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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO**

SANDY MURILLO, an individual, on
behalf of herself and on behalf of all
persons similarly situated,

Plaintiff,

vs.

7 ELEVEN, INC., a Corporation; and
DOES 1 through 10, inclusive,

Defendants.

SANDY MURILLO, on behalf of the State
of California, as a private attorney general,
Plaintiff,

vs.

7 ELEVEN, INC., a Corporation; and
DOES 1 through 10, inclusive,
Defendants.

Case No. 37-2020-00043637-CU-OE-CTL
(Consolidated with Case No.
37-2021-00002324-CU-OE-CTL)

**DECLARATION OF NORMAN
BLUMENTHAL IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
SETTLEMENT**

Hearing Date: May 12, 2023
Hearing Time: 8:30 a.m.

*[Hearing scheduled by Order dated October 5,
2022 at paragraph 13]*

Dept.: C-65
Judge: Hon. Ronald Frazier

Action Filed: November 30, 2020
Trial Date: Not Set

1 I, NORMAN B. BLUMENTHAL, declare as follows:

2 1. I am the managing partner of the law firm of Blumenthal Nordrehaug Bhowmik De
3 Blouw LLP, counsel of record for Plaintiff Sandy Murillo ("Plaintiff") in this matter. As such, I am
4 fully familiar with the facts, pleadings and history of this matter. The following facts are within my
5 own personal knowledge, and if called as a witness, I could testify competently to the matters stated
6 herein. This declaration is being submitted in support to the motion for final approval of the class
7 settlement filed by Plaintiff.

8 2. Over the course of the litigation, a number of attorneys in my firm have worked on this
9 matter. Their credentials are reflected in the Blumenthal Nordrehaug Bhowmik De Blouw LLP firm
10 resume, a true and correct copy of which is attached hereto as Exhibit #1. Some of the major cases our
11 firm has undertaken are also set forth in Exhibit #1. The bulk of the attorneys involved in this matter
12 at Blumenthal Nordrehaug Bhowmik De Blouw LLP have had substantial class litigation experience
13 in the areas of employment class actions, unfair business practices and other complex litigation. The
14 attorneys at my firm have extensive experience in cases involving labor code violations and overtime
15 claims. Class Counsel has litigated similar wage and hour class and/or PAGA cases against other
16 employers on behalf of employees, including cases against Cigna, HealthNet, See's Candies, Securitas,
17 Okta, Advanced Home Health, El Pollo Loco, Total Renal, Panda Express, Walt Disney Resorts,
18 Pharmaca, Nortek Security, California Fine Wine, Solarcity, Walgreens, Space Exploration, Union
19 Bank, Verizon, Apple, Wells Fargo, Kaiser, Universal Protection Services, and California State
20 Automobile Association. Class Counsel have been approved as experienced class counsel during
21 contested motions in state and federal courts throughout California. It is this level of experience which
22 enabled the firm to undertake the instant matter and to successfully combat the resources of the
23 defendants and their capable and experienced counsel. Class Counsel have participated in every aspect
24 of the settlement discussions and have concluded the settlement is fair, adequate and reasonable and
25 in the best interests of the Class.

26
27 3. Summary of the Proposed Settlement.

28 (a) A true and correct copy of the Class Action Settlement Agreement (the "Agreement")

1 between the parties is attached hereto as Exhibit #2.¹ Plaintiff and Defendant 7 Eleven, Inc.
2 ("Defendant") reached a full and final settlement of the above-captioned action, which is embodied in
3 the Agreement filed concurrently with the Court. As consideration for this Settlement, the Gross
4 Settlement Amount is Two Million Nineteen Thousand Eight Hundred Ninety-Seven Dollars and
5 Seventy-Six Cents (\$2,019,897.76) (Agreement at ¶¶ I(19) and III(39).) The Gross Settlement Amount
6 increased from \$1,990,000 to \$2,019,897.76 pursuant to the Agreement's escalator clause due to an
7 increase of 14,378 total workweeks worked by the Class Members. (Agreement at ¶¶ III(41)(e); Nava
8 Decl. ¶ 14. Under the Settlement, the Gross Settlement Amount consists of the following elements: (1)
9 Settlement Shares to the Participating Class Members, (2) Settlement Administration Expenses, (3)
10 Class Counsel Fees Payment, (4) Class Counsel Litigation Expenses Payment, (5) Class Representative
11 Service Payment, and (5) the PAGA Payment, and excluding any employer payroll taxes, if any, due
12 on the portion of the Settlement Shares allocated to wages which shall not be paid from the Gross
13 Settlement and shall be the separate additional obligation of Defendant.. (Agreement at ¶¶ I(19) and
14 III(39)-(40).) The Gross Settlement Amount does not include Defendant's share of payroll taxes.
15 (Agreement at ¶ III(39).)

16 (b) The Gross Settlement Amount shall be all-in with no reversion to Defendant. (Agreement
17 at ¶ III(38).)

18 (c) Defendant shall fund the Gross Settlement Amount and the amount necessary to pay
19 Defendant's share of payroll taxes within twenty-one (21) calendar days of the Effective Date.
20 (Agreement at ¶ III(46).) Within fifteen (15) calendar days after Defendant funds the Gross Settlement
21 Amount, the Settlement Administrator will make payment of all Settlement Shares to Participating
22 Class Members. (Agreement at ¶ III(46).)

23 (d) The Net Settlement Amount shall equal the Gross Settlement Amount less the Court
24 approved amounts for the Class Representative Service Payment, the Class Counsel Fees Payment,
25 Class Counsel Litigation Expenses Payment, the PAGA Payment, and the Settlement Administration
26 Expenses. (Agreement at ¶ I(21).) The Net Settlement Amount will be distributed as the Settlement
27

28 ¹ Capitalized terms are defined in the Agreement.

1 Shares to the Class Members who do not timely request exclusion (“Participating Class Member”).
2 (Agreement at ¶¶ III(41).) The Settlement Share will be calculated as follows: (a) the Settlement
3 Administrator shall divide the Net Settlement Amount by the total number of weeks included in the
4 dates of employment to determine a dollar amount per week (“Weekly Rate”); and (b) the Settlement
5 Administrator shall then take the number of weeks worked by each Participating Class Member and
6 multiply it by the Weekly Rate to calculate their Settlement Share. (Agreement at ¶ III(41)(b).)
7 Workweeks will initially be based on Defendant’s records, however Class Members will have the right
8 to challenge their workweeks.

9 (e) Class Members were sent the Court approved Class Notice using the procedure approved
10 by the Court by mailing the notice packets after updating class members’ addresses using the National
11 Change of Address database and, for any notice packets returned as undeliverable, re-mailing such
12 notices to any forwarding address provided or updated address located. (Agreement at ¶ III(43)(c), Ex.
13 A.) Class Members were provided with the opportunity to exclude themselves or "opt out" if they did
14 not want to participate in the settlement. (Agreement at ¶ III(43)(c), Ex. A.) All Aggrieved Employees
15 will still be paid their allocation of the PAGA Payment, respectively, and will remain bound by the
16 release of the Released PAGA Claims. (Agreement at ¶ III(43)(c)(iii).) The Class Notice also advised
17 Class Members of their right to object to the Settlement and/or dispute their workweeks. (Agreement
18 at ¶ III(43)(c), Ex. A.)

19 (f) A Participating Class Member must cash his or her Settlement Share check within 180 days
20 after it is mailed. (Agreement at ¶ III(47).) The Settlement Administrator will send a reminder to
21 Participating Class Members who have not cashed their checks within 120 days after its last mailing
22 to the affected individual. (Agreement at ¶ III(47).) Any settlement checks not cashed within 180 days
23 will be voided and any the funds from such uncashed checks will be paid to the California State
24 Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not
25 cash their check. (Agreement at ¶ III(47).)

26 (g) ILYM Group was appointed as the Settlement Administrator. (Agreement at ¶ III(42);
27 Preliminary Approval Order at ¶ 9.) From the Gross Settlement Amount, the Settlement Administrator
28 shall be paid for the expenses of administering the Settlement in an amount not to exceed \$40,000.

1 (Agreement at ¶ III(40)(d).) As set forth in the Nava Decl. at ¶ 15, the Settlement Administration
2 Expenses, including fees and costs incurred to-date, as well as anticipated fees and costs for completion
3 of the settlement administration, are \$40,000.

4 (h) Subject to Court approval, the Agreement provides for Class Counsel to be awarded a sum
5 not to exceed one-third (1/3) of the Gross Settlement Amount as the Class Counsel Fees Payment.
6 (Agreement at ¶ III(40)(b).) Class Counsel will also be allowed to apply separately for an award of
7 Class Counsel Litigation Expenses Payment in an amount not to exceed \$25,000. (Agreement at ¶
8 III(40)(b).) Subject to Court approval, the Agreement provides for a payment of no more than \$10,000
9 to the Plaintiff as the Class Representative Service Payment. (Agreement at ¶ III(40)(a).) In support
10 of this separate motion for attorneys' fees, reimbursement of expenses and service awards, Class
11 Counsel is providing evidentiary support, for these requests, including lodestar.

12 (i) The Parties will seek approval from the Court for the PAGA Payment of \$250,000 out of
13 the Gross Settlement Amount, which shall be allocated 75% (\$187,500) to the LWDA as the LWDA's
14 share of the PAGA Payment pursuant to PAGA and 25% (\$62,500) will be distributed to the Aggrieved
15 Employees based on their respective pay periods worked during the PAGA Period. (Agreement at ¶
16 III(40)(c).) All Aggrieved Employees will be sent their share of the PAGA Payment and will be subject
17 to the release of the PAGA Released Claims, whether or not they opt out of the Settlement. (Agreement
18 at ¶ III(40)(c).) As set forth in the accompany proof of service, the LWDA has been served with this
19 motion and the Agreement.

20 (j) The Settlement is fair, adequate and reasonable to the class and should be finally approved
21 for the same reasons the Court granted preliminary approval of the Settlement, agreeing that the
22 settlement is "fair, adequate and reasonable". (Preliminary Approval Order at ¶ 3.) In sum, the
23 Settlement valued at Two Million Nineteen Thousand Eight Hundred Ninety-Seven Dollars and
24 Seventy-Six Cents (\$2,019,897.76) is an excellent result for the Class. This result is particularly
25 favorable in light of the fact that liability was far from certain in light of the defenses asserted by
26 Defendant. Given the complexities of this case and the defenses asserted, along with the uncertainties
27 of proof at trial and appeal, the proposed settlement is fair, reasonable and adequate, and should be
28 finally approved. .

1 4. Procedural status of the settlement - In accordance with the Preliminary Approval
2 Order dated October 5, 2022 ("Preliminary Approval Order"), the approved Class Notice has been
3 disseminated to the Class. The reaction of the Class unequivocally supports approval of the Settlement.
4 On December 9, 2022, the Settlement Administrator mailed the Court-approved Class Notice to the
5 Class Members, which provided each class member with the terms of the Settlement, including notice
6 of the claims at issue and the financial terms of the settlement, including the attorneys' fees, costs, and
7 service awards that were being sought, how individual settlement awards would be calculated, and the
8 specific, estimated payment amount to that individual. See Nava Decl. ¶ 7, Exh. A. In disseminating
9 the notices, the Settlement Administrator followed the notice procedures authorized by the Court in its
10 Preliminary Approval Order. Significantly, there have been no objections and only four (4) opt-outs.
11 Nava Decl. ¶¶ 11-12. As a result, nearly the entire Class will participate in the Settlement and will be
12 sent a settlement check, representing 99.92% of the Class. *See* Nava Decl. at ¶¶ 13-14.

13
14 5. Description of Plaintiff's claims - The Action generally alleges that Plaintiff and other
15 Class Members were not provided all minimum wages and overtime compensation and at the correct
16 rate, were not provided and/or paid for meal and rest periods, were not reimbursed for reasonable
17 business expenses, were not provided suitable seating, and were not provided accurate itemized wage
18 statements. The Action seeks unpaid wages, penalties, attorney fees, litigation costs, and any other
19 equitable or legal relief allegedly due and owing to Plaintiff and the other Class Members by virtue of
20 the foregoing claims.

21
22 6. Procedural History of the Litigation

23 (a) On November 30, 2020, Plaintiff filed a Complaint against Defendant in the Superior Court
24 of the State of California, County of San Diego. Plaintiff asserted claims that Defendant: (1) engaged
25 in unfair competition in violation of Cal. Bus & Prof. Code §§ 17200, et seq.; (2) failed to pay
26 minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (3) failed to pay
27 overtime wages in violation of Cal. Labor Code § 510; (4) failed to provide required meal periods in
28 violation of Cal. Labor Code §§ 226.7 and 512; (5) failed to provide required rest periods in violation

1 of Cal. Labor Code §§ 226.7 and 512; (6) failed to provide accurate itemized wage statements in
2 violation of California Labor Code § 226; (7) failed to pay all compensation due and made unlawful
3 deductions from compensation payable to plaintiff and class members; (8) failed to reimburse
4 employees for required expenses in violation of California Labor Code § 2802; (9) failed to provide
5 wages at termination in violation of Cal. Lab. Code § 201, 202, and 203; (10) failed to provide suitable
6 seating in violation California Labor Code § 1198 and California Code of Regulations, Title 8, Section
7 11070; (11) wrongfully terminated Plaintiff in violation of public policy. On February 19, 2021,
8 Plaintiff filed a First Amended Class Action Complaint to add additional factual allegations,
9 specifically with respect to Plaintiff's claim for Defendant's failure to include non-discretionary
10 remuneration in the calculation of sick pay under Labor Code §245-249. On February 22, 2021,
11 Plaintiff filed a Request for Dismissal of Plaintiff's Ninth Cause of Action in the First Amended Class
12 Action Complaint for failure to provide suitable seating in violation of California Labor Code § 1198
13 and California Code of Regulations, Title 8, Section 11070(14).

14 (b) On February 3, 2021, Plaintiff filed a separate Representative Action Complaint against
15 Defendant for Civil Penalties Pursuant to Labor Code §§ 2699, et seq. (the Private Attorneys General
16 Act ("PAGA") for violations of Labor Code §§ 201, 202, 203, 204 et seq., 210, 226(a), 226.7, 351,
17 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8,
18 Section 11040 Subdivision 5(A)-(B), and California Code of Regulations, Title 8, Section 11070(14)
19 (Failure to Provide Seating) and seeking penalties that flow therefrom. On July 23, 2021, the Court
20 Ordered that Plaintiff's Class Action and PAGA Action be consolidated for all purposes, with the Class
21 Action as the lead case.

22 (c) On January 19, 2021, Defendant filed an Answer to Plaintiff's First Amended Class Action
23 Complaint which denied the allegations and asserted thirty-nine affirmative defenses. On February 26,
24 2021, Defendant filed an Answer to Plaintiff's Representative Action Complaint which denied the
25 allegations and asserted thirty affirmative defenses.

26 (d) Over the course of litigation, the Parties engaged in the investigation of the claims,
27 including production of documents, class data, and other information, allowing for the full and
28 complete analysis of liabilities and defenses to the claims in the Action. The information for mediation

1 obtained by Plaintiff included: (1) data showing employees and their employment dates; (2) Payroll
2 information for employees; (3) time punch data for employees; (4) Defendant's employee wage and
3 hour policies; (5) the employment file for the Plaintiff; and, (6) samples of wage statements provided
4 by Defendant. Plaintiff and Defendant agreed to discuss resolution of the Action through a mediation.

5 (e) Prior to mediation, the Parties engaged in the above investigation and the exchange of
6 documents and information in connection with the Action. On January 27, 2022, the Parties
7 participated in an all-day mediation presided over by Michael Dickstein, a respected and experienced
8 mediator of wage and hour class actions. Following the mediation, each side, represented by its
9 respective counsel, were able to agree to settle the Action based on a mediator's proposal which was
10 memorialized in the form of a Memorandum of Understanding. At all times, the negotiations were
11 arm's length and contentious.

12 (f) The Parties continued to negotiate the terms of the settlement and prepared the final
13 Agreement which was signed by the Parties and is now presented to this Court for preliminary
14 approval. Accordingly, for purposes of this Settlement, the "Class" is defined as "all individuals who
15 are or previously were employed by Defendant in California who were classified as non-exempt
16 employees at any time during the Class Period excluding persons who have previously settled claims
17 otherwise covered by this settlement." (Agreement at ¶ I(3).) The Class Period is from November 30,
18 2016, through April 27, 2022. The Class consists of 5,177 Class Members who worked 139,3789 work
19 weeks.

