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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **COUNTY OF LOS ANGELES**
18

19 DEBRA ANDERSON, individually, and on
20 behalf of all others similarly situated,

21 PLAINTIFF,

22 v.

23 THE TREATMENT SKIN BOUTIQUE,
INC, a California corporation; RYAN
24 JENSEN, an individual; ERIN MARIE
JENSEN, an individual and DOES 1 - 20,
25 inclusive,

26 DEFENDANTS.
27

CASE No.: 21STCV01911

**AMENDED JOINT STIPULATION OF
CLASS ACTION AND PAGA
SETTLEMENT AND RELEASE BETWEEN
PLAINITFF AND DEFENDANTS**

28 IT IS HEREBY STIPULATED AND AGREED by and between Defendants THE

1 TREATMENT SKIN BOUTIQUE, INC, RYAN JENSEN, and ERIN MARIE JENSEN (hereinafter
2 referred to as “Defendants”) on the one hand, and Plaintiff DEBRA ANDERSON (hereinafter
3 referred to as Plaintiff) on her own behalf and on behalf of the other “Class Members” as defined
4 herein, on the other hand (hereafter collectively referred to as the “Parties”), subject to the approval
5 of the Court pursuant to section 382 of the California Code of Civil Procedure and Rule 3.769 of
6 the California Rules of Court, that the settlement of the Action (as defined herein) shall be
7 effectuated and subject to the following terms and conditions:

8 I. **SUMMARY OF SETTLEMENT TERMS**

9 Under the terms of the Settlement, Defendants will pay the Maximum Settlement Amount
10 (“MSA”) of Two Hundred and Eighteen Thousand Five Hundred Dollars and Zero Cents
11 (\$218,500.00), without reversion, in exchange for the full and final settlement and release of any
12 and all claims that were or could have been alleged in the operative Complaint in this Action, based
13 upon the claims and allegations in the operative Complaint, and subject to the terms and conditions
14 outlined in this Agreement (as defined herein). This settlement does not require submission of a
15 claim form as a condition of participation and will be administered by Phoenix Settlement
16 Administrators, a third-party administrator. Defendants conditionally agree to stipulate, solely for
17 the limited purpose of consummating the terms of the Settlement contained in this Agreement, to
18 have the Court certify a class of all current and former non-exempt employees of Defendants who
19 worked for Defendants in California during the Class Period (as defined herein).

20 In addition, Plaintiff and Class Counsel will seek from the Maximum Settlement Amount:
21 (1) attorney’s fees in the amount of no more than Seventy-Two Thousand One Hundred and Five
22 Dollars and Zero Cents (\$72,105.00), representing 33% of the MSA; (2) Class Counsel Costs in the
23 amount of no more than Ten Thousand Dollars and Zero Cents (\$10,000.00); and (3) Enhancement
24 Payment for Plaintiff Debra Anderson in the amount of Fifteen Thousand Dollars and Zero Cents
25 (\$15,000.00). Furthermore, the Parties have agreed that Ten Thousand Dollars and Zero Cents
26 (\$10,000.00) of the Maximum Settlement Amount will be allocated as civil penalties under the
27 California Labor Code Private Attorneys General Act of 2004 (“PAGA”), with 75% of this amount,
28 Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), to be paid to the California

1 Labor & Workforce Development Agency (“LWDA”) in satisfaction of any claim for civil penalties
2 that may be owed to that agency under the PAGA. The other 25%, or Two Thousand Five Hundred
3 Dollars and Zero Cents (\$2,500.00), will be distributed to the PAGA Employees (as defined herein)
4 on a pro-rata basis.

5 Finally, any and all Settlement Administration Fees, as defined herein, currently estimated
6 to be Ten Thousand Dollars and Zero Cents (\$10,000.00), will be paid from the Maximum
7 Settlement Amount. Other than the employer’s share of payroll taxes, Defendants will not be
8 responsible for anything more than the Maximum Settlement Amount. Payment of employer’s share
9 of payroll taxes and other required withholdings, based on Settlement Payment(s) to the Class
10 Members shall be paid by the Defendants in addition to the Maximum Settlement Amount. There
11 will be no reversion of any funds to the Defendants.

12 II. **DEFINITIONS**

13 As used in this Stipulation and Settlement Agreement the following terms shall have the
14 meanings specified below:

15 1. “Action” means this lawsuit, and the operative Complaint in the matter entitled Debra
16 Anderson v. The Treatment Skin Boutique, Inc., et. al., Los Angeles County Superior Court, Case
17 No. 21STCV01911.

18 2. “Agreement,” “Settlement,” or “Settlement Agreement” means this Stipulation and
19 Settlement Agreement, including any attached exhibits.

20 3. “Authorized Claimant(s)” means those Class Members who do not timely file a valid
21 Request for Exclusion with the Settlement Administrator provided under this Agreement.

22 4. “Class,” “Class Member,” or “Class Members” means any current or former non-exempt
23 employee of Defendants in California who worked for Defendants at any time during the Class
24 Period.

25 5. “Class Counsel” means Haroon Manjlai, Esq. of Manjlai Law, PC, 6371 Haven Ave.,
26 Suite 3-141, Rancho Cucamonga, California 91701.

27 6. “Class Counsel Costs” or “Attorneys’ Costs” means the amounts to be paid, after Court
28 approval, to Class Counsel for costs incurred by Class Counsel in this Action.

1 7. “Class Counsel Fees” or “Attorneys’ Fees” means the amount to be paid, after Court
2 approval, to Class Counsel for attorneys’ fees.

3 8. “Class Notice” or “Notice of Settlement” means the form to be prepared by the Parties
4 and sent to the Class Members, after the Court preliminarily approves the terms contained in the
5 Agreement informing them of the material terms of the Agreement, why they are receiving the
6 notice, and what their options are to object, or be excluded from the Settlement. The Class Notice
7 is attached hereto as Exhibit 1. The Class Notice shall be in English.

8 9. “Class Notice Period,” “Notice Period,” or “Response Period” means a period of forty-
9 five (45) calendar days after the original date of the Settlement Administrator’s mailing of the Notice
10 of Settlement.

11 10. “Class Pay Period Value” means the value of all Class Member pay periods which the
12 Settlement Administrator shall determine by dividing the Net Settlement Proceeds (less the PAGA
13 Payment to the PAGA Employees) by the Total Class Pay Periods.

14 11. “Class Period” means the time period from January 21, 2017, through August 26, 2021.

15 12. “Complaint” or “Operative Complaint” means the First Amended Class Action and
16 Representative Complaint (“FAC”) for: (1) Failure to Pay Minimum and Straight Time Wages [Cal.
17 Lab. Code §§ 204, 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime Wages; (3) Failure to
18 Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure to Authorize and Permit Rest
19 Breaks [Cal. Lab. Code § 226.7]; (5) Failure to Timely Pay Final Wages at Termination [Cal. Lab.
20 Code §§ 201-203]; (6) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code §
21 226]; (7) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]; and (8) Civil
22 Penalties Under PAGA [Cal. Lab. Code § 2699, et seq.].

23 13. “Counsel for Defendants,” “Defense Counsel,” or “Defendants’ Counsel” means Adam
24 Y. Siegel, Esq., of JACKSON LEWIS, PC., 725 South Figueroa St., Ste. 2500, Los Angeles, CA
25 90017, Telephone No.: (213) 689-0404 and John Andrew Schaffer, Esq., of JACKSON LEWIS,
26 PC, 200 Spectrum Center Dr., Suite 500, Irvine, CA 92618, Telephone No.: (949) 885-1360.

27 14. “Court” means the Los Angeles Superior Court in which the Action is currently pending,
28 and located at 312 N. Spring Street, Los Angeles, California 90012. Court shall also mean any other

1 Court that acquires proper jurisdiction of this Action.

2 15. “Distributable Amount,” “Net Settlement Proceeds,” or “NSP” means the amount that is
3 distributable to the Authorized Claimants, and equals the Maximum Settlement Amount less Class
4 Counsel Fees, Class Counsel Costs, Enhancement Payment, PAGA Payment, and Settlement
5 Administration Fees.

