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THE GAP, Inc.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO**

COURTNEY HAYNES, on behalf of herself
and all others similarly aggrieved employees,

Plaintiff,

v.

THE GAP, INC., a Corporation Doing
Business in California; and DOES 1-50,
Inclusive,

Defendants.

Case No.: 21CECG02615

**CLASS AND REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT**

Plaintiff COURTNEY HAYNES (“Plaintiff”), individually, and on behalf of all members of the Settlement Class (as defined herein), and Defendant THE GAP INC. (“Defendant”) hereby enter into this Class and Representative Action Settlement Agreement (“Settlement”) as follows:

I. DEFINITIONS

As used in this Settlement, the following terms shall have the following meanings:

1. “Action” means Plaintiff’s lawsuit alleging wage and hour violations against Defendant entitled *Courtney Haynes v. The Gap, Inc.*, Case No. 21CECG02615, filed on September 1, 2021, and pending in the Superior Court of California, County of Fresno.

2. “Class” and “Class Members” means all current and former non-exempt employees of Defendant who worked for Defendant at its Fresno Distribution Center buildings (the “FDC”) and/or its Pacific Distribution Center (“PDC”) in California at any time during the Class Settlement Period.

3. “Class Counsel” means Justin Lo and May To of Work Lawyers, PC.

4. “Class Data” means Class Member identifying information in Defendant’s possession, including the Class Member’s name, last-known mailing address, Social Security number, and number of Workweeks.

5. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in the form, without material variation except as may be ordered by the Court, attached as Exhibit A and incorporated by reference into this Agreement.

6. “Class Settlement Period,” “PAGA Settlement Period,” and “Settlement Period” each means the period from October 28, 2020 through the date of preliminary approval of the Settlement.

7. “Defense Counsel” means Jessica Perry, Kathryn G. Mantoan and Mariam Bicknell of Orrick, Herrington & Sutcliffe LLP.

8. “Effective Date” of the Settlement shall mean the date upon which all of the following have occurred: (i) the Superior Court of California for the County of Fresno, or other court assuming jurisdiction of this matter, enters a Judgement on its Order Granting Final Approval of the Settlement, (ii) the Court’s Judgment becomes Final, and (iii) Defendant has funded the Settlement with the Settlement Administrator. The Judgment shall be Final at the latest of: (i) if no Settlement Class

Member objects to the Settlement, the date Plaintiff files Notice of Entry of Judgment with the Court; (ii) if there is an appeal of the Court's Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the California Supreme Court, or, (iii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iv) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment. If a timely objection to Settlement is filed (including an objection from the LWDA), Effective Date shall be the later of: (a) the date on which the time for all appeals relating to objections to Settlement and the Order Granting Final Approval has expired; or (b) if an appeal, review or writ is sought, the date on which the highest reviewing court renders its decision denying any petition (where the immediately lower court affirmed the Judgment) or affirming the Judgment. Provided, however, if the LWDA has commenced an investigation or issued a citation prior to the Effective Date, as determined under the foregoing definition, the Effective Date will be extended to the date that the LWDA concludes its investigation or resolves the citation (whichever is later), or if the LWDA objects to the Settlement, the date when the LWDA's objection to the Settlement is resolved and no longer appealable.

9. "Final Approval" means the Court's order granting final approval of the Settlement.

10. "Gross Settlement Amount" means \$1,660,000.00 (One Million Six Hundred Sixty Thousand Dollars), which is the maximum total amount Defendant agrees to pay under the Settlement except as provided in Section V.F.

11. "Individual Class Settlement Share" means the Settlement Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Settlement Period.

12. "Individual PAGA Settlement Share" means the PAGA Employee's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the PAGA Settlement Period.

13. "Judgment" means the judgment entered by the Court based upon the Final Approval.

14. "LWDA" means the California Labor and Workforce Development Agency, the agency to receive a share of PAGA Fund under Labor Code § 2699, subd. (i).

1 15. “LWDA Payment” means the 75% (\$37,500.00) of the PAGA Fund that will be payable
2 to the LWDA pursuant to the Private Attorneys General Act of 2004 (“PAGA”) § 2699, subd. (i).

3 16. “Net Settlement Amount” means the Gross Settlement Amount, less the PAGA Fund,
4 Class Counsel’s attorneys’ fees and costs, Settlement Administration Costs, and the Service Award.

5 17. “PAGA Employees” means all current and former non-exempt employees of Defendant
6 who worked for Defendant at its Fresno Distribution Center buildings (the “FDC”) and/or its Pacific
7 Distribution Center (“PDC”) in California at any time during the PAGA Settlement Period.

8 18. “PAGA Fund” means \$50,000, the total amount of PAGA civil penalties to be paid from
9 the Gross Settlement Amount, allocated 25% to the PAGA Settlement Payment (\$12,500.00), and 75%
10 to the LWDA Payment (\$37,500.00) in settlement of PAGA claims.

11 19. “PAGA Settlement Payment” means the (\$12,500.00) of the PAGA Fund that will be
12 distributed to the PAGA Employees.

13 20. “Parties” collectively refers to Plaintiff and Defendant.

14 21. “Released Parties” means Defendant and each of its past, present, and future officers,
15 directors, employees, agents, representatives, principals, accountants, auditors, attorneys, insurers,
16 reinsurers, investors, shareholders, consultants, parent companies, acquirers, subsidiaries, affiliates,
17 divisions, predecessors, successors, assigns, and joint ventures.

18 22. “Request for Exclusion” means a Class Member’s submission of a written request to be
19 excluded from the Class Settlement signed by the Class Member.

20 23. “Settlement Administrator” means Phoenix Settlement Administrators, the neutral entity
21 the Parties have agreed to appoint to administer the Settlement.

22 24. “Settlement Class” and “Settlement Class Members” means all Class Members who do
23 not timely and properly opt out of the Settlement.

24 25. “Workweeks” means the number of weeks during which a Class Member worked for
25 Defendant during the Settlement Period, calculated by dividing the total number of calendar days in
26 which a Class Member worked for Defendant during the Settlement Period as a non-exempt employee at
27 the FDC and/or the PDC in California (less any days on a leave of absence) by seven.
28

