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Attorneys for Plaintiff and all aggrieved employees

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

GERALD WHILTON OLIVAS,, an
individual, on behalf of the State of
California, as a private attorney general,

PLAINTIFF,

v.

THE UNIVERSITY OF PHOENIX, INC.;;
and DOES 1 thru 50, inclusive,

DEFENDANTS.

Case No. RG21091953

[Case Assigned for All Purposes to Hon. Frank
Roesch in Dept. 17]

DECLARATION OF KELSEY M.
SZAMET IN SUPPORT OF MOTION FOR
APPROVAL OF REPRESENTATIVE
ACTION SETTLEMENT

Date: May 9, 2024

Time: 3:30 P.M.

Dept.: 17

Reservation Number: 713827794848

Complaint Filed: February 19, 2021

FAC Filed: April 26, 2021

Trial Date: None Set:

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I, Kelsey M. Szamet, declare as follows:

1. I am an attorney licensed to practice before all of the courts of the State of California. I am the attorney of record for Plaintiff GERALD WHILTON OLIVAS, in the above-entitled action. I have personal knowledge of the facts set forth herein, and if called upon as a witness, I could and would testify competently thereto.

2. I make this declaration in support of Plaintiff's Motion for Approval of Representative Action in the above-captioned case.

3. I graduated from the University of California, Santa Barbara, in 1993 with a degree in History. I graduated from Loyola Law School of Los Angeles in 1996. I am admitted to practice before the following Courts: United States Supreme Court; United States District Court, Northern, Eastern, Southern and Central of California; all California State Courts.

4. I have been involved in all of the settlement discussions leading to the present settlement as embodied in the Private Attorneys General Act Settlement Agreement and Release (“Settlement” or “Settlement Agreement”). A true and correct copy of the Settlement is attached hereto as Exhibit “1”.

BACKGROUND OF THE CASE AND RELEVANT PROCEDURAL HISTORY

5. Defendant provides higher education including, but not limited to, Associate, Bachelor's, Master's, and Doctoral degrees largely in an online setting. Plaintiff Dr. Gerald Olivas was a part-time "remote" adjunct professor who worked for Defendant from approximately 2000 to 2020.

6. At a bare minimum, Plaintiff contends that Defendant acknowledges that Plaintiff needed a personal computer and internet connection to teach courses.

7. Prior to securing Counsel, on October 6, 2020, Plaintiff Olivas electronically filed a PAGA Claim Notice to the LWDA, via the State of California Labor and Workforce Development Agency/Department of Industrial Relations website (<https://dir.tfaforms.net/308>) and mailed by certified mail, return receipt requested, to Defendant setting forth the specific facts and theories of the violations alleged against Defendant, as prescribed by Labor Code § 2699 *et seq.*

1 8. In an abundance of caution, after securing Counsel, on February 18, 2021, Plaintiff
2 Olivas and his Counsel submitted a supplemental PAGA Claim Notice to the LWDA and Defendant.

3 9. On February 19, 2021, Plaintiff filed his Representative Action Complaint against
4 Defendant bearing Case No. RG21091953 (“Action”).

5 10. He alleged a single cause action for: (1) Penalties Pursuant to Labor Code § 2699, et
6 seq. for violations of Labor Code § 2802.

7 11. Plaintiff filed a First Amended Complaint (“FAC”) alleging the same cause of action
8 on April 26, 2021.

9 12. Defendant filed a Motion to Strike Plaintiff’s PAGA claims on June 17, 2021 based
10 on an argument that Plaintiff’s original October 6, 2019 PAGA notice was defective and cannot serve
11 to start the tolling period for the statute of limitations.

12 13. The Court denied Defendant’s motion and found that Plaintiff’s initial October 6,
13 2021 notice letter adequately put the LWDA and Defendant on notice.

14 14. After the matter was at issue, the Parties engaged in extensive informal discovery
15 such as documentation of Plaintiff’s claimed expenses (i.e. copies of bills, etc.) and applicable written
16 policies and procedures of Defendant.

17 15. On February 3 and February 4, 2022, Plaintiff sat for a videotaped deposition.

18 16. Defendant produced relevant pay period data on February 17, 2022.

19 17. After his deposition and the exchange of meaningful informal discovery, the Parties
20 attended a full day mediation with experienced mediator Tripper Ortman, Esq. on February 22, 2024.
21 Plaintiff was present for the full day.

22 18. Though the Parties made significant progress, a settlement was not finalized that day.
23 In the following months and years, both with the assistance of the mediator and through significant
24 direct negotiations, the Parties continued their discussions around resolution and now present the
25 proposed Settlement to the Court for approval.

26 19. Although Defendant denies that it violated any pertinent law, it recognized the risks
27 and attendant costs of litigation, and the Parties were able to reach a tentative settlement subject to
28 finalization of a formal Private Attorneys General Act Settlement Agreement and Release and the

1 approval of the Court. The Parties negotiated the terms and conditions of the Settlement Agreement
2 and now present the Settlement to the Court for Approval.

3 **PAGA ACTIONS AND THE REQUIREMENTS**

4 20. Plaintiff's counsel anticipated that, at trial, Counsel for Defendant would argue that:
5 (1) no penalties are due employees who could use Faculty Resource Centers to perform their work;
6 (2) other employees were provided offices and facilities or elected to work at home; (3) Defendant
7 maintained a reimbursement policy for much of the liability period and the PAGA Members were
8 properly reimbursed in accordance with Defendant's lawful policies and practices; and (4) until this
9 Action was filed, no employees had complained about Defendant's reimbursement policies and
10 practices.

11 21. All of which, Counsel for Defendant would argue, should mitigate in favor of
12 significantly reducing any civil penalty.

13 22. Defendant presumably will take the position that it has not been notified that it actually
14 violated any provisions of the Labor Code until the Labor Commissioner has issued a formal citation or
15 this Court made a finding that a violation existed.

16 **THE PROPOSED PAGA SETTLEMENT**

17 23. Defendant will pay the total sum of \$700,000.00 in full and final settlement of the
18 PAGA claims alleged.

19 24. Per the Settlement Agreement, the amount is allocated as follows:

Total Monetary Settlement Amount:	\$700,000.00
PAGA Counsel Fees:	\$233,333.33
PAGA Counsel Costs:	\$20,000.00 ¹
Settlement Administrator Costs:	\$10,000.00
Plaintiff's Service Award:	\$50,000.00
Anticipated PAGA Penalties:	\$386,666.67 (\$290,000.00 to the LWDA; \$96,666.67 to remain in the PAGA Settlement Fund)

25 25. For settlement purposes, the PAGA Settlement Members are defined as: "all current
26

27 ¹ The Settlement Agreement provided for counsel to receive cost reimbursement up to \$20,000.00.
28 However, counsel seeks reimbursement of future costs to date of \$16,101.80. (Ex. §II, ¶B(1).) The extra money
will remain in the net settlement fund, causing the net amount for distribution to the LWDA and PAGA
Settlement Members to be slightly higher than contemplated in the settlement agreement. (*Id.*)

1 and former employees of Defendant in the State of California who worked one or more pay periods
2 in whole or in part off site since October 7, 2019, one (1) year prior to the date of Plaintiff's first
3 notice letter to the Labor and Workforce Development Agency ("LWDA") on October 7, 2020,
4 through May 14, 2022." ("PAGA Settlement Member").

5 26. The bi-weekly pay period value will then be multiplied by the number of bi-weekly
6 pay periods worked by each PAGA Settlement Member to determine each PAGA Settlement
7 Member's share of the settlement.

8 **ARGUMENT**

9 27. To help the Court evaluate the fairness of the Settlement, a discussion of the risk
10 evaluation and discount taken follows.

11 28. Plaintiff believed that Defendant may persuasively argue that the Court should
12 exercise its discretion under PAGA to significantly reduce or altogether waive any penalties under
13 PAGA.

14 29. Pursuant to Labor Code §226.3, the Labor Commissioner has the discretion to
15 "decide not to penalize an employer for a first violation when that violation was due to a clerical
16 error or inadvertent mistake."

17 30. And, the court in a PAGA action has the same discretion "to assess a civil penalty"
18 that the Labor Commissioner would have, as well as complete discretion to "award a lesser amount
19 than the maximum civil penalty amount specified [by PAGA] if, based on the facts and
20 circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary
21 and oppressive, or confiscatory." (Labor Code § 2699(e)(1) and (e)(2)).

22 31. Plaintiff's Counsel anticipated that, at trial, Counsel for Defendant could make a
23 potentially persuasive argument that Defendant: (1) provided Faculty Resource Centers which
24 alleviated any obligation to provide an expense reimbursement; (2) other employees were provided
25 offices and facilities or elected to work at home; (3) the PAGA Settlement Members were properly
26 paid and/or reimbursed in accordance with Defendant's lawful reimbursement policies and practices,
27 and that any alleged failure to compensate the PAGA Settlement Members was the result of
28 inadvertence and clerical error; (4) until this Action was filed, no employees had complained about

1 any alleged failure to reimburse business expenses; (5) and none of Defendant's employees suffered
2 any harm from or actual damage as a result of the conduct that forms the basis for Plaintiff's
3 allegations. All of which, Counsel for Defendant would argue, should mitigate in factor of
4 significantly reducing or waiving any PAGA penalties.

5 32. While Plaintiff disagrees that this analysis is legal correct or persuasive, PAGA
6 Counsel had to consider the foregoing facts and arguments and how they might impact any judgment
7 ultimately awarded to PAGA Settlement Members if the Court were persuaded by them.

8 33. Plaintiff alleged that Defendant failed to reimburse Plaintiff and all Aggrieved
9 Employees for necessary expenses incurred to perform online, remote work during the period of
10 October 6, 2019 (one year prior to the date of his PAGA Letter) to May 14, 2022.

11 34. This includes expenses for: internet connection services; modem; router; computer;
12 printer and ink; computer support service agreement; operating system and application software;
13 software virus protection; mobile phone (for Defendant's University of Phoenix app and use of
14 University of Phoenix email); cellular data service; and home office expenses for chair, desk, file
15 cabinet, supplies, utilities, insurance, and miscellaneous office expenses such as paper) without
16 reimbursement in violation of Labor Code § 2802.

17 35. Plaintiff contends that from October 6, 2019, to April 25, 2020, Defendant failed to
18 maintain an expense reimbursement policy concerning the Aggrieved Employees.

19 36. Plaintiff contends that the expenses reimbursement policy which Defendant
20 implemented on April 25, 2020 was insufficient to defray the aggrieved employees expenses from
21 that date to the end of the PAGA period on to the end on May 14, 2022.

22 37. Defendant contends that it investigated the expenses incurred by employees and
23 market conditions before setting the reimbursement.

24 38. Defendant also contends that the reimbursement was appropriate given the low-
25 hours, part-time status of most of the potentially aggrieved employees.

26 39. The main risk here is the factual dispute at hand.

27 40. There are two distinct time periods to consider.

28 41. For the October 6, 2019 to April 25, 2020 period, Defendant argued that it did not

1 require Aggrieved Employees to use personal computers, cellphones, or any at home internet
2 necessities because it provided physical working space for teachers at its campuses.

3 42. It argued that any Aggrieved Employee was able to travel to a campus and use
4 phones, computers, Wi-Fi, etc. anything necessary to teach a class readily available.

5 43. Thus, Defendant argued that there was no need for any Aggrieved Employee to use
6 personal laptops, cellphones or at home Wi-fi support.

7 44. It argued that if Aggrieved Employees chose to use such equipment, it was a personal
8 choice that allowed them to work remotely, but it was not a business “necessity”.

9 45. If Defendant were able to establish such, there could be no recovery at all for this
10 claim.

11 46. Nonetheless, Plaintiff believed this was a strong claim strengthened by the fact
12 Defendant later instituted a reimbursement policy.

13 47. However, in coming to the proposed Settlement, Plaintiff had to consider that a
14 Court, were it to find that liability existed for this time period, may not award the full penalty
15 exposure because Defendant could show that it did make the necessary teaching tools available on
16 its campuses.

17 48. As for the second time period of from April 26, 2020 to May 14, 2022 (end date of
18 the PAGA Period), Plaintiff believed there is far greater risk.

19 49. Defendant instituted a written reimbursement policy and reimbursed Plaintiff and
20 other Aggrieved Employees on a per pay period basis.

21 50. If the Court were to find that the amount Defendant reimbursed was adequate, it may
22 exercise its discretion to determine that no violation of the Labor Code existed.

