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22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

23 **COUNTY OF ORANGE**

24 HOLLIE BALLARD, an individual, on behalf of
25 the State of California, as a private attorney
26 general, and on behalf of all others similarly
27 situated,

28 PLAINTIFF,

v.

RAMIN TAYANI M.D., a California
Corporation doing business as Tayani Institute,
West Coast Center for Surgeries, Dermabare
Inside Lifetime Athletics and San Diego Eye
Care Center, and DOES 1 to 50, inclusive,

DEFENDANTS.

Case No. 30-2020-01172329-CU-OE-CXC

*[Assigned for All Purposes to Judge Kirk H.
Nakamura, Department CX103]*

Joint Stipulation re: Class Action Settlement

Action Filed: November 30, 2020

Trial Date: None Set

1 This Joint Stipulation Re: Class Action Settlement (hereinafter “Stipulation” or “Settlement
2 Agreement”) is made and entered into by: (1) Plaintiff Hollie Ballard (“Plaintiff”), individually and in
3 her representative capacity on behalf of the Settlement Class, as defined below, and as a private attorney
4 general on behalf of the State of California; and (2) Defendants Ramin Tayani MD. Inc., doing business
5 as Tayani Institute, West Coast Center for Surgeries, Dermabare of Mission Viejo, a Medical
6 Corporation, Inside Lifetime Athletics, and San Diego Eye Care Center (“Defendants”). This
7 Settlement Agreement is subject to the approval of the Court and is made for the sole purpose of
8 attempting to consummate settlement of the action on a class-wide basis subject to the following terms
9 and conditions. This Settlement shall be binding on Plaintiff and the class she purports to represent, ,
10 on all aggrieved employees, Defendants, and on their respective counsel, subject to the terms and
11 conditions hereof and the approval of the Court.

12 THE PARTIES STIPULATE AND AGREE as follows:

13 **1. DEFINITIONS**

14 As used in this Settlement Agreement, the following terms shall have the meanings specified
15 below. To the extent terms or phrases used in this Settlement Agreement are not specifically defined
16 below, but are defined elsewhere in this Settlement Agreement, they are incorporated by reference into
17 this definition section.

18 **1.1. ACTION**

19 “Action” shall mean the following civil action: *Hollie Ballard v. Ramin Tayani M.D. a*
20 *California Corporation doing business as Tayani Institute, West Coast Center for Surgeries,*
21 *Dermabare Inside Lifetime Athletics and San Diego Eye Care Center*, Case No. 30-2020-01172329-
CU-OE-CXC, in the Orange County Superior Court filed on November 30, 2020.

22 **1.2. ADMINISTRATIVE EXPENSES**

23 “Administrative Expenses” shall include all costs and expenses associated with and paid to the
24 third-party settlement administrator, which are anticipated not to exceed \$8,000.
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1 **1.3. APPLICABLE WAGE ORDERS**

2 “Applicable Wage Orders” shall mean the California Industrial Welfare Commission (“IWC”)
3 Wage Orders applicable to the facts of this case, including IWC Wage Orders 4-2001 and others that
4 may be applicable. (Cal. Code of Regs., tit. 8, §§ 11070, 11090.)

5 **1.4. CLAIMS**

6 “Claims” shall mean the claims asserted in the Action.

7 **1.5. CLASS ATTORNEY FEES AND EXPENSES**

8 “Class Attorney Fees and Expenses” shall mean the portion of the Gross Settlement Amount
9 for which Class Counsel may apply for their attorney fees and litigation expenses. The amount of Class
10 Attorney Fees and Expenses shall include all past and future attorneys’ fees and costs incurred in the
11 Action – including, without limitation, all time expended by Class Counsel in the Actions or in
12 defending the Settlement and securing final approval of the Settlement (including any appeals thereof).
13 The Parties agree that the fee portion of the Class Attorney Fees and Expenses shall be up to 1/3 of the
14 Gross Settlement Amount (i.e., \$75,000.00), as approved by the Court, and the award of costs and
15 expenses shall be up to an additional \$10,000.00.

16 **1.6. CLASS COUNSEL**

17 “Class Counsel” shall mean Craig J. Ackermann of Ackermann & Tilajef, P.C., and Amir
18 Seyedfarshi of Employment Rights Law Group APC.

19 **1.7. CLASS MEMBER**

20 “Class Member” shall mean any person who is a prospective member of the Settlement Class,
21 or, if such person is incompetent or deceased, the person’s legal guardian, executor, heir, or successor-
22 in-interest.

23 **1.8. CLASS NOTICE**

24 “Class Notice” shall mean the *Notice of Proposed Class Action Settlement and Hearing Date*
25 *for Court Approval*, as set forth in the form of **Exhibit 1** attached hereto, or as otherwise approved by
26 the Court, which is to be mailed to Class Members along with the Share Form.

1 **1.9. CLASS PARTICIPANTS**

2 “Class Participants” shall mean all Class Members who do not timely request exclusion from
3 the Class Settlement.

4 **1.10. CLASS PERIOD**

5 “Class Period” shall mean the period from November 30, 2016, through the earlier of:
6 **(1)** November 9, 2021; or **(2)** the date the court grants an order preliminarily approving the Class
7 Settlement.

8 **1.11. CLASS REPRESENTATIVE**

9 “Class Representative” shall mean Plaintiff Hollie Ballard.

10 **1.12. CLASS SETTLEMENT**

11 “Class Settlement” shall mean the settlement embodied in this Settlement Agreement, which is
12 subject to Court approval.

13 **1.13. COMPLAINT**

14 “Complaint” shall mean the forthcoming First Amended Complaint to filed in the Action.

15 **1.14. COURT**

16 “Court” shall mean the Orange County Superior Court, before whom the Action is currently
17 pending.

18 **1.15. DEFENDANTS**

19 “Defendants” shall mean Defendants Ramin Tayani MD. Inc., doing business as Tayani
20 Institute, West Coast Center for Surgeries, Dermabare of Mission Viejo, a Medical Corporation,
21 Inside Lifetime Athletics, and San Diego Eye Care Center.

22 **1.16. DEFENSE COUNSEL**

23 “Defense Counsel” shall refer to Nancy Rader Whitehead of Scott and Whitehead, located at
24 4675 MacArthur Court, Suite 1240, Newport Beach, California 92660.

25 **1.17. EFFECTIVE DATE**

26 The Court’s Judgment shall become final on the Effective Date. “Effective Date” shall be the
27 date when all of the following events have occurred: (a) this Settlement Agreement has been executed
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1 by all Parties and by Class Counsel and Defense Counsel; (b) the Court has given preliminary approval
2 to the Class Settlement; (c) notice has been given to the Settlement Class providing them with an
3 opportunity to request exclusion from the Class Settlement; (d) the Court has held a Final Approval
4 and Fairness Hearing and entered a final order and judgment certifying the Settlement Class and
5 approving this Settlement Agreement; and (e) the later of the following events: (i) the expiration of the
6 period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement has
7 elapsed without any appeal, writ, or other appellate proceeding having been filed; (ii) the dismissal of
8 any appeal, writ, or other appellate proceeding opposing the Class Settlement with no right to pursue
9 further remedies or relief; or (iii) any appeal, writ, or the issuance of such other final appellate order
10 upholding the Court's final order with no right to pursue further remedies or relief. In this regard, it is
11 the intention of the Parties that the Class Settlement shall not become effective until the Court's order
12 approving the Class Settlement is completely final and there is no further recourse by an appellant or
13 objector who seeks to contest the Class Settlement. In the event no objections are filed, the Effective
14 Date shall be after steps (a) through (d) are completed (i.e., the date that the court has entered a final
15 order and judgment certifying the Settlement Class and approving this Settlement Agreement).

16 **1.18. EMPLOYEE'S TAXES AND REQUIRED WITHHOLDING**

17 "Employee's Taxes and Required Withholding" shall mean the employee's share of any and all
18 applicable federal, state, or local payroll taxes, including those collected under authority of the Federal
19 Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and/or the State
20 Unemployment Tax Act (SUTA) on the portion of any Class Participant's Individual Settlement
21 Amount that constitutes wages. The Employee's Taxes and Required Withholdings will be withheld
22 from and paid out of the Net Settlement Amount.

23 **1.19. EMPLOYER'S TAXES**

24 "Employer's Taxes" shall mean and refer to Defendants' share of payroll taxes (e.g.,
25 Unemployment Insurance, Employment Training Tax, Social Security, and Medicare taxes) that is
26 owed on the portion of any Class Participant's Individual Settlement Amount that constitutes wages.
27 The Employer's Taxes shall be separately paid by Defendants and shall not be paid from the Gross
28 Settlement Amount or Net Settlement Amount.

1 **1.20. FINAL APPROVAL AND FAIRNESS HEARING**

2 “Final Approval and Fairness Hearing” shall mean the final hearing before the Court to finally
3 approve the Settlement as fair, reasonable, and adequate.

4 **1.21. GROSS SETTLEMENT AMOUNT**

5 “Gross Settlement Amount” is the agreed upon non-reversionary settlement amount totaling
6 \$225,000.00 to be paid by Defendants in full settlement of the Released Claims asserted in this case,
7 inclusive of the Administrative Expenses, the Employee’s Taxes and Required Withholdings, the Class
8 Attorney Fees and Expenses, the Incentive Award, and PAGA Payment and all other amounts other
9 than the Employer’s Taxes defined above. This is the maximum possible amount that may be paid by
10 Defendants to resolve the Action, with the exception of the Employer’s Taxes defined above.
11 Defendants shall separately pay their share of the Employer’s Taxes in addition to the Gross Settlement
12 Amount on the portion of each Individual Settlement Amount allocated as wages.

13 **1.22. HEARING ON PRELIMINARY APPROVAL**

14 “Hearing on Preliminary Approval” shall mean the hearing held on the motion for preliminary
15 approval of the Class Settlement.