20 (g) Although a settlement has been reached, Defendant denies any liability or wrongdoing of
21 any kind associated with the claims alleged in the Action and further deny that, for any purpose other
22 than settlement, the Action is appropriate for class treatment. Defendant contends, among other things,
23 that it has correctly compensated the Class Members and complied at all times with the California
24 Labor Code, applicable Wage Order, and all other laws and regulations. Further, Defendant contends
25 that class certification would be inappropriate for any reason other than for settlement. Plaintiff
26 contends that Defendant violated California wage and hour laws. Plaintiff further contends that the
27 Action is appropriate for class certification on the basis that the claims meet the requisites for class
28 certification. Without admitting that class certification is proper, Defendant has stipulated that the

1 above Class may be certified for settlement purposes only. (Agreement at ¶ II(38).) The Parties agree
2 that certification for settlement purposes is not an admission that class certification would be proper
3 if the class certification issue were litigated. Further, the Agreement is not admissible in this or any
4 other proceeding as evidence that the Class could be certified absent a settlement. Solely for purposes
5 of settling the Action, the Parties stipulate and agree that the requisites for establishing class
6 certification with respect to the Class are satisfied.

7 (h) Class Counsel has conducted a thorough investigation into the facts of the class action.
8 Over the course of over a year, Class Counsel has diligently evaluated the Class Members' claims
9 against Defendant. Prior to the settlement negotiations, counsel for Defendant provided Class Counsel
10 with access to necessary information for the Class. In addition, Class Counsel previously negotiated
11 settlements with other employers in actions involving nearly identical issues and analogous defenses.
12 Based on the foregoing data and their own independent investigation, evaluation and experience, Class
13 Counsel believes that the settlement with Defendant on the terms set forth in the Agreement is fair,
14 reasonable, and adequate and is in the best interest of the Class in light of all known facts and
15 circumstances, including the risk of significant delay, defenses asserted by Defendant, and potential
16 appellate issues.

17 18 7. History of Settlement Discussions

19 (a) This Settlement is the result of extensive and hard-fought litigation as well as negotiations
20 before an experienced and well-respected mediator. Defendant has expressly denied and continue to
21 deny any wrongdoing or legal liability arising out of the conduct alleged in the Action. Plaintiff and
22 Class Counsel have determined that it is desirable and beneficial to the Class to resolve the Released
23 Class Claims of the Class in accordance with this Settlement. Class Counsel are experienced and
24 qualified to evaluate the class claims, the viability of the defenses asserted, and the risks and benefits
25 of trial and settlement, and Class Counsel are experienced in wage and hour employment law class
26 actions, as Class Counsel has previously litigated and certified similar claims against other employers.

27 (b) The Parties attended an arms-length mediation session with Michael E. Dickstein, Esq., a
28 respected and experienced mediator of wage and hour class actions, in order to reach this Settlement.

1 In preparation for the mediation sessions, Defendant provided Class Counsel with necessary
2 information for the members of the Class, including time data, payroll data and data concerning the
3 composition of the Class. Plaintiff analyzed the data with the assistance of damages expert, Berger
4 Consulting Group, and prepared and submitted a mediation brief and damage valuation to the
5 Mediator. Following the mediation, the Parties were able to agree to settle the Action based upon a
6 mediator's proposal which was memorialized in the form of a Memorandum of Understanding.

7 (c) From January 2022 to May 2022, the settlement agreement and exhibits thereto were
8 finalized and executed, and presented to this Court on for preliminary approval. The Court granted
9 preliminary approval on September 16, 2022, and the Preliminary Approval Order was entered by this
10 Court on October 5, 2022.

11 (d) Plaintiff and Class Counsel believe that this settlement is fair, reasonable and adequate. In
12 my judgment as experienced Class Counsel, this Settlement should be finally approved.

13
14 8. The outcome of this case would have been uncertain and fraught with risks.

15 (a) Here, a number of defenses asserted by Defendant present serious threats to the claims of
16 the Plaintiff and the other Class Members. Defendant also asserted that Defendant's practices complied
17 with all applicable Labor laws. Defendant argued that all work time was paid for and that the regular
18 rate was properly calculated. Defendant contended that their meal and rest period policies fully
19 complied with California law, that Defendant's timekeeping system recorded meal periods, and that
20 all meal periods were provided. Further, Defendant argued that Defendant was not required to record
21 rest periods. Defendant also maintained that an on premise policy for meals and rest periods is not
22 illegal. Defendant could argue that the Supreme Court decision in *Brinker v. Superior Court*, 53
23 Cal.4th 1004 (2012), weakened Plaintiff's claims, on liability, value, and class certifiability as to the
24 meal and rest period claims. As to expenses reimbursement, Defendant maintained that employees
25 were not required to use their cell phones and any use of their cell phone was voluntary for their
26 convenience and therefore not subject to Labor Code §2802. Finally, Defendant also argues that based
27 on their facially lawful practices, they acted in good faith and without willfulness, which if accepted
28 would negate the claims for waiting time penalties and/or inaccurate wage statements. In fact, under

1 the state of the law at the time of mediation, it was questionable whether these penalties could be
2 awarded at all based upon the alleged meal and rest period violations. If successful, Defendant's
3 defenses could eliminate or substantially reduce any recovery to the Class. While Plaintiff believes that
4 these defenses could be overcome, Defendant maintains these defenses have merit and therefore present
5 a serious risk to recovery by the Class.

6 (b) There was also a significant risk that, if the Action was not settled, Plaintiff would be unable
7 to obtain class certification and thereby not recover on behalf of any employees other than herself.
8 Defendant argued that the individual experience of each putative class member varied with respect to
9 the claims. Defendant could also contest class certification by arguing injury and good faith were case
10 by case determinations that precluded class certification. Plaintiff is aware of cases where class
11 certification of similar claims was denied. *See e.g. Cacho v. Eurostar, Inc.*, 43 Cal.App.5th 885, 256
12 Cal. Rptr. 3d 547 (2019) (denying certification of meal and rest break claims). Defendant also
13 contended that individual differences in work experiences not only impacted damages but would also
14 impact certification. Finally, even if class certification was successful, as demonstrated by the
15 California Supreme Court decision in *Duran v. U.S. Bank National Assn.*, 59 Cal.4th 1 (2014), there
16 are significant hurdles to overcome for a class wide recovery even where the class has been certified.
17 While other cases have approved class certification in wage and hour claims, class certification in this
18 action would have been hotly disputed and was by no means a foregone conclusion.

19 (c) As demonstrated by the decision in *Duran*, the complexities and duration of further
20 litigation cannot be overstated. There is little doubt that Defendant would post a bond and appeal in
21 the event of an adverse judgment. A post-judgment appeal by Defendant would have required many
22 more years to resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total,
23 then the case could have dragged on for years after the appeal. The benefits of a guaranteed recovery
24 today outweigh an uncertain result three or more years in the future. Plaintiff and Class Counsel
25 recognize the expense and length of a trial against Defendant through possible appeals which could take
26 at least another two or three years. Class Counsel also have taken into account the uncertain outcome,
27 the risk of litigation, especially in complex actions such as this one. Class Counsel are also mindful
28 of and recognize the inherent problems of proof under, and alleged defenses to, the claims asserted in

1 the Action. Moreover, post-trial motions and appeals would have been inevitable. Costs would have
2 mounted and recovery would have been delayed if not denied, thereby reducing the benefits of an
3 ultimate victory. Plaintiff and Class Counsel believe that the Settlement confers substantial benefits
4 upon the Class. Based upon their evaluation, Plaintiff and Class Counsel have determined that the
5 Settlement set forth in the Agreement is in the best interest of the Class.

6 (d) The Settlement in this case is fair, reasonable and adequate considering Defendant's
7 defenses to Plaintiff's claims. As set forth in the Declaration of Kyle Nordrehaug filed in support of
8 preliminary approval which discussed the value of the class claims in detail, the Gross Settlement
9 Amount compares favorably to the value of the claims. For the 5,177 Class members who worked
10 139,378 work weeks, the Gross Settlement Amount provides an average value of \$390 per Class
11 Member and \$14 per workweek, and after deductions, the Net Settlement Amount provides an average
12 recovery of \$197 per Class Member and \$7.32 per work week. The calculations to compensate for the
13 amount due to the Class Members at the time this Settlement was negotiated were calculated by
14 Plaintiff's expert, Berger Consulting Group, in advance of mediation. As to the Class whose claims are
15 at issue in this Action, Plaintiff used an expert to analyze the data and determine the potential unpaid
16 wages for the employees. For the Class, Plaintiff determined that the unpaid wages due to the alleged
17 failure to pay overtime wages based on a regular rate miscalculation to be \$6,803, the alleged failure
18 to pay meal break premiums based on a regular rate miscalculation is \$2,097, the maximum potential
19 rest period damages were estimated to be \$5,817,124 based upon a 100% violation rate from on premise
20 policy, the maximum meal period damages at a 28% violation rate were estimated to be \$1,627,437
21 after deducting the meal period premiums paid by Defendant, and the maximum damages for
22 unreimbursed expenses were estimated to be \$295,130 at a rate of \$10 of unreimbursed cell phone
23 expense incurred each month. In total, the damages for the Class were calculated to have a maximum
24 total value of \$7,748,582. In addition, Plaintiff calculated that the maximum value of the waiting time
25 penalties were between \$543,937 and \$5,471,365 depending on the predicate violation, and the
26 maximum value of the wage statement penalties to be \$2,219,650, however, these wage statement and
27 waiting time penalties claims potentially have a much smaller value, even if damages were awarded,
28

1 to the extent that they are only derivative of the meal and rest break claims.² Consequently, the Gross
2 Settlement Amount represents more than 25% of the value of the potential maximum damages at issue
3 for the Class in this case, assuming these amounts could all be proven in full at trial.³ The above
4 maximum calculations should then be adjusted in consideration for both the risk of certification and
5 the risk of establishing class-wide liability on all claims. Defendant disputes Plaintiff's estimates and
6 believes the amount Plaintiff can recover for the Class, if anything at all, is actually much lower. Given
7 the amount of the Settlement as compared to the potential value of the claims, the Settlement is most
8 certainly fair and reasonable.⁴

9 (e) In sum, the Settlement is a fair and reasonable result, and provides the Class with a

10
11 ² While Plaintiff alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
12 226, at mediation Plaintiff recognized that these claims were subject to various defenses asserted by
13 Defendant, including, but not limited to, a good faith dispute defense as to whether any premium wages
14 for meal or rest periods or other wages were owed given Defendant's position that Plaintiff were
15 properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584 (2010) ("There
16 is no willful failure to pay wages if the employer and employee have a good faith dispute as to whether
17 and when the wages were due."). Additionally, Courts had held that violations of the meal and rest
18 period regulations, which require payment of a "premium wage" for each improper meal period, do **not**
19 give rise to claims under sections 203 and 226. *See Ling v. P.F. Chang's China Bisto, Inc.*, 245 Cal.
20 App. 4th 1242, 1261 (2016) and *Maldonado v. Epsilon Plastics, Inc.*, 22 Cal. App. 5th 1308, 1336
21 (2018). As a result, at the time of mediation, the viability of Plaintiff's claims on these theories was
22 uncertain.

23 ³ Because the PAGA claim is not a class claim and primarily is paid to the State of California,
24 Plaintiff has not included the PAGA claim in this discussion of the value of the class claims. The
25 PAGA claim was addressed in the Declaration of Kyle Nordrehaug at ¶33 filed in support of Plaintiff's
26 Motion for Preliminary Approval of Class Action Settlement.

27 ⁴ *See e.g. Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 (N.D. Cal. 2007) (approving a
28 settlement where the settlement amount constituted approximately 25% of the estimated overtime
damages for the class); *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at *12
(N.D. Cal. 2015) (granting final approval where "the proposed Total Settlement Amount represents
approximately 10% of what class might have been awarded had they succeeded at trial."); *Dunleavy*
v. Nadler (In re Mego Fin. Corp. Sec. Litig.), 213 F.3d 454, 459 (9th Cir. 2000) (approving settlement
which represented "roughly one-sixth of the potential recovery"); *Stovall-Gusman v. W.W. Granger,*
Inc., 2015 U.S. Dist. LEXIS 78671, at *12 (N.D. Cal. 2015) (granting final approval where "the
proposed Total Settlement Amount represents approximately 10% of what class might have been
awarded had they succeeded at trial."); *Viceral v. Mistras Grp., Inc.*, 2016 WL 5907869 (N.D. Cal.
2016) (approving wage and hour class action settlement amounting to 8.1% of full verdict value); *Ma*
v. Covidien Holding, Inc., 2014 WL 2472316, (C.D. Cal. 2014) (approving wage and hour class action
settlement worth "somewhere between 9% and 18%" of full verdict value).

1 significant recovery, particularly when viewed in light of the fact that the Defendant asserted serious
2 and substantial defenses. Given the complexities of this case, the defenses, along with the uncertainties
3 of proof and appeal, the proposed Settlement is fair, reasonable and adequate, and should be finally
4 approved.

5 (f) It is impossible to predict with certainty whether, under the facts of this case, Plaintiff would
6 prevail against the Defendant's factual and legal defenses. While Plaintiff and Class Counsel believe
7 in the merits of the claims, Defendant has asserted real and substantial defenses to these claims and to
8 class certification. Settlement in this case clearly benefits the Class when measuring the strengths of
9 Plaintiff's case and the risk of establishing class wide liability and damages.

10 I declare under penalty of perjury under the laws of the State of California that the foregoing
11 is true and correct. Executed this 19th day of April, 2023, at San Diego, California.

12 /s/ *Normand Blumenthal*
13 Norman B. Blumenthal
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Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9th Cir. 2015) (The panel reversed the district court's order granting Luxottica Retail North America, Inc.'s motion to compel arbitration of claims and dismissing plaintiff's first amended complaint, in a putative class action raising class employment-related claims and a non-class representative claim for civil penalties under the Private Attorney General Act.);

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County Superior Court, Case No. 37-2014-00005608; Behar v. Union Bank, Orange County Superior Court, Case No. 30-2009-00317275; Bell v. John Stewart Company, Alameda County Superior Court, Case No. RG14728792; Bennett v. Custom Built Personal Training, Monterey County Superior Court, Case No. M127596; Bermant v. Bank of America, Investment Services, Inc., Los Angeles Superior Court, Civil Action No. BC342505; Bethley v. Raytheon Company, United States District Court, Central District of California, Case No. SACV10-01741; Betorina v. Randstad US, L.P., U.S. District Court Northern District of California, Case No. 3:15-cv-03646-MEJ; Beverage v. Edcoa Inc., Sacramento County Superior Court, Case No. 2013-00138279; Bova v. Washington Mutual Bank / JP Morgan Chase, U.S. District Court, Southern District California, Case No. 07-cv-2410; Bowden v. Sunset Parking Services, LLC & LAZ Parking California, LLC - Settled San Diego County Superior Court, Case No. 37-2012-00101751-CU-OE-CTL; Briseno v. American Savings Bank, Class Certification Granted, Orange County Superior Court, Case No. 774773; Brueske v. Welk Resorts, San Diego Superior Court, Case No 37-2010-00086460; Bueche v. Fidelity National Management Services, U.S. District Court, Eastern District of California, Case No. 13-cv-01114; Bunch v. Pinnacle Travel Services, LLC, Los Angeles County Superior Court, Case No. BC552048; Butler v. Stericycle, Inc & Appletree Answering Services of California, Inc., Sacramento County Superior Court, Case No. 34-2015-00180282; Cabral v. Creative Communication Tech., Class Certification Granted, Los Angeles Superior Court, Case No. BC402239; Cardoza v. Wal-Mart Associates, Inc., U.S. District Court Northern District of California, Case No. 4:15-cv-01634-DMR; Castro v. Vivint Solar, Inc., San Diego County Superior Court, Case No. 37-2014-00031385-CU-OE-CTL; Cavazos v. Heartland Automotive Services, Inc., Riverside County Superior Court, Case No. PSC 1401759; Cohen v. Bosch Tool, San Diego Superior Court, Case No. GIC 853562; Comstock v. Washington Mutual Bank - Class Certification Granted, San Diego County Superior Court, Case No. GIC820803; Conley v. Norwest, San Diego County Superior Court, Case No. N73741; Connell v. Sun Microsystems, Alameda Superior Court, Case No. RG06252310; Corrente v. Luxe Valet, Inc., San Francisco County Superior Court, Case No. CGC-15-545961; Cruz v. Redfin Corporation, U.S. District Court Northern District of California, Case No. 3:14-cv-05234-THE; Culley v. Lincare Inc. & Alpha Respiratory Inc., U.S. District Court eastern District of California, Case No. 2:15-cv-00081-GEB-CMK; Cunningham v. Leslie's Poolmart, Inc., U.S. District Court, Central District of California, Case No. 13-cv-02122-CAS; Curry v. California Testing Bureau/McGraw Hill, U.S. District Court, Northern District of California, Case No. C-05-4003 JW; Daniels, et al. v. Philip Morris,(In Re Tobacco Cases II) – Class Certification Granted, San Diego Superior Court, Case No. JCCP 4042; Davis v. Genex Holdings Inc., Santa Clara County Superior Court, Case No. 1-13-cv-240830; Davis v. Clear Connection, LLC, San Diego County Superior Court, Case No. 37-2014-00035173-CU-OE-CTL; Day v. WDC Exploration, Orange County Superior Court, Case No. 30-2010-00433770; Dedrick v. Hollandia Dairy, San Diego County Superior Court, Case No. 37-2014-00004311-Cu-OE-CTL; Delmare v. Sungard Higher Education - Settled U.S. District Court, Southern District of California, Case No. 07-cv-1801; Del Rio v. Tumi Stores, Inc., San Diego County Superior Court, Case No. 37-2015-00022008-CU-OE-CTL; Dewane v. Prudential, U.S. District Court, Central District of California, Case No. SA CV 05-1031; Diesel v. Wells Fargo Bank, Orange County Superior Court, Case No. 30-2011-00441368; Dirienzo v. Dunbar Armored, U.S. District Court, Southern District of California, Case No. 09-cv-2745; Dobrosky v. Arthur J. Gallagher Service Company, LLC, Class certification Granted, No. EDCV 13-0646 JGB (Spx); Dodds v. Zaven Tootikian, Los Angeles County Superior Court, Case No. BC494402; Drumheller v. Radioshack Corporation, United States District Court, Central District of California, Case No. SACV11-355; Enger v. Kaiser Foundation Health Plan, U.S. District Court, Southern District of California, Case No. 09-cv-1670; Escobar v. Silicon Valley Security & Patrol, Inc., Santa Clara County Superior Court, Case No. 1-14-cv272514; Fierro v. Chase Manhattan - Class Certification Granted, Settled San Diego Superior Court, Case No. GIN033490; Figueroa v. Circle K Stores, Inc., San Diego County Superior Court, Case No. 37-2012-00101193-CU-OE-CTL; Finch v. Lamps Plus, (Lamps Plus Credit Transaction Cases), San Diego Superior Court, Case No. JCCP 4532; Fletcher v. Verizon, U.S. District Court, Southern