23 51. If other the hand, the Court did find Defendant was liable, it may exercise its
24 discretion to award a civil penalty of mere pennies per pay period in light of the fact that there was a
25 reimbursement amount paid.

26 52. Based on these risks, Plaintiff determined that discounting this claim for settlement
27 purposes was fair and reasonable.

28 53. There are 46,188 pay periods at issue in this matter and 1,550 Aggrieved Employees.

1 **REQUEST FOR ATTORNEYS' FEES AND COSTS**

2 54. As detailed fully in the Settlement, the settlement provides for Defendant to create a
3 Total Monetary Settlement Amount of \$700,000.00. From that fund, Plaintiff requests an award of
4 attorneys' fees for Plaintiff's Counsel in the amount of \$233,333.33, or 33.33% of the Total
5 Monetary Settlement Amount, and \$20,000.00 in reimbursement for litigation costs.

6 55. In addition to the complexity of this case, Plaintiff's Counsel has borne the entire risk
7 and costs of this litigation during the entire time that it has been pending, all on a pure contingency
8 basis. Through the investment of substantial effort and resources, Plaintiff's Counsel has secured an
9 outstanding Settlement of behalf of the PAGA Settlement Members. Defendant vigorously contested
10 liability, the amount of claimed damages, and the propriety of class certification. It is this kind of
11 situation, involving complex issues, that has been recognized as justifying a substantial attorney fee
12 award.

13 56. I am very familiar with the contingent fee market throughout California and in the
14 Alameda County area, particularly as it pertains to complex employment, wage and hour, and
15 class action litigation. On behalf of my firm, I have negotiated numerous contingency fee
16 agreements with plaintiffs, both as individuals and as representatives in class action suits. Many
17 of those agreements provided that counsel will receive a fee that is between 33% and 40% of any
18 recovery that is obtained, and, in addition, that counsel be reimbursed for the costs they incurred
19 out of the recovery amount. The named Plaintiff in this action signed a contingency fee agreement
20 that stated that counsel would be able to make a fee of up to 40% of any recovery if the case
21 settles. These are typical and standard percentages in employment-related contingency
22 agreements throughout California. Indeed, in my opinion, the aggrieved employees in this wage
23 and hour case could not have retained competent counsel in California, particularly with the
24 considerable skill and expertise of my firm, for any amount significantly less than the contingency
25 fee percentage provided in this retainer agreement. Plaintiff's Counsel has never been paid any
26 money for attorneys' fees in this case and has advanced all costs.

27 57. There are always risks attendant to billing cases on a contingency basis. Those
28 risks are even higher in the current economic climate. Kingsley & Kingsley bills the vast majority

1 of its cases on contingency, and has been affected by recent bankruptcy filings. In three separate
2 cases, *Lozoya v. Shore House Café, Inc.*, No. 30-2008-00082103-CU-OE-CJC (Orange Super. Ct.
3 filed Mar. 7, 2008) and *Davis v. Crossfire Marketing Group, LLC*, No. CIVRS1207797 (San
4 Bernardino Super. Ct. filed October 5, 2012), the defendants both filed for bankruptcy protection
5 in June 2011 and January 2015 after years of litigation. My firm advanced costs and incurred
6 thousands of dollars in fees that will never be recovered.

7 58. Additionally, there are cases where Plaintiff's Counsel takes on the extreme risk
8 of attempting to certify a class case, often times turning down class or individual settlement offers
9 that Plaintiff's Counsel feels are not in the best interest of the settled class, only to lose class
10 certification and the costs and fees associated with the litigation. *See e.g., Prosad v. Del Taco*
11 *Restaurant Services, Inc.*, No. BC426538 (L.A. Super. Ct. filed Nov. 2009); *Perez v. Safelite*
12 *Group, Inc.*, CV-10-8653-RGK(FFMx) (C.D. Cal. filed October 5, 2010).

13 59. When Plaintiff's Counsel's motions for class certification are denied, Plaintiff's
14 Counsel often appeals the orders. Sometimes, these denials are overturned (*Perez v. Safelite*
15 *Group, Inc.*, 553 Fed.Appx. 667 (9th Cir. 2015); *Anderson v. Total Renal Care, Inc.*, No. B236207
16 (Cal. Ct. App. 2012)) and other times PAGA Counsel is unsuccessful (*Prosad v. Del Taco*
17 *Restaurant Services, Inc.*, No. B238605 (CA. Ct. App. 2012)).

18 60. In addition to appealing class certification denials, Kingsley & Kingsley has been
19 involved in numerous lengthy and protracted appeals process before the California Court of
20 Appeal, the Ninth Circuit, the Seventh Circuit, and the United States Supreme Court. Our firm
21 specifically has taken and lost some issues on appeal that required the write-off of significant
22 legal fees. Also, our firm has been successful on appeal and overturned unfavorable lower court
23 rulings or successfully fought to have successful rulings affirmed. Below is just a sample of some
24 of these appeals:

25 a. *D'Este v. Bayer Corp.*, 565 F.3d 1119 (9th Cir. 2009) (lower court ruling that
26 pharmaceutical sales representatives are exempt employees affirmed);

27 b. *Budrow v. Dave & Buster's of California, Inc.*, 171 Cal. App. 4th 875 (2009)
28 (lower court ruling in employer's favor that certain employees can share in

- 1 mandatory tip pool affirmed);
- 2 c. *Etheridge v. Reins Int'l California, Inc.*, 172 Cal. App. 4th 908 (2009) (lower court
- 3 ruling in employer's favor that certain employees can share in mandatory tip pool
- 4 affirmed);
- 5 d. *Areso v. CarMax, Inc.*, 195 Cal. App. 4th 996 (2011) (lower court ruling in
- 6 employer's favor approving employer's commission pay plan affirmed) ;
- 7 e. *Christopher v. SmithKline Beecham Corp.*, 132 S. Ct. 2156, 183 L. Ed. 2d 153
- 8 (2012) (lower court ruling that pharmaceutical sales representatives are exempt
- 9 employees affirmed);
- 10 f. *Schaefer-LaRose v. Eli Lilly & Co.*, 679 F.3d 560 (7th Cir. 2012) (lower court
- 11 ruling that pharmaceutical sales representatives are exempt employees affirmed);
- 12 g. *Fowler v. Carmax, Inc.*, No. B238426, 2013 WL 1208111 (Cal. Ct. App. Mar. 26,
- 13 2013), cert. granted, judgment vacated sub nom. *CarMax Auto Superstores*
- 14 *California, LLC v. Fowler*, 134 S. Ct. 1277, 188 L. Ed. 2d 290 (2014) (lower court
- 15 granted employer's motion to compel arbitration, Court of Appeal reversed, U.S.
- 16 Supreme Court affirmed lower court);
- 17 h. *Salazar v. Apple Am. Grp., LLC*, No. E059562, 2015 WL 314703 (Cal. Ct. App.
- 18 Jan. 26, 2015), review denied (Apr. 22, 2015), cert. denied, 136 S. Ct. 688, 193 L.
- 19 Ed. 2d 519 (2015) (lower court ruling in employee's favor on motion to compel
- 20 arbitration affirmed);
- 21 i. *Anaya v. J's Maint. Serv., Inc.*, No. B261662, 2016 WL 519867 (Cal. Ct. App. Feb.
- 22 9, 2016) (lower court ruling in employee's favor on motion to compel arbitration
- 23 affirmed);
- 24 j. *Cortez v. Doty Bros. Equipment Company, Inc.* (2017) 15 Cal.App.5th 1 (reversing
- 25 in part and affirming in part trial courts order compelling arbitration);
- 26 k. *Lopez v. Friant & Associates, L.L.C.* (2017) 15 Cal.App.5th 773 (reversing
- 27 summary judgement in favor of employer on wage statement claim);
- 28 l. *Kane v. Valley Slurry Seal Company*, Case No. C079558, Cal. Ct. App. May 8,

1 2018) (affirming judgement for employees after bench trial);

2 m. *Kim v. Reins International California*, Case No. S246911. Oral argument was held
3 before the California Supreme Court on January 6, 2020 and a decision was
4 published in March 2020.

5 61. Unlike plaintiffs' firms, which bear the risk of loss on contingency cases, defense
6 firms are able to bill their clients for time spent on a case. As verified by a survey conducted by
7 the National Law Journal nearly a decade ago, six California firms provided their hourly billing
8 rates and of the six firms, five regularly charged in excess of \$500 for their partners. In fact, four
9 of these firms charged as high as \$600, \$620, \$650 and up to \$850 per hour. These firms are
10 located in Orange County, Los Angeles County, San Francisco County, and San Diego County.
11 This survey is attached hereto as Exhibit 2.

12 62. While plaintiffs' firms strive to take on cases that are meritorious (for ethical as well
13 as monetary reasons), as this Court knows, many of these cases hinge on the decision of class
14 certification. Recently, there has been a renewed effort by defense counsel and/or their clients to
15 challenge these cases and to push back, especially on certification motions. In addition, many novel
16 legal issues have gone up on appeal, which has complicated the landscape for settlement.

17 **PLAINTIFF'S COUNSEL'S HOURS AND HOURLY RATES ARE REASONABLE**

18 63. Here, a lodestar cross-check confirms that the percentage requested is reasonable.
19 Plaintiff's Counsel have an aggregate lodestar in the amount of \$179,990.00 which represents 229.60
20 hours of attorney work on this litigation from its inception through the date of this filing of Plaintiff's
21 instant Motion (without future hours).

22 64. As such, Plaintiff's Counsel is asking for a lodestar multiplier of 1.30.

23 65. This case dealt with difficult legal and factual questions. Significantly, the risk
24 attendant to the underlying claims in this matter was great considering Defendant's defenses as
25 discussed in detail above. Were this case to proceed, Defendant would have a strong incentive to
26 litigate tenaciously. There are genuine issues in dispute.

27 66. Furthermore, Plaintiff's Counsel was able to obtain close to the full value for this
28 case.

1 67. As discussed above, Plaintiff's Counsel are skilled wage and hour practitioners with
2 decades of experience who diligently prepared and litigated this matter.

3 68. To achieve the ultimate result in this case, Plaintiff's counsel had to incur substantial
4 risk and expense, and were precluded from taking other fee generating employment for 46 hours of
5 attorney time.

6 69. This matter had been handled purely on a contingency fee basis and Plaintiff's
7 counsel has advanced many thousands of dollars in costs while deferring all payment of fees, with
8 no guarantee that any of the fees incurred or costs advanced would ever be recovered, and diverting
9 significant firm resources to prosecution of this matter.

10 70. Plaintiff's Counsel believe this is an exceptional result that has been well received by
11 the PAGA Settlement Members.

12 71. Plaintiff's Counsel litigated this action with great efficiency in light of the amount of
13 work required to achieve the Settlement.

14 72. The requested hourly rates in this case range from \$475.00 per hour to \$1,100.00.

15 73. Plaintiff's Counsel's hourly rates are fully supported by their experience and
16 reputation in handling complex employment litigation, including wage and hour class actions.

17 74. Mr. Kingsley is a 28-year attorney with expertise in wage and hour class action
18 lawsuits.

19 75. He has litigated several hundred such cases, including at the appellate level at the
20 U.S. Supreme Court, California Supreme Court, the Ninth Circuit, and the California Court of
21 Appeal.

22 76. He is also a prolific speaker at various seminars on employment law and has
23 contributed to legal publications on employment topics.

24 77. In light of the impending increase of experienced lawyers in specialized practice, I
25 believe that the hourly rates charged by my firm are fair and reasonable and are comparable to or
26 less than those charged by my colleagues in California and the national market for prosecuting or
27 defending class actions.

28 78. My office billed for the following six attorneys for work performed on this case: Eric

1 Kingsley, Liane Katzenstein Ly, Ari J. Stiller, Jessica Adlouni, Shannen Garrett, and me.

2 79. I am a partner at Kingsley & Kingsley, APC. I received my Bachelor of Arts degree,
3 *cum laude*, from the University of California San Diego and received my law degree from UCLA
4 School of Law in 2008, where I was active in the Women's Law Journal and community-based legal
5 clinics. I have been practicing since 2008 and am billed at \$800 per hour.

6 80. Liane Katzenstein Ly, a partner at Kingsley & Kingsley, APC, has a billing rate of \$800
7 per hour. She is an honors graduate of Florida State University, and received her JD from University
8 of California Davis School of Law in 2008, where she was an editor of the Environmental Law
9 Journal and a board member of the King Hall Negotiations Team.