16 **1.23. INCENTIVE AWARD**

17 “Incentive Award” shall mean any additional monetary payment provided to the Class
18 Representative for her efforts and risks on behalf of the Settlement Class in this Action.

19 **1.24. INDIVIDUAL SETTLEMENT AMOUNT**

20 “Individual Settlement Amount” shall mean a Class Participant’s share of the Net Settlement
21 Amount, as further detailed in Paragraphs 7.2 and 7.3 below.

22 **1.25. NET SETTLEMENT AMOUNT**

23 “Net Settlement Amount” shall mean the Gross Settlement Amount after all Court-approved
24 deductions for Administrative Expenses; Class Attorney Fees and Expenses; and Plaintiff’s Incentive
25 Award and PAGA Payment. The Net Settlement Amount is the maximum amount that will be available
26 for distribution to Class Participants.

1 **1.26. OPT OUT**

2 “Opt Out” shall refer to the process of submitting a timely and valid request exclusion from the
3 Class Settlement in accordance with the terms of the Class Notice and no later than the Response
4 Deadline, as described in Paragraph 6.5 below.

5 **1.27. OPT-OUTS**

6 “Opt-Outs” shall mean all persons who timely and validly request exclusion from the Class
7 Settlement in accordance with the terms of the Class Notice and no later than the Response Deadline,
8 as described in Paragraph 6.5 below.

9 **1.28. PAGA PAYMENT**

10 “PAGA Payment” means the penalties pursuant to PAGA that the Parties have agreed is a
11 reasonable sum to be paid in settlement of the PAGA claims included in the Action, which is
12 \$15,000.00. The PAGA Payment is to be deducted from the Gross Settlement Amount. The PAGA
13 Payment is to be approved by the Court pursuant to Labor Code section 2699 and is to be distributed
14 as follows: seventy-five percent (75%) (i.e., \$11,250.00) to the LWDA and twenty-five percent (25%)
15 (i.e., \$3,750.00) to the PAGA Settlement Class. Class Counsel shall give timely notice of this
16 Settlement Agreement to the LWDA pursuant to Labor Code section 2699, subdivision (l)(2).

17 **1.29. PAGA PERIOD**

18 “PAGA Period” shall mean the period from September 19, 2019, through the earlier of:
19 (1) November 9, 2021; or (2) the date the court grants an order preliminarily approving the Class
20 Settlement.

21 **1.30. PAGA SETTLEMENT CLASS**

22 “PAGA Settlement Class” shall mean all individuals who worked for Defendants in California
23 as non-exempt during the PAGA Period.

24 **1.31. PARTIES**

25 “Parties” shall mean Plaintiff and Defendants.

26 **1.32. PLAINTIFF**

27 “Plaintiff” shall mean Plaintiff Hollie Ballard.
28

1 **1.33. PRELIMINARY APPROVAL DATE**

2 “Preliminary Approval Date” shall mean the date upon which the Court enters an order
3 preliminarily approving this Settlement Agreement.

4 **1.34. RELEASED CLAIMS**

5 All Class Members who do not opt out of the Settlement will be bound by a release of all claims
6 and causes of action falling within the definition of “Released Claims” (below), whether known or
7 unknown, and irrespective of the factual basis for such claims. The scope of the release is limited to
8 the Released Claims. Plaintiff and the Class Participants may hereafter discover facts or legal
9 arguments in addition to or different from those they now know or currently believe to be true with
10 respect to the claims, causes of action and legal theories of recovery in this Action. Regardless, the
11 discovery of new facts or legal arguments shall in no way limit the scope or definition of the Released
12 Claims, and by virtue of this Agreement, Plaintiff and the Class Participants shall be deemed to have,
13 and by operation of the final judgment approved by the Court, shall have, fully, finally, and forever
14 settled and released all of the Released Claims. The parties understand and specifically agree that the
15 scope of the release described in this Paragraph: is a material part of the consideration for this
16 Agreement; was critical in justifying the agreed upon economic value of this settlement and without it
17 Defendants would not have agreed to the consideration provided; and is narrowly drafted and necessary
18 to ensure that Defendants are obtaining peace of mind regarding the resolution of claims that were or
19 could have been alleged based on the facts, causes of action, and legal theories contained in Plaintiff’s
20 Complaint.
21

22 The “Released Claims” are those claims alleged in the operative PAGA letter, pending
23 Complaint, or that reasonably could have been alleged based on the facts and claims asserted in the
24 PAGA letter and/or Complaint, and arising during the Class Release Period, specifically including
25 claims under Labor Code sections 226.8, 204, 210, 226(a), 226(e), 226.3, 226.7, 227.3, 201-203, 512,
26 2802 and Sections 11 and 12 of the applicable IWC Wage Order, as well as any civil penalty claims
27 predicated on the claims alleged in Plaintiff’s PAGA letter and/or Complaint and arising during the
28 Class and/or PAGA Period. The Release Period shall be the Class Period.

1 This Settlement Agreement will not release any person, party, or entity from claims, if any, by
2 Class Participants for workers compensation, unemployment, or disability benefits of any nature. Nor
3 does it release any claims, actions, or causes of action which may be possessed by Class Participants
4 under state or federal discrimination statutes, including, without limitation, the California Fair
5 Employment and Housing Act (Gov. Code, §§ 12900–12996); the Unruh Civil Rights Act (Civ. Code,
6 § 51); the California Constitution; Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000, et seq.);
7 the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.); the Employee Retirement Income
8 Security Act of 1974 (29 U.S.C. § 1001 et seq.); and all of their implementing regulations and
9 interpretive guidelines.

10 **1.35. RELEASED PARTIES**

11 “Released Parties” shall mean and refer to Defendants and all of their subsidiaries, affiliates,
12 predecessors, successors, and related entities, and their respective officers, directors, employees,
13 fiduciaries, trustees, agents, and benefit plans.

14 **1.36. RELEASING PARTIES**

15 “Releasing Parties” shall mean every Class Participant and all persons purporting to act on their
16 behalf or purporting to assert a claim under or through them, including, but not limited to, their
17 dependents, heirs, assigns, beneficiaries, devisees, legatees, executors, administrators, agents, trustees,
18 conservators, guardians, personal representatives, and successors-in-interest, whether individual, class,
19 representative, legal, equitable, direct or indirect, or any other type or in any other capacity.

20 **1.37. RESPONSE DEADLINE**

21 “Response Deadline” shall mean the date sixty (60) calendar days following the date on which
22 the Settlement Administrator first mails Class Notice to the Class Members and the last day on which
23 Class Members may submit a request for exclusion and/or objection to Class Settlement.

24 **1.38. SETTLEMENT ADMINISTRATOR**

25 “Settlement Administrator” shall mean CPT Group, Inc. (or other administrator agreed on by
26 the parties) which the Parties have agreed will be responsible for administration of the Class Settlement
27 and related matters.
28

1 **1.39. SETTLEMENT CLASS**

2 “Settlement Class” shall mean all individuals who worked for Defendants in California as non-
3 exempt employees during the Class Period. Defendant represents there were approximately 140
4 Settlement Class Members who worked a total of approximately 10,652 workweeks during the Class
5 Period. If the Court does not grant either the preliminary or final approval of settlement, or if the
6 settlement is revoked, the Parties stipulate that the conditional class certification is revoked without
7 prejudice. In the event that the class size increases by 10% or more workweeks above 10,652
8 workweeks (i.e., 11,750 or more total workweeks), then the GSA shall be increased by the same number
9 of percentage points by which the number of workweeks exceeding 11,750 workweeks worked by the
10 class members.

11 **1.40. SHARE FORM**

12 “Share Form” shall mean the Share Form, as set forth in the form of **Exhibit 2** attached hereto,
13 or as otherwise approved by the Court, which is to be mailed to Class Members along with the Class
14 Notice.

15 **2. FACTUAL AND PROCEDURAL BACKGROUND**

16 **2.1. PLAINTIFF’S CLAIMS**

17 On November 30, 2020, Plaintiff, individually and in her representative capacity on behalf of
18 the Settlement Class, and as a private attorney general on behalf of the State of California, has alleged
19 the following violations: (1) failure to provide compliant rest periods and pay missed rest break
20 premiums in violation of Labor Code section 226.7 and the Applicable Wage Orders; (2) failure to
21 provide compliant meal periods and pay missed meal period premiums in violation of Labor Code
22 sections 226.7 and 512, and the Applicable Wage Orders; (3) failure to pay all wages due and owing
23 at separation in violation of Labor Code sections 201, 202, and 203; (4) failure to provide complete
24 and accurate wage statements in violation of Labor Code sections 226 and 226.3; (5) deceptive,
25 fraudulent, or otherwise unlawful business practices based on the foregoing in violation of California’s
26 Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210); and (6) penalties based on the
27 foregoing pursuant to PAGA (Lab. Code, §§ 2698-2699.6).
28

1 Plaintiff intends to file her First Amended Complaint to add a cause of action for failure to
2 reimburse business related expenses in violation of Labor Code 2802.

3 **2.2. DISCOVERY, INVESTIGATION, RESEARCH, AND MEDIATION**

4 The Parties have conducted a detailed and comprehensive investigation of the claims asserted
5 against Defendants and of the applicable law. This discovery, investigation, and prosecution has
6 included, among other things, (a) over a dozen telephonic conferences with Plaintiff; (b) inspection and
7 analysis of numerous pages of documents and other information produced by Plaintiff and Defendants;
8 (c) an analysis of the legal positions taken by Defendants; (d) investigation into the viability of class
9 treatment of the claims asserted in the Action; (e) analysis of potential class-wide damages, including
10 information sufficient to understand Defendants' potential defenses to Plaintiff's claims; (f) research
11 of the applicable law with respect to the claims asserted in the Complaint and the potential defenses
12 thereto; (g) assembling and analyzing of data for calculating damages; and (i) consideration of
13 information disclosed at and in connection with mediation.

