

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

DEC 28 2023

BY 
LILIANA MARISCAL, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

Esmeralda C. Zarazua, an individual, on
behalf of herself, all aggrieved
employees, and the State of California as a
Private Attorneys General,

Plaintiffs,

vs.

Industrial Clerical Recruiters, Inc., a
California Corporation and Keurig Dr.
Pepper, Inc., a Delaware Corporation, and
DOES 1-50, inclusive;

Defendants.

Case No.: CIVSB2126751

AMENDED ~~PROPOSED~~ ORDER
GRANTING MOTION FOR
PRELIMINARY APPROVAL

~~PROPOSED~~ ORDER

RECEIVED
12/27/23

1 The Court has before it the Motion for Preliminary Approval brought by Plaintiffs. After
2 reviewing the Motion for Preliminary Approval and the Settlement Agreement filed with the
3 Court, and good cause appearing therefore, the Court hereby finds and orders as follows:

4 1. The Court finds on a preliminary basis that the settlement memorialized in the
5 Settlement Agreement appears to be fair, adequate, and reasonable, falls within the range of
6 reasonableness, and therefore meets the requirements for preliminary approval.

7 2. The Court conditionally certifies for settlement purposes only the following class:

8 All individuals who were employed by KDP, ABC, Dr.
9 Pepper/Seven-Up, and/or Mott's in the State of California or by any
10 individual employed by IRC and assigned to KDP, ABC, Dr.
11 Pepper/Seven-Up, and/or Mott's in the State of California at any
time between January 28, 2018, and May 15, 2023.

12 3. The Court finds, for purposes of settlement only, that the Class meets the
13 requirements for certification under section 382 of the California Code of Civil Procedure in that:
14 (1) the Class is so numerous that joinder is impracticable; (2) there are questions of law and fact
15 that are common, or of general interest, to all Class Members, which predominate over individual
16 issues; (3) the Plaintiffs' claims are typical of the claims of the Class; (4) the named Plaintiffs and
17 Plaintiffs' counsel will fairly and adequately protect the interests of the Class; and (5) a class action
18 is superior to other available methods for the fair and efficient adjudication of the controversy.

19 4. The Court appoints for settlement purposes only Esmeralda Zarazua and Francisco
20 Bello as class representatives.

21 5. The Court appoints for settlement purposes only Koul Law Firm, Law Offices of
22 Sahag Majarian, II, and Bibiyan Law Group, P.C. as Class Counsel.

23 6. The Court appoints CPT Group, Inc. as the Settlement Administrator.

24 7. The parties are ordered to carry out the settlement according to the terms of the
25 Settlement Agreement.

26 ///

27 ///

8. The Court orders the following implementation schedule:

a. Deadline for Defendants to provide Class Data to the Settlement Administrator: within twenty-one (21) days after entry of the Preliminary Approval Order.

b. Deadline to mail notices to Class Members: within fourteen (14) days after receipt of the Class Data from Defendants;

c. Deadline for serving and filing Motion for Final Approval: sixteen (16) court days before the Final Approval Hearing in conformity with Code of Civil Procedure Section 1005.

d. Final Approval Hearing: April 25, 2024, at 1:30 p.m.

9. The Court finds that the Notice of Settlement of Class and Representative Action, as revised by the Parties pursuant to the Court's November 27, 2023, tentative order, "fairly apprise[s] the class members of the terms of the proposed compromise and the options open to dissenting class members" pursuant to *Trotsky v. Los Angeles Fed. Sav. & Loan Assn.* (1975) 48 Cal.App.3rd 134, 151-152, disapproved on other grounds *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal. 5th 260. Specifically, given that the class at issue would encompass subsets that are currently putative class members in other actions, the proposed notice lists these currently pending putative class actions. The approved Notice is attached hereto as Exhibit A.

10. The Court finds that the dates selected for the mailing and distribution of the Notice meet the requirements of due process, provides the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

///.

///

///

///

///

///.