II. RECITALS

A. On or about March 16, 2021, Plaintiff filed a notice of violation with the Labor Workforce Development Agency against Defendant alleging claims for failure to pay wages for all hours worked, including minimum, regular, and overtime wages; failure to provide meal and rest breaks; untimely pay during employment; inaccurate wage statements, untimely final pay, refusal to make and/or false denial of the amount of payments due, failure to provide proper notices to employees, and failure to reimburse reasonable and failure to necessary business expenses. The LWDA case number is LWDA-CM-825991-21. On or about September 1, 2021, Plaintiff filed a representative action Complaint in Fresno County Superior Court, Case No. 21CECG02615, against Defendant alleging a claim under the Private Attorneys General Act of 2004 (“PAGA”) predicated on the following alleged wage and hour violations: failure to provide meal periods and to pay meal premium pay at regular rate of pay for missed or improper meal periods; failure to provide rest breaks and to pay premium pay at regular rate of pay for missed or improper rest breaks; failure to provide complete and accurate wage statements; failure to pay overtime wages; failure to pay minimum wages; failure to timely pay wages during employment; and untimely final pay. For purposes of this Settlement only, Plaintiff agrees to submit to the Court a First Amended Complaint adding class and PAGA claims (as applicable) for all claims and theories alleged in the Action and/or Plaintiff’s March 16, 2021 notice to the LWDA, including claims that Defendant failed to keep accurate and complete time records; failed to pay for all hours worked, including minimum, regular, and overtime wages; failed to pay all amounts owed at the regular rate of pay at the proper rate; failed to maintain compliant meal period and/or rest break policies, failed to provide compliant meal periods and/or rest breaks, and failed to pay meal period and/or rest break premium pay for missed or improper meal periods and/or rest breaks; failed to properly record meal periods; failed to pay all wages earned on at least semimonthly paydays; refused to make and/or falsely denied the amount of payments due; failed to provide accurate wage statements; failed to provide proper notices regarding employee pay in violations of California Labor Code section 2810.5; failed to pay all earned and unpaid wages at separation from employment; failure to reimburse for all necessary business expenses; and ; and violation of California’s Unfair Competition Law pursuant to Business & Professions Code sections 17200, *et seq.* If the Settlement does not become Final (as defined above)

1 upon the Parties' best efforts, Plaintiff agrees to dismiss all claims and withdraw all allegations added in
2 the First Amended Complaint to restore Plaintiff to the position of her representative action Complaint
3 filed on September 1, 2021. Upon the Court's Order granting preliminary approval and deeming the
4 First Amended Complaint filed, the First Amended Complaint will be deemed the operative complaint
5 in the Action.

6 B. The Parties participated in a full-day of mediation with mediator Tripper Ortman on
7 November 16, 2022. With the assistance of the mediator, the Parties reached a settlement, which
8 included the material terms contained in this Settlement.

9 C. Based on their investigation and evaluation of this case, Class Counsel has concluded that
10 the settlement described in this Settlement is fair, reasonable, and adequate and is in the best interest of
11 the Class in light of all known facts and circumstances, defenses asserted by Defendant, adverse findings
12 regarding liability, and numerous potential appellate issues.

13 D. Neither this Settlement, nor any document referred to or contemplated herein, nor any
14 action taken to carry out the terms of this Settlement, is, may be construed as, or may be used as, an
15 admission, concession, or indication by or against Defendant or any of the Released Parties of evidence
16 of any unlawful conduct, fault, wrongdoing or liability whatsoever.

17 E. The Parties now desire to fully, finally, and forever settle, compromise, and discharge the
18 claims released in Section VI of this Settlement.

19 **NOW, THEREFORE**, in consideration of the mutual covenants, promises, and conditions set
20 forth, the parties agree as follows:

21 **III. NON-ADMISSION OF LIABILITY**

22 A. By entering into this Settlement, Defendant, on behalf of itself and all Released Parties,
23 denies any liability for any of the claims in the Action as well as any potential or unknown claims based
24 on wage and hour violations under state or federal law.

25 B. Defendant specifically denies that it or any of the Released Parties have engaged in any
26 unlawful or wrongful conduct against Plaintiff or the Class.

IV. STIPULATION TO CLASS CERTIFICATION SOLELY FOR PURPOSES OF THE SETTLEMENT

A. This Settlement is contingent upon approval of class certification under California Code of Civil Procedure Section 382 by the Court of the Class for settlement purposes only. Defendant does not waive, and instead expressly reserves, its right to challenge the propriety of class certification for any other purpose should the Court not approve the Settlement. Defendant contends that if this matter were to be litigated, class certification would be inappropriate, *inter alia*, because individual issues predominate as to each of the claims alleged in the Action.

B. The Parties stipulate to class certification for purposes of the Settlement only. If the Court does not grant preliminary and final approval of the Settlement, the Parties will not stipulate to class certification, and the Parties will resume litigation as if no settlement had been reached.

C. Evidence of this limited stipulation for settlement purposes only will not be deemed admissible for any purpose in this Action or any other proceeding.

V. TERMS OF SETTLEMENT

A. Gross Settlement Amount

1. Defendant shall pay a Gross Settlement Amount not to exceed \$1,660,000.00. The Gross Settlement Amount shall include all payments made to Settlement Class Members for wages (including overtime), penalties, interest, and liquidated damages; Class Counsel's attorneys' fees and costs; the PAGA Fund; Settlement Administration Costs; and the Service Award to Plaintiff. The Parties stipulate that beyond the Gross Settlement Amount, and with the exception of Defendant's portion of employer-side payroll taxes, Defendant shall not owe any further monies to the Settlement Class to resolve the Action and the Released Claims.

2. It is estimated that there are approximately 6,189 putative Class Members who collectively worked approximately 145,248 Workweeks between October 28, 2020 and the date of mediation (November 16, 2022.) The Parties agree that if the total number of actual Workweeks exceeds 10% of the estimated number as of the date of the mediation, then the Gross Settlement Amount will be increased by the same proportion above 10%. The Parties agree that the Workweek value amounts to \$11.43 per Workweek (\$1,660,000 / 145,248 Workweeks).

1 B. Class Counsel's Attorneys' Fees and Costs

2 1. Class Counsel shall request that the Court approve an award of attorneys' fees in
3 an amount not to exceed one-third (\$553,278.00) of the Gross Settlement Amount and actual costs not to
4 exceed \$20,000 upon proof of receipt. Defendant will not oppose this request. Class Counsel's
5 attorneys' fees and costs shall be paid out of the Gross Settlement Amount subject to approval by the
6 Court.

7 2. The Court's approval of Class Counsel's attorneys' fees and costs is not a
8 material term of the Settlement. If the Court does not approve or approves only a lesser amount than that
9 requested by Class Counsel for attorneys' fees or costs, the other terms of the Settlement shall still
10 apply. The Court's refusal to approve the Class Counsel's attorneys' fees or costs award requested by
11 Class Counsel does not give Plaintiff or Class Counsel any basis to abrogate the Settlement. Any amount
12 of the Class Counsel's attorneys' fees and costs award requested by Class Counsel but unapproved by
13 the Court shall be allocated to the Net Settlement Amount.

14 C. Service Award to Plaintiff

15 1. Class Counsel will request that the Court approve a Service Award to Plaintiff in
16 an amount not to exceed \$10,000.00 for her participation in the Action and in exchange for her
17 execution of general release of all claims against Defendant in her individual capacity and Civil Code
18 section 1542 as outlined in Section VI.C. Distribution of this Service Award shall be made at the
19 discretion of Class Counsel and the Court. Defendant will not oppose any request for the Service Award
20 to Plaintiff in an amount not to exceed \$10,000.00. The Service Award to Plaintiff shall be paid out of
21 the Gross Settlement Amount subject to approval by the Court.

22 2. The Service Award shall be allocated as 1099 income, which will not be subject
23 to payroll taxes and withholdings and will be reported on an IRS 1099 Form.

24 3. Plaintiff will be responsible for correctly characterizing the Service Award for tax
25 purposes and for paying any taxes owing on said amount.