14 Class Counsel and the Class Representative have vigorously prosecuted this case, and
15 Defendants have vigorously contested it. The Parties have engaged in sufficient investigation and
16 discovery to assess the relative merits of the claims of the Class Representative and of the defenses to
17 them.

18 After such discovery, investigation, and prosecution, the Parties attended a full-day mediation
19 with an experienced employment law mediator, Steve Pearl, which culminated in a settlement in
20 principal, the terms of which are elaborated in this Settlement Agreement.

21 **2.3. ALLEGATIONS OF THE CLASS REPRESENTATIVE AND BENEFITS OF**
22 **CLASS SETTLEMENT**

23 The document and data exchange in this matter, as well as discussions between counsel, have
24 been adequate to give the Class Representative and Class Counsel a sound understanding of the merits
25 of their positions and to evaluate the value of the claims of the Settlement Class. The informal discovery
26 conducted in this Action and the information exchanged by the Parties through pre-mediation
27 discussions are sufficient to reliably assess the merits of the Parties' respective positions and to
28 compromise the issues on a fair and equitable basis.

1 The Class Representative and Class Counsel believe that the claims, causes of action,
2 allegations, and contentions asserted in the Action have merit. However, the Class Representative and
3 Class Counsel recognize and acknowledge the expense and delay of continued lengthy proceedings
4 necessary to prosecute the Action against Defendants through trial and through appeals. Class Counsel
5 has taken into account the uncertain outcome of the litigation, the risk of continued litigation in complex
6 actions such as this, as well as the difficulties and delays inherent in such litigation, and the potential
7 difficulty of obtaining certification of the Settlement Class as well as trying the claims of the class.
8 Class Counsel is mindful of the potential problems of proof under, and possible defenses to, the claims
9 alleged in the Action.

10 The Class Representative and Class Counsel believe that the settlement set forth in this
11 Settlement Agreement confers substantial benefits upon Plaintiff and the Settlement Class and that an
12 independent review of this Settlement Agreement by the Court in the approval process will confirm
13 this conclusion. Based on their own independent investigation and evaluation, Class Counsel has
14 determined that the settlement set forth in this Settlement Agreement is in the best interests of Plaintiff
15 and the Class Members.

16 **2.4. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

17 Defendants have denied and continues to deny all allegations, claims, and contentions alleged
18 by Plaintiff in the Action. Defendants have expressly denied and continues to deny all charges of
19 wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions
20 alleged in the Action, and has expressly denied and continues to deny any wrongdoing whatsoever.
21 Defendants contend that they complied with California and federal wage and hour laws and has dealt
22 legally and fairly with Plaintiff and the Class Members.

23 Defendants further deny that, for any purpose other than settling this Action, these claims are
24 appropriate for class or representative treatment. Nonetheless, Defendants have concluded that further
25 proceedings in the Action would be protracted and expensive and that it is desirable that the Action be
26 fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement
27 Agreement to dispose of burdensome and protracted litigation, to permit the operation of Defendants'
28 respective businesses without further expensive litigation and the distraction and diversion of their

1 personnel with respect to matters at issue in the Action. Defendants have also taken into account the
2 uncertainty and risks inherent in any litigation, especially in complex cases such as the Action.
3 Defendants have, therefore, determined that it is desirable and beneficial to it that the Action be settled
4 in the manner and upon the terms and conditions set forth in this Settlement Agreement.

5 **2.5. INTENT OF THE CLASS SETTLEMENT**

6 The Class Settlement set forth herein intends to achieve the following: (1) entry of an order
7 approving the Class Settlement; (2) entry of judgment of the Action; (3) discharge of the Released
8 Parties from liability for any and all of the Released Claims; and (4) discharge of Defendants from
9 liability for any and all claims arising out of the Action.

10 **3. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS**

11 For the purposes of this Settlement Agreement and the Class Settlement of this Action only, the
12 Parties agree to conditional class certification of the Settlement Class. The certification of the
13 Settlement Class shall not constitute, in this or any other proceeding, an admission of any kind by
14 Defendants, including without limitation, that certification of a class is or would be warranted,
15 appropriate or proper; or that Plaintiff could establish any of the requisite elements for class treatment
16 of any of the claims in the Action. In the event that the Settlement Agreement is not finally approved
17 by the Court, a Final Effective Date is not achieved, or the Class Settlement is rejected, terminated, or
18 otherwise rendered null and void as set forth herein, then certification of the Settlement Class shall be
19 automatically vacated, shall be void *ab initio*, of no force or effect, and shall not constitute evidence or
20 a binding determination that the requirements for certification of a class for trial purposes in this Action
21 or in any other action which have been, are or can be, satisfied. Further, if the Agreement does not
22 reach a Final Effective Date, Plaintiff agrees that Plaintiff will not argue, claim, reference, or otherwise
23 raise any preliminary approval of the Settlement Class in connection with any later proceeding before
24 the Court.

25 **4. APPOINTMENT OF CLASS COUNSEL**

26 For purposes of this Settlement Agreement and subject to the Court's approval, the Parties agree
27 to the appointment of Class Counsel as counsel for the Settlement Class and the effectuation of the
28 Class Settlement pursuant to this Settlement Agreement.

1 **5. CONSIDERATION**

2 **5.1. SETTLEMENT AMOUNT**

3 The Parties agree to settle this Action for the Gross Settlement Amount of \$225,000.00. There
4 shall be no reversion to Defendants. Defendants shall pay the Gross Settlement Amount in full. The
5 Gross Settlement Amount and other actions and forbearances taken by Defendants shall constitute
6 adequate consideration for the Class Settlement and will be made in full and final settlement of: the
7 Released Claims, the Class Attorney Fees and Expenses, Administrative Expenses, the Incentive
8 Award, the PAGA Payment (and any payments to individual PAGA Class Members resulting from the
9 PAGA Payment), and any other obligation of Defendants under this Settlement Agreement (other than
10 the Employer's Taxes on the portion of the Net Settlement Amount allocated to the payment of wages).
11 Under no circumstances will Defendants be obligated to pay more than the Gross Settlement Amount
12 and its share of the employer's payroll taxes, which shall be funded in addition to the Gross Settlement
13 Amount as a result of this Settlement, unless otherwise provided for in this Settlement.

14 **5.2. INCENTIVE AWARD FOR PLAINTIFF**

15 Plaintiff may petition the Court to approve an Incentive Award in an amount up to \$5,000.00
16 for Hollie Ballard to acknowledge her efforts on behalf of the Settlement Class in this Action, including
17 assisting in the investigation and consulting with Class Counsel and providing crucial documents to
18 Class Counsel. Defendants shall not oppose any request by Plaintiff for an Incentive Award in such an
19 amount. Any Incentive Award approved by the Court shall be paid to Plaintiff from the Gross
20 Settlement Amount and shall be in addition to any distribution to which she may otherwise be entitled
21 as a Class Participant. Any Incentive Award approved by the Court shall not be considered wages, and
22 the Settlement Administrator shall issue to Plaintiff an IRS Form 1099 reflecting such payment.
23 Plaintiff shall be responsible for the payment of all taxes with respect to any Incentive Award approved
24 by the Court and shall hold Defendants harmless from all liability with regard thereto. In the event the
25 Court reduces Class Representative's Incentive Award, the reduced amount shall be added to the Net
26 Settlement Amount to be distributed to Class Participants.

1 **5.3. PAYMENT TO CLASS PARTICIPANTS**

2 Each Class Participant shall be eligible to receive payment of the Individual Settlement
3 Amount, which is a share of the Net Settlement Amount based on the pro rata number of weeks worked
4 by the Class Members during the Class Period as a proportion of all weeks worked by all Class
5 Members. For purposes of this calculation, a workweek means a week where a Class Member was
6 employed in California in a non-exempt job position. Each Class Participant, including Plaintiff, shall
7 be responsible for the payment of the Employee's Taxes and Required Withholding with respect to his
8 or her Individual Settlement Amount and shall hold Defendants harmless from any and all liability with
9 regard thereto.

10 **5.4. PAYMENT TO PAGA SETTLEMENT CLASS**

11 Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA
12 Payment. The PAGA Payment shall consist of the penalties pursuant to PAGA that the Parties have
13 agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the Action, which
14 is \$15,000.00. The PAGA Payment must be approved by the Court pursuant to Labor Code section
15 2699 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$11,250.00) to the LWDA
16 and twenty-five percent (25%) (i.e., \$3,750.00) to the PAGA Settlement Class. The portion of the
17 PAGA Payment allocated to the PAGA Settlement Class shall be distributed to the PAGA Settlement
18 Class based on the pro rata number of pay periods worked by each particular PAGA Settlement Class
19 member during the PAGA Period as a proportion of all pay periods worked by all members of the
20 PAGA Settlement Class.

21 **5.5. TAX TREATMENT AND PAYMENT**

22 The Settlement Administrator shall be responsible for paying the employees' share of federal,
23 state, and local payroll and income taxes. For the purpose of calculating Employee's Taxes and
24 Required Withholding for the Individual Settlement Amounts for Class Participants (including any
25 payments to the Class Representative but exclusive of her Incentive Award), the Parties agree that 15%
26 of each Individual Settlement Amount shall constitute payment in the form of wages (and each Class
27 Participant will be issued an IRS Form W-2 for such payment to him or her), and 85% of each
28

1 Individual Settlement Amount shall constitute penalties and interest (and each Class Participant will
2 be issued an IRS Form 1099 for such payment to him or her).