11. The Notice is hereby found to be the best means practicable of providing notice under the circumstances, and, when completed, shall constitute due and sufficient notice of the class and representative action, proposed settlement, and the final approval hearing to all persons affected by and/or authorized to participate in the settlement, in full compliance with due process and the notice requirements of California Code of Civil Procedure § 877.6.

IT IS SO ORDERED.

Dated: Dec. 28, 2023

 **JOSEPH T. ORTIZ**

THE HON. ~~DAVID COHN~~ Joseph Ortiz
JUDGE OF THE SUPERIOR COURT

EXHIBIT A – NOTICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NOTICE OF SETTLEMENT OF CLASS AND REPRESENTATIVE ACTION

Zarazua, et al. v. Industrial Clerical Recruiters, Inc., et al.
Superior Court of the State of California, County of San Bernardino
Case No. CIVSB2126751

To: all individuals who were employed by Keurig Dr. Pepper Inc. (“KDP”), The American Bottling Company (“ABC”), Dr. Pepper/Seven-Up, Inc. (“Dr. Pepper/Seven-Up”), Mott’s LLP (“Mott’s”), and Industrial Clerical Recruiter, Inc. (“ICR”) (collectively “Defendants”) in the State of California or by any individual employed by IRC and assigned to KDP, ABC, Dr. Pepper/Seven-Up, and/or Mott’s in the State of California at any time between January 28, 2018, and May 15, 2023 (the “Class”):

THIS NOTICE is of a proposed settlement of a class action and representative lawsuit, and an announcement of a court hearing that you may choose to attend. Your rights may be affected by the legal proceedings in this action. The Court will conduct a hearing on _____, 2023, to address whether the proposed settlement should be approved (the “Final Approval Hearing”). You may be entitled to receive a payment under the terms of this class action settlement contained in the Settlement Agreement.

[IDENTIFYING INFORMATION]

You have been identified as a Class Member and/or PAGA Group Member in the above lawsuit. Under the terms of the proposed settlement, you are estimated to receive approximately **SINSERT AMOUNT** as your share of the Settlement should the Court grant the settlement in full. Please note that this is only an estimate. Your actual share may be more or less than this estimate. Your estimate is based on the number of Weeks Worked between January 28, 2018, and May 15, 2023 (the “Class Period”). Your options and eligibility requirements for receiving payments are described below.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE A SETTLEMENT PAYMENT	If you want to receive your full settlement payment, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if the Settlement receives final approval by the Court. You will be bound by the terms of the Settlement Agreement and will give up your right to sue on the Released Class Claims described in Section IV.
EXCLUDE YOURSELF	If you do not wish to participate in the settlement of the Class Claims, you may “opt-out” of the settlement of the Class Claims. If you choose to opt-out, you must submit a Request for Exclusion from the Settlement Class by _____, 2023 (see Section V for more details on how to opt-out). If you opt-out of the settlement of the Class Claims, you will no longer be a Class Member, and you will (1) <u>not</u> receive any settlement payment for the Class Claims, but you will preserve your right to pursue the Released Class Claims described in Section IV subject to applicable statutes of limitations, and (2) be barred from filing an objection to the settlement. You still will receive a payment as part of the civil penalties paid pursuant to the California Private Attorneys General Act of 2004 (“PAGA”) and will release your claims for such civil penalties.
OBJECT	If you decide to object to the settlement with respect to the Class Claims because you find it unfair or unreasonable, you must submit an objection stating why you object to the settlement by _____, 2023 (see Section V for more details on how to object).
DISPUTE YOUR NUMBER OF PAY PERIODS CREDITED	If you believe the number of weeks that you were credited with working during the Class Period is incorrect, you may submit a written dispute to the Settlement Administrator (see Section IV for more details on how to dispute your credited weeks). The employer’s records will be presumed correct, but you may provide evidence to the Settlement Administrator showing that the Weeks Worked calculation is inaccurate.