District of California, Case No. 09-cv-1736; Francisco v. Diebold, U.S. District Court, Southern District of California, Case No. 09-cv-1889; Friend v. Wellpoint, Los Angeles Superior Court, Case No. BC345147; Frudakis v. Merck Sharp & Dohme, U.S. District Court, Central District California, Case No. SACV 11-00146; Fulcher v. Olan Mills, Inc., U.S. District Court, Northern District of California, Case No. 11-cv-1821; Gabisan v. Pelican Products, U.S. District Court, Southern District California, Case No. 08 cv 1361; Galindo v. Sunrun Installation Services Inc., San Diego County Superior Court, Case No. 37-2015-00008350-CU-OE-CTL; Gallagher v. Legacy Partners Commercial, Santa Clara County Superior Court, Case No. 112-cv-221688; Ghattas v. Footlocker Retail, Inc., U.S. District Court Central District of California, Case No. CV 13-0001678 PA; Gibson v. World Savings, Orange County Superior Court, Case No. 762321; Goerzen v. Interstate Realty Management, Co., Stanislaus County Superior Court, Case No. 679545; Gomez v. Enterprise Rent-A-Car, U.S. District Court, Southern District of California, Case No. 3:10-cv-02373; Gordon v. Wells Fargo Bank, U.S. District Court, Southern District of California, Case No. 3:11-cv-00090; Grabowski v. CH Robinson, U.S. District Court, Southern District of California, Case No. 10-cv-1658; Gross v. ACS Compiq Corporation, Orange County Superior Court, Case No. 30-2012-00587846-CU-OE-CXC; Gripenstraw v. Buffalo Wild Wings, U.S. District Court, Eastern District of California, Case No. 12-CV-00233; Gruender v. First American Title, Orange County Superior Court, Case No. 06 CC 00197; Guillen v. Univision Television Group, Inc. & Univision Management Co., San Francisco County Superior Court, Case No. CGC-12-526445; Gujjar v. Consultancy Services Limited, Orange County Superior Court, Case No. 30-2010-00365905; Gutierrez v. Five Guys Operations, LLC, San Diego County Superior Court, Case No. 37-2012-00086185-CU-OE-CTL; Handler v. Oppenheimer, Los Angeles Superior Court, Civil Action No. BC343542; Harley v. Tavistock Freebirds, LLC, Sacramento County Superior Court, Case No. 34-2014-00173010; Harrington v. Corinthian Colleges – Class Certification Granted, Orange Superior Court; United States Bankruptcy Court District of Delaware; Harvey v. PQ Operations, Inc., Los Angeles County Superior Court, Case No. BC497964; Henshaw v. Home Depot U.S.A., United States District Court, Central District of California, Case No. SACV10-01392; Heithold v. United Education Institute, Orange County Superior Court, Case No. 30-2013-00623416-CU-OE-CXC; Hibler v. Coca Cola Bottling, Settled U.S. District Court, Southern District of California, Case No. 11cv0298; Hildebrandt v. TWC Administration LLC & Time Warner NY Cable, LLC, U.S. District Court, Central District of California, Case No. ED-cv-13-02276-JGB; Hopkins v. BCI Coca-Cola Bottling Company of Los Angeles, United states District Court, Central District of California; U.S. Court of Appeals 9th Circuit; Howard v. Southern California Permanente Medical Group, Los Angeles Superior Court, Case No. BC586369; Hughes v. Parexel International, Los Angeles County Superior Court, Case No. BC485950; Hurley v. Comcast of California/Colorado/Texas/Washington, Inc., Sonoma County Superior Court, Case No. SCV-253801; Irving v. Solarcity Corporation, San Mateo County Superior Court, Case No. CIV525975; Jacobs v. Nu Horizons - Settled Santa Clara County Superior Court, Case No. 111cv194797; Jefferson v. Bottling Group LLC (Pepsi) - Class Certification Granted, Orange County Superior Court, Case No. 30-2009-0018010; Jones v. E*Trade Mortgage, U.S. District Court, Southern District California Case No. 02-CV-1123 L (JAH); Kennedy v. Natural Balance - Dismissal Reversed on Appeal, San Diego Superior Court, Case No. 37-2007-00066201; Keshishzadeh v. Arthur J. Gallagher Service Co., U.S. District Court, Southern District of California, Case No. 09-cv-0168; Kinney v. AIG Domestic Claims / Chartis, U.S. District Court, Central District of California, Case No. 8:10-cv-00399; Kizer v. Tristar Risk Management, Orange County Superior Court, Case No. 30-2014-00707394-CU-OE-CXC; Kleinberg v. Reeve Trucking Company, Inc., San Diego County Superior Court, Case No. 37-2015-00001601-CU-OE-CTL; Kove v. Old Republic Title, Alameda County Superior Court, Case No. RG09477437; Krellcom v. Medley Communications, Inc., San Diego County Superior Court, Case No. 37-2013-00050245-CU-OE-CTL; Ladd v. Extreme Recovery, LP, Contra Costa County Superior Court, Case No. MSC11-02790; Langille v. EMC, U.S. District Court, Southern District of California, Case No. 09-cv-0168; Lawson v. Marquee Staffing, Los Angeles County Superior Court, Case No. 37-2012-00103717-

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Navajo Express, Inc. – San Bernardino County Superior Court, Case No. CIVDS1613846; Lara v. Commercial Protective Service, Inc. – Los Angeles County Superior Court, Case No. BC648921; Picos v. Culinary of California, Inc. – San Diego County Superior Court, Case No. JCCP 4892; Samaniego v. A&I Transport, Inc. – Santa Cruz County Superior Court, Case No. 16CV01894; Bailey v. Romanoff Floor Covering, Inc. – U.S. District Court, Eastern District of California, Case No. 17-CV-00685-TLN-CMK; Aguirre v. Bitech, Inc. – Sacramento County Superior Court, Case No. 34-2016-002022; Phillips v. DI Overnite LLC – San Diego County Superior Court, Case No. 37-2016-00016800-CU-OE-CTL; Jacob v. Pride Transport, Inc. – Santa Cruz County Superior Court, Case No. 16CV1337; Bennett v. Heartland Express, Inc. of Iowa – San Diego County Superior Court, Case No. 37-2016-00015056-CU-OE-CTL; Stapf v. Mercer Health & Benefits Administration LLC – Los Angeles County Superior Court, Case No. BC643007; Armstrong v. Ruan Transport Corporation – San Bernardino County Superior Court, Case No. CIVDS1605897; Geiger v. Floyd’s 99-California LLC – Orange County Superior Court, Case No. 30-2016-00874943-CU-OE-CXC; Mondrian v. Trius Trucking, Inc. – Fresno County Superior Court, Case No. 16CECG01501; Johnson v. Fedex Office and Print Services, Inc. – Alameda County Superior Court, Case No. RG17856291; Rios v. Pacific Western Bank – San Diego County Superior Court, Case No. 37-2016-00038083; Sanders v. Old Dominion Freight Lines, Inc. – San Diego County Superior Court, Case No. 37-2016-00030725-CU-OE-CTL; Taylor v. Gardner Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1614280; Couture v. Wal-Mart Associates, Inc. – U.S. District Court, Eastern District of California, case No. 16-CV-02202-VC; Bertuol v. AHMC Anaheim Regional Medical Center LP – Orange County Superior Court, Case No. 30-2017-00899024-CO-OE-CXC; Espinoza v. Prime Communications of California, LLC – San Mateo County Superior Court, Case No. 16CIV01563; Archuletta v. Tidy Services, Inc. – Orange County Superior court, Case No. 30-2016-008611892-CU-OE-CXC; Puccini v. Earthbound Farm, LLC – Santa Clara County Superior Court, Case No. 17CV308643; Vikram v. First Student Management, LLC – U.S. District Court, Northern District of California, Case No. 17-CV-04656-KAW; Blair v. Ashley Distribution Services, LTD. – U.S. District Court, Central District of California, Case No. 17-CV-01427-JAK-SP; Richardson v. Service Staffing, LLC – Orange County Superior Court, Case No. 30-2017-00899039-CU-OE-CXC; Coffin v. Certified Freight Logistics, Inc. – San Diego County Superior Court, Case No. 37-2016-00036523-CU-OE-CTL; Encarnacion v. S.A.S. Services Group, Inc. – San Diego County Superior Court, Case No. 37-2017-00026726-CU-OE-CTL; Vasquez v. Golden State Overnight Delivery Service, Inc. – Alameda County Superior Court, Case No. RG17862924; Karr v. Tristar Managed Care, Inc. – Contra Costa Superior Court, case No. MSC17-00650; Gouveia v. Central Cal Transportation – San Joaquin County Superior Court, Case No. STK-CV-UOE-2017-0001765; Miranda v. Genex Services, LLC – U.S. District Court, Northern District of California, Case No. 17-CV-01438-JD; Spears v. Health Net of California, Inc. – Sacramento County Superior Court, Case No. 34-2017-00210560; Martinez v. Geil Enterprises, Inc. – Fresno County Superior Court, Case No. 17CECG01879; McComack v. Marriott Ownership Resorts, Inc. – U.S. District Court, Southern District of California, Case No. 17CV1663 BEN WVG; Velasco v. Lemonade Restaurant Group, LLC – Los Angeles County Superior Court, Case No. BC672235; Smith v. Personnel Services, Inc. – U.S. District Court, Northern District of California, Case NO. 17-CV-03594-SK; Gabriel v. Kuni SDA, LLC – San Diego County Superior Court, Case No. 37-2017-000251191-CU-OE-CTL; Miller v. Mattress Firm, Inc. – Santa Clara County Superior Court, Case No. 17CV313148; Provost v. Yourmechanic, Inc. – San Diego County Superior Court, Case No. 37-2017-00024056-CU-OE-CTL; Zirpolo v. UAG Stevens Creek II, Inc. – Santa Clara County Superior Court, Case No. 17CV313457; Salazar v. Aids Healthcare Foundation – San Diego County Superior Court, Case No. 37-2017-00033482-CU-OE-CTL; Knipe v. Amazon.com, Inc. – San Diego County Superior Court, Case No. 37-2017-00029426-CU-OE-CTL; Erwin v. Caremeridian, LLC – Fresno County Superior Court, Case No. 17CECG03048; Davis v. Cox Communications California, LLC – U.S. District Court, Southern District of California, Case No. 16-CV-00989-BAS-BLM; Lara v. RMI International, Inc. – Los Angeles County Superior Court, Case No. BC597695; Harper v. C.R. England, Inc. – U.S. District Court, Utah Central

Division, Case No. 16-CV-00906-DB; Mrazik v. C.H. Robinson Company – U.S. District Court, Central District of California, Case No. 12-CV-02067-CAS-PLA; Horn v. Rise Medical Staffing, LLC – U.S. District Court, Eastern District of California, Case No. 2:17-cv-01967-MCE-KJN; Pasallo v. GSG Protective Services CA Inc. – San Diego Superior Court, Case No. 37-2018-00037611-CU-OE-CTL; Smith v. Pacific Personnel Services, Inc. – U.S. District Court, Northern District of California, Case No. 17-cv-03594-SK; Terrado v. Accredited Debt Relief, LLC – San Diego Superior Court, Case No. 37-2018-00014181-CU-OE-CTL; Escobedo v. Pacific Western Bank – Los Angeles Superior Court, Case No. BC682686; Wade v. Automobile Club of Southern California – Orange County Superior Court, Case No. 30-2017-00960268-CU-OE-CXC; Montano v. American Automobile Association of Northern California – Contra Costa County Superior Court, Case No. CIVMSC18-01539; Perez v. Summit Interconnect, Inc. – Orange County Superior Court, Case No. 30-2018-00995403-CU-OE-CXC; Wolleson v. Gosch Imports, Inc. – Riverside County Superior Court, Case No. RIC170356; Banuelos v. Ortho Mattress, Inc. – Orange County Superior Court, Case No. 30-2020-01161304-CU-OE-CXC; Castellanos v. Miller Automotive Group, Inc. – Los Angeles County Superior Court, Case No. BC699211; Tressler v. Spoonful Management, LLC – Los Angeles County Superior Court, Case No. BC71940; Delph v. Employee Retention Services, LLC – San Diego County Superior Court, Case No. 37-2018-00007885; Romero v. May Trucking Company – U.S. District Court, Central District of California, Case No. 5:17-cv-02166-JGB-SHK; Miranda v. Genex Services, LLC – San Bernardino County Superior Court, Case No. CIVDS1700779; Moore v. Zirx Transportation Services, Inc. – Los Angeles County Superior Court, Case No. CGC-18-566655; Sottile v. Motion Recruitment Partners – Santa Clara County Superior Court, Case No. 18CV321677; Shahbazian v. Fast Auto Loans, Inc. – U.S. District Court, Central District of California, Case No. 2:18-cv-03076-ODW-KS; Salazar v. Johnson & Johnson Consumer Inc. – Los Angeles County Superior Court, Case No. BC702468; Conti v. L’Oreal USA S/D, Inc. – U.S. District Court, Eastern District of California, Fresno, Case No. 1:19-CV-00769-LJO-SKO; Mercado v. Security Industry Specialists, Inc. – Santa Clara County Superior Court, Case No. 17CV320059; Vikili v. Dignity Health – San Francisco County Superior Court, Case No. CGC-18-569456; Bagby v. Swissport SA, LLC – Los Angeles County Superior Court, Case No. BC691058; Henry v. Motion Entertainment Group, LLC – San Francisco County Superior Court, Case No. CGC18565643; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Lanuza v. AccentCare, Inc. – San Francisco County Superior Court, Case No. CGC-18-565521; Thomas v. Easy Driving School, LLC – San Diego County Superior Court, Case No. 37-2018-00047639-CU-OE-CTL; Erickson v. Erickson – Contra Costa County Superior Court, Case No. MSC18-00307; Martin v. Menzies Aviation (USA) Inc. – San Francisco County Superior Court, Case No. CGC-18-566072; Mortimer v. Healthsouth Bakersfield Rehabilitation Hospital, LLC – Kern County Superior Court, Case No. BCV-18-102761; Alcaraz v. Red Lion Hotels Corporation – San Francisco County Superior Court, Case No. CGC-18-570310; Calhoun v. Total Transportation and Distribution, Inc. – San Diego County Superior Court, Case No. 37-2018-00058681-CU-OE-CTL; Rataul v. Overton Security Services, Inc. – Alameda County Superior Court, Case No. RG18891882; Beltran v. Compass Bank – San Diego County Superior Court, Case No. 37-2019-00024475-CU-OE-CTL; Kirshner v. Touchstone Golf, LLC – San Diego County Superior Court, Case No. 37-2018-00028865-CU-OE-CTL; Pizarro v. The Home Depot, Inc. – U.S. District Court for the Northern District of Georgia-Atlanta Division; Hatanaka v. Restore Rehabilitation, LLC – San Diego County Superior Court, Case No. 37-2018-00034780-CU-OE-CTL; Faria v. Carriage Funeral Holdings, Inc. – Contra Costa County Superior Court, Case No. MSC18-00606; Ontiveros v. Baker Concrete Construction, Inc. – Santa Clara County Superior Court, Case No. 18CV328679; Morales v. Redlands Automotive Services, Inc. – San Bernardino County Superior Court, Case No. CIVDS1807525; Ramirez v. Carefusion Resources, LLC – U.S. District Court, Southern District of California; Amster v. Starbucks Corporation – San Bernardino Superior Court, Case No. CIVDS1922016; Kutzman v. Derrel’s Mini Storage, Inc. – U.S. District, Eastern District of California, Case No. 1:18-cv-00755-AWI-JLT; Marks v. Universal Propulsion Company, Inc. – Solano County Superior Court, Case No. FCS051608; Martinez v. Geil Enterprises,