3 Prior to final distribution, the Settlement Administrator shall calculate the total Employee's
4 Taxes and Required Withholding due as a result of the wage portion of Class Participants' anticipated
5 Individual Settlement Amounts and such actual amount will be deducted from the Net Settlement
6 Amount. Additionally, prior to the funding of the Gross Settlement Amount and final distribution, the
7 Settlement Administrator shall calculate the total Employer's Taxes due on the wage portion of the
8 Class Participants' Individual Settlement Amounts and issue instructions to Defendants to separately
9 fund these tax obligations/withholdings. The Parties understand that Plaintiff and the Class Participants
10 who receive any payment pursuant to this Settlement Agreement shall be solely responsible for all
11 other individual tax obligations.

12 With respect to the PAGA Payment and any payments made to individual members of the
13 PAGA Settlement Class, all such payments shall be treated as payments owing for penalties and interest
14 thereon and shall not be considered wages. The Settlement Administrator shall issue to members of the
15 PAGA Settlement Class an IRS Form 1099 reflecting such payment. Members of the PAGA Settlement
16 Class shall be solely responsible for the payment of all taxes with respect to any PAGA payments made
17 to them.

18 The Settlement Administrator shall issue an IRS Form W-2 to each Class Participant for the
19 portion of the Individual Settlement Amount that is designated as wages. The Settlement Administrator
20 shall issue an IRS Form 1099 to each Class Participant for the portion of the Individual Settlement
21 Awards that is not designated as wages. The Settlement Administrator shall issue an IRS Form 1099
22 to the Class Representative for any enhancement award paid in connection with her roles as the Class
23 Representative.

24 The Settlement Administrator shall file, with the California Employment Development
25 Department ("EDD"), the required reports of Personal Income Tax ("PIT") wages withheld from the
26 Individual Settlement Amounts, as well as the amounts to be paid as Unemployment Insurance ("UI"),
27 Employment Training Tax ("ETT"), and State Disability Insurance ("SDI"). For purposes of this
28 reporting, prior to disbursement of the Individual Settlement Amounts, the Settlement Administrator

1 shall provide Defendant with a list of all Class Participants, and Defendants shall provide to the
2 Settlement Administrator the following information: (1) its Form DE 2088, Notice of Contribution
3 Rates and Statement of UI Account, for the current calendar year (if unavailable, Defendant may
4 provide instead their California State Employer's Identification Number and its applicable UI and ETT
5 Rates); and (2) the year-to-date earnings of each Class Participant who received any wages from
6 Defendant during the current calendar year.

7 All Class Participants and Plaintiff will be responsible for correctly characterizing the
8 compensation they receive for tax purposes and for paying any taxes on the amounts received, except
9 for the employer contributions which will be handled as provided by this Stipulation. The Class
10 Participants and Plaintiff agree to indemnify Defendants for any liability Defendants incur to any tax
11 authority on account of the Class Participants' or Plaintiff's failures to pay all taxes due on amounts
12 they receive hereunder, except if the failure results from Defendants' failure to pay their own respective
13 portion of taxes due. The liability of each Class Participant and Plaintiff is limited to the liability
14 caused by that individual's own failure.

15 **5.6. NO EFFECT ON EMPLOYEE BENEFIT PLANS**

16 Neither the Class Settlement nor any amounts paid under the Class Settlement will modify any
17 previously credited hours, days, or weeks of service under any employee benefit plan, policy or bonus
18 program sponsored by Defendants. Such amounts will not form the basis for additional contributions
19 to, benefits under, or any other monetary entitlement under Defendants' sponsored benefit plans,
20 policies, or bonus programs. The payments made under the terms of this Settlement Agreement shall
21 not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any
22 other form of compensation for the purposes of any of Defendants' benefit plan, policy, or bonus
23 program. Defendants retain the right to modify the language of its benefits plans, policies, and bonus
24 programs to reflect this intent and to make clear that any amounts paid pursuant to this Settlement
25 Agreement are not for "weeks worked," "weeks paid," "weeks of service," or any similar measuring
26 term as defined by applicable plans, policies, and bonus programs for purpose of eligibility, vesting,
27 benefit accrual, or any other purpose, and that additional contributions or benefits are not required by
28 this Settlement Agreement. Defendants do not consider the Class Settlement payments "compensation"

1 for purposes of determining eligibility for, or benefit accrual within, any benefit plans, policies, or
2 bonus programs, or any other plan sponsored by Defendants.

3 **5.7. CLASS ATTORNEY FEES AND EXPENSES**

4 As part of the motion for final approval of the Class Settlement, Class Counsel may apply for
5 an award of Class Attorney Fees and Expenses with the fee portion not to exceed 1/3 of the Gross
6 Settlement Amount (i.e., \$75,000.00) and the award of costs and expenses up to an additional
7 \$10,000.00. The Class Attorney Fees and Expenses shall be paid from the Gross Settlement Amount.

8 As a condition of this Class Settlement, Class Counsel has agreed to pursue fees only in the
9 manner reflected by this subsection. Any Class Attorney Fees and Expenses awarded by the Court shall
10 be paid from the Gross Settlement Amount prior to arriving at the Net Settlement Amount and shall
11 not constitute payment to any Class Members. If Class Counsel voluntarily reduces the request for
12 Class Attorney Fees and Expenses or the Court's award of Class Attorney Fees and Expenses is less
13 than set forth above, the Net Settlement Amount shall be recalculated to reflect the actual Class
14 Attorney Fees and Expenses awarded. In the event the Court reduces the Class Attorney Fees and
15 Expenses, the reduced amount shall be added to the Net Settlement Amount to be distributed to Class
16 Participants.

17 The Class Attorney Fees and Expenses approved by the Court shall reflect: (a) all work
18 performed and costs and expenses incurred by, or at the direction of, any attorney purporting to
19 represent the Settlement Class through the date of this Settlement Agreement; (b) all work to be
20 performed and costs to be incurred in connection with approval by the Court of the Class Settlement;
21 (c) all work to be performed and costs and expenses, if any, incurred in connection with administering
22 the Class Settlement through the Effective Date and dismissal of the Action with prejudice; and (d) may
23 be based on the "catalyst theory" and/or the "common fund doctrine."

24 **6. SETTLEMENT ADMINISTRATION**

25 **6.1. COSTS AND EXPENSES**

26 All costs and expenses due to the Settlement Administrator in connection with its administration
27 of the Class Settlement, including, but not limited to, providing the Class Notice, locating Class
28 Members, processing Opt Out requests and objections, distributing the portion of the PAGA Payment

1 payable to the LWDA, distributing the portion of the PAGA Payment payable to the members of the
2 PAGA Settlement Class, and calculating, administering and distributing Individual Settlement
3 Amounts to the Class Participants and related tax forms, shall be paid from the Gross Settlement
4 Amount, and is not expected to exceed \$8,000. To the extent actual costs for claims administration are
5 less than \$8,000, those amounts will be added to the Net Settlement Amount to be distributed to Class
6 Participants. Defendant agrees not to oppose any such applications which are consistent with this
7 paragraph.

8 **6.2. PAYMENT BY DEFENDANT**

9 Defendants shall deposit the Gross Settlement Amount in a lump sum payment plus the
10 employer-side payroll taxes to the Settlement Administrator within 31 days after entry of an order
11 granting final approval by the Court by wiring that amount to the Settlement Administrator. In no event
12 shall Defendants be obligated to pay or deposit with the Settlement Administrator more than
13 \$225,000.00 plus the Employer's Taxes, except where the Escalator Provision is triggered.

14 **6.3. THE SETTLEMENT ADMINISTRATOR**

15 The Settlement Administrator will be responsible for: (a) preparing, translating into Spanish,
16 printing, and mailing the Class Notice and Share Form (**Exhibit 1** and **Exhibit 2**, respectively) to Class
17 Members as well as following up with reasonable skip tracing; (b) posting notice of entry of final order
18 and judgment certifying the Class Settlement and approving this Settlement Agreement; (c) handling
19 inquiries from Class Members concerning the Class Notice; (d) determining Individual Settlement
20 Amounts; (e) determining individual payments to members of the PAGA Settlement Class; (f)
21 maintaining the settlement funds in an appropriate interest-bearing account; (g) preparing,
22 administering, and distributing Individual Settlement Amounts to Class Participants; (h) preparing,
23 administering, and distributing individual payments to members of the PAGA Settlement Class;
24 distributing the portion of the PAGA Payment payable to the LWDA; (i) issuing a final report; (j)
25 notifying the Parties of the identity of Class Members who submit timely Requests for Exclusion; (k)
26 calculating and paying the employer's share of the applicable federal and state withholding taxes; (l)
27 filing any required federal and state tax forms and related agency reporting; (m) filing any required
28 reports with the Court; and (n) performing such other duties as the Parties may direct. Additionally, the

1 Settlement Administrator will handle all tax document preparation and reporting, including state and
2 federal tax forms, if any.

3 On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and
4 Defense Counsel with summary information updating them as to the number of validated and timely
5 objections and Opt Out requests. The Settlement Administrator will serve on Class Counsel and
6 Defense Counsel via e-mail date-stamped copies of the original Opt Out requests and objections no
7 later than seven (7) days after their receipt. The Settlement Administrator will provide Class Counsel
8 with proof of mailing of the Class Notice, without listing individual Class Member names which the
9 Settlement Administrator will file with the Court at the time Class Counsel files its motion in support
10 of the Court's Final Approval and Fairness Hearing.

11 No later than seven (7) days prior to the Final Approval and Fairness Hearing, the Settlement
12 Administrator will compile and deliver to Class Counsel and Defense Counsel a report with summary
13 information regarding: **(a)** the total amount of final Individual Settlement Amounts of each Class
14 Participant, without any identifying personal information; **(b)** the number of Class Participants to
15 receive such payments, and **(c)** the final number of Opt-Outs and objections.