I. Why did I get this Notice?

The Court has granted preliminary approval of a proposed settlement (the "Settlement") in *Zarazua, et al. v. Industrial Clerical Recruiters, Inc., et al.*, San Bernardino County Superior Court Case No. CIVSB2126751 (the "Lawsuit"). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You received this notice because the records show that you worked for Defendants (either as a direct hire or as a Temp employee) as a non-exempt employee (meaning you were paid hourly or otherwise eligible for overtime pay) at some point during the Class Period. The Court ordered this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE SETTLEMENT: If you meet the definition of a Class Member and received this Notice, you are automatically included in the Settlement and do not need to take any further action to receive a payment.

The purpose of this Notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the proposed Settlement, and to discuss your rights and options in connection with the Lawsuit and the Settlement.

II. What is this lawsuit about?

Two Plaintiffs and Class Representatives, Esmeralda Zarazua and Francisco Bello (who are former employees of Defendants and/or worked for Defendants as a Temp employee), filed class and representative action lawsuits against Defendants on behalf of the Class Members. Both Plaintiffs joined forces and agreed to combine their lawsuits, which were originally filed separately, into one action. To that end, a Consolidated Complaint was filed on about _____, 2023, combining all cases into one case (which will be referred to as the "Action" or "Lawsuit"). The pending Action alleges the following Class Claims against Defendants on behalf of the Class Members: (a) failure to pay for all hours worked, including overtime wages, (b) failure to pay minimum wage, (c) failure to provide compliant meal periods, (d) failure to provide compliant rest breaks, (e) failure to provide proper cool-down rest periods, (f) failing to provide safe working conditions, (g) failing to provide a place of employment that is safe and healthful, (h) failing to provide suitable seating, (i) failing to reimburse for required business expenses, (j) failing to provide accurate wage statements and maintain accurate payroll records, (k) failing to timely pay wages during and upon separation of employment, (l) failing to provide paid sick leave and vacation pay, and (m) all other claims for statutory penalties based on the facts or claims alleged in the Complaint (the "Class Claims"). The Lawsuit also sought civil penalties on behalf of the California Labor Workforce Development Agency ("LWDA"). The civil penalty claims are called "PAGA Claims" and the relevant period for PAGA Claims is July 27, 2020, to May 15, 2023 ("PAGA Period").

Defendants have denied, and continue to deny, the factual and legal allegations in the Lawsuit and believe that they have valid defenses to Plaintiffs' claims. By agreeing to settle, Defendants are not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action and/or a representative action. Defendants have agreed to settle the case as part of a compromise with Plaintiffs and the Class Members.

The Court has not ruled on the merits of Plaintiffs' claims. And, by approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case if it went to trial. However, to avoid additional expense, inconvenience, and risks of continued litigation, Defendants and Plaintiffs have concluded that it is in their respective best interests and the interests of the Settlement Class to settle the Lawsuit on the terms summarized in this Notice. After providing extensive information to Class Counsel, the Settlement was reached following an arm's length mediation with a respected and experienced mediator. In these negotiations, both sides recognized the substantial risk of the Court deciding against them at trial and determined that the Proposed Settlement was a good option to resolve the disputed claims.

The Class Representatives and Class Counsel support this Settlement. Among the reasons for their support are the defenses to liability potentially available to Defendants, the risk of denial of class certification or representative status, the inherent risk of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by Defendants, this Settlement will not affect your employment. California law strictly prohibits unlawful retaliation. Further, Defendants will not take any adverse action against or otherwise target, retaliate, or discriminate against any Class Member because of the Class Member's participation or decision not to participate in this Settlement. If a Class Member does not participate in the Class Claims, his/her share of the settlement of the Class Claims will be paid to those who do participate.