Inc. – Fresno County Superior Court, Case No. 17CECG01480; Teniente v. Cirrus Asset Management, Inc. – Los Angeles County Superior Court, Case No. 20STCV16302; Blackshear v. California Fine Wine & Spirits LLC – Sacramento County Superior Court, Case No. 34-2018-00245842; Warnick v. Golden Gate America West LLC – Los Angeles County Superior Court, Case No. BC714176; Bennett v. Dnata Aviation USA, Inc. – San Francisco County Superior Court, Case No. CGC-18-566911; George v. PF Stockton Fitness LLC – Sacramento County Superior Court, Case No. 34-2019-00261113-CU-OE-GDS; Oshana v. Farmers and Merchants Bank of Central California – Stanislaus County Superior Court, Case No. CV-19-003427; Vasquez v. Packaging Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-01935-PSG-PLA; Palomino v. Zara USA Inc. – Orange County Superior Court, Case No. 30-2018-00992682-CU-OE-CXC; Simmons v. Joe & The Juice LA, LLC – San Francisco County Superior Court; Pacia v. CIM Group, L.P. – Los Angeles County Superior Court, Case No. BC709666; Flores v. Plastic Express – Los Angeles County Superior Court, Case No. BC71971; Madera v. William Warren Properties, Inc. – Orange County Superior Court, Case No. 30-2019-01055704-CU-OE-CXC; Hernandez v. Quality Custom Distribution – Orange County Superior Court, Case No. 30-2018-01010611-CU-OE-CXC; Arango v. Schlumberger Technology Corporation – Orange County Superior Court, Case No. 30-2019-01056839-CU-OE-CXC; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Ramirez v. J E H Enterprises, Inc. – San Francisco County Superior Court, Case No. CGC-19-574691; Sullen v. First Service Residential California, LLC – San Francisco County Superior Court, Case No. CGC-19-575131; Valentino v. East Bay Tire Co. – Solano County Superior Court, Case No. FCS053067; Murphy v. Rockler Retail Group, Inc. – Sacramento Superior Court, Case No. 34-2019-00251220; Shahbazian v. Onewest Bank – Los Angeles County Superior Court, Case No. 19STCV23722; Bruemmer v. Tempur Retail Stores LLC – Marin County Superior Court, Case No. CIV1803646; Antonios v. Interface Rehab, Inc. – Orange County Superior, Case No. 30-2019-01067547-CU-OE-CXC; Tavallodi v. DC Auto, Inc. – San Bernardino, Case No. CIVDS1833598; Miranda v. The Lloyd Pest Control Co. – San Diego County Superior Court, Case No. 37-2018-00052510-CU-OE-CTL; Soenardi v. Magnussen Imports, Inc. – Santa Clara County Superior Court, Case No. 18CV340003; Thai v. Team Industrial Services, Inc. – Los Angeles County Superior Court, Case No. 19STCV21953; Castillo v. A.J. Kirkwood & Associates, Inc. – Los Angeles County Superior Court, Case No. 19STCV04435; Moss v. Jabil Inc. – Alameda County Superior Court, Case No. HG20050536; Billosillo, Jr. v. Crown Energy Services, Inc. – San Diego County Superior Court, Case No. 37-2018-00058254-CU-OE-CTL; Tarkington v. Freetime, Inc. – San Diego County Superior Court, Case No. 37-2019-00011473-CU-OE-CTL; McIntyre v. J.J.R. Enterprises, Inc. – Sacramento County Superior Court, Case No. 34-2019-00251220; Bucur v. Pharmaca Integrative Pharmacy, Inc. – San Diego County Superior Court, Case No. 37-2019-00009409-CU-OE-CTL; Batin v. McGee Air Services, Inc. – Santa Clara County Superior Court, Case No. 19CV347733; Terry v. McGee Air Services, Inc. – King County Superior Court of Washington, Case No. 19-2-3321-5 KNT; Weiss v. Niznik Behavioral Health Resources, Inc. – San Diego County Superior Court, Case No. 37-2019-00039441-CU-OE-CTL; Cavada v. Inter-Continental Hotels Group, Inc. – U.S. District Court, Southern District of California, Case No. 3:19-cv-01675-GPC-AHG; Lesevic v. Spectraforce Technologies, Inc. – U.S. District Court, Northern District of California, Case No. 5:19-cv-03126-LHK; Mutchler v. Circle K Stores, Inc. – San Diego County Superior Court, Case No. 37-2020-00016331-CU-OE-CTL; Azima v. CSI Medical Group – Santa Clara County Superior Court, Case No. 19CV345450; Porras v. Baypointe Enterprises, LLC – Los Angeles County Superior Court, Case No. 19STCV31015; Mitchell v. Mack Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1928334; Watts v. T.R.L. Systems, Incorporated – Orange County Superior Court, Case No. 30-2019-01102457-CU-OE-CXC; Price v. DMSD Restaurants Inc. – San Diego County Superior Court, Case No. 37-2019-00024062-CU-OE-CTL; Jacobs v. Nortek Security & Control LLC – San Diego County Superior Court, Case No. 37-2019-0019735-CU-OE-CTL; Gonzalez v. Hub International Midwest – San Bernardino County Superior Court, Case No. CIVDS1900463; Cisneros v. Bluepearl California, Inc. – San Mateo Superior Court, Case No. 19-

CIV-05707; Garcia v. Gallagher Basset Services – San Bernardino Superior Court, Case No. CIVDS2004140; Callow v. Adventist Health System/West – Placer County Superior Court, Case No. SCV0043607; Dominguez v. Kimco Facility Services, LLC – Los Angeles County Superior Court, Case No. 19STCV37592; Searles v. Robert Heath Trucking, Inc. – Los Angeles County Superior Court, Case No. 19STCY30808; Rangel v. Pioneer Hi-Bred international, Inc. – Yolo County Superior Court, Case No. CV-19-1797; Ivon v. Sinclair Television of California, Humboldt County Superior Court, Case No. DR190699; Williams v. Henkels & McCoy, Inc. – San Bernardino County Superior Court, Case No. CIVDS2003888; Cano v. Larry Green Chrysler Jeep Dodge, Inc. – Riverside County Superior Court, Case No. BLC1900184; Lopez v. Cepheid – Santa Clara County Superior Court, Case No. 19CV358827; Hernandez v. Quick Dispense, Inc. – Los Angeles County Superior Court, Case No. 19STCV29405; Lopez v. Lacoste USA, Inc. – San Bernardino County Superior Court, Case No. CIVDS1914626; Duhe v. Hospital Couriers Nevada, LLC – Contra Costa County Superior Court, Case No. MSC19-01377; Law v. Sequoia Equities, Incorporated – Contra Costa Superior Court, Case No. C19-01925; Dvorak v. Rockwell Collins, Inc. – San Diego County Superior Court, Case No. 37-2019-00064397-CU-OE-CTL; Noguera v. Metal Container Corporation – Riverside County Superior Court, Case No. RIC2003235; Leon v. Miller Event Management, Inc. – San Luis Obispo Superior Court, Case No. 19CV-0435; Leon v. Miller Event Management, Inc. – San Luis Obispo County Superior Court, Case No. 19CV-0435, Camacho-Bias v. Serve U Brands Inc. – Butte County Superior Court, Case No. 20CV00603; La Pietra v. Entertainment Partners Services, LLC – Los Angeles County Superior Court, Case No. 19STCV39529; Celis v. Theatre Box - San Diego, LLC – San Diego County Superior Court, Case No. ____; Ignacio v. Laboratory Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-06079-AB-RAO; Kovnas v. Cahill Contractors LLC – Alameda County Superior Court, Case No. RG19037852; Hersh v. Mrs. Gooch's Natural Food – Los Angeles County Superior Court, Case No. 19STCV10444; Miller v. The Permanente Medical Group – Alameda County Superior Court, Case No. RG19045904; Vasquez v. Autoalert, LLC – Orange County Superior Court, Case No. 30-2019-01114549-CU-OE-CXC; Cavanaugh v. Morton Golf, LLC – Sacramento County Superior Court, Case No. 34-2019-00270176; Coley v. Monroe Operations, LLC – Alameda County Superior Court, Case No. RG20063188; Ramirez v. Sierra Aluminum Company – U.S. District Court, California Central District Court, Case No. 5:20-cv-00417-JGB-KK; Marrero v. Stat Med, P.C. – Alameda County Superior Court, Case No. HG19043214; Enriquez v. Solari Enterprises, Inc. – Los Angeles County Superior Court, Case No. 20STCV11129; Craig v. Hometown Heart – San Francisco County Superior Court, Case No. CGC-20-582454; Lopez v. Hy0Lang Electric California, Inc. – San Diego County Superior Court, Case No. 37-2020-00012543-CU-OE-CTL; Heuklom v. Clara Medical Group, P.C. – San Francisco County Superior Court, Case No. CGC-20-585918; Dominguez v. Lifesafer of Northern California – Monterey County Superior Court, Case No. 20CV002586; Kiseleva v. Totalmed Staffing Inc. – U.S. District Court, California Northern District, Case No. 5:19-cv-06480; Vires v. Sweetgreen, Inc. – Santa Clara County Superior Court, Case No. 20CV365918; Kim v. Wireless Vision, LLC – San Bernardino County Superior Court, Case No. CIVDS2000074; Senoren v. Air Canada Corporation – Los Angeles County Superior Court, Case No. 20STCV13942; Clark v. Quest Diagnostics Incorporated – San Bernardino County Superior Court, Case No. CIVDS2018707; Green v. Shipt, Inc. – Los Angeles County Superior Court, Case No. 20STCV01001; Respass v. The Scion Group LLC – Sacramento County Superior County, Case No. 34-2020-00285265; Jackson v. Decathlon USA LLC – Alameda County Superior Court, Case No. RG2003024; Avacena v. FTG Aerospace Inc. – Los Angeles County Superior Court, Case No. 20STCV28767; Perez v. Butler America, LLC – Los Angeles County Superior Court, Case No. 20STCV20218; Christensen v. Carter's Retail, Inc. – Orange County Superior Court, Case No. 30-2020-01138792-CU-OE-CXC; Astudillo v. Torrance Health Association, Inc. – Los Angeles County Superior Court, Case No. 20STCV18424; Hansen v. Holiday AI Management Sub LLC – Contra Costa County Superior Court, Case No. CIVMSC20-00779; Almahdi v. Vitamin Shoppe Industries Inc – Santa Clara County Superior Court, Case No. 20CV365150; Krisinda v. Loyal Source Government Services LLC – U.S. District Court, California

Southern District, Case No. 3:20-cv-879-LAB-NLS; Ettedgui v. WB Studio Enterprises Inc – U.S. District Court, California Central District, Case No. 2:20-CV-08053-MCS (MAAx); Fernandez v. Nuvision Federal Credit Union – Orange County Superior Court, Case No. 30-2020-01161691-CU-OE-CJC; Aviles v. UPS Supply Chain Solutions, Inc. – Riverside County Superior Court, Case No. RIC2000727; Alcocer v. DSV Solutions, LLC – San Bernardino Superior Court, Case No. CIVDS2010345; Wilson v. Wholesome Harvest Baking, LLC – U.S. District Court, California Northern District, Case No. 4:20-cv-05186-YGR; Gregory v. Verio Healthcare, Inc. – Los Angeles County Superior Court, Case No. 20STCV37254; Rose v. Impact Group, LLC – Orange County Superior Court, Case No. 30-2020-01141107-CU-OE-CXC; Monasterio v. Citibank, N.A. – San Mateo County Superior Court, Case No. 20-CIV-03650; Martinez-Lopez v. Medamerica, Inc. – San Diego County Superior Court, Case No. 37-2020-00034393-CU-OE-CTL; Cox v. PRB Management, LLC – Solano County Superior Court, Case No. FCS055514; Nash v. K. Hovnanian Companies, LLC – Riverside County Superior Court, Case No. RIC2003319; Kyler v. Harbor Freight Tools USA, Inc. – San Diego County Superior Court, Case No. 37-2020-00015828-CU-OE-CTL; Roberts v. Solantic Corporation – Los Angeles County Superior Court, Case No. 20STCV41117; Price v. Mistras Group, Inc. – Los Angeles County Superior Court, Case No. 20STCV22485; Macias v. ABM Electrical & Lighting Solutions, Inc. – San Diego County Superior Court, Case No. 37-2020-00024997-CU-OE-CTL; Basu-Kesselman v. Garuda Labs, Inc. – San Francisco County Superior Court, Case No. CGC-20-585229; Armstrong v. Prometric LLC – Los Angeles County Superior Court, Case No. 20STCV29967; Ashlock v. Advantis Medical Staffing, LLC – San Diego County Superior Court, Case No. 37-2020-00022305-CU-OE-CTL; Wilson v. WXI Global Solutions, LLC – Los Angeles County Superior Court, Case No. 20STCV25007; Gandhale v. Select Rehabilitation, LLC – Monterey County Superior Court, Case No. 20CV002240; Starvoice v. G4S Secure Solutions (USA) Inc. – San Diego County Superior Court, Case No. 37-2020-00029421-CU-OE-CTL; Mbise v. Axlehire, Inc. – Alameda County Superior Court, Case No. RG20067350; Points v. C&J Services, Inc. – Kern County Superior Court, Case No. BCV-20-102483; Marshall v. PHI Air Medical, LLC – Lassen County Superior Court, Case No. 62973; Jauregui v. Cytotec Engineered Materials, Inc. – Orange County Superior Court, Case No. 30-2020-01164932-CU-OE-CXC

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is made by and between plaintiff Sandy Murillo (“Plaintiff”) and defendant 7 Eleven, Inc. (“Defendant”). Plaintiff and Defendant collectively are referred to in this Agreement as the “Parties.”

I. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

1. “Action” collectively means: (1) the Class Action Complaint that was filed in California state court and any amendments thereto, which is captioned *Sandy Murillo v. 7 Eleven, Inc.*, Case No. 37-2020-00043637-CU-OE-CTL, pending in Superior Court of the State of California, County of San Diego, and (2) the Representative Action Complaint that was filed in California state court and any amendments thereto, which is captioned *Sandy Murillo v. 7 Eleven, Inc.*, Case No. 37-2020-00002324-CU-OE-CTL pending in Superior Court of the State of California, County of San Diego.
2. “Aggrieved Employees” means all individuals who are or previously were employed by Defendant in California who were classified as non-exempt employees at any time during PAGA Period.
3. “Class” means all individuals who are or previously were employed by Defendant in California who were classified as non-exempt employees at any time during the Class Period excluding persons who have previously settled claims otherwise covered by this settlement.
4. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw, and Jeffrey S. Herman of Blumenthal Nordrehaug Bhowmik De Blouw LLP.
5. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.
6. “Class Data” means, for each Class Member, his or her name; last-known mailing address; Social Security number; his or her employee identification number; his or her email address (if known and available to Defendant); and his or her dates of employment and/or weeks worked during the Class Period as a Class Member and pay periods worked during the PAGA Period.

7. “Class Member” is a member of the Class.
8. “Class Notice” means the Notice of Proposed Settlement of Class Action and Hearing Date for Final Court Approval substantively in the form attached hereto as Exhibit A to this Agreement and incorporated by reference into this Agreement.
9. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Settlement Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Settlement Administrator) along with a Spanish translation of the Class Notice.
10. “Class Period” means the period of time from November 30, 2016, through April 27, 2022.
11. “Class Representative Service Payment” means the service payment made to Plaintiff in her capacity as Class Representative in order to compensate her for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses in the event Plaintiff was unsuccessful in the prosecution of the Action, and for the general release of all claims by Plaintiff.
12. “Court” means the Superior Court of California, San Diego County.
13. “Defendant” means 7 Eleven, Inc.
14. “Defendant’s Counsel” means Julie R. Trotter and Mireya Llaurodo of Call & Jensen, APC.
15. “Effective Date” means the date by which all of the following have occurred:
 1. This Agreement is approved by the Court; and
 2. The Judgment becomes Final as defined in paragraph I(17) of this Agreement.
16. “Election Not to Participate in Settlement” means the written request by a Class Member to exclude himself or herself from the Settlement submitted in accordance with the instructions in the Class Notice.
17. “Final” means the last of the following dates, as applicable:
 1. If no objection to the Settlement is made, the date the Judgment is entered.
 2. If an objection to the Settlement is made and Judgment is entered, but no appeal is filed, the last date on which a notice of appeal from the Judgment may be filed and none is filed.