16 **6.4. NOTICE TO CLASS MEMBERS**

17 Notice shall be provided to Class Members in the following manner: Within fourteen (14) days
18 after the Preliminary Approval Date, Defendant shall provide the Settlement Administrator with data
19 that is within Defendants' possession containing, for each Class Member: (a) The Class Member's
20 name; (b) the Class Member's last known address; (c) the Class Member's social security number; (d)
21 the Class Member's first date of employment in California in a non-exempt job position; and (e) the
22 Class Member's last date of employment (if any) in California in a non-exempt job position. This Class
23 information is confidential and not to be disclosed to anyone other than the Settlement Administrator.
24 This information shall be based on Defendants' payroll and other business records, and shall be in a
25 format readily accessible to Defendant.

26 Within twenty-eight (28) days following the Preliminary Approval Date, the Settlement
27 Administrator shall determine the number of workweeks worked by each Class Member; populate the
28 data for each Class Member accordingly; conduct a National Change of Address search to update any

1 addresses provided; and thereafter mail a copy of the Notice to all Class Members by first class regular
2 U.S. Mail, using the most current mailing address information provided by Defendants and/or obtained
3 by the Settlement Administrator. The Class Notice shall also contain an easily-understood statement
4 alerting the Class Members that, unless they elect to Opt Out of the Class Settlement, the Class Member
5 is releasing and waiving all Released Claims against the Released Parties.

6 The Class Notice will inform Class Members of their estimated share of the settlement and the
7 number of workweeks they worked during the Class Period. Class Members may dispute their
8 workweeks if they believe they worked more weeks in the Class Period than Defendants' records show
9 by submitting information to the Settlement Administrator no later than sixty (60) days after being
10 mailed the Class Notice and Share Form by the Settlement Administrator, which is the defined
11 Response Deadline. The Settlement Administrator will jointly work with Plaintiff and Defendants to
12 resolve the dispute in good faith. If Plaintiff and Defendants cannot agree over the workweeks to be
13 credited, the Settlement Administrator shall make the final decision based on the information presented
14 by the Class Member and Defendants.

15 The Settlement Administrator will engage in address searches consistent with its normal
16 practices in administering settlements of wage claims, including skip tracing. Such search efforts shall
17 include, where necessary, using social security numbers to obtain better address information and
18 attempting to call such Class Members.

19 **6.5. OPT-OUT PROCEDURE**

20 Class Members who do not timely Opt Out of the Class Settlement will be deemed to participate
21 in the Class Settlement and shall become Class Participants without having to submit a claim form or
22 take any other action. To Opt Out of the Class Settlement, the Class Member must submit a letter or
23 postcard to the Settlement Administrator by the Response Deadline. The Opt Out request must state
24 the Class Member's name, address, telephone number, and signature. The Opt Out request should state
25 something to the effect of:

26 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE HOLLIE
27 BALLARD V. TAYANI MD LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE
28

1 EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY
2 MONEY FROM THE CLASS SETTLEMENT OF THIS LAWSUIT AND WILL NOT
3 BE RELEASING ANY CLAIMS I MIGHT HAVE.”

4 Any Opt Out request that is not postmarked by the Response Deadline will be invalid.

5 Any returned envelopes from this mailing with forwarding addresses will be utilized by the
6 Settlement Administrator to forward the Notices to the Class Members. Notices returned to the
7 Settlement Administrator as non-delivered shall be re-sent to the forwarding address, if any, on the
8 returned envelope. Upon completion of these steps by the Settlement Administrator, the Parties shall
9 be deemed to have satisfied their obligation to provide the Notice to the affected Class Member. The
10 affected Class Member shall remain a Class Participant and shall be bound by all the terms of this
11 Stipulation and the Court’s Final Order and Judgment. Any Re-Mailing of the Notice shall extend the
12 receipt deadline by a period of fifteen (15) calendar days.

13 It will be presumed that, if an envelope containing the Class Notice has not been returned within
14 twenty-eight (28) days of the mailing, the Class Member received the Class Notice. At least ten (10)
15 days prior to the Final Approval and Fairness Hearing, the Settlement Administrator shall provide Class
16 Counsel and Defense Counsel with a Declaration of Due Diligence and Proof of Mailing with regard
17 to the mailing of the Class Notice and its attempts to locate Class Members. The declaration shall
18 specify the number of Class Members to whom the Class Notice was sent and the number of Class
19 Members to whom the Class Notice was not delivered, as well as information relating to the number
20 of Opt-Outs and objectors. Class Counsel shall file this declaration with the Court.

21 If the Settlement Administrator determines that an Opt Out request returned by a Class Member
22 before the Response Deadline is deficient, then the Settlement Administrator shall mail a deficiency
23 letter to that Class Member identifying the problem. If a Class Member submits both a dispute and an
24 Opt Out request, the Settlement Administrator shall make reasonable attempts to clarify if the Opt Out
25 request were deficient. If the Class Member fails to cure the deficiency, the Opt Out request shall be
26 disregarded and the class member will be paid, and the Class Member will become bound by the
27 judgment.
28

1 A request to Opt Out of the Class Settlement shall not serve to exclude the Class Member from
2 participation in the PAGA Settlement Class. Members of the PAGA Settlement Class shall have no
3 right or ability to opt out of the portion of this Settlement Agreement releasing PAGA claims.

4 Class Participants will be bound by the Release of Released Claims set forth in the definition
5 of “Released Claims” provided in this Settlement Agreement.

6 **6.6. OBJECTION PROCEDURE**

7 The Class Notice shall inform the Class Members of their right to object to the Class Settlement.
8 Any Class Member who wishes to object to the Class Settlement must submit a written objection to the
9 Settlement Administrator no later than the Response Deadline and must file with the Court, and serve
10 on all parties a written statement of objection. Only Class Participants may object to the Settlement.
11 The objection must include the case name and number and must set forth, in clear and concise terms,
12 a statement of the reasons why the objector believes that the Court should find that the proposed Class
13 Settlement is not in the best interest of the Settlement Class and the reasons why the Class Settlement
14 should not be approved, including the legal and factual arguments supporting the objection. If an
15 objector also wishes to appear at the Final Approval and Fairness Hearing, in person or through an
16 attorney, they need not file a notice of intention to appear at the same time as the objection is filed.

17 The Settlement Administrator will promptly serve copies of any objection or notice of intention
18 to appear on Class Counsel and Defense Counsel. Class Counsel shall lodge a copy of the objection
19 with the Court. Class Members may appear at the Final Approval Hearing, either in person or through
20 a lawyer retained at their own expense whether or not they have submitted a timely written objection
21 and notice of intention to appear pursuant to this subsection.

22 In the event that the Court approves this Settlement notwithstanding the objections of any Class
23 Members, Class Members who object to the Settlement will nonetheless be bound by the Settlement.
24 Class Members who have opted out of the Settlement do not have standing to object to the Settlement
25 or to file an appeal.

26 **6.7. NOTICE OF FINAL JUDGMENT**

27 Within ten (10) days after the Court has held a Final and Fairness Approval Hearing and entered
28 a final order certifying the Class for settlement purposes only and approving the Class Settlement, the

Settlement Administrator will give notice of judgment to Class Members pursuant to rule 3.771(b) of the California Rules of Court, by posting a copy of said order and final judgment on its website at a web address to be included in the Class Notice.

7. CLASS SETTLEMENT FUNDING AND DISTRIBUTION

7.1. ALLOCATION OF THE GROSS SETTLEMENT AMOUNT

The claims of all Class Members are settled for the Gross Settlement Amount of \$225,000.00, which will be allocated as follows:

1. The Administrative Expenses, not to exceed \$8,000;
2. Class Counsel's attorney fees not to exceed \$75,000.00;
3. Class Counsel's litigation costs and expenses not to exceed \$10,000.00;
4. The Incentive Award, not to exceed \$5,000.00; and
5. PAGA Payment to LWDA of \$11,250.00.

For purposes of calculating the estimated Individual Settlement Amounts, the Settlement Administrator shall calculate the estimated Net Settlement Amount based on the estimated values provided above prior to sending Notice to the Class Members. Prior to final distribution, the Settlement Administrator shall recalculate the final Net Settlement Amount based on the actual values of the amounts in each category.

7.2. CALCULATION OF THE INDIVIDUAL SETTLEMENT AMOUNTS FOR CLASS PARTICIPANTS

Individual Settlement Amounts to be paid to Class Participants shall be paid from the Net Settlement Amount. The portion of the Net Settlement Amount shall be distributed pro rata on a "checks cashed" basis based on the proportional number of weeks worked by each Class Member during the Class Period.

The Settlement Administrator shall be solely and exclusively responsible for calculating the Individual Settlement Amounts for Class Participants. Defendants shall have no responsibility for deciding the validity of the Individual Settlement Amounts or any other payments made pursuant to this Settlement Agreement, shall have no involvement in or responsibility for the determination or payment of Employee's Taxes and Required Withholding, and shall have no liability for any errors

1 made with respect to such Employee's Taxes and Required Withholding. Although the Settlement
2 Administrator will calculate and pay the standard Employee's Taxes and Required Withholding on the
3 portion of the Individual Settlement Amounts constituting wages on their behalf, Plaintiff and Class
4 Participants represent and understand that they shall be solely responsible for any and all tax obligation
5 associated with their respective Individual Settlement Amounts and Incentive Awards.

6 **7.3. CALCULATION OF THE PAYMENTS FOR INDIVIDUAL MEMBERS OF**
7 **THE PAGA SETTLEMENT CLASS**

8 Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA
9 Payment. The PAGA Payment shall consist of the penalties pursuant to PAGA that the Parties have
10 agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the Action, which
11 is \$15,000.00. The PAGA Payment is to be approved by the Court pursuant to Labor Code section
12 2699 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$11,250.00) to the LWDA
13 and twenty-five percent (25%) (i.e., \$3,750.00) to the PAGA Settlement Class.