III. Who are the attorneys representing the Parties?

<u>Attorneys for the Class Members:</u>	<u>Attorneys for Defendants:</u>
Nazo Koulloukian, Esq. <i>nazo@koullaw.com</i> KOUL LAW FIRM 3435 Wilshire Blvd., Suite 1710 Los Angeles, CA 90010 Tel: (213) 761-5484 Sahag Majarian, II, Esq. LAW OFFICES OF SAHAG MAJARIAN II 18250 Ventura Blvd. Tarzana, CA 91356 Tel: (818) 609-0807 David Bibiyan BIBIYAN LAW GROUP, P.C. 8484 Wilshire Blvd., Suite 500 Beverly Hills, CA 90211 Tel: (310) 438-5555	Daniel Whang SEYFARTH SHAW LLP 2029 Century Park East, Suite 3500 Los Angeles, CA 90067 Tel: (310) 277-7200 Diana J. Carloni DIANA J. CARLONI ATTORNEY AT LAW 16195 Siskiyou Rd. Suite 130 Apple Valley, CA 92307 Tel: (760) 949-9910

IV. What are the terms of the Settlement?

On [PA DATE], the Court certified a class, for settlement purposes only, of all individuals who were employed by KDP, ABC, Dr. Pepper/Seven-Up, and/or Mott's in the State of California or by any individual employed by IRC and assigned to KDP, ABC, Dr. Pepper/Seven-Up, and/or Mott's in the State of California at any time between January 28, 2018, and May 15, 2023 (the "Settlement Class" or "Class Members"). The Court also approved a representative group of all individuals who were employed by KDP, ABC, Dr. Pepper/Seven-Up, and/or Mott's in the State of California or by any individual employed by IRC and assigned to KDP, ABC, Dr. Pepper/Seven-Up, and/or Mott's in the State of California, at any time during the PAGA Period, including direct hires of Defendants and Temp employees assigned to work at a Defendants Facility ("PAGA Group Members"). Class Members who do not opt out of the Settlement Class, pursuant to the procedures set forth in this Notice, will become "Participating Class Members" and will be mailed Settlement checks, and in exchange will be bound by the Settlement and release of certain wage and penalty claims against Defendants.

Without admitting any wrongdoing, Defendants have agreed to pay \$4,500,000 (the "Gross Settlement Amount") to fully resolve all claims in the Lawsuit. The Parties agreed to the following payments from the Gross Settlement Amount:

Settlement Administration Costs. The Court has approved CPT Group, Inc., to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. Under the Settlement, up to \$42,500 will be paid from the Gross Settlement Amount to pay the Settlement Administration Costs.

Penalties to the California Labor Workforce and Development Agency. The Labor Code Private Attorneys General Act ("PAGA") authorizes employees to file lawsuits to attempt to recover civil penalties on behalf of other PAGA Employees and the State of California for alleged Labor Code violations. Under the Settlement, \$100,000 of the Gross Settlement Amount will be allocated to Plaintiffs' PAGA Claims. Of this amount, \$75,000 will be paid to the LWDA in satisfaction of the claims for civil penalties under PAGA, and the remaining \$25,000 will be divided between all PAGA Group Members based on the number of weeks worked during the PAGA Period, regardless of their receipt of payments for settlement of the Class Claims. You do not have the right to opt-out or exclude yourself from receiving the civil penalties paid to pursuant to PAGA. Review the information below to determine if you are an PAGA Group Member and eligible to receive a share of the \$25,000 allocation:

Do you Qualify as an PAGA Group Member?	Weeks Worked as an PAGA Group Member	Your Share of PAGA Penalties
YES/NO	INSERT	\$INSERT

Service Payment to Class Representatives. Class Counsel will ask the Court to award each of the Class Representatives a Service Payment to compensate them for their service and extra work provided on behalf of the Class Members and in exchange for a general release of claims totaling up to \$10,000 each to Esmeralda Zarazua and Francisco Bello. The Class Representatives also will receive their individual share of the Settlement as Class Members and PAGA Group Members.

