixty-Six Thousand, Six Hundred and Sixty-Seven Dollars and Zero Cents (\$166,667.00), plus reimbursement of reasonable, actual out-of-pocket costs incurred in the litigation, up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00). Class Counsel has been prosecuting this Action on behalf of Plaintiff, the Settlement Class, and PAGA Group on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs. The Court will decide the amount of fees and expenses to award at the Final Approval Hearing.

12. When and where will the Court decide to approve the Settlement?

The Court has preliminarily approved the settlement and will hold a hearing, called a Final Approval Hearing, to decide whether to give final approval to the Settlement. The Court will hold the Final Approval Hearing on _____, 2022, at _____ a.m., in Department SS6 of the Los Angeles County Superior Court located at 312 North Spring Street, Los Angeles, CA 90012, before the Honorable Elihu M. Berle. At the Final Approval Hearing, the Court will rule on Class Counsel's request for attorneys' fees and litigation costs, the Class Representative Service Award, and the Settlement Administration Costs.

You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing. If you did not submit a Request for Exclusion, you or your attorney may appear at the hearing at your own expense and request to be heard. The Final Approval Hearing may be postponed without further notice.

13. Will I be subject to discipline if I participate in the Settlement?

No. Defendant approve the Settlement and will not retaliate in any way against any Class Member for participating in the Settlement. Your decision to participate, not participate, or object to this Settlement will not affect your employment with Defendant or Defendant's treatment of you as a former employee.

14. What is the Settlement Administrator's address?

Any Request for Exclusion, Notice of Objection, address change request, and all other correspondence intended for the Settlement Administrator must be mailed to the Settlement Administrator at the following address:

Maldonado v. K & R Corporation
c/o _____

Telephone: _____

15. How Can I Get Additional Information?

If you have questions, you can call the Settlement Administrator at _____ and/or Class Counsel at (818) 230-8380.

PLEASE DO NOT TELEPHONE THE COURT OR DEFENDANT'S MANAGERS, SUPERVISORS,
OR ATTORNEYS ABOUT THIS SETTLEMENT
They will not be able to assist you.

Exhibit “B”

K & R CORPORATION CLASS ACTION MEMORANDUM OF UNDERSTANDING

Defendant K & R Corporation (“Defendant”) and Plaintiff Gesel Maldonado (“Plaintiff”) hereby set forth the terms of a Memorandum of Understanding (“MOU”) designed to bind the Parties to the terms of a class action settlement. Defendant and Plaintiff are referred to in this Agreement individually as a “Party” and collectively as the “Parties.” The Parties hereby agree as follows:

1. This MOU confirms the essential terms of the settlement and will assist the Parties in preparing a comprehensive “long form” settlement agreement. This MOU is admissible and enforceable by, binding on, and subject to disclosure by all Parties.

2. The term “Action” means the action entitled *Maldonado v. K & R Corporation*, Los Angeles County Superior Court Case No. 20STCV27934.

3. The term “Defendant” means the Defendant named by Plaintiff in her Complaint in the Action, and their past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

4. The term “Settlement Class Members” means all current and former non-exempt employees who worked for Defendant in California during the Class Period (or if any such person is incompetent, deceased, or unavailable due to military service, the person’s legal representative or successor in interest evidenced by reasonable verification). The term “Settlement Class Members” shall not include any person who submits a timely and valid request for exclusion.

5. The term “Aggrieved Employees” means all current and former non-exempt employees who worked for Defendant in California during the PAGA Period (or if any such person is incompetent, deceased, or unavailable due to military service, the person’s legal representative or successor in interest evidenced by reasonable verification).

6. The Class Period shall be defined as the time from July 21, 2016, through the date of granting of preliminary approval or 60 days following mediation (i.e., October 22, 2021), whichever is earlier.

7. The PAGA Period shall be defined as the time from July 21, 2019, through the date of granting of preliminary approval or 60 days following mediation (i.e., October 22, 2021), whichever is earlier.

8. The Parties and their counsel agree that the consideration described in the subparagraphs below constitutes their good faith compromise of the Action based upon their assessment of the value of the case, and the mutual risks and costs of further litigation. Specifically, the consideration provided by Defendant consists of the following:

(a) Defendant shall pay a maximum amount (“Maximum Settlement Amount”) of \$500,000.00 (unless increased pursuant to Paragraph 8(i) below) in full and complete settlement of this matter, which sum includes all payments to Settlement Class Members, Aggrieved Employees, Class Counsel’s attorneys’ fees and litigation costs, third-party administration costs, payment to the Labor Workforce Development Agency (“LWDA”), and the enhancement award to Plaintiff.