3. If Judgment is entered and a timely appeal from the Judgment is filed, the date the Judgment is affirmed and is no longer subject to appeal.
18. “Final Approval Hearing” means the hearing to be conducted by the Court to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
19. “Gross Settlement Amount” means One Million Nine Hundred Ninety Thousand Dollars (\$1,990,000) to be paid by Defendant as provided by this Agreement. This Gross Settlement Amount is an all-in amount without any reversion to Defendant and shall be inclusive of all payments of Settlement Shares to the Participating Class Members, Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the PAGA Payment, and excluding any employer payroll taxes, if any, due on the portion of the Settlement Shares allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.
20. “Judgment” means the Final Approval Order and Judgment entered by the Court substantially in the forms attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
21. “Net Settlement Amount” means the Gross Settlement Amount less the Court-approved amounts for the Class Representative Service Payments, the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the PAGA Payment, and the Settlement Administration Expenses.
22. “Non-Participating Class Member” means a Class Member who submits a valid and timely Election Not to Participate in Settlement.
23. “PAGA Period” means the period of time from November 30, 2019, through April 27, 2022.
24. “Participating Class Member” means a Class Member who does not submit a valid and timely Election Not to Participate in Settlement.
25. “Preliminary Approval of the Settlement” means the Court’s Order Granting Preliminary Approval of the Settlement substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
26. “Released Parties” collectively mean: Defendant, Defendant’s respective past, present and future parents, subsidiaries, corporations, divisions, and successors and assigns, and the past, present and future shareholders, managers, officers, partners, members, directors, agents, employees, attorneys, insurers, predecessors, successors and assigns of Defendant.

- 27. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement.
- 28. “Settlement Administrator” means the third-party settlement administrator proposed by the Parties, as approved by the Court.
- 29. “Settlement Share” means each Participating Class Member’s share of the Net Settlement Amount as provided by this Agreement.

II. RECITALS

Plaintiff’s Class Action

- 30. On November 30, 2020, Plaintiff filed a Class Action Complaint against Defendant in the Superior Court of the State of California, County of San Diego. Plaintiff asserted claims that Defendant:
 - a. Violated California Business and Professions Code § 17200 *et seq.*;
 - b. Failed to pay minimum wages in violation of California Labor Code §§ 204, 1194, 1197, and 1197.1;
 - c. Failed to pay overtime wages in violation of California Labor Code § 510, *et seq.*;
 - d. Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - e. Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - f. Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
 - g. Failed to pay all compensation due and made unlawful deductions from compensation payable to plaintiff and class members;
 - h. Failed to reimburse employees for required expenses in violation of California Labor Code § 2802;
 - i. Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203;
 - j. Failed to provide suitable seating in violation California Labor Code § 1198 and California Code of Regulations, Title 8, Section 11070(14); and
 - k. Wrongfully terminated Plaintiff in violation of public policy.

31. On February 19, 2021, Plaintiff filed a First Amended Class Action Complaint to add additional factual allegations, specifically with respect to Plaintiff's claim for Defendant's failure to include non-discretionary remuneration in the calculation of sick pay under Labor Code §245-249 .
32. On February 22, 2021, Plaintiff filed a Request for Dismissal of Plaintiff's Ninth Cause of Action in the First Amended Class Action Complaint for failure to provide suitable seating in violation of California Labor Code § 1198 and California Code of Regulations, Title 8, Section 11070(14).
33. On or about January 19, 2021, Defendant filed an Answer to Plaintiff's First Amended Class Action Complaint.

Plaintiff's PAGA Action

34. On February 3, 2021, Plaintiff filed a separate Representative Action Complaint against Defendant for Civil Penalties Pursuant to Labor Code §§ 2699, et seq. (the Private Attorneys General Act ("PAGA")) for violations of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040 Subdivision 5(A)-(B), and California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating) and seeking penalties that flow therefrom.
35. On or about February 26, 2021, Defendant filed an Answer to Plaintiff's Representative Action Complaint.

Consolidation

36. On July 23, 2021, the Court Ordered that Plaintiff's Class Action and PAGA Action be consolidated for all purposes, with the Class Action as the lead case.

Mediation and Settlement

37. On January 27, 2021, the Parties participated in an all-day mediation presided over by Michael E. Dickstein, Esq., a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based upon a mediator's proposal, which was then memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.
38. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff, the Class, or Aggrieved Employees have merit or that Defendant bears any liability to Plaintiff, the Class, or Aggrieved Employees on those claims or any other claims, or as an

admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. SETTLEMENT TERMS AND CONDITIONS

39. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendant will pay under this Settlement is One Million Nine Hundred Ninety Thousand Dollars (\$1,990,000). This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Settlement Shares allocated to wages which shall be separately paid by Defendant to the Settlement Administrator. All of the Gross Settlement Amount will be disbursed pursuant to this Agreement without the need to submit a claim form and none of the Gross Settlement Amount will revert to Defendant.
40. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount:
 - a. **To Plaintiff:** In addition to the Settlement Share to be paid to Plaintiff and the individual settlement to Plaintiffs addressed below at paragraph 49(e), Plaintiff will apply to the Court for an award of not more than \$10,000 as a Class Representative Service Payment. Defendant will not oppose a Class Representative Service Payment of no more than \$10,000 for Plaintiff. The Settlement Administrator will pay the Class Representative Service Payment approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Representative Service Payment of less than \$10,000, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. Payroll tax withholding and deductions will not be taken from the Class Representative Service Payment and instead a Form 1099 will be issued to Plaintiff with respect to the payment and Plaintiff will assume full responsibility and liability for the taxes due on her Class Representative Service Payment.
 - b. **To Class Counsel:** Class Counsel will apply to the Court for an award of not more than One-Third of the Gross Settlement Amount, which is presently \$663,333.33, as their Class Counsel Fees Payment and an amount not more than \$25,000 for all expenses incurred as documented in Class Counsel's billing records as their Class Counsel Litigation Expenses Payment. Defendant will not oppose their request for a Class Counsel

Fees Payment and Class Counsel Litigation Expenses Payment consistent with this Agreement and approved by the Court. The Settlement Administrator will pay the amounts approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Counsel Fees Payment or a Class Counsel Litigation Expenses Payment of less than these amounts, which are presently \$663,333.33, and \$25,000, respectively, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. Payroll tax withholding and deductions, if any, will not be taken from the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment and instead one or more Forms 1099 will be issued to Class Counsel with respect to those payments. The payment of the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment shall be made to Class Counsel.

- c. **The PAGA Payment.** The Parties will seek approval from the Court for the PAGA Payment of Two Hundred Fifty Thousand Dollars \$250,000 out of the Gross Settlement Amount, which shall be allocated 75% (\$187,500) to the LWDA as the LWDA's share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA and 25% (\$62,500) will be distributed to the Aggrieved Employees based on their respective pay periods worked during the PAGA Period. If the Court approves a PAGA Payment of less than \$250,000, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. All Aggrieved Employees will be sent their share of the PAGA Payment and will be subject to the release of the Released PAGA Claims as set forth below, whether or not they opt out of the Settlement. One hundred percent (100%) of the PAGA Payment is in settlement of claims for penalties and not be subject to wage withholdings, and shall be reported on IRS Form 1099.

- d. **To the Settlement Administrator.** The Settlement Administrator will pay out of the Gross Settlement Amount to itself its reasonable fees and expenses that are documented and approved by the Court in an amount not to exceed \$40,000 ("Settlement Administration Expenses"). To the extent the Settlement Administration Expenses that are documented and approved by the Court are less than \$40,000, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members.

- 41. **Payments From the Net Settlement Amount.** The Net Settlement Amount shall include the following payments after the deductions have been made from the Gross Settlement Amount as described in this Agreement. The Net Settlement Amount shall include the following:

- a. **Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay a Settlement Share from the Net

Settlement Amount to each Participating Class Member. The submission of a claim form is not required to be paid.

- b. **Calculation.** Each Participating Class Member will be entitled, provisionally, to a share or shares of the Net Settlement Amount. The Settlement Share for each Participating Class Member will be calculated as follows: (i) Defendant shall provide the Settlement Administrator with the Class Data; (ii) the Settlement Administrator shall then divide the Net Settlement Amount by the total number of weeks included in the dates of employment to determine a dollar amount per week (“Weekly Rate”); and (iii) the Settlement Administrator shall then take the number of weeks worked by each Participating Class Member and multiply it by the Weekly Rate to calculate their Settlement Share.
- c. **Withholding.**
 - i. Subject to approval by the Court, Twenty Five Percent (25%) of each Participating Class Member’s Settlement Share is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2 and shall be paid for from the Gross Settlement Amount. The Settlement Administrator shall be responsible for remitting to the tax authorities employees’ and employer’s share of all payroll taxes on the Wage Portion.
 - ii. Subject to approval by the Court, Seventy Five Percent (75%) of each Participating Class Member’s Settlement Share is in settlement of claims for interest, penalties and expense reimbursement allegedly due to employees (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings, and shall be reported on IRS Form 1099.
- d. **Effect of Non-Participating Class Members.** Non-Participating Class Members will receive no Settlement Share, and their Election Not to Participate in Settlement will reduce neither the Gross Settlement Amount nor the Net Settlement Amount. Their respective Settlement Shares will remain a part of the Net Settlement Amount for distribution to Participating Class Members on a *pro rata* basis relative to their Settlement Shares.
- e. **Class Size Modification.** Defendant has represented that the class consists of an estimated total of 3,463 Class Members who worked 125,000 workweeks during the Class Period through the date of mediation. In regard hereto, Defendant will provide declaration(s) under oath prior to the filing of the motion for preliminary approval as to the number of Class

Members during the Class Period. Should the number of workweeks in the Class Period increase by more than 10%, Defendant will increase the Gross Settlement Amount by a proportionate additional amount for each additional work week.

42. **Appointment of Settlement Administrator.** After obtaining a quote from mutually acceptable and qualified settlement administrators, the Parties have mutually agreed to ask the Court to appoint ILYM Group as the qualified administrator, to serve as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number to receive calls from Class Members; receiving and reviewing for validity completed Elections Not to Participate in Settlement; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of completed Elections Not to Participate in Settlement; calculating Settlement Shares; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Settlement Administrator will have the authority to resolve all disputes concerning the calculation of a Participating Class Member's Settlement Share, subject to the dollar limitations and calculations set forth in this Agreement. The Settlement Administration Expenses, including the cost of printing and mailing the Class Notice Packet, will be paid out of the Gross Settlement Amount.

The Settlement Administrator shall have its own Employer Identification Number under Internal Revenue Service Form W-9 and shall use its own Employer Identification Number in calculating payroll withholdings for taxes and shall transmit the required employers' and employees' share of the withholdings to the appropriate state and federal tax authorities. The Settlement Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

43. **Procedure for Approving Settlement.**

a. **Motion for Preliminary Approval of Settlement by the Court.**

- i. After Execution of this Settlement Agreement, Plaintiff will file a Preliminary Approval Motion with the Court for an order granting Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice (the "Motion for Preliminary Approval"). Any disagreement among the Parties concerning the Class Notice, the proposed orders, or other

documents necessary to implement the Settlement will be referred to the mediator for resolution.

- ii. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the motion, and submit an Order Granting Preliminary Approval of the Settlement substantially in the form evidenced by Exhibit B to this Agreement and incorporated by reference into this Agreement.
 - iii. Should the Court decline to preliminarily approve material aspects of the Settlement (including but not limited to the scope of release to be granted by Participating Class Members or the binding effect of the Settlement on Participating Class Members), the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Settlement for the Court's approval.
- b. **Notice to Class Members.** After the Court enters an Order Granting Preliminary Approval of the Settlement, every Class Member will be sent the Class Notice Packet (which will include the Class Notice completed to reflect the Order Granting Preliminary Approval of the Settlement and showing the Class Member's Settlement Share) as follows:
- i. No later than 14 days after the Court enters an Order Granting Preliminary Approval of the Settlement, Defendant will provide to the Settlement Administrator an electronic database containing each Class Member's Class Data. If any or all of the Class Data is unavailable to Defendant, Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon the Class Data prior to when it must be submitted to the Settlement Administrator. This information will otherwise remain confidential and will not be disclosed to anyone, except as required to applicable taxing authorities, in order to carry out the reasonable efforts described herein, or pursuant to Defendant's express written authorization or by order of the Court. All Class Data will be used for settlement notification and settlement administration and shall not be used for any other purpose by Class Counsel. This provision shall not be construed to impede Class Counsel's ability to discharge their fiduciary duties to the Class, and if additional disclosures are necessary, Class Counsel will obtain written authorization of Defendant and/or an order from the Court.
 - ii. The Settlement Administrator shall update the Class Data using the National Change of Address database prior to mailing the Class Notice Packets. Using best efforts to mail it as soon as possible,

and in no event later than 14 days after receiving the Class Data, the Settlement Administrator will mail the Class Notice Packets to all Class Members via first-class regular U.S. Mail using the mailing address information provided by Defendant, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement. The Class Notice, and any email containing the re-mailed Class Notice, shall include a Spanish translation. The envelope of the Class Notice Packet shall include an advisory about the content in both English and Spanish.

- iii. If a Class Notice Packet is returned because of an incorrect address, the Settlement Administrator will promptly re-mail the Class Notice Packet to the Class Member no later than seven (7) business days after the receipt of the undelivered Class Notice. The Settlement Administrator will also email a copy of the re-mailed Class Notice to the Class Member if there is an available email address in the Class Data. The Settlement Administrator will use the Class Data and otherwise work with Defendant to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, Court orders, and fee, as agreed to with Class Counsel and according to the following deadlines, to trace the mailing address of any Class Member for whom a Class Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address using available email addresses, phone numbers, social security numbers, credit reports, LinkedIn, and Facebook; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice Packet is re-mailed, the response date for written objections, disputes and opt-outs will be extended an additional 15 days, this extended response date will be set forth in the re-mailed Class Notice, and the Settlement Administrator will note for its own records and notify Class Counsel and Defendant's Counsel of the date and address of each such re-mailing as part of a weekly status report provided to the Parties.
- iv. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendant's Counsel of the number of Elections Not to Participate in Settlement it receives (including the numbers of valid and deficient), and number of objections received.

- v. Not later than 10 days before the date by which the Plaintiff files the motion for final approval of the Settlement, the Settlement Administrator will provide the Parties for filing with the Court a declaration of due diligence setting forth its compliance with its obligations under this Agreement and detailing the Elections Not to Participate in Settlement it received (including the numbers of valid and deficient Elections) and objections received. Prior to the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

- c. **Objections to Settlement; Disputes as to Workweeks allocated to Class Members; Elections Not to Participate in Settlement.** Participating Class Members may submit objections to the Settlement and/or objections to the Class Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment. Class Members may also submit disputes as to workweeks allocated to them and Elections Not to Participate in Settlement pursuant to the following procedures:

- i. **Objections to Settlement.** The Class Notice will provide that only Participating Class Members who wish to object to the Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or the Class Representative Service Payments may object to the proposed Settlement, either in writing or orally at the Final Approval Hearing. Objections in writing must be submitted to the Settlement Administrator, postmarked not later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets. Written objections must set forth the grounds for the objection(s) and comply with the instructions in the Class Notice, however a written objection shall not be invalid simply because it does not contain all of the information requested. If a Class Notice Packet is re-mailed, the response date for written objections will be extended an additional 15 days. Alternatively, Class Members shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) to orally object to the Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or the Class Representative Service Payments. Non-Participating Class Members shall have no ability to comment on or object to the Settlement.
- ii. **Disputes as to Workweeks.** Each Class Member shall also have forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets in which to dispute the number of workweeks the Class Notice allocates to them during the Class Period. Any notice of dispute shall be directed to the Settlement

Administrator. Any dispute as to this allocation shall be resolved by the Settlement Administrator, with input and assistance from Defendant's Counsel, where applicable. If a Class Notice Packet is re-mailed, the response date for disputes will be extended an additional 15 days.

- iii. **Election Not to Participate in Settlement.** The Class Notice also will provide that Class Members who wish to exclude themselves from the Settlement must mail to the Settlement Administrator postmarked not later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets, a signed Election Not to Participate in Settlement. If a Class Notice Packet is re-mailed, the response date for opt-outs will be extended an additional 15 days. To be valid, an Election Not to Participate in Settlement must be timely and should comply with the instructions in the Class Notice, however an Election Not to Participate in Settlement shall not be invalid simply because it does not contain all of the information requested. If a question is raised about the authenticity of a signed Election Not to Participate in Settlement, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity. A Non-Participating Class Member will not participate in or be bound by the Settlement and the Judgment, except that an Aggrieved Employee will still be paid their allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of their request for exclusion. Defendant will remain free to contest any claim brought by any Class Member that would have been barred by this Agreement, and nothing in this Agreement will constitute or be construed as a waiver of any defense Defendant has or could assert against such a claim. A Class Member who does not complete and mail a timely Election Not to Participate in Settlement in the manner and by the deadline specified above and in the Class Notice will automatically become a Participating Class Member and will be bound by all terms and conditions of the Settlement, including the Released Class Claims by the Class, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Settlement. Persons who submit an Election Not to Participate in Settlement shall not be permitted to file objections to the Settlement or appear at the Final Approval Hearing to voice any objections to the Settlement.