Attorneys' Fees and Costs. Class Counsel have been prosecuting the Lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Gross Settlement Amount. Class Members are not personally responsible for any of Class Counsel's attorneys' fees or costs. Class Counsel will ask for fees of up to 35% of the common fund Gross Settlement Amount (which is \$1,575,000) as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through the finalization of the Settlement. Class Counsel also will ask for reimbursement of up to \$30,000 for the costs Class Counsel incurred in connection with the Lawsuit.

Calculation of Individual Settlement Payments to Class Members. After deducting the amounts above from the Gross Settlement Amount, the balance will form the Net Settlement Amount for distribution to Participating Class Members (who are Class Members who do not opt-out). The Net Settlement Amount will total approximately \$_____. Individual Settlement Payments to Class Members will be calculated and apportioned from the Net Settlement Amount based on the number of weeks a Class Member is credited with working during the Class Period. A Class Member is credited with one Week Worked each time the Class Member works at least one shift in a week for Defendants in California. Specific calculations of Individual Settlement Payments will be made as follows: the Settlement Administrator will divide the total Weeks Worked by all Settlement Class Members into the Net Settlement Amount to determine a per "Workweek Value." The Workweek Value will be multiplied by the number of Weeks Worked by each Settlement Class Member during the Class Period to determine the Individual Settlement Payment, prior to legal deductions/withholdings, for each Class Member. If any Class Member opts-out of the Settlement, his/her Individual Settlement Payment will be distributed to all Participating Class Members (i.e., those who do not opt-out).

Weeks Worked as a Class Member During the Class Period	Your Share of the Net Settlement Amount
INSERT	\$INSERT

Disputes to Pay Periods Credited. For each Settlement Class Member, the Weeks Worked during the Class Period will be calculated from available records. If you disagree with the number of Weeks you are credited with working above, you may submit evidence to the Settlement Administrator on or before _____, 2023, with documentation to establish the number of eligible Workweeks you claim to have actually worked for Defendants from January 28, 2018, to May 15, 2023. **DOCUMENTATION SENT TO THE SETTLEMENT ADMINSTRATOR WILL NOT BE RETURNED OR PRESERVED; DO NOT SEND ORIGINALS.** The Settlement Administrator will render a final decision.

Payments to Class Members. After the Court grants Final Approval of the Settlement and after Judgment is entered, settlement checks will be mailed to all Participating Class Members who did not timely request to be excluded. For those PAGA Group Members who requested to be excluded from the settlement of the Class Claims, their settlement checks will be for their share of PAGA civil penalties only for release of the PAGA Claims, and they will not include any payment for settlement of the Class Claims. Participating Class Members and PAGA Group Members will have 180 days from the issuance of the last check to cash all of the checks. In the event that any Participating Class Member or PAGA Group Member fails to timely cash a settlement check, a stop payment will be placed on the check and the funds will be paid to the California State Controller's Office in the name of the Participating Class Member or PAGA Group Member, so that the Participating Class Member or PAGA Group Member can attempt to collect the funds at a later date.

Allocation and Taxes. 20% of the Individual Settlement Payment distributed to each Participating Class Member will be considered and reported as wages (Form W-2 reporting). The remaining 80% will be considered and reported as interest and penalties (Form 1099 reporting). The Settlement Administrator shall take all usual and customary deductions from the Individual Settlement Payments that are distributed as wages, including, but not limited to, state and federal tax withholding,