10 81. Jessica Adlouni is an Associate Attorney at Kingsley & Kingsley, APC. She is billed
11 at \$500 per hour. Ms. Adlouni obtained her Bachelor of Arts from UCLA and her juris doctor from
12 UCLA School of Law in May 2019.

13 82. An article in the Wall Street Journal on February 9, 2016 titled *Legal Hours Cross New*
14 *Mark: \$1,500 an Hour* states that "a review of filings over the past three months in about two dozen
15 bankruptcy cases shows that senior partners routinely charge between \$1,200 and \$1,300 an hour,
16 with top rates at several large law firms exceeding \$1,400." The article also explains that "despite
17 low inflation and weak demand for legal services, rates at large corporate law firms have risen by
18 3% to 4% a year since the economic downturn." Finally, the article notes that "the average highest
19 rate paid for law-firm partners was \$875 an hour in 2015." This article is attached hereto as Exhibit
20 3.

21 83. Plaintiff's Counsel's charged rate are commensurate with the prevailing market rates in
22 Los Angeles County for attorneys of comparable experience and skill handling complex litigation.

23 84. Plaintiff's Counsel's rates in calculating the lodestar are the same rates charged to non-
24 contingent hourly clients and thus necessarily reflect the current market value of counsel's legal
25 services.

26 85. Plaintiff's Counsel made all reasonable attempts to avoid duplication of assignments
27 and to assign tasks to timekeepers at the appropriate billing rates.

28 86. Finally, PAGA Counsel's rates are in line with the adjusted Laffey Matrix, which is a

fee scale that courts often consult in determining the reasonableness of hourly rates. Under the adjusted Laffey Matrix, a reasonable rate for an attorney with 20+ years of experience, such as Mr. Kingsley, is \$1057, a reasonable rate for an attorney with 15 years of experience, such as Ms. Szamet and Ms. Ly, is \$878, and a reasonable rate for an attorney with 4 years or less of experience, such as Ms. Adlouni, is \$538. A true and correct copy of the 2024-2025 Adjusted Laffey Matrix is attached hereto as Exhibit 4.

87. Kingsley & Kingsley's attorneys' fees in the present case are broken down as follows:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTALS</u>
Eric B. Kingsley	24.50	\$1,100.00	\$26,950.00
Kelsey M. Szamet	168.00	\$800.00	\$134,400
Liane Katzenstein Ly	0.30	\$800.00	\$240.00
Jessica Adlouni	36.80	\$500.00	\$18,400.00
KINGSLEY TOTAL ATTORNEYS' FEES	229.60		\$179,990.00²

88. Kingsley & Kingsley, APC has spent significant time extensively investigating, researching, and litigating this matter, including but not limited to the following:

- a. intake and interviewing Plaintiff and witnesses and flushing out facts and issues;
- b. researching employer and related causes of action;
- c. researching other pending and former matters against Defendant;
- d. fact development and investigating Defendant's ownership structure
- e. researching and analyzing relevant claims under B&P 17200;
- f. investigation and discussion regarding job functions, duties, compensation, policies, and procedures, etc.;
- g. regular meetings and or communicating with the named Plaintiff;
- h. drafting pleadings (Complaints, Motion for Preliminary Approval, various

² The Total Attorneys' Fees does not include PAGA Counsel anticipated 10-15 hours of future time to handle the final approval hearing in July and to oversee the administration process.

documents related to Preliminary Approval, Motion for Final Approval, various documents related to Final approval, etc.);

- i. researching private right of action and various impact on class actions;
- j. interviewing and obtaining declarations from PAGA Settlement Members;
- k. preparing for and attending mediation;
- l. discussing issues related to damage model calculations;
- m. preparing and analyzing damage models;
- n. negotiating the terms of the settlement;
- o. reviewing and making changes to the Settlement Agreement;
- p. drafting and editing all documents for Preliminary and Final Approval;
- q. monitoring Notice and settlement administration procedures;
- r. coordinating and overseeing all aspects of the administration of the Action (review documentation, approve form and content, etc.); and multiple communications with defense counsel.

89. Based on the aggregate lodestar, PAGA Counsel is requesting a multiplier of 1.27.

90. I believe the request for attorneys' fees in the amount of \$184,435.00 is fair and reasonable given the complexity and novelty of the issues involved, the vigorous defense, and the exceptional results obtained. As explained above, PAGA Counsel's diligent litigation efforts and experience led to an outstanding settlement.

THE COURT SHOULD APPROVE THE REQUEST FOR REIMBURSEMENT OF COSTS

91. In addition to their request for fees, Plaintiff's Counsel further request reimbursement of the reasonable out-of-pocket expenses advanced and/or incurred by them in connection with this litigation, in the amount of \$16,101.80.

92. To date, Plaintiff's Counsel has incurred \$15,501.80 in costs and anticipates incurring an additional \$600.00 in costs to file and serve this motion.

93. Because the Settlement provides for a reimbursement of litigation costs of up to \$20,000, the delta shall be deemed a PAGA Penalty and distributed accordingly.

1 94. As such, counsel is requesting a cost reimbursement of \$16,101.80.

2 95. All of the requested costs are reasonable in amount and were necessarily incurred
3 by Plaintiff's Counsel in prosecuting this litigation.

4 96. All of these costs have been incurred in the course of this litigation, and all costs
5 advanced have already been paid by Plaintiff's Counsel, with the exception of the anticipated cost
6 of filing the present motion.

7 97. Accordingly, the requested reimbursement of the reasonable out-of-pocket expenses
8 advanced and/or incurred is appropriate and justified as part of the overall settlement and the
9 Court should approve the request for reimbursement in the amount of \$16,101.80.

10 **THE NAMED PLAINTIFFS' ENHANCEMENT SHOULD BE APPROVED**

11 98. The Settlement calls for a significant enhancement payment of \$50,000.00 to the
12 named Plaintiff, to be paid from the Total Monetary Settlement Amount.

13 99. The enhancement request takes into consideration the time, effort, and expense
14 incurred by Plaintiff in coming forward to litigate this matter on behalf of the PAGA Settlement
15 Members. The time spent by Plaintiff goes above and beyond in this matter.

16 100. First and foremost, Plaintiff took the necessary steps to initiate this action on his own
17 in October 2020.

18 101. As a non-lawyer, without the assistance of experienced counsel, he drafted and
19 properly uploaded a PAGA notice letter to the LWDA.

20 102. When attacked by way of a Motion to Strike, the Court found this letter to be
21 sufficient to put Defendant and the LWDA o notice of Plaintiff's and the Aggrieved Employees'
22 claims.

23 103. This is a very notable accomplishment.

24 104. It was only after extensively researching experience counsel, that a second
25 supplemental notice letter was sent in an abundance of caution by Plaintiff Counsel's law firm. Due
26 to his own work, Plaintiff Olivas started the clock on statute of limitations five months before any
27 Counsel was involved.

28 105. Of particular note, these five months fall within the time period that Defendant did

1 not maintain a reimbursement policy at all so it is, arguably, the strongest time period in the case
2 when analyzing liability.

3 106. Without researching, drafting, and filing a notice letter on his own, this five month
4 time period would not have been recoverable by the LWDA and Aggrieved Employees at all.

5 107. Second, Plaintiff has been tireless in his advocacy and determination to see this
6 matter through.

7 108. He compiled hundreds of pages of bills to substantiate his claimed expenses, sat for
8 2 full days of deposition, and attended a full day mediation.

9 109. Thereafter, for months and years, he stayed in regular and consistent contact with
10 Counsel to see this proposed Settlement through.

11 110. He has spent hours upon hours researching the Labor Code, PAGA claims generally,
12 PAGA verdicts, and trial court orders from this Court.

13 111. He has researched the online university education space exhaustively to understand
14 industry norms and customs.

15 112. In short, his investment in and time commitment to this matter have truly gone above
16 and beyond.

17 113. In addition to the specific work explained above and in his declaration, Plaintiff has
18 actively engaged in all aspects of this case and acting as a very competent representative including:
19 providing information to his Counsel regarding Plaintiff's relevant employment experiences and the
20 experiences of others he observed around him, compiling hundreds of pages of documents, meeting
21 with Plaintiff's Counsel on a consistent and frequent basis to discuss the status of the case and the
22 theories of liability, preparing and reviewing documents for his deposition, preparing and reviewing
23 documents of mediation and participating very meaningfully that day, reviewing and revising
24 settlement documents, and making himself available to Counsel to participate at all times.

25 114. Plaintiff's Counsel acknowledges this amount may be higher than ordinary awards
26 requested, but considers this to be a fair and reasonable enhancement in this particular situation.

27 115. The enhancement takes into consideration the time, effort, risks, and expense
28 incurred by Plaintiff in coming forward to litigate this matter on behalf of the PAGA Settlement

Members.

PROOF OF SUBMISSION TO THE LABOR AND WORKFORCE DEVELOPMENT

AGENCY

116. As indicated on the Proof of Service, Plaintiff's accompanying Motion for Approval of Representative Action Settlement ("Motion") was uploaded to the Labor and Workforce Development Agency's ("LWDA") website on the date this Motion was filed. Proof of submission of Plaintiff's Motion, all related documents, and copy of the email from the LWDA confirming receipt is attached hereto as Exhibit "6".

EXHIBITS

117. Attached hereto as Exhibit "1" is a true and correct copy of the fully-executed PAGA Settlement Agreement.

118. Attached hereto as Exhibit "2" is a true and correct copy of the ALM Research 2007 NLJ Billing Survey.

119. Attached hereto as Exhibit "3" is a true and correct copy of Wall Street Journal on February 9, 2016 titled *Legal Hours Cross New Mark: \$1,500 an Hour*.

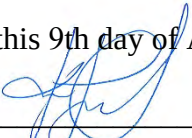
120. Attached hereto as Exhibit "4" is a true and correct copy of the 2024-2025 Adjusted Laffey Matrix.

121. Attached hereto as Exhibit "5" is a true and correct copy of the Kingsley & Kingsley, APC costs ledger reflecting costs incurred in this matter.

122. Attached hereto as Exhibit "6" is a true and correct copy of the proof of submission to the LWDA as referenced in paragraph 116 above.

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

This declaration was executed this 9th day of April, 2024, in Altadena, California.



Kelsey M. Szamet

EXHIBIT "1"

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Gerald Olivas (“Plaintiff”) on his behalf, on behalf of the State of California and on behalf of all allegedly-aggrieved employees and Defendant The University of Phoenix, Inc., an Arizona corporation (“Defendant”), subject to the approval of the Court, that the settlement of the Action shall be effectuated upon and subject to the following terms and conditions. Plaintiff and Defendant collectively are referred to herein as the “Parties.” Capitalized terms as used herein shall have the meanings set forth in this Settlement Agreement and Release.

I. RECITALS

WHEREAS, on October 6, 2020, Plaintiff notified the Labor Workforce Development Agency (“LWDA”) through **Exhibit A** of his intent to file an action under California’s Private Attorneys General Act, California Labor Code § 2698 *et seq.* (“PAGA”);

WHEREAS, on February 18, 2021, Plaintiff caused to be filed through **Exhibit B** a supplemental notice with the LWDA of his intent to file an action under PAGA;

WHEREAS, Plaintiff allowed the LWDA an opportunity to investigate Plaintiff’s claims as required by the Labor Code.

WHEREAS, the LWDA took no action in response to Plaintiffs’ notice;

WHEREAS, on February 19, 2021, Plaintiff commenced a lawsuit by filing a Complaint styled *Gerald Whilton Olivas, an individual, on behalf of the State of California, as a private attorney general v. The University of Phoenix, Inc. and Does 1 through 50, inclusive*, Alameda County Superior Court Case No. RG21091953, claiming violation of Labor Code section 2802;

WHEREAS, during the course of the litigation the Parties engaged in informal discovery, including the exchange of data and documents;

WHEREAS, on February 22, 2022, the Parties participated in a full-day private mediation with experienced wage and hour Mediator Tripper Ortman and continued to engage in follow-up negotiations until an agreement was reached;

WHEREAS, the Parties desire to settle, compromise, and avoid litigation relating to the claims described in the pleadings in the Action, and have agreed to settle the Action upon the terms and conditions and for the consideration set forth in this Settlement Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is hereby agreed by and between the Parties hereto as follows:

II. SETTLEMENT TERMS

A. Definitions

1. “Action” means the case entitled *Gerald Whilton Olivas, etc., v. The University of Phoenix, Inc. et al.*, pending in the Superior Court of the State of California for the County of Alameda (“Court”), Case No. RG21091953.