6 16. “Effective Date” means the date when all of the following events have occurred: (1) the
7 Settlement Agreement has been executed by all Parties, Class Counsel, and Defendant’s Counsel;
8 (2) the Court has granted preliminary approval to the Settlement; (3) the Notice of Class Action
9 Settlement has been mailed to the Class, providing them with an opportunity to object to or opt out
10 of the Class Settlement; (4) the Court has held a Final Approval Hearing and entered a Final
11 Approval Order and Judgment; (5) sixty-five (65) calendar days have passed since the Court has
12 entered the Final Approval Order and Judgment; and (6) in the event there are written objections
13 filed prior to the Final Approval Hearing that are not later withdrawn or denied, the later of the
14 following events: (a) five (5) business days after the period for filing any appeal, writ, or other
15 appellate proceeding in connection with the Final Approval Order and Judgment has elapsed without
16 any appeal, writ, or other appellate proceeding having been filed; or (b) if any appeal, writ, or other
17 appellate proceeding in connection with the Final Approval Order and Judgment has been filed, five
18 (5) business days after any appeal, writ, or other appellate proceedings in connection with the Final
19 Approval Order and Judgment has been finally and conclusively dismissed with no right to pursue
20 further remedies or relief. “Final Approval” means the Court’s entry of the Final Approval Order
21 and Judgment.

22 17. “Enhancement Payment” or “Class Representative Enhancement” means the payment to
23 Representative Plaintiff Debra Anderson, in addition to whatever payment she would otherwise be
24 entitled to as an Authorized Claimant.

25 18. “Final Approval Hearing” refers to the hearing during which the Parties will seek final
26 approval of this Agreement.

27 19. “Final Judgment” means the order and/or judgment entered by the Court pursuant to the
28 terms set forth in this Agreement finally and fully giving effect to the terms contained in this

1 Agreement as to the Representative Plaintiff and the Class, except those Class Members who timely
2 Opt-Out.

3 20. "Plaintiff" or "Representative Plaintiff" means Plaintiff Debra Anderson (and her
4 representative(s), heir(s), assign(s), and attorney(s)).

5 21. "PAGA Employee" or "PAGA Employees" means the Class Members employed during
6 the PAGA Period.

7 22. "PAGA Payment" means the amount of Ten Thousand Dollars and Zero Cents
8 (\$10,000.00) of the Maximum Settlement Amount to be allocated as civil penalties under the
9 California Labor Code Private Attorneys General Act of 2004 ("PAGA"), with 75% of this amount,
10 Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), to be paid to the LWDA in
11 satisfaction of any claim for civil penalties that may be owed to that agency under the PAGA. The
12 other 25%, or Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00), will be distributed
13 to the PAGA Employees based on the PAGA Pay Period Value.

14 23. "PAGA Period" means the time period from January 14, 2020, through August 26, 2021.

15 24. "PAGA Pay Period Value" means the value of all PAGA Employee pay periods that the
16 Settlement Administrator shall determine by dividing the PAGA Payment by Total PAGA Pay
17 Periods.

18 25. "Maximum Settlement Amount" or "MSA" means the total amount of Two Hundred
19 Eighteen Thousand Five Hundred Dollars and Zero Cents (\$218,500.00) to be paid by Defendants
20 pursuant to the terms of this Agreement.

21 26. "Notice Returns" means envelopes containing the Class Notice that were mailed by the
22 Settlement Administrator to Class Members but were undeliverable and returned to the Settlement
23 Administrator by the United States Postal Service.

24 27. "Objection to Class Settlement" means any written objection to this Settlement by Class
25 Members who do not choose to be excluded from the Class that is served on the Settlement
26 Administrator within the Opt-Out Period.

27 28. "Opt-Out Period" refers to the deadline of no later than forty-five (45) calendar days
28 after the original date of the Settlement Administrator's mailing of the Notice of Settlement that any

1 Class Member, who wishes to be excluded from the Settlement, submits a Request for Exclusion.

2 Class Members may not opt-out of the PAGA payment.

3 29. "Preliminary Approval Order" is the order preliminarily approving the settlement terms
4 contained in this Agreement.

5 30. "Preliminary Approval Date" is the date the Court grants preliminary approval of this
6 Settlement.

7 31. "Redirected Notice" means a re-mailing of the Class Notice mailed by the Settlement
8 Administrator to a new or different address to a Class Member that was obtained by the Settlement
9 Administrator as a result of a Notice Return.

10 32. "Released Class Claims" means any and all claims, debts, liabilities, demands,
11 obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action which relate
12 to any and all claims alleged or which could have been alleged based on the facts in the Operative
13 Complaint filed by Representative Plaintiff, both on her behalf and on behalf of the Class Members
14 in this Action during the Class Period, under any state or local law, and shall specifically include
15 but is not limited to claims for, Failure to Pay Minimum and Straight Time Wages [Cal. Lab. Code
16 §§ 204, 1194, 1194.2, and 1197], Failure to Pay Overtime Wages, Failure to Provide Meal Periods
17 [Cal. Lab. Code §§ 226.7, 512], Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §
18 226.7], Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203], Failure to
19 Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226], and Unfair Business Practices
20 [Cal. Bus. & Prof. Code §§ 17200, et seq.], and any other claims, including claims for statutory
21 and/or civil penalties, pertaining to the Class Members which were alleged or could have been
22 alleged in operative Complaint, based upon the allegations and claims contained in the Operative
23 Complaint. This release is limited in time to the Class Period covering the Class Members who
24 worked for the Released Persons in the State of California.

25 33. "Released PAGA Claims" means claims asserted by Representative Plaintiff for Civil
26 Penalties under PAGA [Cal. Lab. Code § 2699, et seq.] based on the those claims for penalties that
27 were brought or could have been brought based on the facts alleged in Plaintiff's notice letter to the
28 LWDA, including all attorney's fees and costs related thereto.

1 34. "Released Persons" means Defendants The Treatment Skin Boutique, Inc., Ryan Jensen
2 and Erin Jensen, and their respective past, present, and/or future agents, attorneys, insurers,
3 reinsurers, divisions, affiliates, DBAs (if any), predecessors, successors, heirs, accountants,
4 auditors, consultants, reinsurers, shareholders, officers, directors, managers, employees, trustees,
5 representatives, administrators, fiduciaries, assigns, subrogees, executors, partners, parents, owners,
6 subsidiaries, privies, and/or any and all persons and/or corporate entities acting by, through, under
7 or in concert with any of them.

8 35. "Request for Exclusion" or "Opt-Out" means a written request by a Class Member to be
9 excluded from the Class and the Settlement containing all the information necessary as detailed
10 herein. Class Member may not exclude him or herself from the PAGA Payment.

11 36. "Settlement Administrator" refers to Phoenix Settlement Administrators, the entity that
12 Class Counsel and Counsel for Defendants selected to administer this Settlement and to act as the
13 Settlement Administrator to process the Settlement under the terms of this Agreement.

14 37. "Settlement Administration Fees" means the fees and costs, currently estimated at Ten
15 Thousand Dollars and Zero Cents (\$10,000.00), incurred or charged by the Settlement
16 Administrator in connection with the execution of its duties under this Agreement including, but not
17 limited to: (i) fees and costs associated with preparing, issuing and/or monitoring reports, filings
18 and notices (including the cost of printing and mailing all notices and other documents to the Class)
19 required to be prepared in the course of administering the Settlement; (ii) computing the amount of
20 the Settlement Payments, taxes, and any other payments to be made under this Agreement; (iii)
21 handling inquiries about the calculation of individual Settlement Payments; (iv) establishing and
22 operating a Settlement payment center address, and phone number to receive Class Members'
23 inquiries about the Settlement; and (v) remitting any tax deductions or subtractions applicable under
24 the law and/or pursuant to this Agreement and preparing and submitting any filings required by any
25 governmental taxing authority or other governmental agency.

26 38. "Settlement Payment" or "Individual Settlement Payment" refers to the payment to any
27 Authorized Claimant pursuant to the terms of this Agreement.

28 39. "Total Workweeks" means the total number of workweeks that all Class Members were

1 employed by Defendants during the Class Period.

2 40. "Total PAGA Pay Periods" means the total number of pay periods that all PAGA
3 Employees were employed by Defendants during the PAGA Period.

4 III. **BACKGROUND**

5 The original complaint in this Action was filed on January 21, 2021, in the Superior Court
6 of the State of California, County of Los Angeles. Plaintiff subsequently filed a First Amended
7 Complaint on April 10, 2021, which is the Operative Complaint. In her Operative Complaint,
8 Plaintiff asserts the following claims: (1) Failure to Compensate for Non-Productive Time and Rest
9 and Recovery Periods Separate from any Piece-Rate Compensation, and Failure to Comply with the
10 Wage Statement Requirements for Piece-Rate Compensation [Cal. Lab. Code § 226.2]; (2) Failure
11 to Pay Minimum and Straight Time Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197]; (3)
12 Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198]; (4) Failure to Provide
13 Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (5) Failure to Authorize and Permit Rest Breaks [Cal.
14 Lab. Code §§ 226.7]; (6) Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-
15 203]; (7) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; (8) Unfair
16 Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]; and (9) Civil Penalties Under PAGA
17 [Cal. Lab. Code § 2699, et seq.]. On January 14, 2021, Plaintiff sent a letter to the LWDA, alleging
18 Defendants violated the California Labor Code, and seeking penalties under PAGA. Specifically,
19 Plaintiff alleged Defendant: Failed to Compensate for Non-Productive Time and Rest and Recovery
20 Periods Separate from any Piece-Rate Compensation, and Failure to Comply with the Wage
21 Statement Requirements for Piece-Rate Compensation, failed to Pay Minimum and Straight Time
22 Wages, failed to Pay Overtime Compensation, failed to Provide Meal Periods, failed to Authorize
23 and Permit Rest Breaks, failed to Timely Pay Final Wages at Termination, failed to Provide
24 Accurate Itemized Wage Statements, and engaged in Unfair Business Practices.