disability premiums, and unemployment insurance premiums. There will be no deduction taken from the interest and penalty distribution; however, the payments will be reported on IRS Form 1099 as income. Payments for PAGA Claims shall be paid one hundred percent (100%) as civil penalties for which no taxes shall be withheld and for which payment will be reported on IRS Form 1099. Participating Class Members and PAGA Group Members are responsible for the proper income tax treatment of the Individual Settlement Payments and their payments for PAGA Claims. The Settlement Administrator, Defendants and its counsel, and Class Counsel cannot provide tax advice and make no representations as to the tax treatment or legal effect of the Individual Settlement Payments or payments for PAGA Claims. Participating Class Members and PAGA Group Members will be solely responsible for the payment of any taxes and penalties assessed on their Individual Settlement Payments or payments for PAGA Claims. Accordingly, Participating Class Members and PAGA Group Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release of Class Claims (aka the “Settled Class Claims”). Once the Court approves the proposed Settlement and enters Judgment, and Defendants fund the Settlement, then the Settlement Agreement will bind all Class Members who have not opted out of the Settlement and will bar them from bringing the Class Claims against Defendants and the Released Parties (defined below). Specifically, the Participating Class Members will fully release and discharge the Released Parties of any and all causes of action and claims, charges, complaints, liens, demands that were alleged in the Consolidated Complaint or reasonably could have been alleged based on the allegations, the facts, statutory citation and/or legal theories contained in the Complaint, including all of the following claims for relief: (a) failure to pay for all hours worked, including overtime wages, (b) failure to pay minimum wage, (c) failure to provide compliant meal periods, (d) failure to provide compliant rest breaks, (e) failure to provide proper cool-down rest periods, (f) failing to provide safe working conditions, (g) failing to provide a place of employment that is safe and healthful, (h) failing to provide suitable seating, (i) failing to reimburse for required business expenses, (j) failing to provide accurate wage statements and maintain accurate payroll records, (k) failing to timely pay wages during and upon separation of employment, (l) failing to provide paid sick leave and vacation pay, and (m) all other claims for statutory penalties based on the facts or claims alleged in the Consolidated Complaint. These claims include, but are not limited to the Fair Labor Standards Act, California Labor Code sections 200, 201, 202, 203, 204, 212, 213, 218, 218.5, 232, 232.5, 226, 226.7, 227.3, 246, 432.3, 432.7, 432.8, 510, 512, 558, 559, 1102.5, 1174, 1194, 1194.2, 1197, 1197.1, 1197.2, 1197.5, 1198, 1199, 2802, 2810.5, 6300, 6310, 6400-6404, 6407, and all related provisions of the California Code of Regulations, the California Industrial Wage Orders, the California Business & Professions Code sections 17200 et seq. These claims include, but are not limited to the Fair Labor Standards Act, California Labor Code sections 200, 201, 202, 203, 204, 212, 213, 218, 218.5, 232, 232.5, 226, 226.7, 227.3, 246, 432.3, 432.7, 432.8, 510, 512, 558, 559, 1102.5, 1174, 1194, 1194.2, 1197, 1197.1, 1197.2, 1197.5, 1198, 1199, 2802, 2810.5, 6300, 6310, 6400-6404, 6407, and all related provisions of the California Code of Regulations, the California Industrial Wage Orders, the California Business & Professions Code sections 17200 et seq. Only those Participating Class Members who cash, deposit, or otherwise negotiate the settlement checks issued to them pursuant to this Settlement will be deemed to have opted into a release of claims arising under the Fair Labor Standards Act, 29 U.S.C. section 201, et seq. (“FLSA”) The release of the foregoing claims, extends to all theories of relief regardless of whether the claim is, was or could have been alleged as separate claims, causes of action, lawsuits or based on other theories of relief, or different right or duty of an alleged statute, whether under federal law, state law or common law (including, without limitation, as violations of the California Labor Code, the Wage Orders, applicable regulations, California’s Business and Professions Code section 17200, and the FLSA). “Settled Class Claims” includes all types of relief available for the above-referenced claims, including, without limitation, any claims for damages, restitution, losses, penalties, fines, liens, attorneys’ fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. The time period governing these Settled Class Claims shall be at any time from January 28, 2018, to May 15, 2023 (“Class Period”).