2. “Defense Counsel” means R. Brian Dixon and Kurt R. Bockes, of Littler Mendelson, P.C.

3. “Effective Date” means the date this Settlement is approved as provided herein and the Court’s order granting Settlement Approval and entry of Final Judgment becomes final and is no longer appealable. For purposes of this Settlement, “becomes final and is no longer appealable” shall mean the later of: (a) the day after the last date by which a notice of appeal to the applicable Court of Appeal of the order and judgment approving this Settlement may be timely filed and none is filed (*i.e.*, 61 days from notice of entry of judgment); (b) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in any other manner that confirms the validity of the order and judgment, the day after the last date for filing a request for further review of the order and judgment approving this Settlement passes, and no further review is requested; or (c) if an appeal is filed and the order approving this Settlement is affirmed and further review of the order is requested, the day after the review is finally resolved and the order and judgment approving this Settlement is affirmed. In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Effective Date does not occur for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their respective positions. The Effective Date cannot occur, and Defendant will not be obligated to fund this Settlement, until and unless there is no possibility of an appeal or further appeal that could potentially prevent this Settlement from becoming final and binding.

4. “Individual Settlement Payment” means the portion of the PAGA Settlement Fund allocated to each PAGA Settlement Member, as calculated pursuant to Section C(12) below.

5. “Notice” means the form of notice that will be sent to each PAGA Settlement Member accompanying their Individual Settlement Payments, which shall be substantially in the form attached hereto as **Exhibit C**.

6. “PAGA Letters of Plaintiff” means **Exhibits A and B** which were sent by or on behalf of Plaintiff to the LWDA dated October 6, 2020, and February 18, 2021.

7. “PAGA Settlement Member” means all current and former employees of Defendant in the State of California who worked one or more pay periods in whole or in part off site since October 7, 2019, one (1) year prior to the date of Plaintiff’s first notice letter to the Labor and Workforce Development Agency (“LWDA”) on October 7, 2020, through May 14, 2022.

8. “PAGA Settlement Member List” means the list of full names, telephone numbers most recent mailing addresses, Social Security numbers, and number of bi-weekly pay periods in

which each PAGA Settlement Member was compensated for working for Defendant during the Settlement Period, which Defendant will diligently and in good faith compile from its records.

9. “PAGA Settlement Fund” means the Total Monetary Settlement Amount minus (a) the award of Attorney’s Fees to Plaintiffs’ Counsel; (b) the award of Attorney’s Costs to Plaintiffs’ Counsel; (c) Plaintiff’s service award; and (d) Settlement Administration Costs.

10. “Plaintiffs’ Counsel” means Eric B. Kingsley and Kelsey M. Szamet, Esq. of Kingsley & Kingsley, APC;

11. “Released Claims” means (a) all claims for civil penalties that were actually alleged or that could have been alleged based on the facts in the operative complaint in this Action or the PAGA Letters of Plaintiff, regardless of whether the theory or basis of recovery is now known or arises in the future; (b) any claims that the Released Parties are liable for attorney’s fees or costs incurred in the prosecution of this Action by Plaintiff or on behalf of the LWDA, the State of California, or the PAGA Settlement Members; (c) all claims that Plaintiff, the LWDA and the State of California may have against the Released Parties relating to the payment, taxation, and allocation of attorney’s fees and costs to Plaintiffs’ Counsel pursuant to this Settlement Agreement; (d) all claims that Plaintiff, the LWDA and the State of California may have against the Released Parties relating to the payment, taxation, and allocation of the costs of settlement administration to the Settlement Administrator pursuant to this Settlement Agreement; and (e) all claims relating to the payment, taxation, and allocation of the PAGA Settlement Fund among the LWDA, the State of California and the PAGA Settlement Members. The release of the Released Claims shall be effective as to the Settlement Period.

12. “Released Parties” means Defendant The University of Phoenix, Inc., an Arizona corporation and its past, present, and future parents, affiliates, subsidiaries, divisions, predecessors, successors, partners, joint venturers, affiliated organizations, shareholders, insurers, reinsurers and assigns, and each of their past, present and future officers, directors, trustees, agents, attorneys, contractors, representatives, benefits plans sponsored or administered by the Released Parties, divisions, units, and branches, and any other persons or entities acting on behalf of or in concert with any of the foregoing. The Parties agree that this settlement between the Released Parties and the Plaintiff as Private Attorney General shall resolve all civil penalty claims in the cases pending against the Released Parties.

13. “Settlement Administrator” means ILYM Group, Inc., a third-party settlement claims administrator that the Parties will ask the Court to appoint for the purposes of administering this Settlement. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

14. “Settlement Agreement” means and refers to this agreement.

15. “Settlement Approval Order and Judgment” means the settlement approval order and judgment that will be entered by the Court, which shall be substantially in the form attached hereto as **Exhibit D**.

16. “Settlement Fund Account” means the bank account established by the Settlement Administrator pursuant to the terms of this Settlement Agreement, from which all monies payable under the terms of this Settlement shall be paid, as set forth herein.

17. “Settlement Period” shall mean October 7, 2019 through May 14, 2022.

18. “Total Monetary Settlement Amount” means the Seven Hundred Thousand Dollars (\$700,000.00) that Defendant will pay if the Court approves this Settlement and the Effective Date occurs. The Total Monetary Settlement Amount will be used to pay: (a) the PAGA Settlement Fund to the LWDA and to the Settlement Members; (b) the award of Attorney’s Fees to Plaintiffs’ Counsel; (c) the award of Attorney’s Costs to Plaintiffs’ Counsel; and (d) the Settlement Administration Costs. Under no circumstances will Defendant be required to pay more than Seven Hundred Thousand Dollars (\$700,000.00) unless required pursuant to Section C(16) below. In no event will any portion of the Total Monetary Settlement Amount revert to Defendant.

19. “Void Date” means the 181st day after issuance of Individual Settlement Payment checks to PAGA Settlement Members, upon which the Individual Settlement Payment checks will no longer be valid and negotiable.

B. Consideration

1. Defendant’s Consideration. Provided that the Court approves the Settlement and the Effective Date occurs, Defendant will pay the Total Monetary Settlement to the Settlement Administrator. All amounts to be paid to anyone pursuant to this Settlement Agreement shall be paid out of the Settlement Fund Account as follows:

- a. Attorney’s Fees. In full satisfaction of all claims Plaintiff may have for attorney fees arising out of the Action, Plaintiff may request an award from the Court in an amount up to Two Hundred Thirty-Three Thousand Three Hundred and Thirty-Three Dollars and Thirty-Three Cents (\$233,333.33). Defendant agrees not to oppose Plaintiff’s application for Attorney’s Fees insofar as the application does not exceed the herein defined amount. The Attorney’s Fees to be awarded to Plaintiff are subject to the approval of the Court and will be paid only from the Total Monetary Settlement Amount. Any portion of the Attorney’s Fees not awarded to Plaintiff’s Counsel will be added to the PAGA Settlement Fund. Plaintiff understands and agrees that this Agreement and Release shall remain in full force and effect even if the full amount of Attorney’s Fees defined herein is not awarded by the Court.
- b. Attorney’s Costs. In full satisfaction of all claims Plaintiff may have for costs and expenses arising out of the Action, Plaintiff may request an award from the Court in an amount up to Twenty Thousand Dollars (\$20,000.00). Defendant agrees not to oppose Plaintiff’s application for Attorney’s Costs not to exceed this sum. The Attorney’s Costs to be awarded to Plaintiff are subject to the approval of the Court and will be paid only from the Total Monetary Settlement Amount. Any portion of

the Attorney's Costs not awarded to Plaintiff's Counsel will be added to the PAGA Settlement Fund. Plaintiff understands and agrees that this Agreement and Release shall remain in full force and effect even if the full amount of Attorney's Costs defined herein is not awarded by the Court.

- c. Plaintiffs' Service Award. In full satisfaction of all claims Plaintiff may have for time and attention and any and all other contributions to the filing, pursuit and resolution of this matter, Plaintiff may request an award from the Court in an amount up to Fifty Thousand Dollars (\$50,000.00). Defendant agrees not to oppose Plaintiff's application for Plaintiff's Service Award not to exceed this sum. The Service Award to be awarded to Plaintiff is subject to the approval of the Court and will be paid only from the Total Monetary Settlement Amount. Any portion of the Service Award not awarded to Plaintiff will be added to the PAGA Settlement Fund. Plaintiff understands and agrees that this Agreement and Release shall remain in full force and effect even if the full amount of the Service Award defined herein is not awarded by the Court.
- d. Settlement Administration Costs. The parties agree that the Settlement Administration Costs up to the amount defined herein that are necessary to administer the Settlement up to Ten Thousand Dollars (\$10,000.00). The Settlement Administration Costs to be paid to the Settlement Administrator are subject to the Court's approval and will be paid only from the Total Monetary Settlement Amount. Any portion of the Settlement Administration Costs not awarded by the Court will be added to the PAGA Settlement Fund.
- e. PAGA Payments. The Parties agree that the payment to the LWDA and the Individual Settlement Payments shall be paid from the Settlement Fund Account pursuant to the calculation method set forth in sections C(10-12) below.

2. PAGA Settlement Release. Upon the Effective Date, Plaintiff, the Plaintiff as proxy for the LWDA, the LWDA, and the State of California, release the Released Parties from the Released Claims for the Settlement Period. Plaintiff, the Plaintiff as proxy for the LWDA, the LWDA and the State of California may discover facts in addition to those they now know or believe to be true with respect to the subject matter of the Released Claims, but upon the Effective Date, Plaintiff, the Plaintiff as proxy for the LWDA, the LWDA and the State of California shall be deemed to have, and by operation of the Settlement Approval order shall have, fully, finally, and forever settled and released any and all of the Released Claims against the Released Parties without regard to the subsequent discovery or existence of such different or additional facts. Plaintiff, the Plaintiff as proxy for the LWDA, the LWDA and the State of California shall not sue, facilitate the making of any claim or otherwise make a claim against any of the Released Parties that seeks recovery for any of the Released Claims. It is the intent of the Parties that the Settlement Approval Order entered by the Court shall have full *res judicata* and *collateral estoppel* effect and be final and binding upon Plaintiff as proxy for the State of California, the LWDA and the State of California and any other individual and entity subject to *res judicata* or *collateral estoppel* regarding the Released Claims.

C. Settlement Administration Procedures

1. Settlement Approval Motion. Following full execution of this Settlement Agreement, Plaintiff will promptly request a hearing before the Court to seek approval of the Settlement on a mutually available date. In conjunction with such hearing, Plaintiff's Counsel will present this Settlement Agreement to the Court and will request that the Court issue a Settlement Approval Order and Judgment substantially in the form of the proposed Settlement Approval Order and Judgment attached hereto as **Exhibit D** approving and incorporating by reference the terms and conditions of the Settlement Agreement. Plaintiff's Counsel will be primarily responsible for drafting all documents necessary to obtain approval of the Settlement, though the Parties will meet and confer on such materials. Defendant agrees not to oppose Plaintiffs' motion for Settlement Approval unless the motion is inconsistent with the terms set forth in this Settlement Agreement.

2. No Right of PAGA Settlement Members to Object or Opt-Out. The Parties agree there is no statutory right for any PAGA Settlement Member to object, opt out or otherwise exclude himself or herself from the Settlement. Except as otherwise stated, the Parties will vigorously defend against any attempt by any PAGA Settlement Member or by any entity or agency to intervene in this matter or object to/opt-out of this settlement. The Parties further agree there is no right or opportunity for any PAGA Settlement Member to appeal the approval of the Settlement by the Court. The Parties will jointly defend against any appeal filed with respect to the Final Order.

3. LWDA Notice. Pursuant to California Labor Code § 2699(l), Plaintiff will provide a copy of this Settlement to the LWDA concurrently with the filing of the motion for Settlement Approval. Plaintiff will also file a declaration in support of Plaintiff's motion for Settlement Approval confirming that Plaintiff has submitted the Settlement to the LWDA in compliance with Labor Code § 2699(l).