25 Defendants deny each and every one of the allegations asserted in the Operative Complaint
26 and asserts that they have no liability for the Plaintiff's claims or the Class.

27 The Parties have conducted a significant investigation of the facts and law during the
28 prosecution of this Action, which included informal discovery. The informal discovery included the

1 exchange of class information such as class size and composition, the production of Class Members'
2 time and payroll records, as well as Defendants' written wage and hour policies and practices. The
3 Parties conducted the aforementioned investigation and informal discovery in anticipation of, and
4 prior to, the private mediation of the Action. Counsel for the Parties investigated the law as applied
5 to the discovered facts regarding the alleged claims of the Representative Plaintiff and the potential
6 defenses thereto, and the potential damages claimed by the Representative Plaintiff.

7 Thereafter, the Parties participated in a full day mediation on August 26, 2021, before an
8 experienced and well-regarded mediator, Kelly Knight, Esq. Through the efforts of all Parties and
9 their counsel, as well as the invaluable assistance of the mediator, the Parties were eventually able
10 to reach a mutual understanding of the material terms of settlement, which are memorialized in this
11 Agreement.

12 Representative Plaintiff and Class Counsel concluded, after taking into account the sharply
13 disputed factual and legal issues involved in the Action, the risks and substantial expenses involved
14 in the further prosecution of this case, and the substantial benefits to be received pursuant to the
15 compromise and settlement of the Action at this early stage, as set forth in this Agreement, that
16 settlement on the terms set forth herein is in the best interest of Representative Plaintiff and the
17 Class, and is fair and reasonable. In particular, Class Counsel and Representative Plaintiff
18 understand the risk of the class certification process, as well as the potential merits of affirmative
19 defenses expected to be raised by the Defendant. In light of the risks related to certifying a class,
20 prevailing on an anticipated motion for summary judgment and a potential trial, the recovery of Two
21 Hundred Eighteen Thousand Five Hundred Dollars and Zero Cents (\$218,500.00) obtained in the
22 Action is both reasonable and fair.

23 Similarly, Defendants concluded that there are benefits associated with settling the Action
24 at this early stage. After considering the sharply disputed factual and legal issues involved in the
25 Action, the expense and burden of protracted litigation, and its desire to put the controversy to rest,
26 Defendants believe that settlement on the terms set forth in this Agreement is in its best interest and
27 is fair and reasonable. Defendants have concluded that the future costs and expenses involved in
28 continuing the Action are substantial and chose to eliminate any further expenses, attorneys' fees,

1 and risks via the Settlement. Given the severely disputed nature of the case, it is expected that
2 substantial expenses will be incurred determining many issues dealing with discovery, a class
3 certification motion, a Summary Judgment motion, eventual trial, and possible appeals.

4 This Agreement contemplates (i) entry of an Order preliminarily approving the Settlement
5 and approving certification of a provisional settlement class, contingent upon final approval of the
6 Settlement; (ii) the mailing of a Notice of Settlement to all Class Members; (iii) the processing of
7 any objections, and opt-outs by the Settlement Administrator, as well as payment to the Class
8 Members after final approval of this Agreement by the Court; and (iv) entry of Final Judgment
9 granting final approval of the Settlement.

10 **IV. SETTLEMENT APPROVAL & IMPLEMENTATION PROCEDURE**

11 **A. Preliminary Approval of the Settlement**

12 As soon as practicable, Class Counsel will also submit this Agreement to the Court for its
13 preliminary approval. Such submission will include such motions, pleadings, and evidence as may
14 be required for the Court to determine that this Agreement is fair, adequate, and reasonable, as
15 required by section 382 of the California *Code of Civil Procedure* and Rule 3.769 of the California
16 *Rules of Court*. Such submission will also include a Notice of Class Settlement and Notice of
17 Settlement Award ("Notice of Settlement") in substantially the form attached hereto as Exhibit 1.

18 **B. Motion for Preliminary Approval**

19 (a) Promptly upon the full execution of this Settlement, Plaintiff shall file a
20 motion for Preliminary Approval with the Court seeking an order granting Preliminary Approval,
21 setting a date for the Final Approval Hearing and briefing schedule, approving the Class Notice (in
22 the forms attached hereto as Exhibits 1), approving the procedure for objecting to and requesting
23 exclusion from the Settlement.

24 (b) The Parties will jointly appear at the hearing on the motion for Preliminary
25 Approval and support the granting of Preliminary Approval.

26 (c) Should the Court fail to approve preliminarily all material aspects of the
27 Settlement, the Settlement will be null and void, and the Parties will have no further obligations
28 under it.

1 **C. Conditional Certification of the Class**

2 Defendants hereby consent, solely for purposes of the Settlement set forth in this Agreement,
3 to the conditional certification of the Class, to the conditional appointment of Class Counsel, and to
4 the conditional approval of the Representative Plaintiff, provided however, that if the Settlement
5 fails to be approved or otherwise fails to be consummated for any reason whatsoever, including but
6 not limited to the Final Judgment not becoming final, then Defendants retain all rights previously
7 available to them, and any provisional certification of any class, or the adoption of any procedure
8 herein, shall be undone and the Parties restored to their pre-settlement status as if no settlement had
9 been reached and no decisions were made pursuant to it. In that event, nothing in this Agreement
10 or other papers or proceedings related to the Settlement shall be used as evidence or argument by
11 any party, including any Class Members who opt out, concerning whether or not the claims
12 advanced in the Complaint may properly be maintained as a class action, whether the purported
13 class is ascertainable, or whether Class Counsel or the Representative Plaintiff can adequately
14 represent the members of the class under applicable law.

15 **D. Cooperation**

16 The Parties agree to cooperate fully with each other to accomplish the terms and
17 requirements of this Agreement, including but not limited to, the execution of such documents and
18 to take such other action as may reasonably be necessary to implement the terms of this stipulated
19 Settlement.

20 Except as otherwise provided herein, neither party nor any of their attorneys or agents shall
21 initiate any communication with any Class Members for the purpose of encouraging or discouraging
22 them to Opt-Out of the Class, or to object to the Settlement contained herein, unless agreed upon by
23 the other party in writing or if authorized by the Court. This provision in no way limits Class
24 Counsel from communicating with the Representative Plaintiff, nor does the provision limit Class
25 Counsel from responding to any inquiry initiated by any Class Members.

26 The Parties shall promptly submit this Agreement for preliminary approval and
27 determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon
28 execution of this Agreement, the Parties shall apply to the Court for the entry of a Preliminary

1 Approval Order scheduling a hearing to determine whether the proposed Class Settlement should
2 be approved as fair, reasonable, and adequate as to the Class Members, and approving as to form
3 and content of the proposed Notice of Settlement.

4 **E. Notice of Settlement by Mail**

5 Defendants will provide as soon as practicable, but no later than ten (10) business days after
6 the Preliminary Approval Date, to the Settlement Administrator a list containing the Class Members'
7 names, last known addresses, dates of employment, and social security numbers, which will be used
8 to send the Notice of Settlement to the Class Members. Using this list, the Settlement Administrator
9 shall calculate the Class Pay Period Value, PAGA Pay Period Value, and the Individual Settlement
10 Payment which each Class Member is entitled to pursuant to the formula provided in Section
11 IV(O)(2), below, and mail the Notice of Settlement via First-Class mail using the United States
12 Postal Service to the most recent address known for each Class Member within twenty (20) calendar
13 days of receipt from Defendants of the Class Members' information. Before mailing the Notice of
14 Settlement, the Settlement Administrator shall review the National Change of Address registry for
15 all Class Members and/or skip trace to determine the most up-to-date addresses of all Class
16 Members. If any Notices of Settlement are returned with a forwarding address, the Settlement
17 Administrator will re-mail the Notice of Settlement to the Class Member whose notice was returned.