26 4. The Court's approval of the Service Award is not a material term of the
27 Settlement. If the Court does not approve or approves a Service Award that is less than the amount
28 requested by Plaintiff, the other terms of the Settlement shall still apply. The Court's refusal to approve

1 the Service Award requested by Plaintiff does not give Plaintiff or Class Counsel any basis to abrogate
2 the Settlement. Any Service Award amount requested by Plaintiff but unapproved by the Court shall be
3 allocated to the Net Settlement Amount.

4 D. PAGA Fund

5 The PAGA Fund shall not exceed \$50,000.00, and Class Counsel shall request that the Court
6 approve an LWDA Payment not to exceed \$37,500.00 (75%) that shall be paid from the PAGA Fund.
7 Class Counsel shall request that the Court approve a PAGA Settlement Payment not to exceed
8 \$12,500.00 (25%) that shall be paid from the PAGA Fund for distribution to the PAGA Employees. The
9 PAGA Fund, which includes both the LWDA Payment and PAGA Settlement Payment, shall be paid
10 out of the Gross Settlement Amount.

11 E. Settlement Administration Costs

12 The Parties have selected Phoenix Settlement Administrators to be the third-party Settlement
13 Administrator. The Settlement Administration Costs shall not exceed \$45,000.00 except for a showing
14 of good cause and as approved by the Court. The Settlement Administrator shall disseminate the Class
15 Notice, handle the Class Data, update Class Members' mailing addresses before the initial mailing of the
16 Class Notice, calculate the pro rata portion of the Net Settlement Amount that each Settlement Class
17 Member would be entitled to receive as their Individual Class Settlement Share, calculate the pro rata
18 portion of the PAGA Settlement Payment that each PAGA Employee would be entitled to receive as
19 their Individual PAGA Settlement Share under the Settlement, prepare declarations regarding the
20 settlement administration, provide weekly status reports, resolve disputed claims, establish a Qualified
21 Settlement Fund account pursuant to Section 468B(g) of the internal Revenue service Code, issue
22 settlement checks, void uncashed settlement checks, submit sums represented by uncashed checks to the
23 California Controller's Unclaimed Property Fund in the name of the Class Member or PAGA Employee
24 thereby leaving no "unpaid residue" subject to the requirements of Code of Civil Procedure § 384, subd.
25 (b)., calculate the employer-side payroll taxes in connection with the wage portion of Individual Class
26 Settlement Shares, and issue to Settlement Class Members forms W-2 (for the wage portion of
27 Individual Class Settlement Shares) and forms 1099 (for the non-wage portion of Individual Class
28 Settlement Shares and Individual PAGA Settlement Shares) for all amounts paid under this Settlement.

1 The Settlement Administrator shall furnish its own Employer ID Number and calculate all settlement
2 checks and payroll deductions and withholdings required under law based on information that will be
3 confidentially furnished by Defendant.

4 F. Employer-Side Payroll Taxes

5 Defendant's portion of employer-side payroll taxes on that portion of the Individual Class
6 Settlement Share allocated to wages will be paid in addition to the Gross Settlement Amount.

7 G. Net Settlement Amount

8 After deducting the Court-approved sums for the Plaintiff's Service Award, Class Counsel's
9 attorneys' fees and costs, the PAGA Fund, and the Settlement Administration Costs from the Gross
10 Settlement Amount, the Net Settlement Amount will be distributed to Settlement Class Members and
11 PAGA Employees on a proportionate basis as described below without the need to return a claim form.

12 **VI. CLAIMS RELEASED BY THIS SETTLEMENT**

13 A. Released Class Claims

14 1. Upon the Effective Date, and except as to the right to enforce the terms and
15 conditions of the Settlement, each Settlement Class Member will release the Released Parties of all
16 claims, demands, rights, liabilities, and causes of action, whether known or unknown, that were or could
17 have been asserted against the Released Parties whether in tort, contract, or otherwise for violation of
18 federal, state or local law arising out of or reasonably relating to any facts, transactions, events, policies,
19 occurrences, acts, disclosures, statements, omissions, or failures to act pleaded in the Complaint
20 (including claims pleaded in the First Amended Complaint filed for the purposes of this Settlement only
21 and subject to the Court's order granting preliminary approval), including that Defendant failed to keep
22 accurate and complete time records; failed to pay for all hours worked, including minimum, regular, and
23 overtime wages; failed to pay all amounts owed at the regular rate of pay at the proper rate; failed to
24 maintain compliant meal period and/or rest break policies, failed to provide compliant meal periods
25 and/or rest breaks, and failed to pay meal period and/or rest break premium pay for missed or improper
26 meal periods and/or rest breaks; failed to properly record meal periods; failed to pay all wages earned on
27 at least semimonthly paydays; refused to make and/or falsely denied the amount of payments due; failed
28 to provide accurate wage statements; failed to provide proper notices regarding employee pay in

1 violations of California Labor Code section 2810.5; failed to pay all earned and unpaid wages at
2 separation from employment; refused to reimburse for all necessary business expenses; or engaged in
3 unfair business practices.

4 B. Released PAGA Claims

5 Upon the Effective Date, and except as to the right to enforce the terms and conditions of the
6 Settlement, each PAGA Employee will release the Released Parties of all claims pursuant to the Private
7 Attorneys General Act (codified in California Labor Code section 2698 et seq.) arising out of or
8 reasonably related to any facts, transactions, events, policies, occurrences, acts, disclosures, statements,
9 omissions, or failures to act pleaded in the Complaint (including claims pleaded in the First Amended
10 Complaint filed for the purposes of this Settlement only and subject to the Court's order granting
11 preliminary approval) and/or the LWDA Notice dated March 16, 2021 (Case No. LWDA-CM-825991-
12 21), including PAGA claims for: minimum, regular, and overtime wages; failure to pay all amounts
13 owed at the regular rate of pay at the proper rate; failure to maintain compliant meal period and/or rest
14 break policies, failure to provide compliant meal periods and/or rest breaks, and failure to pay meal
15 period and/or rest break premium pay for missed or improper meal periods and/or rest breaks; failure to
16 properly record meal periods; failure to pay all wages earned on at least semimonthly pay-days; refusal
17 to make and/or falsely denied the amount of payments due; failure to provide accurate wage statements;
18 failure to provide proper notices regarding employee pay in violations of California Labor Code section
19 2810.5; failure to pay all earned and unpaid wages at separation from employment; refusal to reimburse
20 for all necessary business expenses; or engaging in unfair business practices. Every PAGA Employee
21 will fully release the Released PAGA Claims regardless of their decision to participate in the Class
22 Settlement.