Release of PAGA Claims (aka the “Settled PAGA Claims”). Also upon the Court’s approval of the Settlement, entry of Judgment, and Defendants’ funding of the Settlement Amount, the Settlement Agreement will bind the LWDA, Plaintiff, and all PAGA Group Members, and will bar them from bringing PAGA claims against Defendants and the Released Parties based on the facts stated in the Consolidated Complaint and in Plaintiffs’ notice letters to the LWDA (including any amendments thereto), or reasonably could have been alleged based on the allegations, the facts, statutory citation and/or legal theories under the PAGA contained in the Consolidated Complaint, including all of the following claims for relief: (a) failure to pay for all hours worked, including overtime wages, (b) failure to pay minimum wage, (c) failure to provide compliant meal periods, (d) failure to provide compliant rest breaks, (e) failure to provide proper cool-down rest periods, (f) failure to provide safe working conditions, (g) failure to provide a place of employment that is safe and healthful, (h) failure to provide suitable seating, (i) failure to reimburse for required business expenses, (j) failure to provide accurate wage statements and maintain accurate payroll records, (k) failure to timely pay wages during and upon separation of employment, (l) failing to provide paid sick leave and vacation pay, and (km) all other claims for statutory penalties based on the facts or claims alleged in the Consolidated Complaint. These claims include, but are not limited to, California Labor Code sections 200, 201, 202, 203, 204, 212, 213, 218, 218.5, 232, 232.5, 226, 226.7, 227.3, 246, 432.3, 432.7, 432.8, 510,

512, 558, 559, 1102.5, 1174, 1194, 1194.2, 1197, 1197.1, 1197.2, 1197.5, 1198, 1199, 2802, 2810.5, 6300, 6310, 6400-6404, 6407, and the California Industrial Wage Orders. The time period governing the Settled PAGA Claims shall be any time during the PAGA Period. The Settled PAGA Claims do not release any potential claims for wages or statutory penalties.

Released Parties. “Released Parties” means KDP, ABC, Dr. Pepper/Seven-Up, Mott’s, and ICR and their current and former parents, owners, subsidiaries, divisions, predecessors, successors, and affiliated or related persons or entities, and each of their respective officers, directors, members, employees, partners, shareholders, attorneys, agents, executors, and assigns.

Waiver of Labor Code Section 206.5(e). Participating Class Members will be deemed to have acknowledged and agreed that their claims for wages and/or penalties in the Lawsuit are disputed, and that the Individual Settlement Payments constitute payment of all sums allegedly due to them. Participating Class Members will be deemed to have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to Individual Settlement Payments. That section provides in pertinent part as follows:

“No employer shall require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made.”

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

V. What options do I have?

- A. **Do Nothing and Participate in the Settlement.** Under the Settlement, you will automatically receive an Individual Settlement Payment unless you exclude yourself from the settlement by following the opt-out procedure set forth below. If you disagree with the number of Weeks Worked, as described in this Notice, you may dispute the allocation of the Settlement without excluding yourself or objecting, as described above. It is the responsibility of all Class Members to ensure that the Settlement Administrator has your current address on file, or you may not receive important information or an Individual Settlement Payment.

If you are a current employee, your decision as to whether or not to participate in this Settlement will not be considered by Defendants, who will not take any adverse employment action against you based on your participation in the Settlement.

- B. **Exclude Yourself from the Class Claims in the Settlement.** If you **do not** wish to take part in the release of the Class Claims in the Settlement, you may exclude yourself by sending to the Settlement Administrator a “Request for Exclusion from the Class Claims in the Class Action Settlement” letter/card postmarked no later than _____, 2023 with your full name, address, telephone number, last four digits of your social security number or your date of birth, and signature. You may use the enclosed document or prepare your own. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE DEFENDANTS LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE CLASS CLAIMS IN THIS LAWSUIT.”

Send the Request for Exclusion directly to the Settlement Administrator, [ADDRESS], **postmarked no later than _____, 2023.** Any person who files a timely Request for Exclusion from the Class Action Settlement, upon receipt: (1) will not have any rights under this Settlement with respect to the Class Claims, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive any money for the Class Claims under this Settlement; and (3) will not be bound by this Settlement, or the Judgment, with respect to the Class Claims. You still will be bound by this Settlement with respect to the release of the PAGA Claims.