4. Judgment and Continued Jurisdiction. After entry of the Final Approval order and judgment, the Court will have continuing and exclusive jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement; (b) matters relating to the administration of the Settlement; and (c) such post-Judgment matters as may be appropriate under Court rules or as set forth in this Settlement Agreement.

5. Settlement Administrator. Upon approval of the Court, the Parties will retain ILYM Group, Inc. as the third-party Settlement Administrator to administer this Settlement. The Settlement Administrator will be responsible for: establishing the Settlement Fund Account; calculating Individual Settlement Payments; preparing, printing, and mailing the Individual Settlement Checks and accompanying Notice to PAGA Settlement Member; disbursing payment of Attorney's Fees and Attorney's Costs to Plaintiff's Counsel; disbursing payment to the LWDA; printing and providing PAGA Settlement Members, Plaintiff, and Plaintiff's Counsel with IRS Forms 1099 as required under this Settlement Agreement and applicable law; providing a due diligence declaration for submission to the Court upon completion of the terms of the Settlement; and for such other tasks as the Parties mutually agree or the Court orders. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities, and shall not mail any payments to Plaintiff, the LWDA, Plaintiff's

Counsel or any PAGA Settlement Member until the amounts are approved by the Parties. Any legally mandated tax reports, tax filings, or other tax documents required by the administration of this Settlement shall be prepared by the Settlement Administrator. Any expenses incurred in connection with such preparation shall be part of the Settlement Administration Costs.

6. PAGA Settlement Member List. On or before the Effective Date, Defendant will provide the Settlement Administrator with the PAGA Settlement Member List, which shall be used solely for the administration of this Settlement and for no other purpose, and which shall not be shared with any persons or entity not employed by the Settlement Administrator and working on the administration of this Settlement. Because PAGA Settlement Members' sensitive personal information is included in the PAGA Settlement Member List, the Settlement Administrator shall maintain the PAGA Settlement Member List securely and in confidence, maintaining the strictest standards of data privacy. Access to the PAGA Settlement Member List shall be limited to employees of the Settlement Administrator with a need to use the PAGA Settlement Member List for administration of this Settlement. Within three (3) days of receipt of the PAGA Settlement Member List, the Settlement Administrator will send an email to the parties stating the number of individuals included on the list and the total number of bi-weekly pay periods on the list.

7. Funding of the Settlement. Within fifteen (15) calendar days following the Effective Date, Defendant shall fund the Settlement by delivering Total Monetary Settlement Amount to the Settlement Administrator. All amounts to be paid by Defendant shall be deposited into the Settlement Fund Account, which shall be administered by the Settlement Administrator.

8. Payment of Attorney's Fees and Attorney's Costs. Within Thirty (30) calendar days following the Effective Date, the Settlement Administrator shall pay from the Settlement Fund Account the Court-approved Attorney's Fees and Attorney's Costs to Plaintiff's Counsel. Plaintiff's Counsel agrees to provide the Settlement Administrator with an executed IRS Form W-9 before payments for Attorney's Fees and Attorney's Costs are issued. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiffs' Counsel for the payments made pursuant to this paragraph.

Neither Plaintiff's Counsel nor any other current or past counsel for Plaintiff shall be permitted to petition the Court for, or to accept, any additional payments for attorney's fees, costs, interest, or any other amount from Defendant except as specified above. Defendant's payment of the Attorney's Fees and Attorney's Costs shall constitute full satisfaction of the obligation to pay any amounts to any person, attorney, or law firm, including but not limited to Plaintiffs' Counsel, or attorney's fees, expenses, and/or costs in the Action incurred by any other attorney or law firm for attorney's fees, expenses, and/or costs to which any of them may claim to be entitled on behalf of Plaintiff and/or PAGA Settlement Members. The Parties further agree that Plaintiff's Counsel's Attorney Fees and Attorney Costs shall be for all attorney's fees, expenses, and/or costs, present and future, incurred in the Action by all attorneys working on behalf of Plaintiff and/or PAGA Settlement Members.

9. Settlement Administration Costs. Within Thirty (30) calendar days following the Effective Date, the Settlement Administrator shall pay from the Settlement Fund Account the Court-approved Settlement Administration Costs.

10. Payment to LWDA. Within Thirty (30) calendar days following the Effective Date, the Settlement Administrator shall issue from the Settlement Fund Account a check payable to the LWDA for seventy-five percent (75%) of the PAGA Settlement Fund and any additional amount calculated in accordance with section C(12).

11. Plaintiff's Service Award. Within Thirty (30) calendar days following the Effective Date, the Settlement Administrator shall issue from the Settlement Fund Account a check payable to the Client Trust Account of Plaintiff's Counsel in the amount of the Service Award approved by the Court. Plaintiff agrees to provide the Settlement Administrator with an executed IRS Form W-9 before payment of Plaintiff's Service Award is issued. Plaintiff's Service Award shall be paid to the Client Trust Account of Plaintiff's Counsel. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiff for the payments made pursuant to this paragraph.

12. Individual Settlement Payments. Within Thirty (30) calendar days following the Effective Date, the Settlement Administrator shall issue from the Settlement Fund Account Individual Settlement Payments calculated in accordance with paragraph C(12) to each PAGA Settlement Member's last known mailing address. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any checks returned as non-deliverable on or before the Void Date will be sent promptly via regular First Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip trace, or other search using the name, address or Social Security number of the PAGA Settlement Member involved and will then perform a single re-mailing. Any check re-mailings will not extend the 180-day period to cash a check. Any checks issued to PAGA Settlement Members shall remain valid and negotiable for one hundred and eighty (180) calendar days from the date of their issuance and then shall become void on the 181st day after issuance, *i.e.*, the Void Date. The Parties agree that, within fifteen (15) calendar days after the Void Date, any unclaimed funds in the Settlement Fund Account as a result of the failure to cash Individual Settlement Payment checks prior to the Void Date shall be paid by the Settlement Administrator to the Unclaimed Property Fund of the State of California Controller.

13. Calculation of Individual Settlement Payments. All PAGA Settlement Members will receive an Individual Settlement Payment calculated as follows. The Settlement Administrator will first determine the total number of bi-weekly pay periods worked by each PAGA Settlement Member during the Settlement Period. The Settlement Administrator will next determine the total number of pay periods for all PAGA Settlement Members during the Settlement Period. Twenty-five percent (25%) of the PAGA Settlement Fund will then be divided by the total number of bi-weekly pay periods for all PAGA Settlement Members during the Settlement Period to determine the bi-weekly pay period value. The bi-weekly pay period value will then be multiplied by the number of bi-weekly pay periods worked by each PAGA Settlement Member to determine each PAGA Settlement Member's share of the settlement. Each PAGA Settlement Member's share shall be rounded to the nearest cent. If there is any shortfall of funds in the PAGA Settlement Fund after rounding each PAGA Settlement Member's share to the nearest cent, the share of PAGA Settlement Member, starting with the PAGA Settlement Member with the largest

share and proceeding as needed to the PAGA Settlement Member with the smallest share, shall be reduced by one cent until there is no shortfall. If there are any settlement funds remaining in the Settlement Fund Account after rounding each PAGA Settlement Member's share to the nearest cent, the remaining funds will be paid to the LWDA in addition to the LWDA's seventy-five percent (75%) share of the PAGA Settlement Fund.

14. Tax Treatment of Individual Settlement Payments. All of each Individual Settlement Payment shall be allocated as statutory penalties and reported as miscellaneous income for which an IRS Form 1099 will be issued by the Settlement Administrator, if required by law.

15. Administration of Taxes. The Settlement Administrator will be responsible for issuing to Plaintiff, PAGA Settlement Member, and Plaintiffs' Counsel Form 1099s or other tax forms as may be required by law for all amounts paid pursuant to this Settlement, and for forwarding all penalties to the appropriate government authorities.

16. Increase in Pay Periods. As detailed in Paragraph 6 above, upon receipt of the PAGA Settlement Member List, the Settlement Administrator shall confirm to Plaintiff's Counsel that the data is consistent with the terms of this Settlement Agreement. To the extent the number of total bi-weekly pay periods in the PAGA Settlement Member List increases beyond 46,188 by more than 5%, Defendants shall increase the PAGA Settlement Fund by 1% for every full percent by which the total number of pay periods exceeds 5% of 46,188. For example, if the number of total bi-weekly pay periods in the PAGA Settlement Member List increases above 46,188 by 6%, Defendant shall increase the PAGA Settlement Fund by 1%. If Defendant declines to increase the amount proportionately in accordance with this paragraph, Plaintiff shall have the right to terminate this Settlement Agreement and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

17. Increase in PAGA Settlement Members. As detailed in Paragraph 6 above, upon receipt of the PAGA Settlement Member List, the Settlement Administrator shall confirm to Plaintiff's Counsel that the data is consistent with the terms of this Settlement Agreement. To the extent the number of PAGA Settlement Members increases beyond 1,550 to the point that it will result in an increase of the cost of Settlement Administration beyond the amount approved by the Court, Defendant shall separately bear the increased cost of Settlement Administration outside of the Total Monetary Settlement Amount. If Defendants fail to remit payment of the increased cost of Settlement Administration, if any, Plaintiff shall have the right to terminate this Settlement Agreement and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

D. Miscellaneous Provisions

1. No Admission of Liability. Defendant has contended and continues to contend that the allegations in the Action have no merit and do not give rise to liability. Defendant specifically denies all of the allegations in the PAGA Letter and all complaints and amended complaints in the Action and denies that a PAGA claim on these facts would be manageable. This Settlement Agreement is a compromise of such disputed claims. Nothing contained in this Settlement Agreement and no documents referred to herein and no action taken to carry out this Settlement

Agreement may be construed or used as an admission by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever.

2. No Effect on Employee Benefits. Amounts paid to Plaintiff and other PAGA Settlement Members pursuant to this Settlement Agreement do not count as earnings or compensation for purposes of any benefits (e.g., 401(k) plans or retirement plans) sponsored by Defendant.

3. Tax Liability. The Parties make no representation as to the tax treatment or legal effect of the payments called for hereunder, and the Parties are not relying on any statement, representation, or calculation by any of the Parties or by the Settlement Administrator in this regard. Plaintiff understands and agrees that he will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein and will hold Plaintiff's Counsel, Defendant, the Released Parties, Defense Counsel, and the Settlement Administrator free and harmless from and against any claims resulting from treatment of such payments as non-taxable damages. Each Party to this Settlement (for purposes of this section, the "Acknowledging Party" and each Party to this Settlement Agreement other than the Acknowledging Party, an "other Party") acknowledges and agrees that: (a) no provision of this Settlement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor will any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended); (b) the Acknowledging Party (i) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Settlement, (ii) has not entered into this Settlement based upon the recommendation of any other Party or any attorney or advisor to any other Party, and (iii) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other Party to avoid any tax penalty that may be imposed on the Acknowledging Party; and (c) no attorney or adviser to any other Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Settlement Agreement.

4. No Prior Assignments or Liens. The Parties and their counsel 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 any portion of any liability, claim, demand, action, cause of action or right herein released and discharged. Further, Plaintiff and Plaintiff's Counsel warrant and represent that there are no liens on the Agreement.

5. No Pending Lawsuits by Plaintiff. Other than the Action, Plaintiff represents that Plaintiff does not have any pending lawsuits, administrative complaints, or charges against Defendant or the Released Parties in any local, state, or federal court or administrative agency. Plaintiff further acknowledges that all claims raised therein, if any, shall be fully and finally extinguished by virtue of this Settlement Agreement and the Court's Settlement Approval order.

6. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as

though fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

7. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the entirety of the Parties' settlement terms, and no oral or written representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in the Settlement Agreement and its Exhibits.

8. Amendment or Modification. This Agreement may be amended or modified only by a formal written instrument signed by counsel for all Parties or their successors-in-interest.

9. Authorization to Enter into Settlement Agreement. The Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms. The persons signing this Settlement Agreement on behalf of Plaintiff and Defendant represent and warrant that the persons are authorized to sign this Settlement Agreement on behalf of respectively, the Plaintiff and Defendant.

10. Binding Agreement. The Parties warrant that they understand this Settlement, and further intend that this Agreement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions or settlement communication privileges that otherwise might apply under federal or state law.

11. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

12. California Law Governs. All terms of this Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

13. Execution and Counterparts. This Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts. Electronic signatures (e.g., Docu-signed signatures) shall not be used to execute this Settlement Agreement; rather, actual ink signatures shall be used to execute this Settlement Agreement.