18 In the event that prior to the final date for any Class Member to Opt-Out, any Notice mailed
19 to the Class Member is returned as having been undelivered by the U.S. Postal Service ("Notice
20 Return"), the Settlement Administrator shall, via skip-tracing, seek an address correction from such
21 Class Member(s), and send a Redirected Notice to the new or different address within seven (7)
22 calendar days if such address is found. The Settlement Administrator may conduct any investigation
23 it deems economically reasonable and consistent with its role and industry practice to determine the
24 correct address of any Class Member.

25 The Notice of Settlement to Class Members shall notify the Class Members of the fact and
26 nature of this Settlement. Further, the Notice of Settlement shall inform the Class Members that they
27 are entitled to a Settlement Payment and shall indicate the number of Total Class Pay Periods and/or
28 Total PAGA Pay Periods calculated for the particular Class Member along with the estimated

1 amount of the Settlement Payment the particular Class Member will receive if the Settlement is
2 approved. The Notice of Settlement will also specifically inform Class Members that they do not
3 have to submit a claim form in order to receive Settlement Payment. Moreover, the Notice of
4 Settlement shall outline the procedures for submitting Opt-Outs and/or Objections to the Settlement
5 and all deadlines applicable thereto. The Notice of Settlement to Class Members shall also inform
6 Class Members of the deadline by which the checks representing the Settlement Payments must be
7 cashed/negotiated (180 calendar days), and also that by cashing/negotiating the checks representing
8 the Settlement Payments, it shall constitute opting-in for a release of claims under the Fair Labor
9 Standards Act to the extent such claims fall within the definition of Released Class Claims as that
10 phrase is defined and used in this Agreement.

11 Class Members shall have forty-five (45) calendars days from the date the Class Notice is
12 first mailed by the Settlement Administrator (“Class Notice Period” or “Notice Period”) to submit
13 a Request for Exclusion, or an Objection to Class Settlement, as further explained herein. In any
14 instance where a Notice is first returned to the Settlement Administrator within ten days of the end
15 of the original Notice Period, and a new address for that Class Member can be located via a first
16 skip-tracing, the Notice Period will be extended by forty-five (45) calendars days for that Class
17 Member. A letter prepared by the Settlement Administrator will be included in the re-mailed Notice
18 in that instance, stating the extended Notice Period.

19 **F. Requests for Exclusion (“Opt-Outs”)**

20 Any Class Member who wishes to be excluded from the Settlement outlined herein must
21 mail to the Settlement Administrator a written statement expressing his or her desire to be excluded
22 from the Settlement (a “Request for Exclusion” or “Opt-Out”). For the Request for Exclusion to be
23 accepted it must be timely and valid. To be valid the Request for Exclusion must contain a statement
24 that the Class Member requests to be excluded from the class and must include the name (and former
25 names used during his/her employment with Defendants, if any), current address, telephone number,
26 and last 4 numbers of their social security number. In addition, the statement shall be signed and
27 dated by the Class Member.

28 To be timely, any Class Member who wishes to be excluded from the Settlement must submit

1 a Request for Exclusion to the Settlement Administrator postmarked no later than the end of the
2 Notice Period. Any Class Member who submits a valid and timely Request for Exclusion or Opt-
3 Out shall no longer be a member of the Class, shall be barred from participating in this Settlement,
4 shall not receive a Settlement Payment, shall be barred from objecting to this Settlement, and shall
5 receive no benefit from this Settlement and will not be bound by Settlement or release of claims.
6 Any Class Member who fails to submit a timely Request for Exclusion or Opt-Out within the Notice
7 Period shall be bound by all terms of this Agreement, regardless of whether that Class Member
8 receives and/or cashes his or her check for Settlement Payment.

9 In the event that the Court approves the terms of Settlement related to PAGA, PAGA
10 Employees will be bound by Settlement, regardless of whether they chose to Opt-Out of the
11 Settlement of Class claims.

12 **G. Declaration of Compliance**

13 As soon as practicable, but no later than ten (10) calendar days following the Opt-Out-
14 Period, the Settlement Administrator shall provide Class Counsel and Counsel for Defendants with
15 a declaration attesting to completion of the notice process set forth in this Section (Section IV) of
16 the Agreement, including an explanation of efforts to resend undeliverable notices returned with
17 forwarding addresses, and a summary of disputed claims, and opt outs including the name of the
18 class members opting out, which declaration shall be filed with the Court by Class Counsel along
19 with their papers requesting Final Approval of the Settlement.

20 **H. Sufficient Notice**

21 Compliance with the procedures described in this Section shall constitute due and sufficient
22 notice to Class Members of this Settlement and the final approval hearing, shall satisfy the
23 requirements of due process, and nothing else shall be required of the Representative Plaintiff, Class
24 Counsel, Defendants, Counsel for Defendants, or the Settlement Administrator to provide additional
25 notice of the settlement and the Final Approval Hearing, unless expressly ordered by the Court.

26 **I. Objections to Settlement**

27 Any Class Member may object to the Settlement. To object, the Class Member may appear
28 in person at the Final Approval Hearing, have an attorney object for the Class Member, or submit a

1 written brief or statement of objection to the Settlement Administrator (an Objection to Class
2 Settlement). Upon receipt, the Settlement Administrator will transmit a copy of any Objection to
3 Class Settlement it receives to the attorneys for the Parties. If any Class Member chooses to submit
4 an Objection to Class Settlement, as set forth in the Notice, the written objection should contain
5 sufficient information to confirm the identity of the objector and the basis of the objection, including
6 (1) the full name of the Settlement Class Member; (2) the signature of the Settlement Class Member;
7 (3) the grounds for the objection; and (4) be postmarked within the Notice Period to permit adequate
8 time for processing and review by the Parties of the written statement or objection. As soon as
9 practicable, the Settlement Administrator shall forward any and all Objections to Class Settlement
10 to Class Counsel and Defense Counsel. Class Counsel shall ensure that any written objections are
11 transmitted to the Court for the Court's review (either as an attachment to a declaration from Class
12 Counsel or as an attachment to a declaration from the Settlement Administrator). The Court may,
13 in its sole discretion, permit any Settlement Class Member to state comments about the Settlement
14 or objections to the Settlement at the Final Approval hearing, regardless of whether the Settlement
15 Class Member has submitted an Objection to Class Settlement. Regardless of the form, an objection
16 alone will not satisfy the requirement that a Settlement Class Member must formally intervene and
17 become a party of record in the action to appeal a Judgment entered following an Order or Judgment
18 finally approving this Settlement, as is required under the California Supreme Court decision of
19 *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018). A Class Member who does not object
20 prior to or at the Final Approval Hearing, will be deemed to have waived any objections and will be
21 foreclosed from making any objections (whether at the Final Approval Hearing, by appeal, or
22 otherwise) to the Settlement. If the objecting Class Member does not formally intervene in the
23 action and/or the Court rejects the Class Member's objection, the Class Member will still be bound
24 by the terms of this Agreement. Class Counsel and Defendant's Counsel may, at least five days (or
25 some other number of days as the Court shall specify) before the final approval hearing, file
26 responses to any Objections to Class Settlement received by the Settlement Administrator.

27 In order to object to the Class Settlement, the Class Member must not have submitted a
28 Request for Exclusion. PAGA Employees may not object to the PAGA Settlement.

1 At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage
2 Class Members to object to the Settlement or appeal from the Final Judgment. Class Counsel shall
3 not represent any Class Members with respect to any such objections.

4 If a person submits an Objection to Class Settlement and a Request for Exclusion, the
5 Settlement Administrator shall take reasonable steps to contact the Class Member to determine
6 whether the Class Member wishes to object and remain in the Class or be excluded from the Class.
7 If the Settlement Administrator is unable to determine the Class Member's choice, the objection
8 shall be valid and the Request for Exclusion shall be null and void, and the Class Member shall be
9 counted as part of the Class and be bound by the terms and conditions of the Settlement.

10 The Settlement Administrator shall provide Defendant's Counsel and Class Counsel a
11 weekly report showing at a minimum: (i) the number of Class Members who have submitted timely,
12 valid Requests to be Excluded or Objections, and copies thereof; (ii) whether any Class Member
13 has submitted a challenge to their inclusion in this Action; and (iii) statistics showing which disputes
14 that have been resolved and which have not been resolved. Additionally, the Settlement
15 Administrator will provide to counsel for both Parties any updated reports as needed or requested.

16 If a Class Member disputes the number of Workweeks stated for that Class Member in the
17 Class Notice, the Class Member must mail to the Settlement Administrator, not later than forty-
18 five (45) days after the date that the Settlement Administrator first mails the Class Notice, a letter
19 disputing the number of Workweeks that he or she claims to have worked for Defendant in
20 California. Such Class Members also will be asked to submit any supporting documentation for their
21 assertion. If such a dispute arises, Defendant will review its records and any documentation
22 submitted by the Class Member to determine the correct number of Workweeks. Defendant's
23 records will have a rebuttable presumption of correctness. After consultation with Class Counsel,
24 the Class Member, and Defendant, if no agreement can be reached, the Parties will have the
25 Settlement Administrator make a determination of the Class Member's Workweeks, and that
26 determination will be final and binding on the Parties and the Class Member and will be non-
27 appealable.