All Participating Class Members who do not submit a valid and timely Election Not to Participate in Settlement will receive a Settlement Share, without the need to file a claim form, and will be bound by all of the terms of the Settlement, including without

limitation, the release of the Released Class Claims by the Participating Class Members set forth in this Agreement.

- iv. **Report.** Not later than ten (10) calendar days after the deadline for submission of Elections Not to Participate in Settlement, the Settlement Administrator will provide Class Counsel and Defendant's Counsel with a complete and accurate list of all Participating Class Members and all Non-Participating Class Members.
- d. **Right of Defendant to Reject Settlement.** If either (i) 10% or more of the Class, or, (ii) a number of Class Members whose share of the class settlement proceeds is 10% of the Gross Settlement Amount or more opt out of the settlement, (i) and (ii), Defendant may, at their election, rescind the settlement. Defendant must exercise this right of rescission, in writing, to Plaintiff's counsel of record in the Actions within 30 calendar days after the Settlement Administrator notifies the Parties of the total number of opt-outs.
- e. **No Solicitation.** The Parties and their respective counsel represent that neither the Parties nor their respective counsel have or will solicit any Class Member to object to the Settlement, appeal from the Judgment, or elect not to participate in the Settlement.
- f. **Additional Briefing and Final Approval.**
 - i. Unless otherwise ordered by the Court, Class Counsel will file with the Court their motion for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payments no later than the date Plaintiff files the Motion for Final Approval, and the application will be scheduled to be heard by the Court at the Final Approval Hearing.
 - ii. Not later than sixteen (16) court days before the Final Approval Hearing, the Plaintiff will file with the Court a motion for final approval of the Settlement, the PAGA Payment, and payment of the Settlement Administration Expenses.
 - iii. If any opposition is filed to the motion for final approval and/or the motion for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the PAGA Payment, then not later than five (5) court days before the Final Approval Hearing, both Parties may file a reply in support of the motion for final approval, and Plaintiff and Class Counsel may also file a reply in support of their motion for the Class Representative Service Payment, the Class Counsel

Fees Payments, and the Class Counsel Litigation Expenses Payment.

- iv. If the Court does not grant final approval of the Settlement or grants final approval conditioned on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members), then the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Settlement for the Court's approval. However, an award by the Court of a lesser amount than that sought by Plaintiff and Class Counsel for the PAGA Payment, Class Representative Service Payments, the Class Counsel Fees Payment, or the Class Counsel Litigation Expenses Payment, will not constitute a material modification to the Settlement within the meaning of this paragraph.
 - v. Upon final approval of the Settlement by the Court at or after the Final Approval Hearing, the Parties will present for the Court's approval and entry the Judgment substantially in the form attached hereto as Exhibit C. After entry of the Judgment, the Court will have continuing jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Agreement, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.
44. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, Plaintiff and Participating Class Members who did not timely submit an objection to the Settlement, Defendant, and their respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate judgment, a motion for new trial, and any extraordinary writ. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings. If an appeal is taken from the Judgment, the time for consummation of the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved and the Judgment becomes Final.
45. **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.** If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition, or application, the reviewing Court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members), and that Court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher

Court, then the Parties shall work together in good faith to address any concerns raised by the reviewing Court and propose a revised Settlement for the approval of the Court not later than fourteen (14) days after the reviewing Court's decision vacating, reversing, or materially modifying the Judgment becomes Final. A vacation, reversal, or modification of the Court's award of the Class Representative Service Payments or the Class Counsel Fees Payment or Class Counsel Litigation Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this paragraph, provided that Defendant's obligation to make payments under this Settlement will remain limited by the Gross Settlement Amount.

46. **Timing of Settlement Funding and Provision of Settlement Shares and Other Payments.** Defendant shall fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. Defendant shall fund the Gross Settlement Amount and the amount necessary to pay Defendant's share of payroll taxes within twenty-one calendar days (21) days of the Effective Date. Within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount, the Settlement Administrator will make payment of all Settlement Shares to all Participating Class Members, even if their Class Notice was undeliverable, as well as payment of Settlement Administration Expenses, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payments and the PAGA Payment in accordance with this Agreement.
47. **Uncashed Settlement Checks.** Before checks are mailed, the Settlement Administrator shall update address information through the National Change of Address database. A Participating Class Member or Aggrieved Employee must cash his or her Settlement Share check within 180 days after it is mailed to him or her. The expiration date of the check must be conspicuously printed on the check. If a check is returned to the Settlement Administrator or not cashed within 120 days after the last mailing, the Settlement Administrator will make all reasonable efforts to re-mail it to the affected individual at his or her correct address by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 120 days after its last mailing to the affected individual, the Settlement Administrator will also send the individual a notice informing him or her that unless the check is cashed in the next 60 days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If the check remains uncashed by the expiration of the 60 day period after this notice, the funds from such uncashed checks will be paid to the California State Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check, and the Participating Class Member or Aggrieved Employee will remain bound by the Settlement. The Parties agree that this disposition results in no "unpaid residue" within the meaning of California Code of Civil Procedure Section 384, as the

entire Net Settlement Amount will be paid out to Participating Class Members or Aggrieved Employees, whether or not they all cash their Settlement Share checks.

48. **Final Report by Settlement Administrator to Court.** Within ten (10) days after final disbursement of all funds from the Gross Settlement Amount, the Settlement Administrator will provide the Parties with a declaration proving a final report on the disbursements of all funds from the Gross Settlement Amount.
49. **Release of Claims.**
 - a. **Participating Class Members.** Upon the Effective Date, Defendant shall receive a release from the Participating Class Members of all claims rights, demands, liabilities, penalties, wages, and causes of action that were asserted in the operative complaint, or that could have been asserted based on the facts and allegations in the operative complaint, which occurred during the Class Period, including claims for violations of Labor Code sections §§ 201, 202, 203, 204, *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)-(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and California Code of Regulations, Title 8, Section 1 1070(14) which arose during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period ("Released Class Claims").
 - b. **Aggrieved Employees.** Upon the Effective Date, Defendant shall receive a release from the State of California and the Aggrieved Employees of all claims, rights, demands, liabilities, penalties, wages, and causes of action under the PAGA that were asserted in the operative complaint, or that could have been asserted based upon the on the facts and allegations in the operative complaint, which occurred during the PAGA Period, including PAGA claims predicated on violations of Labor Code sections §§ 201, 202, 203, 204, *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)-(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and California Code of Regulations, Title 8, Section 1 1070(14), which occurred during the PAGA period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the PAGA Period ("Released PAGA Claims"). The release of the Released PAGA Claims shall be effective as to all Aggrieved Employees, regardless of whether an Aggrieved Employee submitted a request for an exclusion from the Class.
 - c. **Plaintiff.** Upon the Effective Date, Plaintiff generally, releases and discharges the Released Parties from any and all claims, transactions or occurrences between them that occurred during the Class Period

(“Plaintiff’s Released Claims”). This release of Plaintiff’s Released Claims releases the Released Parties from any claim that Plaintiff could maintain in any action against any Released Party that occurred during the Class Period. Notwithstanding the foregoing, this waiver and release of Plaintiff’s Released Claims does not extend to any rights which as a matter of law cannot be waived and released by private agreement, including rights to sue to enforce this Agreement and rights to vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits, and claims outside the Class Period.

Plaintiff acknowledges that she may discover facts or law different from, or in addition to the facts or law that she knows or believes to be true with respect to the claims and matters released by way of this Agreement and agrees, nonetheless, that this Agreement and the releases contained in it shall be and remain effective in all respects, notwithstanding such different or additional facts or the discovery of them. The Parties declare and represent that they intend this Agreement to be complete and not subject to any claim of mistake, and that the releases herein express full and complete releases, and that they intend that the releases herein shall be final and complete.

- d. **Plaintiff’s Waiver of Rights Under California Civil Code Section 1542.** As partial consideration for the Class Representative Service Payment, the Plaintiff’s Released Claims shall include all such claims, whether known or unknown by the releasing party. Thus, even if Plaintiff discovers facts and/or claims in addition to or different from those that she now knows or believes to be true with respect to the subject matter of the Plaintiff’s Released Claims, those claims will remain released and forever barred. Therefore, with respect to Plaintiff’s Released Claims, Plaintiff expressly waives and relinquishes the provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

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

- e. **Plaintiff’s Other Claims.** Plaintiff represents that she has additional individual claims against Defendant, including a claim for wrongful termination. Plaintiff is separately settling these individual claims. The individual settlement paid to Plaintiff is in addition to the Gross Settlement Amount and will be memorialized in a confidential individual settlement agreement that will be separate from this Agreement. If the Court requires the Parties to submit the terms of the individual settlement agreement to obtain approval of this Settlement, the Parties agree that the

individual settlement agreement will be submitted in camera under seal to the Court.

- f. **Class Counsel.** As of the date the Defendant fully funds the Gross Settlement Amount, and except as otherwise provided by this Agreement and the Judgment, Class Counsel and any counsel associated with Class Counsel waive any claim to costs and attorneys' fees and expenses against Defendant arising from or related to the Action.
- 50. **No Effect on Other Benefits.** The Settlement Shares will not result in any additional benefit payments (such as 401(k) or bonus) beyond those provided by this Agreement to Plaintiff or Participating Class Members, and Plaintiff and Participating Class Members will be deemed to have waived all such claims, whether known or unknown by them, as part of their release of claims under this Agreement.
- 51. **Limitation on Public Statements About Settlement.** The Parties and their 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. From and after preliminary approval of the settlement, the Class (including Plaintiff and Class Counsel) may: (1) as required by law; (2) as required under the terms of the Agreement; or (3) as required under Class Counsel's duties and responsibilities as Class Counsel, comment regarding the specific terms of the settlement. In all other cases, Plaintiff and her counsel agree to limit their statements regarding the terms of the settlement, whether oral, written or electronic (including the world wide web), to say the Actions have been resolved and that Plaintiff and Class Counsel are satisfied with the settlement terms. Nothing in this Paragraph is intended to interfere with Plaintiff's Counsel's duties and obligations to faithfully discharge their duties as Class Counsel, including but not limited to, communicating with the Settlement Class regarding the settlement and posting publicly filed documents on Class Counsel's website and directing the Settlement Class thereto. Nothing in this provision shall prevent Defendant or Plaintiff from making any required disclosures.

IV. MISCELLANEOUS TERMS

- 52. **No Admission of Liability or Class Certification for Other Purposes.**
 - a. Defendant and the Released Parties deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Defendant or the Released Parties, or an admission by Plaintiff that any of the claims were

non-meritorious or any defense asserted by Defendant was meritorious. This Settlement and the fact that Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Agreement). Nothing in this Agreement shall be construed as an admission by Defendant of any liability or wrongdoing as to Plaintiff, Class Members, or any other person, and Defendant specifically disclaim any such liability or wrongdoing. Moreover, it is not, and it should not be construed as, any admission of fact or law in this matter or any other matter that a class action is appropriate. The Parties have entered into this settlement with the intention of avoiding further disputes and litigation with the attendant inconvenience, expenses and risks. Nothing in this Agreement shall be construed as an admission by Plaintiff that Plaintiff's claims do not have merit or that class action is inappropriate. Defendant agree to certification of this class solely for purposes of this settlement. It is not an admission that class certification is proper. Should any part of this settlement not be approved or be terminated, the settlement class (if certified) will be decertified and the conditional agreement to class certification will be inadmissible and have no effect on any future actions related to this litigation.

- b. Whether or not the Judgment becomes Final, neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Plaintiff or Defendant or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.
- c. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may only be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.

- 53. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have

been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.

54. **Attorney Authorization.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement including any amendments to this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the mediator for resolution.
55. **No Prior Assignments:** The Parties represent, covenant and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.
56. **No Tax Advice:** Neither Class Counsel nor Defendant's Counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
57. **Modification of Agreement.** Except as set forth in paragraph 54 hereinabove this Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
58. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
59. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California.
60. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
61. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the

Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.

62. **Use and Return of Documents and Data.** All originals, copies, and summaries of documents and data provided to Class Counsel by Defendant in connection with the mediation or other settlement negotiations in this matter may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule. Within thirty (30) days after the Defendant fully funds the Gross Settlement Amount, Class Counsel will return or destroy and confirm in writing to Defendant the destruction of all such documents and data.
63. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
64. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and the Class:

Norman B. Blumenthal
Kyle R. Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: norm@bamlawca.com
kyle@bamlawca.com

To Defendant:

Julie R. Trotter
Mireya Llaurodo
Call & Jensen, APC
610 Newport Center Drive, Suite 700
Newport Beach, CA 92660
Tel: (949) 717-3000
Fax: (949) 717-3100
Email: jtrotter@calljensen.com
mlaurado@calljensen.com

65. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically or email which for purposes of this

Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

66. **Stay of Litigation.** The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process from the mediation with Michael Dickstein, Esq. on January 27, 2022 until the earlier of the Effective Date or the date this Agreement shall not longer be of any force or effect.
67. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the Action under CCP section 664.6 to ensure the continuing implementation of this Agreement and enforcement of the Settlement until performance in full of the terms of this Settlement.

V. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

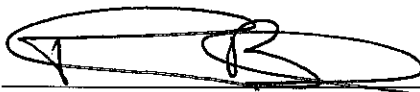
Dated: Apr 29, 2022


Sandy Murillo (Apr 29, 2022 11:15 PDT)
Plaintiff Sandy Murillo

Dated: _____

[name]
For Defendant 7 Eleven, Inc.

Dated: 4/29/22


Norman Blumenthal
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: _____

Julie R. Trotter
Call & Jensen, APC
Attorney for Defendant 7 Eleven, Inc.,

Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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67. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the Action under CCP section 664.6 to ensure the continuing implementation of this Agreement and enforcement of the Settlement until performance in full of the terms of this Settlement.

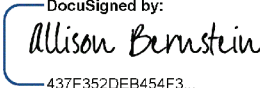
V. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____
Plaintiff Sandy Murillo

Dated: _____

[name]
For Defendant 7 Eleven, Inc.

Attest: 
437F352DEB454F3...

Dated: _____
Norman Blumenthal
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

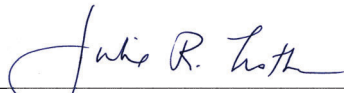
Dated: 05/03/22

Julie R. Trotter
Call & Jensen, APC
Attorney for Defendant 7 Eleven, Inc.,

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION
AND HEARING DATE FOR FINAL COURT APPROVAL**

(*Murillo v. 7 Eleven, Inc.*, Superior Court of the State of California,
County of San Diego, Case No. 37-2020-00043637)

THIS CLASS NOTICE is to inform you of a proposed settlement of a class action lawsuit (“Settlement”). If you worked for 7 Eleven, Inc. in California as a non-exempt employee between November 30, 2016, through April 27, 2022 and have not previously settled claims otherwise covered by this Settlement, you may be entitled to a payment from a settlement. The estimated amount you will receive from the Settlement is set forth in Section 5 of the Class Notice. Your rights and options under the Settlement are explained below.

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

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<<__>>. See the explanation in Section 5 below. If you do nothing, you will be considered a Participating Class Member and will be part of the Settlement as explained more fully below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. In exchange for the Settlement Share payment, you will be considered a Participating Class Member and will release the Released Class Claims as detailed in Section 4 below. If your address has changed, you must notify the Settlement Administrator as explained in Section 6 below.
Exclude Yourself	To exclude yourself, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement and you will not be bound by the Settlement. However, if you are an Aggrieved Employee who opts out, you will still be paid your allocation of the PAGA Payment and will remain subject to the release of the Released PAGA Claims regardless of whether you submit a request for exclusion. If you choose to exclude yourself, you must notify the Settlement Administrator as explained in Section 7 below.
Object	If you choose to object to the Settlement, you must write to the Court about why you do not agree with the settlement or appear at the Final Approval Hearing to make an oral objection. Instructions are provided in Section 8 below.

Your options are further explained in this Class Notice. To exclude yourself from, or object to, the settlement you must take action by certain deadlines. If you want the Settlement as proposed, you don't need to do anything to obtain your share of the Settlement. Defendants will not retaliate against you for any actions you take with respect to the Settlement.

1. Why did I get this Notice?

A proposed class action settlement (the "Settlement") of the above-captioned action pending in the Superior Court of the State of California, in and for the County of San Diego (the "Court") has been reached between Plaintiff Sandy Murillo ("Plaintiff") and Defendant 7 Eleven, Inc. ("Defendant") and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement.