14. Acknowledgement that the Settlement is Fair, Adequate and Reasonable. The Parties believe this Agreement is a fair, adequate and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations facilitated by an experienced wage and hour mediator, and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by

competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness, adequacy and reasonableness of this Settlement.

15. Waiver of Certain Appeals. In the event the Court grants Approval of this Settlement, Plaintiff agrees to waive appeal concerning this Settlement except with regard to a reduction of Attorney's Fees and Attorney's Costs.

16. Captions. The captions and paragraph numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Agreement.

17. Waiver. No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

18. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel and reviewed in full.

19. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

20. Publicity. **RESTORED** Plaintiff and Plaintiff's Counsel will not communicate the fact of, or the terms of, this Settlement to members of the press, including to Verdicts and Settlements. The Parties and their respective counsel also agree not to publish the fact of, or terms of, this Settlement or any related information on their website, for advertising purposes and/or in publication materials generally available to the public.

21. Notices. Unless otherwise specifically provided, all notices, demands or other communications in connection with this Agreement shall be: (a) in writing; (b) deemed given on the third business day after mailing; (c) sent via United States registered or certified mail, return receipt requested, addressed as follows and (d) with a courtesy copy by email:

To Plaintiffs:	To Defendant:
ERIC B. KINGSLEY KELSEY M. SZAMET KINGSLEY & KINGSLEY, APC 16133 Ventura Blvd Suite 1200 Encino, CA 91436	R. BRIAN DIXON KURT R. BOCKES LITTLER MENDELSON, P.C. 333 Bush Street, 34 th Floor San Francisco, CA 94104

22. The parties, through the signatures of their respective counsel, agree that this settlement may be enforced pursuant to Code of Civil Procedure Section 664.6. The parties intend this Stipulation for Settlement to be binding and enforceable and that this writing may be used as evidence of that intent. The parties further agree through the signatures of their respective counsel that the court may retain jurisdiction over the parties to approve and enforce the settlement.

It is hereby agreed.

Dated: January 8, 2024

PLAINTIFF

GERALD W. OLIVAS

DocuSigned by:

Gerald Olivas

5B5045A12B4340A...

DEFENDANT

THE UNIVERSITY OF PHOENIX, INC.

Dated: 1/18/24

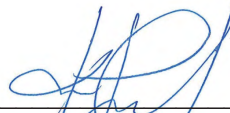
By: *BUT*

Its: *VP, Deputy Gen. Counsel*

Approved as to form and for enforcement by motion as the agreement of the parties pursuant to Code of Civil Procedure 664.6:

Dated: January 8, 2024

KINGSLEY & KINGSLEY, APC



ERIC B. KINGSLEY
KELSEY M. SZAMET
Attorneys for Plaintiff

Approved as to form and for enforcement by motion as the agreement of the parties pursuant to Code of Civil Procedure 664.6:

Dated: January 25, 2024

LITTLER MENDELSON, P.C.


R. BRIAN DIXON
KURT R. BOCKES
Attorneys for DEFENDANT
THE UNIVERSITY OF PHOENIX, INC.

EXHIBIT A

[First PAGA Letter]

EXHIBIT B

[Second PAGA Letter]

EXHIBIT C

NOTICE OF PAGA SETTLEMENT

Gerald Olivas v. The University of Phoenix, Inc.
Superior Court of the State of California
for the
County of Alameda
Case No. RG21091953

Settlement Administrator Name
Address

«Barcode» «BarcodeString»
SIMID «SIMID»
«FirstName» «LastName»
«Address1» «Address2»
«City» «State» «Zip»

You are receiving this Notice because of a lawsuit brought by Gerald Olivas (“Plaintiff”) against The University of Phoenix, Inc., (“Defendant”) for civil penalties pursuant to the Private Attorneys General Act, Labor Code §§ 2698 et seq. (“PAGA”) based on alleged violation of California Labor Code § 2802, concerning the failure to reimburse expenses and the amount of expenses reimbursed.

Defendant denies Plaintiff’s claims and denies that it owes any penalties. To avoid further time and expense in litigation, Defendant and Plaintiffs have agreed to settle the case. The settlement resolves the claims asserted in the lawsuit on behalf of all employees of Defendant who worked off site in California at some time between October 7, 2019 and May 14, 2022.

According to Defendant’s records, you are a Settlement Member who worked off site in California between October 7, 2019 and May 14, 2022 and are therefore entitled to a share of the settlement. ~~Defendant’s records indicate that you worked _____ bi weekly pay periods between October 7, 2019 and May 14, 2022. Your estimated share is _____. If you believe that the pay periods attributed to you are incorrect, you can contact the Settlement Administrator at (000) 000-0000.~~

Enclosed is your settlement check. The settlement check shall remain valid for one hundred eighty (180) days.

Any questions regarding the settlement can be directed to the Settlement Administrator:

Settlement Administrator Name
Address
Telephone

EXHIBIT D

ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleykingsley.com
KELSEY M. SZAMET, Esq. (SBN 260264)
kelsey@kingsleykingsley.com
16133 Ventura Blvd., Suite 1200
Encino, CA 91436
Tel: (818) 990-8300
Fax (818) 990-2903

Attorneys for Plaintiffs and other aggrieved employees

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

GERALD WHITSON OLIVAS, an
individual, on behalf of the State of California,
as a private attorney general,

Plaintiff,

v.

THE UNIVERSITY OF PHOENIX, INC., and
DOES 1 through 50, inclusive,

Defendant.

Case No. RG21091953

**[PROPOSED] ORDER APPROVING PAGA
SETTLEMENT AND DISMISSING ACTION
WITH PREJUDICE AND ENTRY OF
FINAL JUDGMENT**

The Motion for Approval of PAGA Settlement of Plaintiff GERALD WHILTON OLIVAS (“Plaintiff”) came on for hearing on _____ in Department _____ of the Superior Court of California, County of Alameda. Defendant THE UNIVERSITY OF PHOENIX, INC., an Arizona corporation (“Defendant”) appeared and did not oppose Plaintiffs’ Motion. Plaintiffs and Defendant are hereinafter referred to collectively as the “Parties.” All Parties were represented by counsel of record. The Court, having considered the Parties’ papers and oral arguments, and good cause appearing therefrom, HEREBY ORDERS, ADJUDGES AND DECREES as follows:

1. All terms used herein shall have the same meaning as defined in the Parties’ Private Attorneys General Act Settlement Agreement and Release.
2. This Court has jurisdiction over the subject matter of this litigation and over all parties to

this litigation, including the Plaintiffs, the State of California Labor and Workforce Development Agency (“LWDA”), and the PAGA Settlement Members. “PAGA Settlement Members” are defined as all current and former employees of Defendant in the State of California during the Settlement Period who worked offsite at any time during the Settlement Period. “Settlement Period” shall mean October 7, 2019 through the May 14, 2022.

3. After considering the pleadings and arguments of the Parties, the Court finds that the PAGA Settlement Agreement has been reached as a result of intensive, serious, and non-collusive arms-length negotiations. The Court further finds that the Parties have conducted extensive investigation and research, and counsel for the Parties are able to reasonably evaluate their respective positions. The Court also finds that the PAGA Settlement Agreement, at this time, will avoid additional substantial costs, as well as avoid the delay and risks that would be presented by the further prosecution of the Action.
4. This Court further finds that, in light of the risk that Plaintiffs will recover nothing on behalf of the LWDA and PAGA Settlement Members, the PAGA Settlement Agreement is, in all respects, reasonable and effectuates the purposes and objectives of the PAGA statute. The Court has reviewed the monetary recovery that is being granted as part of the PAGA Settlement Agreement and finds that it affords significant monetary value to the LWDA and PAGA Settlement Members. The PAGA Settlement Agreement is consistent with California’s public policy favoring resolution of disputes, and accomplishes the PAGA’s objectives.
5. The Court therefore approves the Total Monetary Settlement Amount of Seven Hundred Thousand Dollars (\$700,000.00). The Court further approves the allocation of the Total Monetary Settlement Amount as set forth in the PAGA Settlement Agreement, including the following: (1) Attorney’s Fees in the amount of _____ Dollars (\$_____.00) to be paid from the Total Monetary Settlement Amount; (2) Attorney’s Costs in the amount of _____ Dollars (\$_____.00) to be paid from the

Total Monetary Settlement Amount; (3) Settlement Administration Costs in the amount of _____ Dollars (\$_____.00) to be paid out of the Total Monetary Settlement Amount; (4) Plaintiff's Service Award in the amount of _____ Dollars (\$_____.00) to be paid out of the Total Monetary Settlement Amount and (5) distribution of 75% of the remaining PAGA Settlement Fund equaling _____ Dollars (\$_____.00) to the LWDA; and distribution of 25% of the remaining PAGA Settlement Fund equaling _____ Dollars (\$_____.00) to the PAGA Settlement Members using the distribution formula in accordance with the PAGA Settlement Agreement.

6. The Court hereby approves the PAGA Settlement Agreement and directs the Parties and the Settlement Administrator to effectuate it according to its terms. As of the date of this Order, the Plaintiff, the Plaintiff as proxy for the LWDA, the LWDA, and the State of California, release the Released Parties from the Released Claims for the Settlement Period. Plaintiff, the Plaintiff as proxy for the LWDA, the LWDA and the State of California may discover facts in addition to those they now know or believe to be true with respect to the subject matter of the Released Claims, but upon the Effective Date, Plaintiff, the Plaintiff as proxy for the LWDA, the LWDA and the State of California shall be deemed to have, and by operation of the Settlement Approval order shall have, fully, finally, and forever settled and released any and all of the Released Claims against the Released Parties without regard to the subsequent discovery or existence of such different or additional facts. Plaintiff, the Plaintiff as proxy for the LWDA, the LWDA and the State of California shall not sue, facilitate the making of any claim or otherwise make a claim against any of the Released Parties that seeks recovery for any of the Released Claims. It is the intent of the Parties that the Settlement Approval Order entered by the Court shall have full *res judicata* and *collateral estoppel* effect and be final and binding upon Plaintiff as proxy for the State of California, the LWDA and the State of California and any other individual and entity subject to *res judicata* or *collateral estoppel* regarding the Released

Claims. “Released Claims” and “Released Parties” are defined as follows:

- a. “Released Claims” means (a) all claims for civil penalties that were actually alleged or that could have been alleged based on the facts in the operative complaint in this Action or the PAGA Letters of Plaintiff, regardless of whether the theory or basis of recovery is now known or arises in the future; (b) any claims that the Released Parties are liable for attorney’s fees or costs incurred in the prosecution of this Action by Plaintiff or on behalf of the LWDA, the State of California, or the PAGA Settlement Members; (c) all claims that Plaintiff, the LWDA and the State of California may have against the Released Parties relating to the payment, taxation, and allocation of attorney’s fees and costs to Plaintiffs’ Counsel pursuant to this Settlement Agreement; (d) all claims that Plaintiff, the LWDA and the State of California may have against the Released Parties relating to the payment, taxation, and allocation of the costs of settlement administration to the Settlement Administrator pursuant to this Settlement Agreement; and (e) all claims relating to the payment, taxation, and allocation of the PAGA Settlement Fund among the LWDA, the State of California and the PAGA Settlement Members. The release of the Released Claims shall be effective as to the Settlement Period.
- b. “Released Parties” means The University of Phoenix, Inc., an Arizona corporation and its past, present, and future parents, affiliates, subsidiaries, divisions, predecessors, successors, partners, joint venturers, affiliated organizations, shareholders, insurers, reinsurers and assigns, and each of their past, present and future officers, directors, trustees, agents, employees, attorneys, contractors, representatives, benefits plans sponsored or administered by the Released Parties, divisions, units, and branches, and any other persons or entities acting on behalf of or in concert with any of the foregoing. The Parties agree that this settlement by the Released Parties and the Plaintiff as the Private Attorney General and proxy for

the LWDA is intended to be broadly construed in resolution of all civil penalty claims in the cases pending against the Released Parties.