28 Should any questions arise regarding the determination of eligibility for the amounts of any

1 Individual Settlement Payments under the terms of this Settlement that are not otherwise resolved
2 by the Settlement Administrator, counsel for the Parties shall meet and confer in an attempt to reach
3 an agreement. If Class Counsel and Defendant's Counsel cannot agree, the Settlement Administrator
4 shall then make the final determination, and that determination shall be conclusive, final, and
5 binding.

6 Except for those Class Members who submit a valid, timely Request to be Excluded, all
7 Class Members (1) will be deemed to be Participating Class Members for all purposes under this
8 Settlement; (2) will be bound by the terms and conditions of this Settlement, the Final Approval and
9 Judgment, and the releases set forth herein; and (3) except as provided in other sections of this
10 Settlement, will be deemed to have waived all objections and opposition to the fairness,
11 reasonableness, and adequacy of the Settlement.

12 No later than five (5) calendar days after the Court grants Final Approval, the Settlement
13 Administrator shall advise counsel for the Parties of the amount of Settlement Administration Costs
14 incurred and reasonably anticipated to be incurred by the Settlement Administrator, the amount of
15 each Individual Settlement Payment, and the name of each Class Member who has submitted a valid
16 Request to be Excluded.

17 **J. Final Approval Hearing**

18 At the Final Approval Hearing, the Representative Plaintiff, Class Counsel, and Counsel for
19 Defendants shall ask the Court to give final approval to this Agreement and the terms and conditions
20 contained herein. At this hearing, the Court will consider and rule upon any Objections to
21 Settlement submitted by any Class Member, whether timely or not. Upon granting final approval
22 of the Settlement contained herein, the Court shall also enter a Final Judgment which, among other
23 things, will implement the Releases contained in Section VI of the Agreement as to Representative
24 Plaintiff, and all Class Members who did not timely Opt-Out of the Settlement. The Release
25 contained in Section VI of this Agreement shall become effective only after Defendants have made
26 payment to fully fund the Maximum Settlement Amount.

27 In compliance with the California Rules of Court, the Final Approval Order and/or Judgment
28 shall be posted on a website maintained by the Settlement Administrator for a period of not less than

1 90 days after entry of final judgment. The address of that website will be included in the Notice of
2 Class Action Settlement.

3 **K. Waiver of Right to Appeal.**

4 1. The Parties agree to waive all appeals from the Court's Final Approval, unless the
5 Court materially modifies the Settlement, except that Plaintiff may appeal any reduction in the Class
6 Counsel's Fees and Expenses Payment or the Class Representative Payment. Any reduction in the
7 Class Counsel's Fees and Expenses Payment or the Class Representative Payment will not, however,
8 constitute a material modification of the Settlement and will not be grounds to void the Settlement.

9 2. Any Participating Class Member who does not timely submit an objection to the
10 Settlement hereby waives any and all rights to move to vacate the Judgment or file an appeal from
11 the Final Approval order and Judgment. This waiver does not include a waiver of the right to oppose
12 any appeals, appellate proceedings, or post-judgment proceedings, if any.

13 **L. Res Judicata as to Claims by PAGA Aggrieved Employees.**

14 Upon the Effective Date, and subject to Defendants' full payment of all sums due hereunder,
15 any claims for penalties under PAGA of the PAGA Aggrieved Employees relating to the Released
16 PAGA Claims will be barred consistent with principles of res judicata under California law.

17 **M. California Labor Code Section 206.5.**

18 In connection with the above releases, and in consideration of Defendant's payment of the
19 sums provided herein, each and every Participating Class Member will be deemed to also have
20 acknowledged and agreed that California Labor Code section 206.5 is not applicable to the Parties
21 hereto or any Participating Class Member because there is a good-faith dispute as to whether any
22 wages are due at all to any Class Member. Section 206.5 provides in pertinent part as follows:

23 **An employer shall not require the execution of a release of a claim or right on account**
24 **of wages due, or to become due, or made as an advance on wages to be earned, unless payment**
25 **of such wages has been made.**

26 **N. Release of Claims by Plaintiff Debra Anderson**

27 Upon the Effective Date, and subject to Defendant's full payment of all sums due hereunder,
28 Plaintiff Anderson, on her own behalf, and on behalf of her spouse, grantees, agents, employees,

1 representatives, heirs, executors, administrators, devisees, trustees, successors, assigns, assignors,
2 partners, attorneys, insurers, and any other entities in which Plaintiff has an interest, waives,
3 releases, acquits, and forever discharges the Released Parties from any and all claims, including but
4 not limited to the Released Claims, whether known or unknown, which exist or may exist as of the
5 Parties' execution of this Settlement.

6 Section 1542 of the California Civil Code provides as follows:

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

12 Plaintiff's general release provided herein is made with an express waiver and
13 relinquishment of any claim, right, or benefit under California Civil Code § 1542. Plaintiff warrants
14 that she has read this Settlement, including this waiver of California Civil Code § 1542, and that she
15 has consulted with or had the opportunity to consult with counsel of her choosing about this
16 Settlement and specifically about the waiver of § 1542, and that she understands this Settlement and
17 the § 1542 waiver, and so she freely and knowingly enters into this Settlement. Plaintiff further
18 acknowledges that Plaintiff later may discover facts different from or in addition to those Plaintiff
19 now knows or believes to be true regarding the matters released or described in this Settlement, and
20 even so Plaintiff agrees that the releases and agreements contained in this Settlement shall remain
21 effective in all respects notwithstanding any later discovery of any different or additional facts.

22 **O. Formulas to Determine Payment, Distribution of Funds and Payment of Funds**

23 **1. *General Terms of Settlement***

24 Defendants shall pay the Maximum Settlement Amount of Two Hundred and Eighteen
25 Thousand and Five Hundred Dollars and Zero Cents (\$218,500.00), to settle this Action, under the
26 terms described in this Agreement. Defendants shall pay the Maximum Settlement Amount within
27 10 calendar days of the Effective Date.

28 From the Maximum Settlement Amount, Class Counsel will request, and Defendants will

not oppose, Seventy-Two Thousand One Hundred and Five Dollars and Zero Cents (\$72,105.00) as Class Counsel Fees, and Class Counsel Costs not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00). In addition, Class Counsel will request Fifteen Hundred Dollars and Zero Cents (\$15,000.00) as an Enhancement Payment for Representative Plaintiff Debra Anderson. Under no circumstances will Defendants be required to pay more in Class Counsel Fees, Class Counsel Costs, and/or Enhancement Payment than specified in this Section. Class Counsel Fees, Class Counsel Costs, and the Enhancement Payment are subject to Court approval. The Court's ruling on the request for Class Counsel Fees, Class Counsel Costs, and Enhancement Payment shall not affect the enforceability of this Agreement or the terms contained herein. In the event the Court reduces the amount requested in Class Counsel Fees, Class Counsel Costs and/or Enhancement Payment, the difference shall be added to the Distributable Amount to the Class Members.

In addition, the Parties have agreed that Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Maximum Settlement Amount will be allocated for PAGA penalties, with 75% of this amount (\$7,500) to be paid to the LWDA in satisfaction of any claim for penalties that may be owed to that agency under PAGA (Cal. Labor Code 2699, et seq.), and the remaining 25% (\$2,500) to be paid to the PAGA Employees based on PAGA Pay Period Value ("PAGA Payment").

Further, the Settlement Administration Fees, currently estimated at Ten Thousand Dollars (\$10,000.00) shall be made from the Maximum Settlement Amount. Any and all Settlement Administration Fees shall be made from the Maximum Settlement Amount. Any amounts not used by the Settlement Administrator for Settlement Administration shall be added to the Distributable Amount to the Class Members.

Consequently, the amount from which the Class may be paid, also called the "Distributable Amount," is estimated to be:

Maximum Settlement Amount	\$218,500.00
Class Counsel Fees	-\$72,105.00
Class Counsel Costs	-\$10,000.00
Enhancement Payment	-\$15,000.00

PAGA Payment (LWDA Portion)	-\$7,500.00
Settlement Administrator Fees	-\$10,000.00
Distributable Amount	\$101,395.00

No funds will revert to the Defendants from the Maximum Settlement Amount.