14 The Settlement Administrator shall be responsible for calculating the Individual PAGA
15 Payments for the PAGA Settlement Class. The portion of the PAGA Payment allocated to the PAGA
16 Settlement Class shall be distributed to the PAGA Settlement Class based on the pro rata number of
17 pay periods worked by each particular PAGA Settlement Class member during the PAGA Period as a
18 proportion of all pay periods worked by all PAGA Settlement Class members during the PAGA Period.
19 Each member of the PAGA Settlement Class, including Plaintiff, shall be responsible for the payment
20 of the Employee's Taxes and Required Withholding with respect to their share of the PAGA Payment
21 and shall hold Defendants harmless from any and all liability with regard thereto.

22 Defendants shall have no responsibility for deciding the validity of the individual payment
23 amounts allocated to each member of the PAGA Settlement Class or any other payments made pursuant
24 to this Settlement Agreement, shall have no involvement in or responsibility for the determination or
25 payment of Employee's Taxes and Required Withholding, and shall have no liability for any errors
26 made with respect to such Employee's Taxes and Required Withholding.

27 The members of the PAGA Settlement Class shall be solely responsible for any and all tax
28 obligation associated with their respective shares of the PAGA Payment.

1 **7.4. TIME FOR PAYMENT OF ATTORNEY FEES AND EXPENSES**

2 The Settlement Administrator shall distribute to Class Counsel any attorney fees and expenses
3 approved by the Court to Class Counsel no later than twenty (20) days after the Effective Date.

4 **7.5. TIME FOR PAYMENT OF INCENTIVE AWARD**

5 The Settlement Administrator shall distribute to Plaintiff the Incentive Award approved by the
6 Court no later than twenty (20) days after the Effective Date.

7 **7.6. TIME FOR PAYMENT OF PAGA PAYMENT TO THE LWDA**

8 The Settlement Administrator shall distribute to the LWDA the portion of the PAGA Payment
9 due to it and approved by the Court no later than twenty (20) days after the Effective Date.

10 **7.7. TIME FOR PAYMENT OF TAXES AND REQUIRED WITHHOLDING AND**
11 **INDIVIDUAL SETTLEMENT AMOUNTS**

12 The Settlement Administrator shall make every effort to pay the Employee's Taxes and
13 Required Withholding associated with each Class Participant's Individual Settlement Amount and mail
14 the Individual Settlement Amount to each Class Participant, by first-class United States mail, to the
15 last-known address no later than twenty (20) days after the Effective Date. If the Settlement
16 Administrator is not able to do so within the time period set forth above, it shall so inform Class Counsel
17 and Defense Counsel and provide an approximate date by which the Employee's Taxes and Required
18 Withholding shall be paid and the Individual Settlement Amounts will be mailed. Under no
19 circumstances shall the Settlement Administrator distribute checks to Class Participants until all
20 Individual Settlement Amounts have been considered, calculated, and accounted for, and all of the
21 remaining monetary obligations have been calculated and accounted for.

22 Within one hundred twenty (120) days of mailing the Individual Settlement Amounts to Class
23 Participants or as Ordered by the Court, the Settlement Administrator shall file with the Court and
24 provide to Class Counsel a declaration of payment. In the event that any Class Participant is deceased,
25 payment shall be made payable to the estate of that Class Member and delivered to the executor or
26 administrator of that estate, unless the Settlement Administrator has received an affidavit or declaration
27 pursuant to California Probate Code section 13101, in which case payment shall be made to the
28 affiant(s) or declarant(s).

1 **7.8. NON-CASHED SETTLEMENT CHECKS**

2 Any funds associated with checks that have not been cashed within one hundred eighty (180)
3 days, will become void and the Individual Settlement Amount associated with the uncashed check will
4 be distributed pursuant to Code of Civil Procedure section 384 to the Public Law Center in Santa Ana,
5 California.. For the purposes of determining whether Defendants have met their financial obligation to
6 pay the Individual Settlement Payment, Defendants will be deemed to have fulfilled their obligation
7 upon the mailing of the check to the Class Member, regardless of whether such Class Member
8 subsequently negotiates the check.

9 **7.9. DISPUTES REGARDING CLASS MEMBER WORKWEEKS DATA OR**
10 **PAYMENT OF INDIVIDUAL SETTLEMENT SHARES**

11 Each Class Member may dispute the number of Workweeks or their estimated Individual
12 Settlement Amount contained on their Class Notice (“Workweeks Dispute”). Class Member
13 Workweeks and the corresponding Individual Settlement Amount shall be calculated using the
14 employment and payroll records of Defendants, which presumptively shall be deemed to be full,
15 complete, and accurate for purposes of this Settlement Agreement. To overcome that presumption, any
16 Class Member objecting to the accuracy of the number of Workweeks or amount of the Individual
17 Settlement Amount must submit documentary evidence, such as pay stubs or other written employment
18 records, to the Settlement Administrator.

19 Any Workweeks Dispute must be mailed or faxed to the Settlement Administrator by the Class
20 Member, postmarked or fax-stamped on or before the Response Deadline. The Settlement
21 Administrator shall immediately provide copies of all disputes to counsel for Defendants, shall inform
22 Class Counsel of the dispute without disclosing the identity of the Class Member making the dispute,
23 and shall immediately attempt to resolve all such disputes directly with relevant Class Members with
24 the assistance of Defendants, Defense Counsel, and Class Counsel. If the dispute cannot be resolved,
25 it shall be submitted to the Settlement Administrator for its final, non-appealable decision. The
26 Settlement Administrator shall use its best efforts to resolve all such disputes prior to the Effective
27 Date. If, however, a dispute arises or is not resolved until after the Settlement Amount has been
28

distributed, the initial calculation shall stand (as Defendants shall be under no obligation to pay any amounts in excess of the Gross Settlement Amount under this Settlement Agreement).

8. NULLIFICATION OF THIS SETTLEMENT AGREEMENT

8.1. NON-APPROVAL OF THIS SETTLEMENT AGREEMENT

This Stipulation shall be considered null and void, all Parties to the Class Settlement shall stand in the same position, without prejudice, as if the Class Settlement had been neither entered into nor filed with the Court, and any order of judgment entered by the Court in furtherance of the settlement shall be vitiated *nunc pro tunc*, if any of the following occurs: (a) the Court should for any reason fail to approve this Settlement Agreement in the form agreed to by the Parties; (b) the Court does not enter the Final Settlement Approval Order and Judgment as provided for herein or contemplated by this Stipulation; (c) the Court does not enter a Final Settlement Approval Order and Judgment as provided for herein that becomes final as a result of the occurrence of the Effective Date; or (d) the Settlement does not become final for any other reason. Notwithstanding the foregoing, the Parties may attempt in good faith to cure any perceived defects in this Settlement Agreement to facilitate approval.

8.2 Parties' Rights to Void Class Settlement; Escalator Provision

If five percent (5%) or more members of the Settlement Class timely submit Opt Out requests, Defendants shall have the right (but not the obligation) to void this Settlement Agreement, in which case this Stipulation will not have any force and/or effect. Class Counsel and Plaintiff agree not to oppose any application by Defendants and/or its Counsel that is consistent with this paragraph. The Parties and their counsel agree not to take any action to encourage any Class Members to opt out of and/or object to the Settlement Agreement.

If the Settlement is voided, no payment will be made by Defendants to Plaintiff, any Class Member, or Class Counsel; and all Parties and third parties referenced in this Stipulation will bear their own costs, fees, and expenses associated with the Litigation.

If the number of workweeks worked by the Class Members during the Class Period is ultimately determined by the Settlement Administrator to be 11,750 or more, then the Gross Settlement Amount shall be increased by the same number of percentage points by which the number of workweeks exceeding 11,750 workweeks were worked by the class members.

1 **8.2. STAY ON APPEAL**

2 If an appeal is filed from the Court’s Final Settlement Approval Order and Judgment prior to
3 the Effective Date, administration of the Settlement shall be immediately stayed pending final
4 resolution of the appeal process.

5 In the event of a timely appeal from the approval of the Class Settlement and judgment prior to
6 the Effective Date, the judgment and administration of the Settlement shall be immediately stayed
7 pending final resolution of the appeal process.

8 **9. MOTIONS FOR COURT APPROVAL**

9 **9.1. PRELIMINARY APPROVAL**

10 As soon as practicable after execution of this Settlement Agreement, Class Counsel will submit
11 this Settlement Agreement to the Court along with a Motion for Preliminary Approval of the Class
12 Settlement, and shall apply to the Court for the entry of an order substantially in the following form:

13 a) Scheduling a fairness hearing on the question of whether the proposed Settlement –
14 including payment of attorneys’ fees, attorneys’ costs, appointment of the Class Representative and the
15 amount of her enhancement award, and the method of determining Individual Settlement Amounts to
16 be paid to Class Participants, should be finally approved as fair, reasonable, and adequate as to the
17 Class;

18 b) Approving as to form and content the proposed Class Notice and Share Form (attached
19 as Exhibit 1 and Exhibit 2, respectively);

20 c) Directing the mailing to Class Members of the Notice, by first class U.S. Mail, pursuant
21 to the terms specified herein;

22 d) Preliminarily approving the Settlement, subject only to the objections of Class Members
23 and final review by the Court; and

24 e) Enjoining the Class Representative and all Class Members from filing or prosecuting
25 any claims, suits, or administrative proceedings (including filing claims with the California Division
26 of Labor Standards Enforcement) regarding claims released by the Settlement unless such individuals
27 have submitted valid Requests for Exclusion to the Administrator.
28

1 Each party shall cooperate to present the Class Settlement to the Court for preliminary approval
2 in a timely fashion. While Defendants can reserve their right to object to facts or assertions made in the
3 moving papers, Defense Counsel shall file a notice of non-opposition to the granting of the motion for
4 preliminary approval or join in the motion.