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All individuals who are or previously were employed by Defendant in California who were classified as non-exempt employees at any time during the Class Period excluding persons who have previously settled claims otherwise covered by this settlement.

The Class Period is November 30, 2016, through April 27, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Class Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On November 30, 2020, Plaintiff filed a wage and hour class action Complaint against Defendant in the Superior Court of the State of California, County of San Diego. The class action alleges that the Defendants: engaged in unfair competition, failed to pay minimum wages, failed to pay overtime wages, failed to provide required meal periods, failed to provide required rest periods, failed to provide accurate itemized wage statements, failed to pay all compensation due and made unlawful deductions from compensation, failed to reimburse employees for required expenses, and failed to timely pay wages at termination. On February 3, 2021, Plaintiff filed a separate Representative Action Complaint against Defendant for Civil Penalties Pursuant to Labor Code §§ 2699, et seq. (the Private Attorneys General Act ("PAGA")) based upon the above alleged violations. On July 23, 2021, the Court Ordered that Plaintiff's class action and PAGA action be consolidated for all purposes, with the class action as the lead case. Collectively, the consolidated class and PAGA action is referred to as the "Action".

Defendant denies and disputes all such claims. Specifically, Defendant contends that Plaintiff and the Class Members were properly compensated for wages under California law; that Plaintiff and the Class Members were provided with meal and rest periods in compliance with California law; that Defendant did not fail to provide required reimbursement, that Defendant complied with California wage statement requirements; that Defendant is not liable for any of the penalties claimed or that could be claimed in the Action; and that this Action cannot be maintained as a class action.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an “all in” amount of One Million Nine Hundred Ninety Thousand Dollars (\$1,990,000) (the “Gross Settlement Amount”) to fund the settlement of the Action. The Gross Settlement Amount includes all payments of Settlement Shares to Class Members, the Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, and the PAGA Payment for civil penalties. Any employer-side payroll taxes on the portion of the Settlement Shares allocated to wages shall be separately paid by Defendant.

Within twenty-one calendar days (21) days of the Effective Date, Defendant will fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. The “Effective Date” is the date the Judgment is entered, or if there are objections or any appeal, the date the Judgment is final and no longer subject to appeal. Fifteen (15) days after the settlement is funded, the Settlement Administrator will mail checks for the Settlement Shares to Participating Class Members.

Amounts to be Paid From the Gross Settlement Amount. The proposed payments subject to Court approval will be deducted from the Gross Settlement Amount before Settlement Shares are made to Class Members who do **not** request exclusion (“Participating Class Members”):

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$40,000, for expenses, including without limitation expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing Settlement Shares and tax forms, and handling inquiries and uncashed checks.
- Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. Payment to Class Counsel of reasonable attorneys’ fees not to exceed one-third (1/3) of the Gross Settlement Amount, which is presently \$633,333.33 and an additional amount to reimburse actual litigation costs incurred by the Plaintiff not to exceed \$25,000. Class Counsel has been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money) and has been paying all litigation costs and expenses. The amounts stated are what Class Counsel will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.
- Class Representative Service Payment. A Class Representative Service Payment in an amount not to exceed Ten Thousand Dollars (\$10,000.00) to the Plaintiff, or such lesser amount as may be approved by the Court, to compensate her for services on behalf of the Class in initiating and prosecuting the Action, and for the risks she undertook. The amount stated is what Plaintiff will be requesting and the final amount to be paid will be decided at the Final Approval Hearing.
- PAGA Payment. A payment of \$250,000 relating to the claim for penalties under the Private Attorney Generals Act (“PAGA”), \$187,500 of which will be paid to the State of

California's Labor and Workforce Development Agency ("LWDA Payment"). The remaining \$62,500 will be distributed to the Aggrieved Employees based on their respective pay periods worked during the PAGA Period (November 30, 2019, through April 27, 2022). "Aggrieved Employees" are all individuals who are or previously were employed by Defendant in California who were classified as non-exempt employees at any time during the PAGA Period. All Aggrieved Employees will be sent their share of the PAGA Payment and will be subject to the release of the Released PAGA Claims as set forth below, whether or not they opt out of the Settlement.

Calculation of Payments to Class Members. After all of the payments of the Court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payment, the PAGA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount", shall be distributed as Settlement Shares to the Participating Class Members. The Net Settlement Amount is estimated to be at least \$ [REDACTED], based upon the above proposed deductions. Settlement Administrator will pay a Settlement Share from the Net Settlement Amount to each Participating Class Member, which shall be calculated as follows: (a) the Settlement Administrator shall divide the Net Settlement Amount by the total number of weeks included in the dates of employment to determine a dollar amount per week ("Weekly Rate"); and (b) the Settlement Administrator shall then take the number of weeks worked by each Participating Class Member and multiply it by the Weekly Rate to calculate their Settlement Share.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Twenty Five Percent (25%) of each Participating Class Member's Settlement Share is in settlement of wage claims (the "Wage Portion"). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Seventy Five Percent (75%) of each Participating Class Member's Settlement Share is in settlement of claims for interest, penalties and expense reimbursement allegedly due to employees (collectively the "Non-Wage Portion"). The Non-Wage Portion shall not be subject to wage withholdings, and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members. Neither Class Counsel nor Defendant's Counsel intend anything contained in this Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court granting final approval of the Settlement and entering the Judgment.

4. What Do I Release Under the Settlement?

Released Class Claims. Upon the Effective Date, Defendant shall receive a release from the Participating Class Members of all claims rights, demands, liabilities, penalties, wages, and causes of action that were asserted in the operative complaint, or that could have been asserted

based on the facts and allegations in the operative complaint, which occurred during the Class Period, including claims for violations of Labor Code sections §§ 201, 202, 203, 204, *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)-(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and California Code of Regulations, Title 8, Section 1 1070(14) which arose during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period ("Released Class Claims").

This means that, if you do not timely exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant and any other Released Party about Released Class Claims resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

Released PAGA Claims. Upon the Effective Date, Defendant shall receive a release from the State of California and the Aggrieved Employees of all claims, rights, demands, liabilities, penalties, wages, and causes of action under the PAGA that were asserted in the operative complaint, or that could have been asserted based upon the on the facts and allegations in the operative complaint, which occurred during the PAGA Period, including PAGA claims predicated on violations of Labor Code sections §§ 201, 202, 203, 204, *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)-(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and California Code of Regulations, Title 8, Section 1 1070(14), which occurred during the PAGA period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the PAGA Period ("Released PAGA Claims"). The release of the Released PAGA Claims shall be effective as to all Aggrieved Employees, regardless of whether an Aggrieved Employee submitted a request for an exclusion from the Class.

5. How much will my payment be?

The Weekly Rate is estimated to be <<\$_____>>. Defendant's records reflect that you have worked <<_____>> weeks for Defendant during the Class Period (November 30, 2016, through April 27, 2022).

Based on this information, your estimated Settlement Share from the Net Settlement Amount is <<_____>>.

If you wish to challenge the information set forth above, then you must submit a written and signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Class Notice no later than _____ [forty-five (45) days after the mailing of the Class Notice or 60 days after the Class Notice in the case of re-mailing].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your Settlement Share will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator can be contacted at: _____ or (800) _____.

The Court will hold a Final Approval Hearing on _____, at _____ to decide whether to approve the Settlement and fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as a service payment to the Plaintiff. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately two months after this hearing. If there are objections or appeals, resolving them can take time, usually more than a year. Please be patient.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will not receive a Settlement Share from the Settlement, and you will not be bound by the Settlement which means you will retain the right to sue Defendant for Released Class Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Payment and will remain subject to the release of the Released PAGA Claims regardless of whether they submit a request for exclusion.

To opt out, you must mail to the Settlement Administrator, by First Class Mail, a written, signed and dated request to opt-out postmarked no later than _____ [forty-five (45) days after the date of the Class Notice or 60 days after the Class Notice in the case of re-mailing]. The request to opt-out must be received by the Settlement Administrator by the deadline and should: (1) contain a clear statement that you are requesting to opt out of, or be excluded from the Class and Released Class Claims in the *Murillo v. 7 Eleven* lawsuit; (2) contain the name, address, and the last four digits of the Social Security Number of the person requesting exclusion; (3) state the Class Member's request to exclude himself or herself from the Settlement and to opt out of the Settlement; and (4) be signed by the Class Member. Please include the name and number of the case, which is *Murillo v. 7 Eleven*, Case No. 37-2020-00043637. The request to opt-out must be signed by you. No other person may opt-out for a living member of the Class.

The address for the Settlement Administrator is _____. Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned may be rejected; and if so, those Class Members will remain bound by the Settlement and the Released Class Claims described above, except that an Aggrieved Employee will still be paid their allocation of the PAGA Payment and will remain bound by the release of the PAGA Released Claims regardless of their request for exclusion.

8. How do I tell the Court that I don't agree with the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason may object to the proposed Settlement, the attorneys' fees, the costs and/or the service award, either in writing or in person. Objections that are in writing should state the Class Member's name, current address, telephone number, and the dates of employment in California by Defendant, and describe why you believe the Settlement is unfair and should not be approved. All written objections or other correspondence should also state the name and number of the case, which is *Murillo v. 7 Eleven*, in the Superior Court of the State of California, County of San Diego, Case No. 37-2020-00043637.

All written objections must be mailed to the Settlement Administrator at _____, no later than _____ [forty-five (45) days after the date of the Class Notice or 60 days after the Class Notice in the case of re-mailing].

Alternatively, Class Members may appear remotely at the Final Approval Hearing on _____ at _____ a.m. to make an oral objection without submitting a written objection. Check the Court’s website for the most current information on how to appear.

To object to the Settlement, you must not opt out, and if the Court approves the Settlement despite your objection, you will be bound by the terms of the Settlement in the same way as Class Members who do not object and you will still be mailed a check for your Settlement Share.

The addresses for Parties’ counsel are as follows:

Class Counsel:

Norman Blumenthal
Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik
De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel: 858-551-1223 / Fax: 858-551-1232
Email: kyle@bamlawca.com
Website: www.bamlawca.com

Counsel for Defendant:

Julie R. Trotter
Mireya Llauro
Call & Jensen, APC
610 Newport Center Drive, Suite 700
Newport Beach, CA 92660
Tel: 949-717-3000 / Fax: 949-717-3100
Email: jtrotter@calljensen.com
Website: www.calljensen.com

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

The Court will hold a Final Approval Hearing at _____ on _____, at the San Diego County Superior Court, located at 330 West Broadway, San Diego, CA 92101, in Department 65 before Judge Ronald F. Frazier. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys’ fees and costs to Class Counsel and as a service payment to Plaintiff. If there are objections, the Court will consider them. This hearing may be rescheduled by the Court without further notice to you. If you are interested in participating in the Final Approval Hearing, you should confirm the date, time and location by contacting Class Counsel. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing. Because the hearing may be conducted remotely, you should consult the Court’s website at <http://www.sdcourt.ca.gov/> for information on how to appear.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at _____ or write to *Murillo v. 7 Eleven* Settlement Administrator, c/o _____; or contact Class Counsel as noted above.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Judgment, the motion for attorneys’ fees, costs and service awards, the motion for final approval, or other Settlement documents by contacting the Settlement Administrator at the number above, or by going to Class Counsel’s website at www.bamlawca.com under “Class Notices” for *Murillo v. 7 Eleven, Inc.* You may also examine the Court’s file via the Register of Action for the California Superior Court for the County of San Diego at: <https://roa.sdcourt.ca.gov/roa/> and entering the Case No.

37-2020-00043637. If you wish to view the Court files in person, documents may be reviewed during regular office hours at the Office of the Clerk, located at 1100 Union Street, San Diego, CA 92101.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date will be printed on the check. In such event, the Settlement Administrator shall pay all unclaimed funds to the paid to the California Controller's Unclaimed Property Fund in the name of the Participating Class Member where the funds can be claimed.
- If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL OF THE SETTLEMENT]

EXHIBIT "B"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

SANDY MURILLO, an individual, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiff,

vs.

7 ELEVEN, INC., a Corporation; and DOES 1
through 10, inclusive,

Defendants.

SANDY MURILLO, on behalf of the State of
California, as a private attorney general,
Plaintiff,

vs.

7-ELEVEN, INC., a Corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No. 37-2020-00043637-CU-OE-CTL
(Consolidated with Case No. 37-2021-00002324-
CU-OE-CTL)

**[PROPOSED] PRELIMINARY APPROVAL
ORDER**

Hearing Date:
Hearing Time:

Assigned for all purposes to:
Hon. Ronald F. Frazier, Dept. C65

Complaint Filed: November 30, 2020
Trial Date: None Set

PRELIMINARY APPROVAL ORDER

1 This matter, having come before the Honorable _____ of the Superior Court of
2 the State of California, in and for the County San Diego, on _____[DATE], for the motion
3 by Plaintiff Sandy Murillo (“Plaintiff”) for preliminary approval of the class settlement with
4 Defendant 7 Eleven, Inc. (“Defendant”). The Court, having considered the briefs, argument of
5 counsel and all matters presented to the Court and good cause appearing, hereby GRANTS
6 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

7
8 **IT IS HEREBY ORDERED:**

9 1. The Court preliminarily approves the Class Action Settlement Agreement
10 (“Agreement”) attached as Exhibit ____ to the Declaration of Kyle Nordrehaug in Support of
11 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement. This is based on the
12 Court’s determination that the Settlement set forth in the Agreement is within the range of possible
13 final approval, pursuant to the provisions of Section 382 of the California Code of Civil Procedure
14 and California Rules of Court, rule 3.769.

15 2. This Order incorporates by reference the definitions in the Agreement, and all
16 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

17 3. The Gross Settlement Amount is One Million Nine Hundred Ninety Thousand
18 Dollars (\$1,990,000). It appears to the Court on a preliminary basis that the settlement amount
19 and terms are fair, adequate and reasonable as to all potential Class Members when balanced
20 against the probable outcome of further litigation and the significant risks relating to certification,
21 liability and damages issues. It further appears that investigation and research have been
22 conducted such that counsel for the Parties are able to reasonably evaluate their respective
23 positions. It further appears to the Court that settlement at this time will avoid substantial
24 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the
25 further prosecution of the Action. It further appears that the Settlement has been reached as the
26 result of serious and non-collusive, arms-length negotiations. The Court therefore preliminarily
27 finds that the Settlement is fair, adequate, and reasonable when balanced against the probable
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1 outcome of further litigation and the significant risks relating to certification, liability, and
2 damages issues.

3 4. The Agreement specifies for an attorneys' fees award not to exceed one-third of the
4 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$25,000, and
5 proposed Class Representative Service Payment to the Plaintiff in an amount not to exceed
6 \$10,000. The Court will not approve the amount of attorneys' fees and costs, nor the amount of
7 any service award, until the Final Approval Hearing.

8 5. The Court recognizes that Plaintiff and Defendant stipulate and agree to
9 certification of a class for settlement purposes only. This stipulation will not be deemed
10 admissible in this or any other proceeding should this Settlement not become final. For settlement
11 purposes only, the Court conditionally certifies the following Class: "all individuals who are or
12 previously were employed by Defendant in California who were classified as non-exempt
13 employees at any time during the Class Period excluding persons who have previously settled
14 claims otherwise covered by this settlement." The Class Period is November 30, 2016, through
15 April 27, 2022.

16 6. The Court concludes that, for settlement purposes only, the Class meets the
17 requirements for certification under section 382 of the California Code of Civil Procedure in that:
18 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
19 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
20 community of interest amongst the members of the Class with respect to the subject matter of the
21 litigation; (c) the claims of the Plaintiff are typical of the claims of the members of the Class; (d)
22 the Plaintiff can fairly and adequately protect the interests of the members of the Class; (e) a class
23 action is superior to other available methods for the efficient resolution of this controversy; and (f)
24 counsel for the Class is qualified to act as counsel for the Class and the Plaintiff is an adequate
25 representative of the Class.

26 7. The Court provisionally appoints Plaintiff as the representative of the Class. The
27 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik
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1 of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

2 8. The Court hereby approves, as to form and content, the Notice of Proposed
3 Settlement of Class Action and Hearing Date for Final Court Approval (“Class Notice”) attached
4 to the Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and
5 accurately inform the Class of all material elements of the proposed Settlement, of the Class
6 Members’ right to be excluded from the Class by submitting a written opt-out request, and of each
7 member’s right and opportunity to object to the Settlement. The Court further finds that the
8 distribution of the Class Notice substantially in the manner and form set forth in the Agreement
9 and this Order meets the requirements of due process, is the best notice practicable under the
10 circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The
11 Court orders the mailing of the Class Notice by first class mail, along with a Spanish translation of
12 the Class Notice, pursuant to the terms set forth in the Agreement.