2. Formula for Determining the Value of the Claims for the Class and for Each Class Member Who Does Not Opt Out

In order to fairly distribute the Settlement Payments to Class Members, Class Counsel and Defendants' Counsel have arrived at a formula designed to fairly determine each Authorized Claimant's pro rata payment from the Distributable Amount based on their length of service. The formula is based on the relative amount of the individual Authorized Claimant's Total Class Pay Periods and Total PAGA Pay Periods (if applicable), as compared to the Total Class Pay Periods and Total PAGA Pay periods worked by the Class Members as a whole. The specific calculations are as follows:

Class Calculations: The Settlement Administrator will calculate the total number of workweeks that all Class Members were employed by Defendants during the Class Period. The value of each Workweek shall be determined by the Settlement Administrator by dividing the Net Settlement Proceeds (less the PAGA Payment(s)) by the total number of Workweeks available to the Class Members during the Class Period ("Class Workweek Value").

PAGA Calculations: For PAGA Employees, the Settlement Administrator will calculate the total number of pay periods that each PAGA Employee was employed by Defendants during the applicable PAGA Period ("Total PAGA Pay Periods"). The value of each PAGA Pay Period shall be determined by the Settlement Administrator by dividing the PAGA Payment by the Total PAGA Pay Periods for all PAGA Employees ("PAGA Pay Period Value").

Individual Settlement Payments: To determine the Individual Settlement Payment for each Class Member, the Settlement Administrator will multiply the Authorized Claimant's Total Workweeks by Class Workweek Value and add the total to the product of the PAGA Employee's Total PAGA Pay Periods multiplied by the PAGA Pay Period Value, if the Class Member qualifies as a PAGA Employee. Not all Authorized Claimants will receive the PAGA Payment. The

1 Individual Settlement Payment will be reduced by any required legal tax deduction, pursuant to
2 Section IV(O)(2) herein.

3 Payments from the Distributable Amount shall be made only to Authorized Claimants and
4 PAGA Employees, pursuant to the manner provided in this Agreement and this section, in particular.

5 Defendants' employment records used to calculate each Class Members' Settlement
6 Payment shall be presumed to be correct. However, each Class Member shall be given an
7 opportunity to dispute the number of Authorized Claimant's Total Workweeks and/or Authorized
8 Claimant's Total PAGA Pay Periods as provided in their Notice of Settlement Award. Any such
9 dispute shall be sent in writing to the Settlement Administrator postmarked on or before the Opt-
10 Out Period deadline, and the Class Member shall provide any information he/she deems proper to
11 support his/her claim. The Settlement Administrator shall send the dispute information to
12 Defendants' Counsel and Class Counsel within five (5) business days of receiving the dispute.
13 Defense and Class Counsel shall meet and confer to determine if they can agree to a resolution
14 regarding the Class Member's challenge. The Settlement Administrator will inform the Class
15 Member. Defense and Class Counsel will inform the Settlement Administrator to approve payment
16 to the Class Member, as revised by the evidence submitted by the Class Member. Any Party,
17 including the Class Member, may present the issue to the Court for resolution, if the dispute cannot
18 be resolved.

19 Payment to each Authorized Claimant shall be allocated as follows: Twenty Percent (20 %) of any
20 settlement funds paid to any Class Member shall be attributed to wages, to be reported on an
21 IRS Form W-2 with legally required tax deductions; Eighty Percent (80%) of any settlement funds
22 paid to any Class Member shall be treated as statutory penalties and interest, to be reportable on IRS
23 Form 1099 with no withholding. Each Authorized Claimant shall be responsible for any tax
24 consequences of the Settlement or payment of funds pursuant to this Agreement, including the
25 payment of any applicable tax deductions or obligation as if paying through payroll. Any payroll
26 tax payable from the payment of any settlement funds to any Class Member pursuant to the terms
27 of this Agreement shall not be made from the Distributable Amount. However, Defendants will only
28 be responsible for employer side payroll taxes, separate and apart from the MSA.

1 **3. Class Counsel Fees, Costs, Enhancement Payment, PAGA Payment, Settlement**
2 **Administration Cost, and Payment of Maximum Settlement Amount Funds**

3 Plaintiff and Class Counsel will request, and Defendants agree not to oppose, payment from
4 the Maximum Settlement Amount of fifteen thousand dollars (\$15,000.00) to Representative
5 Plaintiff Debra Anderson as an Enhancement Payment. Class Counsel believes, and Defendants do
6 not challenge, that such award to the Representative Plaintiff as an Enhancement Payment is
7 reasonable. Plaintiff and Class Counsel will request, and Defendants agree not to oppose, the
8 payment from the Maximum Settlement Amount of seventy-two thousand one hundred and five
9 dollars and zero cents (\$72,105.00) to Class Counsel for Class Counsel Fees. Class Counsel
10 believes, and Defendants do not challenge, that such an award to Class Counsel is reasonable.
11 Plaintiff and Class Counsel will request, and Defendants agree not to oppose, a payment from the
12 Maximum Settlement Amount not to exceed ten thousand dollars (\$10,000.00) to Class Counsel for
13 Class Counsel Costs. Class Counsel believes, and Defendants does not challenge, that such an award
14 to Class Counsel is reasonable.

15 The Parties have agreed that ten thousand dollars (\$10,000.00) of the Maximum Settlement
16 Amount will be allocated as PAGA penalties, with 75% of this amount, (\$7,500) to be paid to the
17 LWDA in satisfaction of any claim for penalties that may be owed to that agency under PAGA. The
18 other 25%, or \$2,500.00, will be distributed to the PAGA Employees based on the PAGA Pay Period
19 Value.

20 Class Counsel Fees, Costs, and the Enhancement Payment, whether they are awarded as
21 requested or reduced by the Court at its discretion, shall be paid from the Maximum Settlement
22 Amount.

23 Moreover, all the Settlement Administration Fees shall be paid from the Maximum
24 Settlement Amount, which the Parties currently estimate will be about ten thousand dollars
25 (\$10,000.00).

26 Class Counsel shall timely provide a completed IRS Form W-9 no later than five (5) calendar
27 days after the Effective Date and any other information needed for the Settlement Administrator to
28 make payments. Any payment obligation by any party shall be tolled until the correct information

1 is provided as required by any party. Settlement Administration Fees may be paid earlier if necessary
2 to effectuate the terms of this Agreement, except that the party paying shall be entitled to offset the
3 costs from the Maximum Settlement Amount. Under no circumstances shall Defendants be required
4 to pay more than the Maximum Settlement Amount.

5 The Settlement administrator shall pay the attorneys' fees and costs awarded to Class
6 Counsel and the incentive awards awarded to the Representative Plaintiff from the Maximum
7 Settlement Amount pursuant to the disbursement described in Section IV(O)(1).

8 The Parties agree to cooperate in the settlement administration process and make all
9 reasonable efforts to control and minimize the costs and expenses incurred in administering the
10 settlement.

11 ***4. Cure Provision***

12 If Defendants fail to timely make payment as set forth in Section IV(O)(1) Defendants shall
13 have ten (10) calendar days from the last day the payment is due to cure the untimely payment.
14 Defendants shall make any payment under this provision pursuant to the Settlement Administrator's
15 electronic transfer instructions. The Parties expressly agree that the Defendants' payment
16 obligations with respect to any cure shall be met upon initiating the electronic transfer of funds to
17 the Settlement Administrator, pursuant to its instructions.

18 **P. The Settlement Administrator**

19 Class Counsel and Defense Counsel designate Phoenix Settlement Administrators, an
20 experienced settlement administrator, to process this Settlement. The Settlement Administrator will
21 administer the Settlement including, but not limited to, distributing the Class Notice of Settlement,
22 calculating and directing the disbursements for Settlement Payments from the Distributable
23 Amount, and handling inquiries about the calculation of individual settlement payments to the Class
24 pursuant to the terms contained in this Agreement. The Settlement Administrator shall establish a
25 settlement payment center address, telephone number, and facsimile number to receive and timely
26 process Class Members' inquiries about the Class Notice of Settlement, Requests for Exclusion and
27 Objections, and process the payments to the Class under the terms of this Agreement. Moreover, the
28 Settlement Administrator shall provide as soon as possible to Defense Counsel instructions for

1 Defendants to tender the MSA payment by electronic transfer to the Settlement Administrator.
2 Defendants' payment of the MSA is contingent upon receipt of the payment instructions. Defendants
3 expressly agree to follow the Settlement Administrator's payment instructions. The Parties agree
4 that Defendants' payment obligations under the Settlement shall be met upon initiating the electronic
5 transfer of funds to the Settlement Administrator, pursuant to its instructions.