5 To the extent the Court does not approve this Stipulation, or any term contained herein, and
6 instead allows the Parties to amend this Stipulation, the Parties agree to cooperate in good faith to
7 amend the Stipulation in accordance with the Court's direction, and to retain all other terms of the
8 Stipulation that the Court approves.

9 **9.2. FINAL APPROVAL**

10 Class Counsel shall timely prepare Final Settlement Papers in conformance with the terms of
11 this Stipulation, including: (1) motion for final approval of the Settlement and award of attorneys' fees
12 and costs and enhancement award (2) the [Proposed] Final Settlement Order; and (3) any other
13 documents, petitions, or motions required to effectuate this Settlement – including, but not limited to,
14 any additional proposed orders requested by the Court. Class Counsel shall provide copies of such
15 documents to Defendant's counsel at least three (3) days before filing for comment, though Class
16 Counsel is not required to obtain Defendant's approval before filing.

17 The Final Approval and Fairness Hearing shall be held before the Court. At the Final Approval
18 and Fairness Hearing, Plaintiff shall move the Court for the entry of the final order certifying the
19 Settlement Class for settlement purposes only and approving the Class Settlement as being fair,
20 reasonable, and adequate to the Class Participants within the meaning of California Rules of Court,
21 Rule 3.769, subdivisions (c), (d) and (e), and for the entry of a final judgment of the Action consistent
22 with the terms of the Class Settlement and rule 3.769, subdivision (h), of the California Rules of Court.
23 Class Counsel and Defense Counsel shall submit to the Court such pleadings and/or evidence as may
24 be required for the Court's determination.

25 **10. RELEASES AND WAIVERS**

26 **10.1. RELEASE OF CLAIMS BY PLAINTIFF AND SETTLEMENT CLASS**

27 Upon the date Defendants fund the Gross Settlement Amount, Plaintiff and the Releasing
28 Parties shall be deemed to each release the Released Parties, and each of them, of and from any and all

1 Released Claims arising during the Class Period. It is the desire of the Parties and the Releasing Parties
2 to fully, finally, and forever settle, compromise, and discharge the Released Claims. Each of the
3 Releasing Parties, including each Class Participant, will be bound by the release of Released Claims as
4 a result of the Class Settlement and to the terms of the final judgment and the satisfaction of such
5 judgment.

6 Class Participants will be deemed to have acknowledged and agreed that their claims for wages
7 and/or penalties in the Action are disputed, and that their Individual Settlement Amount constitutes
8 payment of all sums allegedly due to them. Class Participants will be deemed to have acknowledged
9 and agreed that California Labor Code section 206.5 is not applicable to the Individual Settlement
10 Amount. That section provides in pertinent part as follows:

11 “An employer shall not require the execution of a release of a claim or right on account
12 of wages due, or to become due, or made as an advance on wages to be earned, unless
13 payment of those wages has been made.”
14

15 **10.2. GENERAL RELEASE OF CLAIMS BY NAMED PLAINTIFF**

16 In addition to the release set forth in Paragraph 10.1 above, Plaintiff, on behalf of herself and
17 her dependents, heirs and assigns, beneficiaries, devisees, legatees, executors, administrators, agents,
18 trustees, conservators, guardians, personal representatives, and successors-in-interest, whether
19 individual, class, representative, legal, equitable, direct or indirect, or any other type or in any other
20 capacity, shall and does hereby forever release, discharge and agree to hold harmless the Released
21 Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements,
22 controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and
23 expenses (including attorney fees and costs), known or unknown, at law or in equity, which she may
24 now have or may have after the signing of this Settlement Agreement, arising out of or in any way
25 connected with her employment with Defendant including, the Released Claims, claims that were
26 asserted or could have been asserted in the Complaint, and any and all transactions, occurrences, or
27 matters between the Parties occurring prior to the date this Settlement Agreement is fully executed.
28 Without limiting the generality of the foregoing, this release shall include, but not be limited to, any

1 and all claims under: (a) the Americans with Disabilities Act; (b) Title VII of the Civil Rights Act of
2 1964; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981; (e) the Age Discrimination in
3 Employment Act; (f) the Fair Labor Standards Act; (g) the Equal Pay Act; (h) the Employee Retirement
4 Income Security Act, as amended; (i) the Consolidated Omnibus Budget Reconciliation Act; (j) the
5 Rehabilitation Act of 1973; (k) the Family and Medical Leave Act; (l) the Civil Rights Act of 1966;
6 (m) the California Fair Employment and Housing Act; (n) the California Constitution; (o) the
7 California Labor Code; (p) the California Government Code; (q) the California Civil Code; and (r) any
8 and all other federal, state, and local statutes, ordinances, regulations, rules, and other laws, and any
9 and all claims based on constitutional, statutory, common law, or regulatory grounds as well as any
10 other claims based on theories of wrongful or constructive discharge, breach of contract or implied
11 contract, fraud, misrepresentation, promissory estoppel, or intentional infliction of emotional distress,
12 negligent infliction of emotional distress, or damages under any other federal, state, or local statutes,
13 ordinances, regulations, rules, or laws. This release is for any and all relief, no matter how denominated,
14 including, but not limited to, back pay, front pay, vacation pay, bonuses, compensatory damages,
15 tortious damages, liquidated damages, punitive damages, damages for pain and suffering, and attorney
16 fees and costs, and Plaintiff hereby forever releases, discharges and agrees to hold harmless Defendant
17 and the Released Parties from any and all claims for attorney fees and costs arising out of the matters
18 released in this Settlement Agreement.

19 Plaintiff specifically acknowledges that she is aware of and familiar with the provisions of
20 California Civil Code section 1542, which provides as follows:

21 “A general release does not extend to claims that the creditor or releasing party does not
22 know or suspect to exist in his or her favor at the time of executing the release and that,
23 if known by him or her, would have materially affected his or her settlement with the
24 debtor or released party.”
25

26 Plaintiff, being aware of California Civil Code section 1542, hereby expressly waives and
27 relinquishes all rights and benefits she may have under section 1542 as well as any other statutes or
28 common law principles of a similar effect. Plaintiff may hereafter discover facts in addition to or

1 different from those which she now knows or believes to be true with respect to the subject matter of
2 all the claims referenced herein, but agrees that, upon the Effective Date, Plaintiff shall and hereby
3 does fully, finally, and forever settle and release any and all claims against the Released Parties, known
4 or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or could have
5 been asserted upon any theory of law or equity without regard to the subsequent discovery of existence
6 of such different or additional facts. Plaintiff's general release shall extend up to the Final Order and
7 Judgment. Plaintiff represents and acknowledges that as of the date of execution of this Agreement she
8 is under 40 years of age.

9 **10.3. CIRCULAR 230 DISCLAIMER**

10 Each party to this Settlement Agreement (for purposes of this section, the "Acknowledging
11 Party"; and each party to this Agreement other than the Acknowledging Party, an "Other Party")
12 acknowledges and agrees that (1) no provision of this Settlement Agreement, and no written
13 communication or disclosure between or among the parties or their attorneys and other advisers, is or
14 was intended to be, nor shall any such communication or disclosure constitute or be construed or be
15 relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31
16 C.F.R. Part 10); (2) the Acknowledging Party (a) has relied exclusively upon her or its own
17 independent legal and tax advisers for advice (including tax advice) in connection with this Settlement
18 Agreement, (b) has not entered into this Settlement Agreement based upon the recommendation of any
19 other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
20 communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that
21 may be imposed on the Acknowledging Party; and (3) no attorney or adviser to any other party has
22 imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies
23 (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party
24 of the tax treatment or tax structure of any transaction, including any transaction contemplated by this
25 Settlement Agreement.

26
27
28

1 **11. DUTIES OF THE PARTIES**

2 **11.1. MUTUAL FULL COOPERATION**

3 The Parties agree to cooperate fully with one another to accomplish and implement the terms
4 of this Settlement Agreement. Such cooperation shall include, but not be limited to, execution of such
5 other documents and the taking of such other actions as may reasonably be necessary to fulfill the terms
6 of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated
7 by this Settlement Agreement and any other efforts that may become necessary by court order or
8 otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable
9 after execution of this Settlement Agreement, Class Counsel, with the cooperation of Defendants and
10 Defense Counsel, shall take all necessary and reasonable steps to secure the Court's final approval of
11 this Settlement Agreement.

12 **11.2. DUTY TO SUPPORT AND DEFEND THE CLASS SETTLEMENT**

13 The Parties agree to abide by all of the terms of this Settlement Agreement in good faith and to
14 support the Class Settlement fully and to use their best efforts to defend this Class Settlement from any
15 legal challenge, whether by appeal or collateral attack.

16 **12. MISCELLANEOUS PROVISIONS**

17 **12.1. ENFORCEMENT**

18 Notwithstanding anything else contained herein, this Settlement Agreement shall be
19 enforceable under California Code of Civil Procedure section 664.6 and admissible under California
20 Evidence Code section 1123, subdivision (a), and the Federal Rules of Evidence.

21 **12.2. DIFFERENT FACTS**

22 The Parties acknowledge that, except for matters expressly represented herein, the facts in
23 relation to the dispute and all claims released by the terms of this Settlement Agreement may turn out
24 to be different from the facts now known by each party and/or its counsel, or believed by such Party or
25 counsel to be true, and each Party therefore expressly assumes the risk of the existence of different or
26 presently unknown facts, and agrees that this Settlement Agreement shall be in all respects effective
27 and binding despite such difference.
28

1 **12.3. NO PRIOR ASSIGNMENTS**

2 The Parties represent, covenant, and warrant that they have not directly or indirectly assigned,
3 transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any
4 portion of any liability, claim, demand, action, cause of action, or right herein released and discharged
5 except as set forth herein.