7. The PAGA Settlement Agreement is not an admission of liability by Defendant or any of the other Released Parties, nor is this Order a finding of the validity of any claims in the Action or of any wrongdoing by Defendant or any of the other Released Parties. Neither this Order, the PAGA Settlement Agreement, nor any document referred to herein, nor any action taken to carry out the PAGA Settlement Agreement is, may be construed as, or may be used as an admission by or against Defendant or any of the other Released Parties of any fault, wrongdoing or liability whatsoever. The entering into or carrying out of the PAGA Settlement Agreement, and any negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or concession with regard to the denials or defenses by Defendant or any of the other Released Parties and shall not be offered in evidence against Defendant or any of the Released Parties in any action or proceeding in any court, administrative agency or other tribunal for any purpose whatsoever other than to enforce the provisions of this Order, the PAGA Settlement Agreement, or any related agreement or release. Notwithstanding these restrictions, any of the Released Parties may file in the Action or in any other proceeding this Order, the PAGA Settlement Agreement, or any other papers and records on file in the Action as evidence of the PAGA Settlement Agreement and to support a defense of res judicata, collateral estoppel, release, waiver or other theory of claim preclusion, issue preclusion or similar defense to any PAGA claim or any PAGA-enabling violation of any law as to the PAGA Settlement Members.
8. Without affecting the finality of this Order in any way, this Court hereby retains continuing jurisdiction over the interpretation, implementation and enforcement of the PAGA Settlement Agreement and all orders and judgments entered in connection therewith.
9. In accordance with the terms and conditions of the PAGA Settlement Agreement, this action and all claims against Defendant asserted herein are HEREBY DISMISSED IN

THEIR ENTIRETY WITH PREJUDICE and DEEMED ADJUDICATED. All payments shall constitute full and complete payment for any claims asserted in the Action.

10. This Order and Judgment shall be deemed final and the Clerk of the Court is directed to enter this Order and Judgment forthwith. Plaintiffs are hereby ordered to submit a copy of this Order and Judgment to the LWDA within ten (10) days after its entry.

IT IS SO ORDERED, ADJUDGED AND DECREED

DATED: _____

JUDGE OF THE SUPERIOR COURT

4866-9380-8022.1 / 073540-1177

EXHIBIT "2"

	A	C	D	E	F	G	H	I	J	K	L
1	ALM RESEARCH										
2	2007 NLJ Billing Survey										
3	Fiscal Year - 2007										
4	Billing Source-National Law Journal 12/11/2007										
5	Copyright © 2007, ALM Properties, Inc., All Rights Reserved										
6	Firm Name	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med	Firmwide Billing Rate Med
7	Adams and Reese	\$500	\$225	\$255	\$165	\$198	\$305	\$278	\$197	\$300	\$275
8	Andrews Kurth	\$795	\$400	\$460	\$210						
9	Arent Fox	\$675	\$395	\$440	\$240						
10	Armstrong Teasdale	\$450	\$295	\$295	\$165						
11	Baker, Donelson, Bearman, Caldwell & Berkowitz	\$525	\$230	\$315	\$160	\$205	\$325	\$280	\$200	\$320	\$270
12	Barnes & Thornburg	\$485	\$265	\$295	\$180	\$225	\$350	\$302	\$220	\$355	\$310
13	Bass, Berry & Sims PLC	\$575	\$300	\$285	\$180						
14	Best Best & Krieger	\$495	\$290	\$350	\$160	\$203	\$275	\$212	\$235	\$390	\$265
15	Bond, Schoeneck & King	\$435	\$200	\$250	\$140	\$179	\$294	\$253	\$175	\$295	\$300
16	Bradley Arant Rose & White	\$520	\$240	\$280	\$180	\$211	\$335	\$258	\$205	\$330	\$260
17	Briggs and Morgan	\$500	\$250	\$325	\$195	\$233	\$391	\$344	\$230	\$395	\$350
18	Brinks Hofer Gilson & Lione	\$650	\$300	\$410	\$180	\$273	\$479	\$365	\$250	\$485	\$350
19	Broad and Cassel	\$450	\$250	\$310	\$165	\$232	\$361	\$294	\$225	\$360	\$275
20	Brownstein Hyatt Farber Schreck	\$675	\$260	\$270	\$170	\$219	\$373	\$308	\$218	\$390	\$325
21	Bryan Cave	\$695	\$320	\$495	\$165	\$295	\$493	\$394	\$295	\$490	\$375
22	Buchanan Ingersoll & Rooney	\$750	\$320	\$460	\$150						
23	Bullivant Houser Bailey	\$500	\$225	\$350	\$150	\$240	\$285	\$260	\$220	\$275	\$250
24	Burr & Forman	\$470	\$250	\$305	\$175	\$235	\$340				
25	Butzel Long	\$575	\$210	\$350	\$155						
26	Carlton Fields	\$600	\$280	\$375	\$190	\$243	\$406	\$312	\$245	\$405	\$300
27	Cooley Godward Kronish	\$875	\$470	\$555	\$250						
28	Covington & Burling	\$800	\$510	\$525	\$240						
29	Cozen O'Connor	\$750	\$230	\$530	\$155	\$283	\$420	\$350	\$280	\$425	\$340
30	Curtis, Mallet-Prevost, Colt & Mosle	\$735	\$635	\$560	\$280	\$361	\$666	\$396	\$360	\$685	\$480
31	Davis Wright Tremaine	\$685	\$300	\$390	\$170	\$257	\$430	\$375	\$250	\$423	\$375
32	Day Pitney	\$650	\$350	\$525	\$210	\$306	\$472	\$374	\$310	\$465	\$375
33	Dickinson Wright	\$530	\$260	\$275	\$170						
34	Dickstein Shapiro Morin & Oshinsky	\$825	\$425	\$440	\$225	\$336	\$552	\$438	\$360	\$550	\$425
35	Dinsmore & Shohl	\$475	\$235	\$285	\$155	\$199	\$342	\$275	\$190	\$340	\$250
36	Dorsey & Whitney	\$750	\$220	\$470	\$145	\$274	\$463	\$375	\$260	\$463	\$365
37	Duane Morris	\$705	\$315	\$465	\$150	\$310	\$475	\$416	\$305	\$470	\$415
38	Dykema Gosssett	\$625	\$245	\$390	\$185	\$272	\$403				
39	Edwards Angell Palmer & Dodge	\$700	\$350	\$450	\$170	\$293	\$515	\$407	\$280	\$513	\$400
40	Epstein Becker & Green	\$675	\$280	\$440	\$155	\$290	\$471	\$380	\$280	\$475	\$395
41	Fenwick & West	\$775	\$500	\$500	\$245	\$360	\$590	\$395	\$370	\$600	\$410
42	Foley & Lardner	\$855			\$185	\$387	\$550	\$476	\$375	\$550	\$475
43	Ford & Harrison	\$560	\$325	\$395	\$210						
44	Fowler White Boggs Banker	\$500	\$230	\$325	\$160	\$217	\$345	\$303	\$210	\$340	\$300
45	Fox Rothschild	\$595	\$240	\$440	\$190						

	A	C	D	E	F	G	H	I	J	K	L
	Firm Name	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med	Firmwide Billing Rate Med
46											
47	Frost Brown Todd	\$455	\$225	\$255	\$145	\$180	\$303	\$256	\$170	\$295	\$255
48	Gardere Wynne Sewell	\$715	\$350	\$425	\$220	\$292	\$472	\$405	\$265	\$475	\$405
49	GrayRobinson, PA	\$500	\$175	\$250	\$250	\$198	\$319	\$224			
50	Greenberg Traurig, PA	\$850	\$300	\$505	\$175	\$311	\$490	\$407	\$310	\$500	\$415
51	Harris Beach	\$475	\$250	\$275	\$140						
52	Hiscock & Barclay LLP	\$375	\$220	\$250	\$160	\$185	\$278	\$245	\$180	\$280	\$250
53	Hodgson Russ	\$645	\$215	\$395	\$155	\$219	\$337	\$254	\$205	\$350	\$250
54	Hogan & Hartson	\$850	\$300	\$525	\$150	\$385	\$600	\$490	\$370	\$590	
55	Holland & Hart	\$585	\$275	\$345	\$165	\$269	\$388	\$335	\$275	\$385	\$335
56	Holme Roberts & Owen	\$635	\$285	\$420	\$195	\$284	\$412	\$353	\$265	\$410	\$345
57	Howard, Rice, Nemerovski, Canady, Falk & Rabkin	\$775	\$495	\$485	\$275						
58	Hughes Hubbard & Reed	\$825	\$595	\$560	\$240						
59	Husch & Eppengerger	\$425	\$190	\$260	\$130	\$179	\$297	\$248	\$175	\$295	\$245
60	Jackson Lewis	\$575	\$235	\$450	\$210						
61	Jenner & Block LLP	\$900	\$450	\$425	\$275	\$327	\$562		\$325	\$525	
62	Jones, Walker, Waechter, Poitevent, Carrere & Denegre	\$600	\$210	\$225	\$150						
63	Kelley Drye & Warren	\$800	\$400	\$500	\$255						
64	Knobbe, Martens, Olson & Bear	\$645	\$340	\$420	\$215						
65	Lane Powell Moss & Miller	\$515	\$300	\$300	\$205	\$255	\$370	\$345	\$255	\$370	\$345
66	Lathrop & Gage	\$450	\$225	\$300	\$140	\$185	\$300	\$215	\$185	\$300	\$260
67	Leonard, Street and Deinard	\$500	\$300	\$300	\$185						
68	Lewis, Rice & Fingersh	\$425	\$240	\$295	\$130						
69	Lindquist & Vennum	\$500	\$260	\$260	\$165						
70	Locke, Lord, Bissell & Liddell	\$900	\$375	\$390	\$190	\$281	\$488	\$399	\$280	\$490	\$425
71	Loeb & Loeb	\$875	\$425	\$500	\$240	\$384	\$606	\$505	\$400	\$600	\$500
72	Lord, Bissell & Brook	\$690	\$335	\$410	\$200	\$299	\$473	\$410	\$300	\$475	\$415
73	Lowenstein Sandler	\$725	\$380	\$395	\$205						
74	Luce, Forward, Hamilton & Scripps	\$725	\$325	\$450	\$220	\$281	\$465	\$381	\$280	\$475	\$395
75	Manatt, Phelps & Phillips	\$785	\$520	\$480	\$265	\$395	\$600	\$518	\$415	\$590	\$550
76	Marshall, Dennehey, Warner, Coleman & Goggin	\$400	\$135	\$300	\$120						
77	McCarter & English LLP	\$650	\$325	\$395	\$205						
78	McElroy Deutsch, Mulvaney & Carpenter	\$450	\$295	\$225	\$135	\$180	\$250	\$195	\$165	\$235	\$215
79	McKee Nelson	\$920	\$635	\$595	\$375	\$446	\$760	\$489	\$455	\$755	\$475
80	Michael Best & Friedrich	\$550	\$225	\$300	\$185	\$234	\$363	\$321	\$235	\$350	\$325
81	Miles & Stockbridge	\$535	\$315	\$405	\$205	\$260	\$397				
82	Miller & Martin	\$580	\$230	\$295	\$160	\$201	\$338	\$306	\$195	\$340	\$320
83	Miller, Canfield, Paddock and Stone, PLC	\$595	\$265	\$340	\$160	\$225	\$400	\$285	\$220	\$400	\$335
84	Montgomery, McCracken, Walker & Rhoads	\$575	\$320	\$320	\$195	\$260	\$419	\$360			
85	Moore & Van Allen	\$765	\$265	\$330	\$175						
86	Morgan, Lewis & Bockius	\$850	\$375	\$575	\$200						
87	Morris, Manning & Martin	\$625	\$350	\$400	\$180	\$285	\$436	\$380	\$310	\$395	\$440
88	Nexsen Pruet Jacobs & Pollard	\$420	\$220	\$250	\$150						
89	Ogletree, Deakins, Nash, Smoak & Stewart	\$575	\$270	\$360	\$200	\$256	\$348	\$312			
90	Patton Boggs	\$920	\$320	\$520	\$205	\$375	\$536	\$456	\$385	\$525	\$455
91	Pepper Hamilton	\$750	\$335	\$425	\$200						
92	Perkins Cole	\$805	\$205	\$500	\$145						