(b) Defendant will not oppose a request by Plaintiff to be appointed Class Representative and for an enhancement payment of up to \$10,000.00, to be deducted from the Maximum Settlement Amount, in exchange for his service as a Class Representative and a General Release of all claims against Defendant. This enhancement payment is in addition to the payment to which he is entitled as a Settlement Class Member.

(c) The Parties designate that \$28,000.00 of the Maximum Settlement Amount will be allocated for violations of PAGA (“PAGA Payment”). 75% of this amount (or \$21,000.00) will be payable to the Labor Workforce Development Agency (“LWDA”) and the remaining 25% (\$7,000.00) will be payable to the Aggrieved Employees.

(d) Defendant will not oppose an application for an award to Class Counsel, from the Maximum Settlement Amount, of up to one-third of the Maximum Settlement Amount, or \$166,667.00 in attorneys’ fees, plus reasonable costs and expenses not to exceed \$15,000.00.

(e) In addition to the Maximum Settlement Amount, Defendant shall pay the employers’ portion of any payroll taxes on portions of the settlement allocated to unpaid wages.

(f) The balance after deduction of Class Counsel’s attorneys’ fees and litigation costs, third-party administration costs, the LWDA’s portion of the PAGA Payment, the Aggrieved Employees’ portion of the PAGA Payment, and the enhancement award to Plaintiff will be the “Net Settlement Amount.”

(g) The Net Settlement Amount shall be distributed on a *pro rata* basis to Settlement Class Members, subject to the distribution formula agreed upon by the Parties.

(h) The Aggrieved Employees’ portion of the PAGA Payment shall be distributed on a *pro rata* basis to the Aggrieved Employees, subject to the distribution formula agreed upon by the Parties.

(i) Defendant represents that as of August 23, 2021, the number of workweeks in the Class Period is approximately 27,941. If it is

determined that the workweeks through the earlier of Preliminary Approval or 60 days following mediation (i.e., October 22, 2021) exceeds 30,736 (27,941 plus 10% of 27,941), the Net Settlement Amount, exclusive of the escalator provision found within this Paragraph 8(i), will be increased by the same number of percentage points above 10% by which the actual number of workweeks exceeds 27,941. For example, if the actual number of workweeks is determined to be 12% higher than 27,941, the Net Settlement Amount will be increased by 2%.

(j) All funds represented by uncashed checks remaining in the Net Settlement Amount shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, for the benefit of those Settlement Class Members who did not cash their checks until such time that they claim their property. The Parties agree that this disposition results in no “unpaid residue” under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to Settlement Class Members, whether or not they all cash their Settlement Checks. Therefore, Defendant will not be required to pay any interest on such amounts.

9. The Parties will select a Settlement Administrator on the basis of cost and competence, with the best interests of the Settlement Class Members in mind. Fees of the Settlement Administrator shall be paid out of the Maximum Settlement Amount.

10. The settlement payment for each individual Settlement Class Member shall be allocated as follows: (a) 20% as wages; and (b) 80% as penalties and interest. The Settlement Administrator will be responsible for issuing to claimants a form W-2 for amounts deemed “wages” and an IRS Form 1099 for the portions allocated to penalties and interest. The settlement payment for each Aggrieved Employee shall be allocated 100% as penalties. The Settlement Administrator will be responsible for issuing to claimants an IRS Form 1099. The recipients of payments pursuant to this Agreement shall be exclusively responsible for all tax obligations other than the employers’ share of payroll taxes allocated to unpaid wages.

11. The Parties agree that Defendant’s payment of the consideration described in Paragraph 8, above, is entirely dependent upon the Court’s approval of the Parties’ settlement of the Action.

12. The Parties agree that the consideration described in Paragraph 8, above, constitutes adequate consideration for the settlement and releases described immediately below.

a. *Release by Plaintiff:* Plaintiff shall release all claims related to her employment, including all claims alleged in the Action, and be bound by a Civil Code Section 1542 release and waiver of all claims known and unknown, without exception, except as may be prohibited by law. This

specifically excludes claims for unemployment insurance, disability, social security, and workers' compensation (except for claims pursuant to Labor Code Sections 132a and 4553).

b. *Release by Settlement Class Members:* All Settlement Class Members who do not timely opt out of the Settlement will release all causes of action and claims that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the operative complaint, including all of the following claims for relief: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide compliant meal periods; (iii) failure to provide compliant rest breaks; (iv) failure to timely pay wages during employment; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; and (viii) all claims under the California Labor Code Private Attorneys General Act of 2004 that could have been premised on the claims, causes of action or legal theories described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint. The Settlement Class members who cash their Settlement Checks further acknowledge they are releasing any claims they have against Defendant under the Fair Labor Standards Act ("FLSA") (collectively, the "Released Claims").