There are several other pending actions, which may or may not go forward if this Settlement is approved. Your ability to participate in other pending actions could be impacted by this Settlement. The pending actions include the following:

Curtis Higgins v. The American Bottling Company, Los Angeles County Superior Court Case No. 22STCV13127 (case is stayed and no class certified; proposed class includes all individuals employed as merchandisers or other similar positions in California since 4/19/2018).

Samual Ryciak v. The American Bottling Company, United States District Court for the Central District of California Case No. 5:22-cv-00945-JGB-KK (case is stayed and no class certified; proposed class includes all non-exempt employees in California since May 4, 2018).

Joash Ualat v. The American Bottling Company and Keurig Dr Pepper Inc., United States District Court for the Northern District of California Case No. 22-cv-04184-KAW (case is stayed and no class certified; proposed class includes all current and former merchandisers in California since June 3, 2018).

Frank Roque v. Keurig Dr Pepper Inc. dba Mott's LLP and Dr Pepper Snapple Group Inc., San Bernardino County Superior Court Case No. CIVSB2315038: (discovery is stayed and no class certified; proposed class includes all non-exempt employees in California since July 6, 2019).

- C. **Object to Settlement.** You also have the right to object to the terms of the Settlement with respect to the Class Claims if you believe they are unfair or unreasonable. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Class Claims portion of the Settlement, you must submit a written objection stating your full name, address, telephone number, dates of employment at Defendants, the case name and number, the name and address of your attorney(s) if you are represented, each specific reason in support of your objection. You must also include any documentation or evidence in support of the objection, if any. Objections must be in writing and mailed to the Settlement Administrator, [ADDRESS], by **no later than** _____, 2023. Objections that do not include all required information, or that are not submitted timely, may not be considered by the Court. **You need not object to the Settlement if you only dispute the number of Weeks Worked.**

If you choose to object to the Class Claims portion of the Settlement, you may also appear at the Final Approval Hearing scheduled for _____, 2023, at **XX** a.m. in Department **XX** of the San Bernardino County Superior Court, located at **XX**. You have the right to appear either in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before _____, 2023. All objections or other correspondence must state the name and number of the case. If you wish to appear at the Final Approval hearing, please contact Class Counsel or the Settlement Administrator in advance of the scheduled hearing to ensure that the hearing has not been continued by the Court.

If you object to the Settlement, you will remain a Class Member, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Participating Class Members who do not object. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

VI. What is the effect of the settlement?

Released Rights and Claims. The Settlement is intended to settle all claims against the Released Parties that were asserted or could have been asserted in the Lawsuit regarding the alleged violations of wage and hour laws. If you were employed by Defendants in California at any time during the Class Period and do not elect to exclude yourself from the Settlement Class, you will be deemed to have entered into this Release and to have released the above-described Settled Class Claims. All PAGA Group Members will be deemed to have entered into a release of the Settled PAGA Claims. If the Settlement is not approved by the Court or does not become final for some other reason, the Lawsuit may continue and the releases will not take effect.

VII. What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement, and Class Counsel's request for attorneys' fees and reimbursement of documented litigation costs and the Service Payment to the Class Representatives on _____, 2023 at XX a.m. in Department XX of the San Bernardino County Superior Court, located at XX.

You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

VIII. How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Class Action Settlement Agreement at Office of the Clerk, San Bernardino County Superior Court, XX, during regular court hours. You may also contact Class Counsel or the Settlement Administrator using the contact information listed above for more information.

IX. Reminder as to time limits.

Class Members do not have to take any further action to participate in the Settlement. The deadline for submitting a Request for Exclusion from the Settled Class Claims is _____, 2023. The deadline for mailing an objection to the Settlement Administrator is _____, 2023. These deadlines will be strictly enforced.

**PLEASE DO NOT CALL OR WRITE THE COURT
FOR INFORMATION ABOUT THIS SETTLEMENT**