	A	C	D	E	F	G	H	I	J	K	L
	Firm Name	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med	Firmwide Billing Rate Med
93											
94	Phelps Dunbar	\$450	\$170	\$205	\$130	\$174	\$243	\$184	\$175		
95	Phillips Lytle	\$435	\$245	\$300	\$140	\$205	\$309	\$223	\$205	\$300	\$215
96	Polsinelli Shalton Welte Suelthaus	\$600	\$250	\$250	\$175						
97	Quarles & Brady	\$575	\$260	\$335	\$185	\$233	\$377	\$319	\$235	\$375	\$325
98	Reed Smith	\$825	\$350	\$510	\$200	\$374	\$558	\$395	\$350	\$525	\$385
99	Robinson & Cole	\$575	\$340	\$325	\$200	\$295	\$424	\$328	\$280	\$420	\$330
100	Roetzel & Andress	\$460	\$210	\$275	\$110	\$198	\$302	\$264	\$200	\$300	\$260
101	Rutan & Tucker	\$600	\$335	\$350	\$210						
102	Saul Ewing	\$750	\$315	\$485	\$180	\$273	\$426	\$357	\$255	\$415	\$365
103	Schnader Harrison Segal & Lewis	\$750	\$240	\$385	\$175						
104	Schulte Roth & Zabel	\$850	\$650	\$585	\$235	\$435	\$724		\$440	\$745	
105	Sheppard, Mullin, Richter & Hampton	\$795	\$425	\$550	\$260						
106	Shughart Thomson & Kilroy	\$475	\$235	\$225	\$160						
107	Shumaker, Loop & Kendrick	\$465	\$200	\$360	\$180	\$221	\$311	\$289	\$220	\$305	\$300
108	Sills Cummis Epstein & Gross	\$650	\$350	\$375	\$195						
109	Smith, Gambrell & Russell	\$575	\$250	\$345	\$175						
110	Snell & Wilmer	\$675	\$275	\$390	\$170	\$248	\$390				
111	Steptoe & Johnson PLLC	\$325	\$200	\$250	\$170						
112	Stinson Morrison Hecker	\$600	\$230	\$250	\$175	\$207	\$333	\$295	\$225	\$365	\$285
113	Stoel Rives	\$500	\$275	\$350	\$160	\$231	\$379	\$324	\$230	\$375	\$330
114	Strasburger & Price	\$560	\$225	\$395	\$200	\$234	\$367	\$326	\$223	\$363	\$322
115	Sullivan & Worcester	\$700	\$415	\$420	\$245	\$309	\$550	\$438	\$290	\$540	\$440
116	Sutherland Asbill & Brennan	\$715	\$375	\$415	\$215	\$292	\$511	\$335	\$280	\$500	\$305
117	Thacher Proffitt & Wood	\$785	\$525	\$495	\$275	\$353	\$674	\$428	\$365	\$700	\$395
118	Thompson & Knight	\$730	\$370	\$370	\$205	\$295	\$496	\$415	\$310	\$485	\$400
119	Thompson Coburn	\$580	\$265	\$370	\$170						
120	Ulmer & Berne	\$470	\$240	\$290	\$165	\$212	\$343	\$280			
121	Vedder, Price, Kaufman & Kammholz	\$650	\$335	\$410	\$205	\$281	\$430	\$372	\$370	\$425	\$365
122	Wiggin and Dana	\$590	\$295	\$350	\$195						
123	Williams Mullen	\$600	\$300	\$425	\$205						
124	Wilmer Cutler Pickering Hale and Dorr	\$1,000	\$475	\$495	\$215						
125	Winstead Sechrest & Minick	\$620	\$345	\$360	\$180						
126	Winston & Strawn	\$845	\$400	\$590	\$200	\$365	\$608	\$455	\$395	\$640	\$523
127	Womble Carlyle Sandridge & Rice	\$575	\$290	\$370	\$195	\$268	\$426	\$355	\$265	\$425	\$360

EXHIBIT "3"

THE WALL STREET JOURNAL.

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<http://www.wsj.com/articles/legal-fees-reach-new-pinnacle-1-500-an-hour-1454960708>

BUSINESS | LAW

Legal Fees Cross New Mark: \$1,500 an Hour

Billing rates for partners at elite corporate law firms keep rising, despite low inflation, weak demand



Documents filed in chapter 11 bankruptcy cases offer a rare public glimpse at the mounting hourly fees of law partners at elite corporate law firms. Above, the U.S. Bankruptcy Court in New York. PHOTO: BRENDAN MCDERMID/REUTERS

By **SARA RANDAZZO** and **JACQUELINE PALANK**

Updated Feb. 9, 2016 10:11 a.m. ET

The day of the \$1,500-an-hour lawyer has arrived.

Partners at some of the nation's top law firms are approaching—and, in a few cases, surpassing—that watershed billing rate, making the \$1,000-an-hour legal fees that once seemed so steep look quaint by comparison.

Despite low inflation and weak demand for legal services, rates at large corporate law firms have risen by 3% to 4% a year since the economic downturn, according to Citi Private Bank's Law Firm Group.

“We just raise them every year,” said John Altorelli, a finance lawyer at DLA Piper LLP in New York, who says the firm has set his rate at more than \$1,500 an hour. Mr. Altorelli, who filed for personal bankruptcy in 2014 to halt a legal battle with the estate of his former law firm, Dewey & LeBoeuf LLP, cracked the \$1,000-an-hour mark a decade ago. His fees have risen steadily ever since.

To soften the blow to clients, Mr. Altorelli does more than half his work on some kind of fixed-fee basis. “Using hourly rates is really anachronistic, but we still do it,” he said.

Raising rates ensures that law firms keep up with the competition and helps them wrest more money from clients, who routinely demand discounts for all but the most sensitive work.

“If you think of the rules of supply and demand, how in the world can they keep raising their rates?” said Jeff Carr, a former general counsel of oil-and-gas services and equipment company FMC Technologies who for years has been an outspoken opponent of hourly legal rates.

The rate creep has boosted law firms’ revenue at a time when many of them are under pressure from lower-cost legal-service providers and corporate clients that are keeping more legal work in-house. Revenue at law firms rose 4% last year, according to Wells Fargo Private Bank’s Legal Specialty Group, though demand rose just 0.5%.

“Lots of law firms will charge whatever the market can bear,” said the head of one of the nation’s 200 largest law firms.

Documents filed in chapter 11 bankruptcy cases offer a rare public glimpse at mounting fees. These court filings show the rates of partners specializing in corporate restructuring, as well as those with specialties like tax, litigation and corporate law.

A review of filings over the past three months in about two dozen bankruptcy cases shows that senior partners routinely charge between \$1,200 and \$1,300 an hour, with top rates at several large law firms exceeding \$1,400.

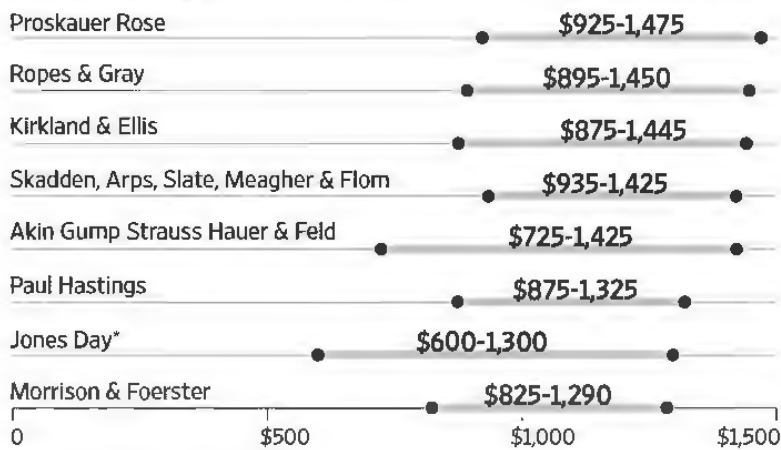
Proskauer Rose LLP’s hourly partner billing rate has climbed as high as \$1,475, while Ropes & Gray LLP’s tops out at \$1,450, court papers show.

Kirkland & Ellis LLP’s top hourly billing rate is now \$1,445. And rates at two firms—Akin Gump Strauss Hauer & Feld LLP and Skadden, Arps, Slate, Meagher & Flom LLP—peak at \$1,425 an hour.

Representatives of the law firms declined to comment.

Top Billers

Hourly rates of partners at top U.S. law firms now approach \$1,500.



*Includes partners and of counsel

Source: Bankruptcy court filings

THE WALL STREET JOURNAL.

Martin Bienenstock, who leads Proskauer's restructuring practice, called the \$1,225 an hour he billed clients last year "a market rate similar to my peers at other firms," and said he charges the same rate for nonbankruptcy work.

"The clients have kept coming back and growing during my 38-year career," he

said in an email, adding that clients generally prefer dealing directly with senior lawyers versus younger associates with lower rates.

In disclosing their firmwide rate increases, many firms tell the courts it is a standard way of keeping pace with "economic and other conditions." These include rising fixed costs, such as real estate and salaries.

In theory, a law-firm partner's pay rises and falls with the success of the firm. But, as competition for top talent increases, many firms feel the need to guarantee salaries or ensure a partner's pay doesn't fall, even in down years.

Still, only elite lawyers can charge \$1,400 an hour or more. Such rates are found almost exclusively in New York and other major markets, and only in the least price-sensitive fields like mergers and acquisitions, restructuring, tax, antitrust and high-stakes litigation and appeals.

For lawyers at the very top of those fields, hourly rates can hit \$1,800 or even \$1,950.

"You have a very few people at the very top where price is almost no object," said legal consultant Bruce MacEwen, who likens it to the way celebrities, sports stars and best-selling authors are paid. "It is a talent market."

Most lawyers in the U.S. fall well below those high marks. In a survey of in-house legal departments by BTI Consulting Group, the average highest rate paid for

law-firm partners was \$875 an hour in 2015, up more than 27% from three years earlier. Of the respondents, 38% had paid more than \$1,000 an hour for a lawyer, and the highest rate those in the survey paid was \$1,600 an hour.

For many firms, the stated rate is simply a starting point in discussions with corporate law departments. As a result, said legal consultant Ward Bower of Altman Weil, “sophisticated” law firms tend to implement annual rate increases to offset clients’ requests for discounts.

Such discounts are becoming more commonplace. A decade ago, law firms could typically get clients to pay around 92% of their stated rates, according to Thomson Reuters Peer Monitor. Last year, that fell to less than 83%.

Smaller companies can get squeezed the most on fees, because they don’t send enough work to any one law firm to get the best deals.

Companies with \$4 billion or more in annual revenue were twice as likely as those with less than \$100 million in revenue to use some form of alternative fee, according to a survey from industry trade group the Association of Corporate Counsel.

Some industry watchers view the raise-and-discount approach with skepticism.

“If clients are pushing back on rates, the answer isn’t to raise them” and then ask for a discount, Mr. MacEwen said. “The answer is to provide better total value.”

Write to Sara Randazzo at sara.randazzo@wsj.com and Jacqueline Palank at jacqueline.palank@wsj.com

EXHIBIT "4"

LAFFEY MATRIX

History

Basic Law

See the Matrix

Contact us

Home

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/23- 5/31/24	1.059295	\$239	\$437	\$538	\$777	\$878	\$1057
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375

6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363
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The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* $\frac{1}{2}$ Years Out of Law School $\frac{1}{2}$ is calculated from June 1 of each year, when most law students graduate. $\frac{1}{2}$ 1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). $\frac{1}{2}$ 4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier $\frac{1}{2}$ 1-3" from June 1, 1996 until May 31, 1999, would move into tier $\frac{1}{2}$ 4-7" on June 1, 1999, and tier $\frac{1}{2}$ 8-10" on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT "5"

The University of Phoenix, Inc. adv. Olivas, Gerald
Gerald Olivas • 760-207-6005 • drolivas@hotmail.com

Historic Cost

				\$15,501.80
Postage Cost				\$5.80
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4/9/24, 2:40 PM

The University of Phoenix, Inc. adv. Olivas, Gerald | Filevine

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Court Cost				\$40.00
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Date Incurred 1/29/2021		Description doc retrieval fee		

Postage Cost				\$0.51
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Trialworks TaskCode
March Postage

(Proof of Submission to the LWDA)

EXHIBIT "6"

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On April 12, 2024, I served all interested parties in this action the following documents described as: **DECLARATION OF KELSEY M. SZAMET IN SUPPORT OF MOTION FOR APPROVAL OF REPRESENTATIVE ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

R. Brian Dixon
bdixon@littler.com
Kurt R. Bockes
kbockes@littler.com
Littler Mendelson, P.C.
333 Bush Street, 34th Floor
San Francisco, CA 94104

[XX] BY ELECTRONIC SERVICE: I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] (BY ELECTRONIC MAIL TRANSMISSION): I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 12, 2024, at Woodland Hills, California.



Michelle Tanzer