23 C. General Release by Plaintiff

24 In exchange for the Service Award, upon the Effective Date, and except as to the right to enforce
25 the terms and conditions of this Agreement, Plaintiff releases the Released Parties from any and all
26 charges, complaints, claims, causes of action, demands, disputes, damages, business expenses,
27 attorneys' fees, costs, losses, and liabilities of any kind or nature whatsoever, known or unknown,
28 suspected or unsuspected, asserted or unasserted, which Plaintiff, at any time, had, claimed to have, or

1 Plaintiff may have, including but not limited to any and all claims arising out of, relating to, or resulting
2 from her employment with and separation of employment with Released Parties, including any claims
3 arising under any federal, state, or local law relating to employment, including, but in no way limited to,
4 any claim under Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), 42 U.S.C. § 1981;
5 the Americans with Disabilities Act (“ADA”); the Family and Medical Leave Act (“FMLA”); the
6 Employee Retirement Income Security Act (“ERISA”); the California Family Rights Act (“CFRA”); the
7 California Fair Employment and Housing Act (“FEHA”); all claims for wages or penalties under the
8 Fair Labor Standards Act (“FLSA”); all claims for wages or penalties under the California Labor Code;
9 Business and Professions Code §§ 17200 et seq.; all laws relating to violation of public policy,
10 retaliation, or interference with legal rights; any and all other employment or discrimination laws;
11 whistleblower claims; any tort, fraud, or constitutional claims; and any breach of contract claims or
12 claims of promissory estoppel. It is agreed that this is a general release and is to be broadly construed as
13 a release of all claims; provided that, notwithstanding the foregoing, this paragraph expressly does not
14 include a release of any claims that cannot be released hereunder by law. Nothing in this Agreement
15 prohibits Plaintiff from filing a charge or complaint or communicating with a government agency where,
16 as a matter of law, Defendant may not restrict Plaintiff’s ability to do so. However, Plaintiff hereby
17 waives her right to any monetary benefits or recovery in connection with any such claim, charge or
18 proceeding, except this Agreement does not limit Plaintiff’s right to receive an award for information
19 provided to any government agencies. Plaintiff understands and expressly agrees that this Agreement
20 extends to claims that she has against Released Parties, of whatever nature and kind, known or
21 unknown, suspected or unsuspected, vested or contingent, past, present, or future, arising from or
22 attributable to an incident or event, occurring in whole or in part, on or before the Effective Date of this
23 Agreement. Any and all rights granted under any state or federal law or regulation limiting the effect of
24 this Settlement Agreement, including the provisions of section 1542 of the California Civil Code, are
25 hereby expressly waived. Section 1542 of the California Civil Code reads as follows:

26
27 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR
28 RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY

HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

VII. NOTICE TO SETTLEMENT CLASS MEMBERS

A. Defendant shall provide the Settlement Administrator, within thirty (30) days of preliminary approval, with the Class Data in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Settlement Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Settlement Administrator employees who need access to the Class Data to effect and perform under this Agreement. The Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

B. The Settlement Administrator will send the Class Notice to each Class Member by First Class U.S. Mail ("USPS") within twenty-one (21) days of receipt of the Class Data, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Settlement Share and/or Individual PAGA Settlement Share payable to the Class Member, and the number of Workweeks used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

C. To provide the best notice practicable, no later than three business (3) days after the Settlement Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Settlement Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search by skip tracing using the Class Member's Social Security Number, and re-mail the Class Notice to the most current address obtained. The Settlement Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time. If no current address can be located, the Class Notice for that individual will be deemed undeliverable. If a Class Member cannot be located within two attempts at mailings by the Settlement Administrator, the Class Notice for that individual will be deemed undeliverable and the Class Member will remain bound by the Settlement.

1 D. On the remailing of Class Notices by the Settlement Administrator to an updated mailing
2 address, the Settlement Administrator shall keep a record of the postmark mailing dates of such remailed
3 Class Notices and keep track of all undelivered Class Notices.

4 E. The deadlines for Class Members' written objections, challenges to Workweeks, and
5 Requests for Exclusion will be extended an additional 10 calendar days beyond the 45 days otherwise
6 provided in the Class Notice for all Class Members whose notice is re-mailed. The Settlement
7 Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

8 **VIII. COMPUTATION AND DISTRIBUTION OF NET SETTLEMENT AMOUNT AND**
9 **CLASS COUNSEL PAYMENT**

10 A. Deposit of Gross Settlement Amount

11 1. The Settlement Administrator shall establish a Qualified Settlement Fund account
12 pursuant to Section 468B(g) of the Internal Revenue Service Code for the purpose of administering the
13 Settlement, into which the Gross Settlement Amount will be deposited.

14 2. Within twenty-one (21) calendar days after the Court's Judgment become Final
15 (as described in definition 8, Section I, *supra*), Defendant shall deposit the Gross Settlement Amount
16 into the Qualified Settlement Fund.

17 B. Formula For Calculating Individual Class Settlement Share

18 The portion of the Net Settlement Amount available to pay the Individual Class Settlement
19 Shares to Settlement Class Member shall be determined as follows:

20 1. Each eligible Settlement Class Member's Individual Class Settlement Share will
21 be determined based on the number of Workweeks he or she worked for Defendant during the Class
22 Settlement Period. Defendant's employment records shall be determinative for purposes of calculating
23 the number of Class Workweeks. Partial Workweeks will be counted as full Workweeks.

24 2. Within fourteen (14) calendar days after Final Approval of the Settlement, the
25 Settlement Administrator shall calculate each Settlement Class Member's Individual Class Settlement
26 Share. Individual Class Settlement Shares shall be determined by dividing the Net Settlement Amount
27 by the total number of Workweeks worked by all Settlement Class Members, and then multiplying the
28 result by each Settlement Class Member's individual Class Workweeks.

1 C. Formula for Calculating PAGA Settlement Shares

2 The portion of the PAGA Settlement Payment paid to each PAGA Employee shall be determined
3 as follows:

4 1. Each PAGA Employee's Individual PAGA Settlement Share will be determined
5 based on the number of Workweeks he or she worked for Defendant during the PAGA Settlement
6 Period. Defendant's employment records shall be determinative for purposes of calculating the number
7 of Workweeks. Partial Workweeks will be counted as full Workweeks.

8 2. Within fourteen (14) calendar days after Final Approval of the Settlement, the
9 Settlement Administrator shall calculate each PAGA Employee's Individual PAGA Settlement Share.
10 Individual PAGA Settlement Shares shall be determined by dividing the PAGA Settlement Payment
11 (\$12,500.00) by the total number of Workweeks worked by all PAGA Employees during the PAGA
12 Settlement Period, and then multiplying the result by each PAGA Employee's individual Workweeks.

13 D. Distribution of Individual Class Settlement Shares and Individual PAGA Settlement
14 Shares

15 1. The Settlement Administrator shall distribute the settlement checks containing
16 each Settlement Class Member's Individual Class Settlement Share and each PAGA Employee's PAGA
17 Settlement Share within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount.
18 The Settlement Administrator shall furnish its own Employer ID Number and calculate all settlement
19 checks and payroll deductions and withholdings required under law based on information that will be
20 confidentially furnished by Defendant.

21 2. All settlement checks will expire after one hundred eighty (180) days of issuance,
22 after which point they will be cancelled. Any settlement checks that have not been cashed, deposited, or
23 otherwise negotiated within the 180-day period will be transmitted to the California Controller's
24 Unclaimed Property Fund unless otherwise ordered by the Court.