6 **12.4. NON-ADMISSION**

7 Nothing contained herein is to be construed or deemed to be an admission of liability or
8 wrongdoing by Defendants. This Stipulation and the attached exhibits are settlement documents, and,
9 pursuant to California Evidence Code section 1152, these documents shall be inadmissible in any
10 proceeding except in an action or proceeding to approve, interpret, or enforce this Stipulation.

11 **12.5. NON-EVIDENTIARY USE**

12 Neither this Agreement nor any of its terms, nor any statements or conduct in the negotiation
13 or drafting of it, shall be offered or used as evidence by Plaintiff, any Class Member (including any
14 individual who requested to be excluded from the Settlement Class), Defendants, or its, her, his, or
15 their respective counsel, in the Action, except as is reasonably necessary to effectuate the Settlement
16 Agreement's purpose and terms. This Settlement Agreement may, however, be used by Defendants
17 and the Released Parties to prove or defend against any claim released herein by any Class Member in
18 any judicial, quasi-judicial, administrative, or governmental proceeding.

19 **12.6. MEDIA OR PRESS**

20 Plaintiff and Defendants, and their respective counsel, recognize, accept, and agree that the
21 Parties to this Settlement Agreement desire that the terms of this Settlement Agreement, the fact of the
22 Class Settlement embodied in this Settlement Agreement, the disposition of the Action, the Action, and
23 all matters relating to the litigation of the Action, including discovery proceedings therein, and evidence
24 obtained during the course of the Action, shall not be discussed with, publicized, or presented to the
25 media or press. The Parties and their counsel shall not issue press releases, communicate with, or
26 respond to any media or publication entities, publish information in manner or form, whether printed
27 or electronic, on any medium or otherwise communicate, whether by print, video, recording or any
28 other medium, with any person or entity concerning the Settlement Agreement, including the fact of

1 the Settlement Agreement, its terms or contents and the negotiations underlying the Settlement
2 Agreement, except as shall be contractually required to effectuate the terms of the Settlement
3 Agreement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class
4 counsel in other actions, Class Counsel may disclose a brief description of the case and the fact of
5 settlement. In response to any inquiries, including those from media outlets, concerning the settlement,
6 the Parties and their respective counsel agree that they shall simply respond by stating, “the matter has
7 resolved.”

8 **12.7. NON-RETALIATION**

9 Defendants understand and acknowledge that they have a legal obligation to not retaliate against
10 any Class Member who elects to participate in the Class Settlement or elects to Opt Out of the Class
11 Settlement. Defendants will refer any inquiries regarding this Class Settlement to the Settlement
12 Administrator or Class Counsel and will not discourage Class Members who are employees, directly
13 or indirectly, from making claims, opting out, or objecting to the Class Settlement. None of the Parties,
14 or their respective attorneys or agents, shall solicit or encourage any Class Members, directly or
15 indirectly, to Opt Out of the Class Settlement.

16 **12.8. CONSTRUCTION**

17 The Parties agree that the terms and conditions of this Settlement Agreement are the result of
18 lengthy, intensive, arms-length, non-collusive negotiations between the Parties and that this Settlement
19 Agreement is not to be construed in favor of or against any party by reason of the extent to which any
20 party or its counsel participated in the drafting of this Settlement Agreement. If any of the dates in this
21 Settlement Agreement fall on a weekend, bank or court holiday, the time to act shall be extended to the
22 next business day.

23 **12.9. GOVERNING LAW**

24 This Settlement Agreement is intended to and shall be governed by the laws of the State of
25 California, without regard to conflict of law principles, in all respects, including execution,
26 interpretation, performance, and enforcement.
27
28

1 **12.10. NOTICES**

2 Except for Class Member notices required to be made by the Settlement Administrator, all
3 notices or other communications required or permitted under this Settlement Agreement shall be in
4 writing and shall be sufficiently given if delivered in person to the party or their counsel by U.S.
5 certified mail, postage prepaid, e-mail, facsimile, or overnight delivery addressed to the address of the
6 party appearing in this Settlement Agreement.

7 **12.11. CAPTIONS AND INTERPRETATIONS**

8 Section titles or captions contained herein are inserted as a matter of convenience and for
9 reference only and in no way define, limit, extend, or describe the scope of this Settlement Agreement
10 or any provision thereof.

11 **12.12. MODIFICATION**

12 This Settlement Agreement may not be changed, altered, or modified, except in writing signed
13 by the Parties. This Settlement Agreement may not be discharged except by performance in accordance
14 with its terms or by a writing signed by the Parties.

15 **12.13. INTEGRATION CLAUSE**

16 This Settlement Agreement contains the entire agreement between the Parties relating to the
17 Class Settlement of the Action and the transactions contemplated thereby, and all prior or
18 contemporaneous agreements, understandings, representations, and statements, whether oral or written,
19 and whether by a party or such party's legal counsel, are upon full execution of this agreement hereby
20 superseded. No rights under this Settlement Agreement may be waived except in writing as provided
21 above.

22 **12.14. SUCCESSORS AND ASSIGNS**

23 This Settlement Agreement shall be binding on and inure to the benefit of the Parties and Class
24 Members (excluding only persons who timely Opt Out) and their respective present and former heirs,
25 trustees, executors, administrators, representatives, officers, directors, shareholders, agents, employees,
26 insurers, attorneys, accountants, auditors, advisors, consultants, pension plans, welfare benefit plans,
27 fiduciaries, parent companies, subsidiaries, affiliates, related companies, joint ventures, predecessors,
28 successors, and assigns.

1 **12.15. CORPORATE SIGNATORIES**

2 Any person executing this Settlement Agreement or any such related document on behalf of a
3 corporate signatory or on behalf of a partnership hereby warrants and promises, for the benefit of all
4 Parties hereto, that such person has been duly authorized by such corporation or partnership to execute
5 this Settlement Agreement or any such related document.

6 **12.16. EXECUTION IN COUNTERPARTS**

7 This Settlement Agreement shall become effective upon its execution by all of the undersigned.
8 The Parties may execute this Settlement Agreement in counterparts, and execution of counterparts shall
9 have the same force and effect as if all Settling Parties had signed the same instrument.

10 **12.17. ATTORNEY FEES, COSTS, AND EXPENSES**

11 Except as otherwise specifically provided for herein, each party shall bear her or its own
12 attorney fees, costs, and expenses, taxable or otherwise, incurred by them in or arising out of the Action
13 and shall not seek reimbursement thereof from any other party to this Settlement Agreement.

14 **12.18. ACTION TO ENFORCE AGREEMENT**

15 In the event that any of the Parties to this Stipulation institutes any legal action, arbitration, or
16 other proceeding against any of the other Parties to enforce the provisions of this Stipulation or to
17 declare rights or obligations under this Stipulation, the prevailing party shall be entitled to recover her
18 or its attorney fees and costs incurred in connection with any such enforcement proceedings.

19 **12.19 JURISDICTION OF THE COURT**

20 The Court shall retain jurisdiction with respect to the interpretation, implementation, and
21 enforcement of the terms of this Stipulation and all orders and judgments entered in connection
22 therewith.

23 **12.20 EXHIBITS INCORPORATED BY REFERENCE**

24 The terms of this Stipulation include the terms set forth in any attached Exhibit, which are
25 incorporated by this reference as though fully set forth herein. Any Exhibit to this Stipulation is an
26 integral part of the Settlement.

27 **12.21 INTERIM STAY OF PROCEEDINGS**

1 The Parties agree to refrain from further litigation in the Action, except such proceedings
2 necessary to implement and obtain an Order granting Final Approval of the terms of the Settlement.
3 The Parties further agree that the mutual, voluntary cessation of litigation shall terminate either as of
4 the Effective Date or the date upon which this Settlement has been denied by the Court and all
5 subsequent attempts to cure deficiencies have ended.

6 **12.22 BINDING AGREEMENT**

7 The Parties intend that this Settlement shall be fully enforceable and binding on all Parties, and
8 that it shall be admissible and subject to disclosure in any proceeding to enforce its terms,
9 notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or
10 state law.

11 **13. EXECUTION**

12 The Parties and their counsel have executed this Settlement Agreement on the date below their
13 signatures or the signature of their representatives. The date of this Settlement Agreement shall be the
14 date of the latest signature.

15 **APPROVAL AND EXECUTION BY PARTIES**

16 **CLASS REPRESENTATIVES:**

17 Dated: 10 / 28 / 2021

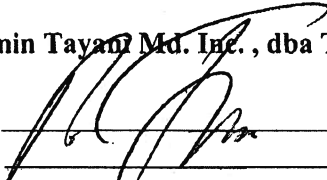


Hollie Ballard
Plaintiff and Class Representative

20 **DEFENDANT:**

21
22 Dated 10/29/21

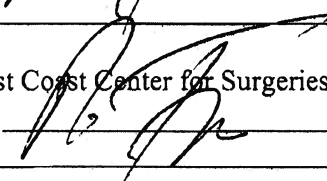
Ramin Tayani Md. Inc., dba Tayani Institute

By: 

Its: _____

25 Dated 10/29/21

West Coast Center for Surgeries, Inc.

By: 

Its: _____

Dermabare of Mission Viejo, a Medical corporation.

1 Dated 10/29/21

By: [Signature]
Its: [Signature]

ACKERMANN & TILAJEF, P.C.

5 Dated 10/28/2021

By: [Signature]
Craig J. Ackermann
Attorneys for Plaintiff

8 Dated 10/28/2021

EMPLOYEE RIGHTS LAW GROUP, APC

By: [Signature]
Amir Seyedfarshi
Attorneys for Plaintiff

SCOTT & WHITEHEAD

14 Dated 11/1/2021

By: [Signature]
Nancy Whitehead
Attorneys for Defendant