6 The Settlement Administrator shall provide the parties with weekly reports commencing
7 with the date the Class Notice is first mailed and continuing to the Effective Date notifying the
8 Parties of Notices mailed, Notices returned to sender, Notice re-mailed and the number of valid Opt-
9 Outs submitted by Class Members, if any, the number of Objections and identity of Objectors, if
10 any and the amounts of all Settlement Payments due and payable.

11 The Settlement Administrator shall not disburse the settlement funds except as provided
12 herein, as ordered by the Court, or as agreed upon, in writing, by Defense Counsel and Class
13 Counsel. Subject to further orders and/or directions as may be made by the Court, the Settlement
14 Administrator is authorized to execute such transactions on behalf of the Class Members as are
15 consistent with the terms of this Agreement.

16 Moreover, the Parties expressly agree that, in the event Phoenix Settlement Administrators
17 cannot perform the duties of Settlement Administration, they will cooperate with each other to select
18 a new, mutually agreed upon Settlement Administrator.

19 **Q. Time For Disbursement**

20 The MSA shall be disbursed as follows:

- 21 a. MSA shall not be disbursed until ten (10) days after the Effective
22 Date.
23 b. Within twenty (20) calendar days after the Effective Date, the
24 Settlement Administrator shall cause to be paid the following amounts: (1)
25 Settlement Payments due to Authorized Claimants; (2) Class Counsel Fees;
26 (3) Class Counsel Costs; (4) Enhancement Payment; (5) PAGA Payment;
27 and (6) Settlement Administration Fees. Payment to any Authorized
28 Claimant will be in the form check(s) issued for an amount calculated using

1 the formulas contained in this Agreement. Any funds allocated to Class
2 Members who ultimately submitted timely valid Opt-Outs shall be
3 proportionally redistributed to Authorized Claimants based on the formulas
4 provided in Section IV(O)(2) under this Agreement.

5 Class Members who do not timely Opt-Out will be bound by all the terms of this Agreement,
6 regardless of whether that Class Member receives and cashes his or her check for Settlement
7 Payment. Any checks issued by the Settlement Administrator to Authorized Claimants will be
8 negotiable for one hundred eighty (180) calendar days. After one hundred eighty (180) calendar
9 days from the date of mailing, the checks shall become null and void. Subject to Court approval, the
10 Parties propose the State Bar's Justice Gap Fund, one of three significant sources of funding for
11 about 100 legal aid organizations across the state, as the *cy pres* recipient. In the event that any un-
12 cashed or abandoned checks must be distributed to the *cy pres* recipient, the Settlement
13 Administrator will cancel the tax documents associated with those un-cashed or abandoned checks,
14 and the Parties will submit to the Court a revised Judgment that states the final disposition of all
15 amounts under this Settlement, in compliance with California Code of Civil Procedure § 384. The
16 Settlement Administrator shall not transmit any funds to the *cy pres* recipient until the Parties have
17 provided to the Settlement Administrator a revised Judgment approving the final distribution of all
18 Settlement funds, including the amount to be transmitted to the *cy pres* recipient.

19 **R. Taxes**

20 **1. *Withholding and Reporting Requirements***

21 The Settlement Administrator shall be responsible for ensuring that all taxes associated with
22 the Agreement are timely paid to the appropriate tax authorities. The Settlement Administrator's
23 responsibilities include the following: (i) filing all federal, state, and local tax deduction, (ii) to
24 timely and proper filing of all required federal, state, and local forms (e.g., 1099s, W-2s, etc.) with
25 the appropriate taxing authorities, and (iii) completion of any other steps necessary for compliance
26 with any tax obligations of the Settlement under federal, state, and/or local law, as applicable. To
27 verify the Settlement Administrator's compliance with the foregoing withholding and reporting
28 requirements, as soon as administratively practicable, the Settlement Administrator shall furnish.

1 Class Counsel and Counsel for Defendants with copies of all forms detailing the payment of
2 taxes (including all 1099 forms and returns) sufficient to prove that such payments were properly
3 remitted. The Settlement Administrator shall provide a final accounting declaration adequate to
4 demonstrate full compliance with all duties set forth in this Agreement, including but not limited to
5 tax withholding, payment, and reporting obligations.

6 ***2. Determination and Payment of Taxes***

7 The Settlement Administrator shall determine the amount of any withholding or taxes to be
8 withheld from each Authorized Claimant's settlement payment and issue form W-2's to the Class
9 Members. All such withholdings shall be remitted by the Settlement Administrator to the proper
10 governmental taxing authorities. Each Authorized Claimant shall be responsible for any tax
11 consequences of any funds paid out to each Authorized Claimant pursuant to this Agreement.

12 **S. Circular 230 Disclaimer**

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

1 **V. LIMITATIONS ON USE OF THIS SETTLEMENT**

2 **A. No Admission**

3 Neither the acceptance nor the performance by Defendants of the terms contained in this
4 Agreement nor any of the related negotiations or proceedings is or shall be claimed to be, construed
5 as, or deemed a precedent or an admission by Defendants of the truth of any allegations in any
6 version of the Complaint. Defendants enter into this Settlement Agreement solely for the purposes
7 of compromising and settling the Action.

8 **B. Non-Evidentiary Use**

9 Neither this Agreement nor any of its terms, nor any statements or conduct in the negotiation
10 or drafting of it, shall be offered or used as evidence by Plaintiff, any Class Member (including any
11 individual who filed an Opt-Out), Defendants, or their respective counsel, in the Litigation or any
12 other proceeding, except as is reasonably necessary to effectuate its purpose and terms. This
13 Agreement may be used by Defendants and/or the Released Persons to prove or defend against any
14 claim released herein by any Class Member in any judicial, quasi-judicial, administrative, or
15 governmental proceeding.

16 **C. Nullification**

17 If the Court for any reason does not approve this Settlement, this Agreement shall be
18 considered null and void and all parties to this Settlement shall stand in the same position, without
19 prejudice, as if the Settlement had been neither entered into nor filed with the Court. Moreover, in
20 the event the Court does not approve this Settlement, Defendants will not be deemed to have waived,
21 limited, or affected in any way any of their objections, or defenses in this Action. Invalidation of
22 any material portion of this Settlement shall invalidate this Settlement in its entirety unless the
23 Parties agree in writing that the remaining provisions shall remain in full force and effect.

24 **D. Right to Withdraw**

25 Notwithstanding any other provision contained in this Agreement, if more than twenty
26 percent (20 %) of the Class Members submit timely and valid Requests for Exclusion from the
27 Settlement during the Opt-Out Period outlined herein, Defendants shall have the option, in their sole
28 discretion, to withdraw from this Agreement (“Right to Withdraw”), whereupon the Agreement

1 shall be null and void for any and all purposes and may not be used or introduced in the Action or
2 any other proceeding. The Parties will be restored to their respective positions in the litigation as if
3 this Agreement was never negotiated, drafted or agreed upon. However, if Defendants exercise
4 their Right to Withdraw, Defendants will be responsible for all Settlement Administration Fees
5 incurred up to the date when the Defendants exercised their Right to Withdraw. The Settlement
6 Administrator shall notify Class Counsel and Counsel for Defendants of the number of timely opt-
7 outs within five (5) calendar days after the period to file an Opt-Out has expired. If Defendants
8 elect to exercise their Right to Withdraw under this provision, Defendants will so notify Class
9 Counsel and the Court no later than five (5) calendar days after receiving notice of the number of
10 opt-outs and/or value of the valid claims made by the Authorized Claimants.

11 **VI. RELEASE OF THE CLASS AND REPRESENTED EMPLOYEES**

12 It is the desire of the Representative Plaintiff, Class Members, and Defendants to fully,
13 finally, and forever settle, compromise, and discharge disputes and claims arising from or related to
14 this Action. After Final Approval by the Court of this Agreement, after Defendants have made
15 payment to fully fund the Maximum Settlement Amount, and by operation of the Agreement's
16 terms, and except as to such rights or claims as may be created by this Agreement, all Authorized
17 Claimants fully release and discharge the Released Persons from all Released Class Claims, whether
18 known or unknown during the Class Period. All PAGA Employees and the State will fully release
19 and discharge the Released Persons from all Released PAGA Claims upon approval of the
20 settlement of PAGA Claims in this Action. Plaintiff and Defendants stipulate and agree that the
21 consideration paid to the Class Members pursuant to this Agreement compensates the Class
22 Members for all wages and penalties due to them arising from the claims alleged in the operative
23 Complaint.

24 **VII. MISCELLANEOUS PROVISIONS**

25 **A. Amendments**

26 The terms and provisions of this Agreement may be amended only by a written agreement,

27 **B. Jurisdiction of the Court to Enforce Terms of Agreement**

28 The Parties stipulate and agree that the Court will retain jurisdiction to enforce the terms of

1 this Agreement following the entry of the Judgment pursuant to California Code of Civil Procedure
2 section 664.6. The Parties agree to the exclusive jurisdiction of the Court to enforce the terms and
3 conditions contained herein.