25 3. The Settlement Administrator will prepare all necessary tax reporting and
26 documentation with respect to payments made pursuant to this Agreement. The Settlement
27 Administrator will provide the requisite IRS Forms 1099 and W2 to Settlement Class Members and
28 PAGA Employees with their Individual Class Settlement Shares and Individual PAGA Settlement

1 Shares. The tax documents shall reflect payment for the year in which payment is made pursuant to this
2 Settlement.

3 4. For the pro rata portion of the Net Settlement Amount paid to Settlement Class
4 Members, the Parties agree that, for purposes of this Settlement, 70% will be allocated to 1099 income
5 and 30% will be allocated to W-2 income and subject to withholding. For the pro rata portion of the
6 PAGA Settlement Payment paid to PAGA Employees, the Parties agree that, for purposes of this
7 Settlement, 100% will be allocated to 1099 income.

8 5. For the portion of the Individual Class Settlement Share allocated to wages, the
9 Settlement Administrator shall be responsible for submitting the appropriate amount of the employees'
10 and employer's share of payroll taxes and withholdings to the appropriate state and federal tax
11 authorities.

12 6. None of the payments made pursuant to this Settlement will be considered for
13 purposes of determining eligibility for, vesting or participation in, calculation of, or contributions to any
14 welfare or benefit plans, including, without limitation, all plans, subject to ERISA. The Parties agree that
15 these payments do not represent any modification of any employee's previously-credited hours of
16 service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit
17 plan, or other program or policy. These payments also will not be considered wages, compensation, or
18 annual earnings for benefits in any year for purposes of determining eligibility for, or benefit accrual
19 within, any employee pension benefit plan, employee welfare benefit plan, or other program or policy.

20 E. Class Counsel Payment

21 The Class Counsel Payment shall be distributed within fifteen (15) calendar days after Defendant
22 funds the Gross Settlement Amount.

23 F. Settlement Administration Payment

24 Within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount, the
25 Settlement Administrator shall deduct the Court-approved sum for payment of its fee for administering
26 the Settlement pursuant to its terms.
27
28

IX. OBJECTIONS AND OPTING OUT OF THE SETTLEMENT

A. Objections to the Settlement

1. Settlement Class Members desiring to object to the Settlement must submit written objections to the Settlement, postmarked no later than 45 calendar days after the Class Notice of Settlement is mailed. Only Settlement Class Members will be able to object to the Settlement.

2. Settlement Class Members may also appear at the Final Fairness Hearing to present any objections.

B. Requests to Be Excluded From the Settlement

1. Class Members who wish to exclude themselves from the Class Settlement must send the Settlement Administrator, by email, fax or mail, a signed written Request for Exclusion no later than 45 calendar days after the Settlement Administrator mail the Class Notice (plus an additional 10 calendar days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that clearly communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name and address. To be valid, a Request for Exclusion must be timely emailed, faxed or postmarked by the Response Deadline.

2. Class Members who timely submit a Request for Exclusion from the Settlement may not also submit an objection to the Settlement as the Settlement no longer affects them.

3. A Request for Exclusion will exclude the Class Member from receiving an Individual Class Settlement Share and that Class Member will not have released the Released Claims. However, a Class Member who submits a Request for Exclusion will still receive an Individual PAGA Settlement Share and will release the PAGA claims in Section VI.B of this Agreement.

C. Challenges to Calculation of Workweeks.

Each Class Member shall have 45 calendar days after the Settlement Administrator mails the Class Notice (plus an additional 10 calendar days for Class Members whose Class Notice is re-mailed) to challenge the number of Workweeks allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Settlement Administrator via email, fax or mail. The Settlement Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Settlement Administrator

1 is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are
2 consistent with the Class Data. The Settlement Administrator's determination of each Class Member's
3 allocation of Workweeks shall be final and not appealable or otherwise susceptible to challenge. The
4 Settlement Administrator shall promptly provide copies of all challenges to the calculation of
5 Workweeks to Defense Counsel and Class Counsel and the Settlement Administrator's determination of
6 the challenges.

7 D. Defendant's Right to Revoke

8 Defendant shall retain the right, in the exercise of its sole discretion, to nullify the Settlement
9 within fifteen (15) calendar days after the 45-day deadline (plus an additional 10 calendar days for Class
10 Members whose Class Notice is re-mailed) for Class Members to timely submit Request For Exclusion
11 if five percent (5%) or more of the Class Members submit timely and valid Requests for Exclusion.

12 **X. SCHEDULE FOR SEEKING COURT APPROVAL AND FINAL FAIRNESS HEARING**

13 The following procedures for obtaining the Court's approval shall be implemented with respect
14 to the Settlement, notifying the Class, and processing all benefits provided under this Settlement:

15 A. Stay of All Litigation

16 Pending preliminary and Final Approval of the Settlement, the Parties agree that there will be a
17 stay of all litigation activity. The Parties will request that the Court, in its preliminary approval of this
18 Settlement, enjoin Class Members from initiating or prosecuting any proceeding on any claim to be
19 released pursuant to this Settlement, unless and until the Class Member has opted out of the Class in the
20 manner described above.

21 B. Request for Court Approval

22 Class Counsel will prepare and file a motion for preliminary approval and a motion for Final
23 Approval, and share a draft of the motions with Defense Counsel at least 10 business days prior to filing
24 so that Defense Counsel has time to provide Class Counsel with comments. Class Counsel shall
25 seriously consider in good faith Defense Counsel's comments prior to filing either motion.

26 C. Duties of the Parties Following Final Court Approval

27 Following Final Approval of the Settlement, Class Counsel will submit a [proposed] Final Order
28 and Judgment that is mutually agreeable to the Parties approving the Settlement, adjudicating the terms

thereof to be fair, reasonable and adequate, directing consummation of all terms and provisions in this Settlement and without affecting the finality of the Order Granting Final Approval and Judgment, allowing the Court to retain jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation and enforcement of the Final Approval Order and the Settlement Agreement.

XI. MISCELLANEOUS PROVISIONS

A. Tax Treatment and Tax Indemnification

Defendant is not giving any tax advice in connection with the Settlement or any payments to be made pursuant to this Settlement. Settlement Class Members will be responsible for correctly characterizing the Individual Class Settlement Share and Individual PAGA Settlement Share for tax purposes and paying taxes due, if any.

B. Mutual Full Cooperation

Plaintiff, Defendant, Class Counsel and Defense Counsel agree to fully cooperate with each other to accomplish the terms of this Settlement, including, but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms herein. The Parties agree to use their best efforts and any other efforts that may become necessary by Order of the Court, or otherwise, to effectuate the terms of this Settlement.

C. Parties' Authority

The signatories hereto represent that they are fully authorized to enter into this Settlement and are fully authorized to bind Plaintiff, Settlement Class, and Defendant to all terms stated herein.

D. Binding Nature of the Settlement

1. This Settlement shall be binding upon, and inure to the benefit of, the successors or assigns of the Released Parties. Plaintiff represents, covenants, and warrants that she has not directly or indirectly, assigned, transferred, encumbered, any of the Released Claims.