13 9. The Court hereby appoints ILYM Group as Settlement Administrator. No later
14 than fourteen (14) calendar days after preliminary approval of the Settlement by the Court,
15 Defendant shall provide to the Settlement Administrator an electronic spreadsheet with the Class
16 Data. The Settlement Administrator will perform address updates and verifications as necessary
17 prior to the mailing of the Class Notice. Using best efforts to mail it as soon as possible, and in no
18 event later than 14 days after receiving the Class Data, the Settlement Administrator will mail the
19 Class Notice Packets to all Class Members via first-class U.S. Mail.

20 10. The Court hereby preliminarily approves the proposed procedure for exclusion
21 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
22 from the Class as provided in the Class Notice by following the instructions for requesting
23 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be
24 postmarked by no later than forty-five (45) calendar days after the date of the mailing of the Class
25 Notice and received by the Settlement Administrator. If the Class Notice Packet is re-mailed, the
26 response date for requests for exclusion will be extended an additional 15 days. Any such person
27 who chooses to opt out of and be excluded from the Class will not be entitled to any recovery
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1 under the Settlement and will not be bound by the Settlement or have any right to object, appeal or
2 comment thereon. Class Members who have not requested exclusion shall be bound by all
3 determinations of the Court, the Agreement and the Judgment. A request for exclusion may only
4 opt out that particular individual, and any attempt to effect an opt out of a group, class, or subclass
5 of individuals is not permitted and will be deemed invalid. Subject to the Court's final approval of
6 the Settlement, the Aggrieved Employees will be paid their allocation of the PAGA Payment and
7 will remain bound by the release of the Released PAGA Claims in the Agreement regardless of
8 their request for exclusion from the Class.

9 11. Any Class Member who has not opted out may appear at the final approval hearing
10 and may object or express the Member's views regarding the Settlement, and may present
11 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard
12 and determined by the Court as provided in the Notice. Class Members will have forty-five (45)
13 calendar days from the date of the mailing of the Class Notices to submit their written objections
14 to the Settlement Administrator in accordance with the instructions in the Class Notice. If the
15 Class Notice Packet is re-mailed, the response date for written objections will be extended an
16 additional 15 days. Alternatively, Class Members may appear at the Final Approval Hearing to
17 make an oral objection.

18 12. A Final Approval Hearing shall be held before this Court on _____
19 _____ at _____ in Department 65 at the San Diego County Superior Court to
20 determine all necessary matters concerning the Settlement, including: whether the proposed
21 settlement of the Action on the terms and conditions provided for in the Agreement is fair,
22 adequate and reasonable and should be finally approved by the Court; whether the Final Approval
23 Order and Judgment should be entered herein; whether the plan of allocation contained in the
24 Agreement should be approved as fair, adequate and reasonable to the Class Members; and to
25 finally approve attorneys' fees and costs, the service award, and the expenses of the Settlement
26 Administrator. All papers in support of the motion for final approval and the motion for attorneys'
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1 fees, costs and service award, both to be heard at the Final Approval Hearing, shall be filed with
2 the Court and served on all counsel no later than sixteen (16) court days before the hearing.

3 13. Neither the Settlement nor any exhibit, document, or instrument delivered
4 thereunder shall be construed as a concession or admission by Defendant in any way that the
5 claims asserted have any merit or that this Action was properly brought as a class or representative
6 action, and shall not be used as evidence of, or used against Defendant as, an admission or
7 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
8 omission by Defendant or with respect to the truth of any allegation asserted by any person.
9 Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit,
10 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
11 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or
12 deemed to be evidence for any purpose adverse to the Defendant, including, but not limited to,
13 evidence of a presumption, concession, indication or admission by Defendant of any liability,
14 fault, wrongdoing, omission, concession or damage.

15 14. In the event the Settlement does not become effective in accordance with the terms
16 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
17 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
18 and the Parties shall revert to their respective positions as of before entering into the Agreement,
19 and expressly reserve their respective rights regarding the prosecution and defense of this Action,
20 including all available defenses and affirmative defenses, and arguments that any claim in the
21 Action could not be certified as a class action and/or managed as a representative action. In such
22 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or
23 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of
24 the Agreement with respect to the effect of the Agreement if it is not approved.

25 15. The Court reserves the right to adjourn or continue the date of the final approval
26 hearing and all dates provided for in the Agreement without further notice to Class Members, and
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1 retains jurisdiction to consider all further applications arising out of or connected with the
2 proposed Settlement.

3 16. The Action is stayed and all trial and related pre-trial dates are vacated, subject to
4 further orders of the Court at the Final Approval Hearing.

5 **IT IS SO ORDERED.**

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7 Dated: _____

HON. RONAL F. FRAZIER
JUDGE, SUPERIOR COURT OF CALIFORNIA

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EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

SANDY MURILLO, an individual, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiff,

vs.

7 ELEVEN, INC., a Corporation; and DOES 1
through 10, inclusive,

Defendants.

SANDY MURILLO, on behalf of the State of
California, as a private attorney general,
Plaintiff,

vs.

7-ELEVEN, INC., a Corporation; and DOES 1
through 10, inclusive,
Defendants.

Case No. 37-2020-00043637-CU-OE-CTL
(Consolidated with Case No. 37-2021-00002324-
CU-OE-CTL)

**[PROPOSED] FINAL APPROVAL ORDER
AND JUDGMENT**

Hearing Date:
Hearing Time:

Assigned for all purposes to:
Hon. Ronald F. Frazier, Dept. C65

Complaint Filed: November 30, 2020
Trial Date: None Set

FINAL APPROVAL ORDER AND JUDGMENT

1 The motion of Plaintiff Sandy Murillo (“Plaintiff”) for an order finally approving the Class
2 Action Settlement Agreement (“Agreement”) with Defendant 7 Eleven, Inc. (“Defendant”)
3 attorneys’ fees and costs, service payment, and the fees of the Settlement Administrator duly came
4 on for hearing on _____ before the Honorable Ronald F. Frazier.

5
6 **I.**

7 **FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the
9 motion, the Court makes the following findings:

- 10 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 11 2. This Court has jurisdiction over the subject matter of this litigation pending before
12 the California Superior Court for the County of San Diego, and over all Parties to this litigation,
13 including the Class.
- 14 3. Based on a review of the papers submitted by Plaintiff and a review of the
15 applicable law, the Court finds that the Gross Settlement Amount of One Million Nine Hundred
16 Ninety Thousand Dollars (\$1,990,000) and the terms set forth in the Agreement are fair,
17 reasonable, and adequate.
- 18 4. The Court further finds that the Settlement was the result of arm’s length
19 negotiations conducted after Class Counsel had adequately investigated the claims and became
20 familiar with the strengths and weaknesses of those claims. In particular, the amount the
21 Settlement, the significant risks relating to certification, liability, and damages issues, and the
22 assistance of an experienced mediator in the settlement process, among other factors, support the
23 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

24 **Preliminary Approval of the Settlement**

- 25 5. On _____, the Court granted preliminary approval of the Settlement. At
26 this same time, the Court approved conditional certification of the Class for settlement purposes
27 only.

1 **Notice to the Class**

2 6. In compliance with the Preliminary Approval Order, the Class Notice was mailed
3 by first class mail to members of the Class at their last known addresses on or about
4 _____. Mailing of the Class Notice to their last known addresses was the best notice
5 option under the circumstances and was reasonably calculated to communicate actual notice of the
6 litigation and the proposed settlement to the Class. The Class Notice given to the Class Members
7 fully and accurately informed the Class Members of all material elements of the proposed
8 Settlement and of their opportunity to object to or comment thereon or to seek exclusion from the
9 Settlement; was valid, due, and sufficient notice to all Class Members; and complied fully with the
10 laws of the State of California, the United States Constitution, due process and other applicable
11 law. The Class Notice fairly and adequately described the Settlement and provided Class
12 Members adequate instructions and a variety of means to obtain additional information.

13 7. The deadline for opting out of the Class or submitting written objections to the
14 Settlement was _____. There was an adequate interval between mailing of the Class
15 Notice and the response deadline to permit Class Members to choose what to do and act on their
16 decision. A full opportunity has been afforded to the Class Members to participate in this hearing,
17 and all Class Members and other persons wishing to be heard have been heard. Class Members
18 also have had a full and fair opportunity to exclude themselves from the proposed Settlement and
19 Class. Accordingly, the Court determines that all Class Members who did not timely and properly
20 submit a request for exclusion are bound by the Settlement and this Final Approval Order and
21 Judgment.

22 **Fairness Of Settlement**

23 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
24 48 Cal.App.4th 1794, 1801 (1996).

25 a. The settlement was reached through arm's-length bargaining between the
26 parties during an all-day mediation before Michael E. Dickstein, a respected and experienced
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mediator of wage and hour class actions. There has been no collusion between the parties in reaching the proposed settlement.

b. Plaintiff's investigation and discovery have been sufficient to allow the Court and counsel to act intelligently.

c. Counsel for both parties are experienced in similar employment class action litigation. All counsel recommended approval of the Agreement.

d. The percentage of objectors and requests for exclusion is small. _____ objections were received. _____ requests for exclusion were received.

e. The participation rate was high. _____ Class Members will be mailed a settlement payment, representing _____ % of the overall Class.

9. The consideration to be given to the Class Members under the terms of the Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims asserted in this action and is fair, reasonable and adequate compensation for the release of Class Members' claims, given the uncertainties and significant risks of the litigation and the delays which would ensue from continued prosecution of the action.

10. The Agreement is approved as fair, adequate and reasonable and in the best interests of the Class Members.

Attorneys' Fees and Costs

11. An award of \$_____ for attorneys' fees, representing one-third of the Gross Settlement Amount, and \$_____ for litigation costs and expenses, is reasonable, in light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results achieved by Class Counsel. The requested award has been supported by Class Counsel's lodestar and billing statement.

Class Representative Service Payment

12. The Agreement provides for a Class Representative Service Payment of not more than \$10,000 to the Plaintiff, subject to the Court's approval. The Court finds that a Class Representative Service Payment in the amount of \$_____ to the Plaintiff is reasonable in light

1 of the risks and burdens undertaken by the Plaintiff in the litigation and for her time and effort in
2 bringing and prosecuting this matter on behalf of the Class.

3 **Settlement Administration Expenses**

4 13. The Settlement Administrator shall calculate and administer the payment to be
5 made to the Class Members, transmit payment for attorneys' fees and costs to Class Counsel,
6 transmit the Class Representative Service Payment to the Plaintiff, distribute the PAGA Payment,
7 issue any required tax reporting forms, calculate withholdings and perform the other remaining
8 duties set forth in the Agreement. The Settlement Administrator has documented \$ _____ in
9 fees and expenses, and this amount is reasonable in light of the work performed by the Settlement
10 Administrator.

11 **PAGA Payment**

12 14. The Agreement provides for a PAGA Payment out of the Gross Settlement
13 Amount of \$250,000, which shall be allocated \$187,500 to the LWDA as the LWDA's 75% share
14 of the settlement of civil penalties paid pursuant to the PAGA and \$62,500 to be distributed to the
15 Aggrieved Employees based on their respective pay periods worked during the PAGA Period
16 (November 30, 2019, through April 27, 2022). The Aggrieved Employees are all individuals
17 who are or previously were employed by Defendant in California who were classified as non-
18 exempt employees at any time during PAGA Period. The Court finds this PAGA Payment to be
19 reasonable. All Aggrieved Employees will be sent their share of the PAGA Payment and will be
20 subject to the release of the Released PAGA Claims as set forth below, whether or not they opt out
21 of the Settlement.

22
23 **II.**

24 **ORDERS**

25 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

26 1. The certification of the Class for the purposes of settlement is confirmed. The
27 Class is defined as follows:

1 All individuals who are or previously were employed by Defendant in California
2 who were classified as non-exempt employees at any time during the Class Period
3 excluding persons who have previously settled claims otherwise covered by this
4 settlement (November 30, 2016, through April 27, 2022).

5 2. All persons who meet the foregoing definition are members of the Class, except for
6 those individuals who filed a valid request for exclusion ("opt out") from the Class. [INSERT
7 REFERENCE TO IDENTIFY ANY OPT OUTS].

8 3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
9 best interest of the Class.

10 4. Class Counsel are awarded attorneys' fees in the amount of \$_____ and
11 costs in the amount of \$_____. Class Counsel shall not seek or obtain any other
12 compensation or reimbursement from Defendant, Plaintiff or members of the Class.

13 5. The payment of the Class Representative Service Payment in the amount of \$
14 _____ to the Plaintiff is approved.

15 6. The payment of \$_____ to the Settlement Administrator for their fees and
16 expenses is approved.

17 7. The PAGA Payment of \$250,000 is approved and shall be allocated in accordance
18 with the Agreement.

19 8. The Agreement and this Settlement are not an admission by Defendant, nor is this
20 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
21 wrongdoing by Defendant or that this Action is appropriate for class treatment (other than for
22 settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any
23 document referred to herein, nor any action taken to carry out the Agreement is, may be construed
24 as, or may be used as an admission by or against Defendant of any fault, wrongdoing or liability
25 whatsoever. The entering into or carrying out of the Agreement, and any negotiations or
26 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an
27 admission or concession with regard to the denials or defenses by Defendant. Notwithstanding
28 these restrictions, Defendant may file in the Action or in any other proceeding this Final Approval

1 Order and Judgment, the Agreement, or any other papers and records on file in the Action as
2 evidence of the Settlement to support a defense of res judicata, collateral estoppel, release, or other
3 theory of claim or issue preclusion or similar defense as to the Released Class Claims and/or the
4 Released PAGA Claims.

5 9. Notice of entry of this Final Approval Order and Judgment shall be given to all
6 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval Order
7 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
8 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
9 to individual Class Members.

10 10. If the Agreement does not become final and effective in accordance with the terms
11 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
12 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
13 revert to their respective positions as of before entering into the Agreement, and expressly reserve
14 their respective rights regarding the prosecution and defense of this Action, including all available
15 defenses and affirmative defenses, and arguments that any claim in the Action could not be
16 certified as a class action and/or managed as a representative action.

17
18 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

19 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
20 Plaintiffs, and all members of the Class, shall take nothing in the Action.

21 2. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
22 jurisdiction to construe, interpret, implement and enforce the Agreement, to hear and resolve any
23 contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute
24 arising from or in connection with the distribution of settlement benefits.

25 3. The Parties are authorized, without further approval from the Court, to agree to and
26 to adopt such amendments, modifications and expansions of the Agreement and all exhibits

1 attached thereto which are consistent with this Final Approval Order and Judgment and as
2 approved by the Court.

3 4. Each party shall bear its own attorneys' fees and costs, except as otherwise
4 provided in the Agreement and in this Final Approval Order and Judgment.

5 5. Upon the Effective Date, Participating Class Members hereby release, acquit and
6 discharge the Released Parties from all claims rights, demands, liabilities, penalties, wages, and
7 causes of action that were asserted in the operative complaint, or that could have been asserted
8 based on the facts and allegations in the operative complaint, which occurred during the Class
9 Period, including claims for violations of Labor Code sections §§ 201, 202, 203, 204, *et seq.*, 210,
10 226(a), 226.7, 351, 510, 512, 558(a)(1)-(2), 1194, 1197, 1197.1, 1198, 2802, California Code of
11 Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and California Code of Regulations,
12 Title 8, Section 1 1070(14) which arose during the Class Period, and expressly excluding all other
13 claims, including claims for vested benefits, wrongful termination, unemployment insurance,
14 disability, social security, workers' compensation, and class claims outside of the Class Period
15 ("Released Class Claims").

16 6. Upon the Effective Date, Defendant shall receive a release from the State of
17 California and the Aggrieved Employees of all claims, rights, demands, liabilities, penalties,
18 wages, and causes of action under the PAGA that were asserted in the operative complaint, or that
19 could have been asserted based upon the on the facts and allegations in the operative complaint,
20 which occurred during the PAGA Period, including PAGA claims predicated on violations of
21 Labor Code sections §§ 201, 202, 203, 204, *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)-
22 (2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040,
23 Subdivision 5(A)-(B), and California Code of Regulations, Title 8, Section 1 1070(14), which
24 occurred during the PAGA period, and expressly excluding all other claims, including claims for
25 vested benefits, wrongful termination, unemployment insurance, disability, social security,
26 workers' compensation, and class claims outside of the PAGA Period ("Released PAGA
27 Claims"). The release of the Released PAGA Claims shall be effective as to all Aggrieved
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1 Employees, regardless of whether an Aggrieved Employee submitted a request for an exclusion
2 from the Class.

3 7. Upon the Effective Date, Plaintiff generally, releases and discharges the Released
4 Parties from any and all claims, transactions or occurrences between them that occurred during the
5 Class Period (“Plaintiff’s Released Claims”) as set forth fully in the Agreement.

6 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

7
8 Dated: _____

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10 _____
HON. RONALD F. FRAZIER
JUDGE, SUPERIOR COURT OF CALIFORNIA