4 **C. Enforcement Actions**

5 In the event one or more of the Parties to this Stipulation institutes and legal action or other
6 proceeding against any other party or parties to enforce the provisions of this Stipulation, or to
7 declare rights and/or obligations under this Stipulation, the successful party or parties shall be
8 entitled to recover from the unsuccessful party or parties reasonable attorneys' fees and costs in
9 connection with any enforcement actions.

10 **D. No Inducements**

11 Plaintiff and Defendants acknowledge that they are entering into this Agreement as a free
12 and voluntary act without duress or undue pressure or influence of any kind or nature whatsoever
13 and that neither Plaintiff nor Defendants have relied on any promises, representations, or warranties
14 regarding the subject matter hereof other than as set forth in this Agreement.

15 **E. No Prior Assignment**

16 The Parties hereto represent, covenant, and warrant that they have not directly or indirectly,
17 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or
18 entity any portion of any liability, claim, demand, action, cause of action or rights herein released
19 and discharged except as set forth herein. If any claims are made by any Class Member between
20 the start of the Class Period and the date in which the Court approves the Settlement outlined in this
21 Agreement as final, such a claim will be deemed covered and released by the individual Class
22 Member making the claim unless such Class Member has timely exercised the right to be excluded
23 from this Agreement under the terms set forth herein. Any Class Member covered by this
24 Agreement will be barred from proceeding with any such claim.

25 **G. Representative Plaintiff's Personal Release**

26 As part of the Agreement, Representative Plaintiff Laura Campa grants the Release Persons
27 the Personal Release, as that term is defined in Section II herein.

28 With respect Representative Plaintiff's release of any and all claims under the Older Workers

Benefit Protection Act/Age Discrimination in Employment Act (“ADEA”)(“ADEA Release”), Representative Plaintiff specifically acknowledges that Defendants has advised her that under the ADEA, she has twenty-one (21) days from receipt of this Agreement to consider the ADEA Release before signing the Agreement. Representative Plaintiff may decide to sign the Agreement sooner and voluntarily waive the 21-day period provided by the ADEA. Representative Plaintiff further acknowledges that she has had the opportunity to make counter-proposals to the ADEA Release, and has been advised that she has seven (7) days after signing this Agreement to revoke the ADEA Release, and the ADEA Release shall not become effective or enforceable until the revocation period has expired. In the event Representative Plaintiff exercises the right to revocation, as discussed above, she must notify Defendants of such revocation in writing via facsimile and certified mail, return receipt requested. Said notification will be considered timely if post-marked no later than the seventh day after the Representative Plaintiff has signed this Agreement. The individual Representative Plaintiff’s ADEA Release will be null and void if revoked by him or her during said revocation period. The individual Representative Plaintiff’s revocation of the ADEA Release must be addressed to the attention of Defense Counsel at the address stated herein. In the event the individual Representative Plaintiff exercises revocation of the ADEA Release, said revocation shall have no effect on his or her Personal Release of any and all claims unrelated to the ADEA. If Representative Plaintiff exercises her right to revoke under this provision, she gives up the right to any Enhancement Payment under this Agreement. However, Representative Plaintiff is still entitled to participate in the Settlement as a Class Member.

I. Destruction of Informal Discovery

The Parties agree that in the event the Court does not approve the Settlement for any reason, or if the Settlement cannot be consummated for any reason, Class Counsel expressly agrees to either: (1) return all informally produced discovery by Defendants to Defendants or Defense Counsel; or (2) immediately destroy all informal discovery, and provide sufficient proof (such as a declaration under oath by Class Counsel) that the information was destroyed within 10 calendar days after becoming aware that the Settlement has failed to become final. Retaining any copy of direct or derivative information shall be a violation of this provision. Such informal

1 discovery shall include, but is not limited to: (1) the class list; (2) payroll and time records; (3)
2 written policies and procedures; and (4) information disclosed pursuant to the mediation and/or
3 settlement privilege. If Class Counsel fails to either destroy or return such information within a
4 reasonable time, the Parties expressly agree that Defense Counsel may apply to the Court to seek
5 enforcement of this specific provision (including any and all reasonable attorney's fees and costs
6 in seeking such enforcement).

7 If the Court approves the settlement, Plaintiff and Class Counsel agree to maintain the
8 information provided by Defendants only for as long as it is necessary to consummate and finalize
9 the approval process of the Settlement by the Court, up to and including the Effective Date. After
10 such time, the Parties agree that Class Counsel will return the information to Defendants or
11 Defense Counsel, or destroy the information (including any derivative information) as provided
12 herein, except as provided in Plaintiff's personnel file.

13 Plaintiff and Class Counsel agree to treat and maintain the information disclosed
14 confidentially, protect it, and take any and all reasonable steps to maintain it confidentially and
15 treat it as a trade secret. However, the Parties expressly agree that Class Counsel may disclose
16 such information to the Court as is necessary to consummate and finalize the approval process of
17 the Settlement by the Court.

18 **J. Review of Noticed Motions And/Or Other Pleadings**

19 Class Counsel expressly agrees that prior to any filing concerning the terms herein, including
20 but not limited to the Motion for Preliminary Approval and the Motion for Final Approval, it shall
21 e-mail a draft of said motion and/or pleading to Defense Counsel at least 7 calendar days prior to its
22 filing, with comments due two days prior to filing, unless the Court provides less than 14 days to
23 effectuate the filing of any such document, in which case the draft of such document will be provided
24 3 calendar days prior to its filing, and Defense Counsel shall provide comments one day prior to
25 filing.

26 **K. Counterparts**

27 This Agreement, and any amendments hereto, may be executed in any number of
28 counterparts, each of which when executed and delivered shall be deemed to be an original and all

1 of which taken together shall constitute but one and the same instrument. This Agreement will
2 become effective on the date when the last person signs and dates it.

3 **L. Applicable Law**

4 All terms and conditions of this Settlement and its exhibits will be governed by and
5 interpreted according to the laws of the State of California, without giving effect to any conflict of
6 law or choice of law principles.

7 **M. Confidentiality**

8 (a) The Plaintiff and Class Counsel agree not to discuss the Settlement amounts,
9 the terms of the Settlement, or any of the issues discussed during mediation or surrounding terms of
10 the Settlement or the amounts provided therein until the date of the filing of the Motion for
11 Preliminary Approval.

12 (b) Following Preliminary Approval, Plaintiff and Class Counsel agree that they
13 will not issue any press releases, initiate any contact with the press, respond to any press inquiry, or
14 have any communication with the press about this case or the facts, amount, or terms of the
15 Settlement. In addition, Plaintiff and Class Counsel agree that they will not engage in any advertising
16 or distribute any marketing materials relating to the Settlement, including but not limited to any
17 postings on any websites maintained by Class Counsel; provided, however, that Class Counsel may
18 state that it has settled a class action claim against a forging company so long as neither Defendant,
19 nor the Plaintiff are identified by name.

20 **N. Modification of Settlement**

21 This Settlement may not be changed, altered, or modified, except in writing and signed by
22 the Parties hereto, and approved by the Court. This Settlement may not be discharged except by
23 performance in accordance with its terms or by a writing signed by all of the Parties hereto.

24 **O. Construction**

25 The Parties hereto agree that the terms and conditions of this Settlement are the result of
26 lengthy, intensive, arms' length negotiations between the Parties and that this Settlement shall not
27 be construed in favor of or against any Party by reason of the extent to which any Party or his or
28 its counsel participated in the drafting of this Settlement.

This document, along with any exhibits attached hereto, constitutes the complete and entire Agreement between the parties pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions of their Agreement. Any and all prior agreements, representations, negotiations, and understandings between the parties, oral or written, express or implied, are hereby superseded and merged herein.

IN WITNESS WHEREOF, the parties hereto execute this Agreement and have caused this Agreement to be executed by their duly authorized representatives.

DATED: May 23, 2022

DEFENDANTS

DATED: May 23, 2022

DATED: May 23, 2022

By: Ryan Jensen
RYAN JENSEN

DATED: May 23, 2022

By: Erin Marie Jensen
ERIN MARIE JENSEN

APPROVED AS TO FORM:

1 DATED: May 23, 2022
2 _____

MANJLAI LAW, PC

3 By: Haroon Manjlai
4 Haroon Manjlai

5 DATED: May 23, 2022
6 _____

JACKSON LEWIS, P.C.

7 
8 By: _____
9 Adam Y. Siegel
10 J. Andrew Schaffer

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