c. The definition of "Released Claims" for the Settlement Class Members shall expressly exclude all claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, claims while classified as exempt, and claims outside of the Class Period.

d. *Release by Aggrieved Employees:* Upon the Effective Date, the Released Parties shall be entitled to a release from the State of California and the Aggrieved Employees only as to all PAGA claims based on the alleged facts and legal claims in the operative complaint in this Action or reasonably could have been alleged based on the facts and legal theories contained in the operative complaint in this Action and in the underlying LWDA exhaustion letter which occurred during the PAGA Period, including PAGA claims for civil penalties based on the following: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide compliant meal periods; (iii) failure to provide compliant rest breaks; (iv) failure to timely pay wages during employment; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; and/or (vii) claims, causes of action or legal theories of relief seeking civil penalties under the California Labor Code Private Attorneys General Act of 2004 plead in the operative complaint and

LWDA exhaustion letter.

e. *Released Parties* definition is: “Defendants and their past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.”

f. In light of the binding nature of a PAGA judgment on non-party employees pursuant to *Arias v. Sup. Ct. (Angelo Dairy)* (2009) 46 Cal.4th 969 and *Cardenas v. McLane Foodservice, Inc.* (2011) 796 F.Supp.2d 1246, individuals otherwise meeting the definition of a Settlement Class Member who exclude themselves from the Settlement shall nonetheless receive a payment for the amount of each such individual’s estimated share of the Aggrieved Employees’ portion of the PAGA Payment and shall have released PAGA claims.

13. The Class Notice will contain an estimated individual settlement payment, individual number of workweeks, individual number of pay periods (as appropriate), how to opt-out of the settlement, and how to object to the settlement. Settlement Class Members who submit timely requests to opt out of the settlement will not participate in the settlement and will not be bound by the terms of the proposed settlement or the final judgment. All Settlement Class Members who have not validly opted out by the stated time period will be subject to the Release.

14. Defendant maintains the right, in its sole discretion, to revoke the settlement and its stipulation to class certification prior to the final fairness hearing in the event that ten percent (10%) or more of Settlement Class Members opt out of the settlement.

15. The Parties and their counsel agree not to take any action to encourage any Settlement Class Members to opt out of and/or object to the Settlement.

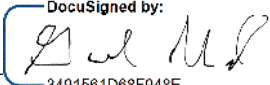
16. Parties and attorneys will keep the settlement confidential through preliminary approval. Thereafter, the Parties will agree to make no comments to the media or otherwise publicize the terms of the settlement.

17. While the Parties intend this MOU to be a precursor to a long form agreement, should that not occur, the Parties agree that this MOU constitutes a written settlement within the provisions of Code of Civil Procedure § 664.6, agree that this MOU shall be admissible pursuant to Evidence Code §§ 1122(a)(1) and 1123(b), and agree and intend that the Los Angeles County Superior Court may enforce this MOU pursuant to Code of Civil Procedure § 664.6.

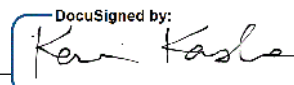
18. Defendant expressly denies any liability. Neither this MOU nor the “long form” Stipulation of Settlement shall constitute an admission of liability or of the accuracy of any allegation made by Plaintiff or her counsel.

ACCEPTED AND AGREED:

Plaintiff Gesel Maldonado:

Signature:  _____
DocuSigned by:
3491581D68F948E...
8/23/2021
Date: _____

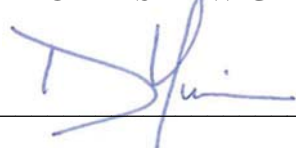
Defendant K & R Corporation:

Signature:  _____
DocuSigned by:
B2A8031FE009454...
Kevin Kasha
Name: _____
Date: 8/23/2021 _____

APPROVED AS TO FORM:

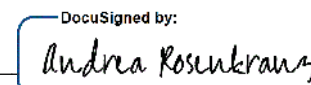
Attorneys for Plaintiff and the Putative Classes:

**DAVID YEREMIAN & ASSOCIATES, INC.
UNITED EMPLOYEES LAW GROUP, PC**

Signature:  _____
Name: David Yeremian, Esq.
Date: August 23, 2021

Attorneys for Defendant:

O'HAGAN MEYER

Signature:  _____
DocuSigned by:
21ACB819493B482...
Andrea Rosenkranz
Name: _____
Date: 8/23/2021 _____