2. This Settlement shall be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding the mediation confidentiality provisions that otherwise might apply under federal or state law. Notwithstanding the foregoing, this Settlement may not be admitted into

1 evidence or used in any proceeding except an action, motion or proceeding to approve, interpret or
2 enforce the terms of this Settlement.

3 3. This Settlement may be amended or modified only by a written instrument signed
4 by Class Counsel, Plaintiff, Defense Counsel and Defendant. No rights under this Settlement may be
5 waived except in writing.

6 E. Joint Drafting of Settlement Documents

7 1. Class Counsel and Defense Counsel have arrived at this Settlement as a result of a
8 series of informed and arm's-length negotiations, taking into account all relevant factors, present and
9 potential.

10 2. This Settlement has been drafted jointly by Class Counsel and Defense Counsel
11 and, therefore, in any construction or interpretation of this Settlement, the same shall not be construed
12 against any of the Parties.

13 3. Plaintiff and Class Counsel agree that none of the documents provided to them by
14 Defendant shall be used for any purpose other than the prosecution and Settlement of this Action.

15 F. Execution of the Settlement

16 This Settlement may be executed in one or more counterparts and by facsimile. All executed
17 copies of this Settlement and photocopies thereof shall have the same force and effect and shall be as
18 legally binding and enforceable as the original.

19 G. Waiver of Appeals

20 The Parties and their counsel agree to waive any appeals upon entry of Final Judgment in the
21 Action.

22 H. Continuing Jurisdiction

23 The Court shall retain continuing jurisdiction over this case to ensure the continuing
24 implementation of the provisions of the Settlement.

25 I. No Undue Publicity

26 Neither the Plaintiff nor Class Counsel shall publicize, or cause to be publicized, directly or
27 indirectly, the discussions resulting in or the existence of this Settlement or its terms, in any type of mass
28 media, including, but not limited to, speeches, press conferences, press releases, interviews, television or

radio broadcasts, newspapers, messages on the Internet, Facebook, Twitter or any other social media, Class Counsels' or any other website. Breach of this provision shall entitle Defendant in the exercise of their discretion, to nullify the Settlement at any time before Final Approval by the Court. Should Plaintiff or Class Counsel at any time breach this provision, Plaintiff shall forfeit to Defendant the full amount of her Service Award. Without limitation by the foregoing, Defendant also may enforce this provision through an action for injunctive relief. Plaintiff waives any obligation by Defendant to file a bond in connection with any such action. If contacted by the media regarding the Settlement, Plaintiff and Class counsel will state only "It was a fair settlement and we are happy with the results," or something to that effect. Nothing in this Agreement shall prohibit Plaintiff from exercising protected rights under California law, the National Labor Relations Act, or the federal securities laws to the extent that these rights cannot be waived by agreement, or from complying with any applicable law or regulation or a valid order of a court of competent jurisdiction or an authorized government agency, provided that such compliance does not exceed that required by the law, regulation, or order. Further, nothing in this Agreement shall prohibit Plaintiff from providing truthful information as required by law in a legal proceeding or a government investigation or proceeding.

J. Disputes

Any disputes arising out of or relating to this Settlement will be submitted to Tripper Ortman for mediation. The parties will split the costs of the mediator and all Parties will bear their own attorneys' fees and other costs incurred, except as otherwise provided herein in Paragraph V.B.

Dated: February __, 2023
2/26/2023

PLAINTIFF, on behalf of herself and the Class

DocuSigned by:

Courtney Haynes

B9032DBE07F64EE

COURTNEY HAYNES

Dated: February __, 2023

THE GAP, INC.

By: _____

Its: EVP, Chief Legal Officer

1 **APPROVED AS TO FORM:**

2
3 **WORK LAWYERS, PC**

4
5 Dated: February __, 2023
6 2/26/2023

DocuSigned by:
Justin Lo
By: 851114C5405E4A4...
Justin Lo
May T. To
Attorneys for Plaintiff Courtney Haynes

7
8 **ORRICK, HERRINGTON & SUTCLIFFE LLP**

9
10 Dated: February __, 2023

By: _____
Jessica Perry
Attorneys for Defendant The Gap, Inc.

radio broadcasts, newspapers, messages on the Internet, Facebook, Twitter or any other social media, Class Counsels' or any other website. Breach of this provision shall entitle Defendant in the exercise of their discretion, to nullify the Settlement at any time before Final Approval by the Court. Should Plaintiff or Class Counsel at any time breach this provision, Plaintiff shall forfeit to Defendant the full amount of her Service Award. Without limitation by the foregoing, Defendant also may enforce this provision through an action for injunctive relief. Plaintiff waives any obligation by Defendant to file a bond in connection with any such action. If contacted by the media regarding the Settlement, Plaintiff and Class counsel will state only "It was a fair settlement and we are happy with the results," or something to that effect. Nothing in this Agreement shall prohibit Plaintiff from exercising protected rights under California law, the National Labor Relations Act, or the federal securities laws to the extent that these rights cannot be waived by agreement, or from complying with any applicable law or regulation or a valid order of a court of competent jurisdiction or an authorized government agency, provided that such compliance does not exceed that required by the law, regulation, or order. Further, nothing in this Agreement shall prohibit Plaintiff from providing truthful information as required by law in a legal proceeding or a government investigation or proceeding.

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Any disputes arising out of or relating to this Settlement will be submitted to Tripper Ortman for mediation. The parties will split the costs of the mediator and all Parties will bear their own attorneys' fees and other costs incurred, except as otherwise provided herein in Paragraph V.B.

Dated: February __, 2023

PLAINTIFF, on behalf of herself and the Class

COURTNEY HAYNES

Dated: February 27/2023

THE GAP, INC.

Julie Gruber

By: _____
Julie Gruber

Its: EVP, Chief Legal Officer

1 **APPROVED AS TO FORM:**

2
3 **WORK LAWYERS, PC**

4
5 Dated: February __, 2023

6 By: _____
Justin Lo
May T. To
Attorneys for Plaintiff Courtney Haynes

7
8 **ORRICK, HERRINGTON & SUTCLIFFE LLP**

9
10 Dated: February __, 2023

11 By: _____
Jessica Perry
Attorneys for Defendant The Gap, Inc.

EXHIBIT A

Courtney Haynes v. The Gap, Inc.
Fresno County Superior Court, Case No. 21CECG02615



<<PSA ID>>

<<First Last>>

<<Address>>

<<City, State, Zip, Country>>

Name/Address Changes (if any):

NOTICE OF CLASS AND PAGA ACTION SETTLEMENT

If you worked for The Gap, Inc. as a non-exempt employee at the Fresno Distribution Center buildings at any time between October 28, 2020, and [REDACTED], you may be entitled to receive money from a Class and PAGA Action Settlement.

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

PLEASE READ THIS NOTICE.

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

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE SETTLEMENT PAYMENT	You are not required to take action to receive a payment. If you do nothing, you will automatically receive a payment from the Settlement if the Court finally approves the Settlement. In exchange, you will be bound by the Settlement including the release of all claims covered by the Settlement.
REQUEST EXCLUSION FROM THE SETTLEMENT	If you request to be excluded from the Settlement, you will receive a smaller or no payment from the Settlement. You will keep your right to sue Defendant separately about the legal claims in this Lawsuit, except as to the claim under the California Private Attorneys' General Act of 2004 ("PAGA"). If you choose this option, you must exclude yourself, in writing, from the Settlement. At most, you will receive a small payment for resolution of the PAGA claim if you are a member of the PAGA Employees, which is a subset of the Class.
OBJECT TO THE SETTLEMENT	If you wish to object to the Settlement, you may submit a written objection and supporting papers to the Settlement Administrator. Any written objections will be provided to the Court. You may also offer your oral comments or objections at the Final Approval Hearing. In order to object, you must not have excluded yourself from the Settlement.

1. Why should you read this notice?

A proposed settlement (the "Settlement") has been reached in a class and representative action lawsuit entitled *Courtney Haynes v. The Gap, Inc.*, Fresno County Superior Court Case No. 21CECG02615 (the "Lawsuit"). The Defendant in the Lawsuit is The Gap, Inc. (referred in this Notice as "Defendant.") The Court has granted

preliminary approval of a “Settlement Class” and “PAGA Employees” defined as follows:

All current and former non-exempt employees who worked for The Gap, Inc. at its Fresno Distribution Center buildings at any time between October 28, 2020, and [REDACTED].

Defendant’s employment records indicate that you meet this definition, which makes you a member of the Settlement Class (referred to in this Notice as a “Class Member”) and possibly a member of the group of PAGA Employees. The Court directed that this Notice be sent to all Class Members and PAGA Employees to inform you about the case and your rights and options before the Court decides to approve the Settlement. If the Court approves the Settlement, and after any appeals are resolved, payments will be made to Class Members who have not opted out of the Settlement and to all PAGA Employees. This Notice explains the Lawsuit, the Settlement, your legal rights and options, what benefits are available and how to get them.

2. What is this Lawsuit about?

On [REDACTED], Plaintiff Courtney Haynes filed a First Amended Complaint (“Operative Complaint”) alleging that Defendant failed to keep accurate and complete time records; failed to pay for all hours worked, including minimum, regular, and overtime wages; failed to pay all amounts owed at the regular rate of pay at the proper rate; failed to maintain compliant meal period and/or rest break policies, failed to provide compliant meal periods and/or rest breaks, and failed to pay meal period and/or rest break premium pay for missed or improper meal periods and/or rest breaks; failed to properly record meal periods; failed to pay all wages earned on at least semimonthly paydays; refused to make and/or falsely denied the amount of payments due; failed to provide accurate wage statements; failed to provide proper notices regarding employee pay in violations of California Labor Code section 2810.5; failed to pay all earned and unpaid wages at separation from employment; refused to reimburse for all necessary business expenses; or engaged in unfair business practices and owed civil penalties under PAGA. Defendant vigorously denies all the claims and contentions made in the Lawsuit and maintains it has fully complied with all applicable laws.

3. Why is there a Settlement?

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

4. What are the terms of the Settlement?

Defendant will pay One Million Six Hundred Sixty Thousand Dollars and Zero Cents (\$1,660,000.00) to settle the Lawsuit (the “Gross Settlement Amount”). The Gross Settlement Amount includes: (a) payments to Settlement Class Members (*i.e.* Class Members who do not opt-out of the Settlement); (b) a Service Award to the Class Representative; (c) the Class Counsel’s attorneys’ fees and costs; (d) a payment to the California Labor and Workforce Development Agency (“LWDA”) for civil penalties brought under PAGA; (e) payments to the PAGA Employees; and (f) the costs of the Settlement Administrator. Defendant will pay its portion of all payroll taxes resulting from the Settlement in addition to the Gross Settlement Amount.

The Court has preliminarily approved the following payments from the Gross Settlement Amount: (1) Class Counsel will request that the Court award Class Counsel up to one-third (1/3) of the Gross Settlement Amount, currently estimated at \$553,278.00 in attorneys’ fees and up to \$20,000.00 in actual litigation costs; (2) \$45,000.00

for Settlement Administration Costs for the third-party Settlement Administrator; (3) up to \$10,000.00 Service Award for the Class Representative in recognition of, among other things, her time and service to the Class in pursuing the Lawsuit and in fulfilling her obligations as the Class Representative; and (4) \$50,000.00 (the “PAGA Fund”) to resolve the claims under PAGA, of which \$12,500.00 will be distributed to the PAGA Employees and \$37,500.00 will be paid to the LWDA (“LWDA Payment”). This split of the PAGA Fund between PAGA employees and the LWDA is required by California law. The final amounts of these various payments are all subject to the Court’s Final Approval of the Settlement.

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

5. How much can I expect to receive?

Each Settlement Class Member who has not opted out of the Settlement will receive a *pro rata* share of the Net Settlement Amount based on the number of workweeks he or she worked for Defendant at any time between October 28, 2020, and [REDACTED] (“Settlement Period.”). To calculate a Settlement Class Member’s Individual Class Settlement Share, the Net Settlement Amount will be divided by the aggregate total number of workweeks worked by all Settlement Class Members, and the result will be multiplied by each Settlement Class Member’s individual Class workweeks.

Your Class workweeks are: <<Workweeks>>

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

Plaintiff and Defendant are asking the Court to approve an allocation of 30% of each Individual Class Settlement Share to taxable wages (“Wage Portion”) and 70% to penalties and interest (“Non-Wage Portion.”) The Wage Portion is subject to tax withholdings and will be reported on IRS Form W-2; the Non-Wage Portion is not subject to tax withholdings and will be reported on an IRS Form 1099. Defendant will separately pay employer-side payroll taxes it owes on the Wage Portion.

Each PAGA Employee will receive a *pro rata* share of the PAGA Payment based on the number of workweeks he or she worked during the Settlement Period, defined according to the number of workweeks in which a PAGA Employee worked for one or more day. To calculate a PAGA Employees’ Individual PAGA Settlement Share, the PAGA Payment will be divided by the aggregate total number of workweeks worked by all PAGA Employees, and the result will be multiplied by each PAGA Employee’s individual workweeks.

Your PAGA workweeks are: <<Workweeks>>

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

The Individual PAGA Settlement Share is not subject to tax withholdings, and will be reported on an IRS Form 1099.

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

6. What if I disagree with the number of workweeks credited to me in this Notice?

The number of workweeks you worked during the Settlement Period are based on Defendant's business records. You have until [REDACTED] to challenge the number of workweeks credited to you. You must submit your challenge by signing and sending a letter to the Settlement Administrator via email, fax or mail at the address provided below. You must include in your letter: (1) your full name, address, telephone number, and last four digits of the Social Security number; and (2) supporting documentation (e.g., copies of your pay stubs).

The Parties and the Settlement Administrator will promptly evaluate the evidence you submit to challenge the number of workweeks credited to you. The Settlement Administrator will resolve workweek challenges. The Settlement Administrator's decision is final. You cannot appeal or otherwise challenge its final decision.

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

The Settlement Administrator will issue checks for the Individual Class Settlement Shares and Individual PAGA Settlement Shares and will send them to every Settlement Class Member who does not opt out and every PAGA Employee, via First Class U.S. Mail, postage prepaid.

Your check will be sent to the same address as this Notice. If you change your address, or if this notice was not mailed to your correct address, you should immediately provide your current address to the Settlement Administrator at (800) ###-####, or at the address provided below.

8. What claims are being released by the Settlement?

If the Court grants final approval of the Settlement and you do not opt out of the Settlement, you will be deemed to have released Defendant, including its past, present, and future officers, directors, employees, agents, representatives, principals, accountants, auditors, attorneys, insurers, reinsurers, investors, shareholders, consultants, parent companies, acquirers, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint ventures ("Released Parties") from of all claims, demands, rights, liabilities, and causes of action, whether known or unknown, that were or could have been asserted against the Released Parties whether in tort, contract, or otherwise for violation of federal, state or local law arising out of or reasonably relating to any facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions, or failures to act pleaded in the Complaint (including claims pleaded in the First Amended Complaint filed with the preliminary approval for the purposes of this Settlement only and subject to the Court's order granting preliminary approval), including that Defendant failed to keep accurate and complete time records; failed to pay for all hours worked, including minimum, regular, and overtime wages; failed to pay all amounts owed at the regular rate of pay at the proper rate; failed to maintain compliant meal period and/or rest break policies, failed to provide compliant meal periods and/or rest breaks, and failed to pay meal period and/or rest break premium pay for missed or improper meal periods and/or rest breaks; failed to properly record meal periods; failed to pay all wages earned on at least semimonthly paydays; refused to make and/or falsely denied the amount of payments due; failed to provide accurate wage statements; failed to provide proper notices regarding employee pay in violations of California Labor Code section 2810.5; failed to pay all earned and unpaid wages at separation from employment; refused to reimburse for all necessary business expenses; or engaged in unfair business practices ("Released Claims").

Additionally, if the Court grants final approval of the Settlement, you will release the right to bring a claim for civil penalties on behalf of the State (and other employees) based on the same facts or theories as the Released Claims, which arose during the Settlement Period, even if you have formally opted out of being a Settlement Class Member. PAGA Employees cannot opt out of or object to the foregoing PAGA Release.

9. How do I ask to be excluded from the Settlement?

If you are a Class Member and would like to exclude yourself from the Class, you can request to be excluded from (or “opt out of”) the Settlement by mailing a written Request for Exclusion to the Settlement Administrator. If you exclude yourself, you will not receive your Individual Class Settlement Share, you will not be bound by the Class Release, and you will not have any right to object, appeal, or comment on the Settlement. To be valid, your Request for Exclusion must include: (1) your full name, address, and last four digits of the Social Security number; (2) a clear statement that you wish to opt out of, or be excluded from, the Settlement in *Haynes v. The Gap, Inc.*, Fresno County Superior Court Case No. 21CECG02615; (3) a clear statement that you understand that by opting out you will not receive any monies from the settlement; and (4) your signature. To be timely, a Request for Exclusion must be postmarked, emailed or faxed to the Settlement Administrator, at the address provided below, on or before [REDACTED].

You may not exclude yourself from the PAGA Employees and will be bound by the PAGA Released Claims if the Court grants final approval of the Settlement.

10. How do I object to the Settlement?

If you are a Class Member and would like to remain a part of the Settlement Class and object to the Settlement, you must not submit a Request for Exclusion. To object, you may submit a written objection to the Settlement Administrator stating why you object to the Settlement, or you may simply appear at the Final Approval Hearing set for [REDACTED] in the Fresno County Superior Court and discuss your objection with the Court and the Parties at your own expense. Written objections must include: (i) your full name, current address, and last four digits of the Social Security number; (ii) the approximate dates of your employment at Defendant; (iii) the case name and number (e.g., *Haynes v. The Gap, Inc.*, Fresno County Superior Court Case No. 21CECG02615); (iv) a written statement of all grounds for the objection accompanied by any legal support for such objection; (iv) copies of any papers, briefs, or other documents on which the objection is based, if any; (v) your signature; and (vi) a statement of whether you intend to appear at the Final Approval Hearing, either in person or by counsel. To be timely, a written objection must be postmarked, emailed or faxed to the Settlement Administrator, at the address provided below, on or before [REDACTED].

If you would like to appear at the Final Approval Hearing remotely, please visit the Fresno County Superior Court’s website located at <https://www.fresno.courts.ca.gov/general-information/covid-19> for the latest information regarding the Covid-19 protocols for an in-person appearance and scheduling a remote appearance in this matter. Remote Appearance Information can be obtained from <https://www.fresno.courts.ca.gov/divisions/civil/remote-appearance-information>.

11. Who are the attorneys representing the Plaintiff, Settlement Class Members, and PAGA Employees?

The Court has appointed the following lawyers as “Class Counsel” to represent all Settlement Class Members and PAGA Employees. You will not be charged for these lawyers.

Justin Lo, Esq.
May To, Esq.
WORK LAWYERS, PC
22939 Hawthorne Blvd., Suite 202
Torrance, CA 90505
Telephone: (310) 248-2944

12. How will Class Counsel be paid?

As part of the Settlement, Class Counsel has requested attorneys' fees up to one-third (1/3) of the Gross Settlement Amount currently estimated to be \$553,278.00 plus reimbursement of reasonable, actual out-of-pocket costs incurred in the litigation, up to \$20,000.00, to be paid from the Gross Settlement Amount to compensate Class Counsel for prosecuting this Lawsuit on a contingency fee basis (that is, without being paid any money to date) and paying all litigation costs to date. The Court will decide the amount of fees and expenses to award at the Final Approval Hearing.

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

The Court has preliminarily approved the settlement and will hold a hearing, called a Final Approval Hearing, to decide whether to give final approval to the Settlement. The Court will hold the Final Approval Hearing on [REDACTED], in Department 403 of the Fresno County Superior Court located at the B.F. Sisk Courthouse, 1130 O Street, Fresno, CA 93721-2220, before the Honorable Kristi Culver Kapetan. At the Final Approval Hearing, the Court will rule on Class Counsel's request for attorneys' fees and litigation costs, the Class Representative Service Award, the PAGA Fund, and the Settlement Administration Costs, as well as whether to grant final approval of the Settlement.

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

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

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

15. What is the Settlement Administrator's address?

Any Request for Exclusion, Objection to the Settlement, workweek challenges, address change request, or any other correspondence intended for the Settlement Administrator must be mailed, emailed, or faxed to the Settlement Administrator at the following address:

Haynes v. The Gap, Inc.
Phoenix Settlement Administrators
 P.O. Box 7208
 Orange, CA, 92863
Telephone: (800) 523-5773
<https://www.phoenixclassaction.com/>

If you have questions, you can contact the Settlement Administrator at [REDACTED] and/or Class Counsel at (310) 248-2994.

PLEASE DO NOT CONTACT THE COURT OR DEFENDANT'S MANAGERS, SUPERVISORS, OR ATTORNEYS ABOUT THIS SETTLEMENT.