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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF RIVERSIDE

REYNALDO RIOS, individually, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act;

Plaintiff,

v.

ABILITY COUNTS, INC., a California corporation; MOHENI GAJI, individually; and DOES 1 through 100, inclusive,

Defendants.

REYNALDO RIOS, individually, and on behalf of other members of the general public similarly situated; MICHELLE CHASE, individually, and on behalf of other members of the general public similarly situated;

Plaintiffs,

v.

ABILITY COUNTS, INC., a California corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No. CVRI2104367

Consolidated Case No.: CVRI2105433

DECLARATION OF JACKLAND K HOM, ESQ. IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

Date: September 22, 2025

Time: 8:30 a.m.

Reservation ID: 067215178570

Judge: Hon. Harold Hopp

Dept.: 1

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Attorneys for Plaintiffs

1 I, Jackland K. Hom, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law at the law firm
4 of ZAKAY LAW GROUP, APLC (hereinafter "Class Counsel"). I am co-counsel of record for
5 Plaintiffs REYNALDO RIOS and MICHELLE CHASE (hereafter "Plaintiffs") in this wage and hour
6 class action filed against ABILITY COUNTS, INC. (hereinafter "Defendant").

7 2. This declaration is being submitted in support of Plaintiff's motion for Preliminary
8 Approval of Class Action Settlement.

9 **I. EXHIBITS**

10 3. Attached hereto as **Exhibit "1"** is a true and correct copy of the Stipulation of Settlement
11 of Class and PAGA Action Claims and Release of Claims ("Agreement" or "Settlement Agreement").
12 Attached as **Exhibit "A"** to the Agreement is a true and correct copy of the proposed Class Notice.

13 4. Attached hereto as **Exhibit "2"** is a true and correct copy of the proof of filing with the
14 Labor and Workforce Development Agency notice of this settlement with the Settlement Agreement
15 and Motion for Preliminary Approval of Class Action and PAGA Settlement evidencing Class
16 Counsel's compliance with California Labor Code Section 2699(l)(2).

17 5. Attached hereto as **Exhibit "3"** is a true and correct copy of the bid for settlement
18 administration submitted by Apex Class Action LLC, in the amount of \$13,490.

19 **II. INTRODUCTION**

20 6. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of
21 the Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm's length.
22 The Settlement confers substantial benefits to the Settlement Class. The relief offered by the Settlement
23 is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage
24 and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class Members will
25 not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being
26 denied or of Defendants prevailing at trial.

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1 7. Given that there are approximately 1,256 Settlement Class Members who worked
2 approximately 112,313 workweeks, the average gross recovery is approximately \$598.38 (Net
3 Settlement Amount divided by Settlement Class Members).

4 8. At the time of mediation there were approximately 840 Aggrieved Employees who
5 worked approximately 33,434 pay periods during the PAGA Period.

6 9. As discussed below, the proposed Settlement satisfies all criteria for preliminary
7 settlement approval and falls within the range of reasonableness. The average Individual Class Payment
8 to the Settlement Class meets awards in similar wage and hour class actions. Moreover, the proposed
9 Settlement Class is appropriate for provisional certification. Accordingly, Plaintiffs respectfully request
10 the Court grant preliminary approval of the Settlement.

11 **III. FACTS AND PROCEDURE**

12 **A. Overview of the Litigation**

13 10. Defendants provide vocational training and employment assistance for adults with mental
14 disabilities in Riverside County, where Plaintiffs worked. Plaintiff Reynaldo Rios worked for
15 Defendants in California from February 2020 to October 2020. Plaintiff Michelle Chase worked for
16 Defendants in California from November 2013 to August 2019. During their employment, Plaintiffs
17 claim that they were denied legally compliant meal and rest periods, not provided with all minimum
18 wages and overtime compensation, not provided with compliant wage statements, and not reimbursed
19 for required business expenses. Throughout their employment, Plaintiffs were subject to Defendants'
20 written policies and procedures

21 11. Generally, Plaintiffs claim that Defendants failed to provide compliant meal and rest
22 periods, failed to pay for all time worked, failed to reimburse necessary business expenses, and failed
23 to furnish accurate, itemized wage statements. Defendants deny liability for each of Plaintiffs' claims.
24 Further, Defendants assert that they fully complied with all applicable employment laws and raised
25 several other significant defenses to Plaintiffs' claims, including but not limited to, asserting that they
26 maintained facially compliant meal and rest period policies, paid their employees for all hours worked,
27 and properly reimbursed all necessary business expenses.

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1 12. On July 14, 2021, Plaintiff Reynaldo Rios served Defendants and the Labor and
2 Workforce Development Agency (“LWDA”) with a Notice of Violations (“PAGA Notice”). Plaintiff
3 Rios’s PAGA Notice set forth the facts and theories supporting Defendants’ alleged violations of
4 various provisions of the California Labor Code and applicable Industrial Welfare Commissions
5 (“IWC”) Wage Order and of his intent to pursue claims under California Labor Code Private Attorneys
6 General Act, Cal. Lab. Code Sections 2698 *et seq* (“PAGA”).

7 13. On September 17, 2021, Plaintiff Rios filed a Complaint in Riverside County Superior
8 Court, Case No. CVRI2104367 for enforcement under the Private Attorneys General Act, California
9 Labor Code § 2698, *et seq.* (“PAGA Action”).

10 14. On November 19, 2021, Plaintiff Rios filed a class action complaint in the Riverside
11 County Superior Court, Case No. CVRI2105433 (“Class Action”). The Action alleged ten causes of
12 action against Defendants for: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid
13 Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period
14 Premiums); (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums); (4)
15 Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5)
16 Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of
17 California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California
18 Labor Code § 226(a) (Non-Compliant Wage Statements); (8) Violation of California Labor Code §
19 1174(d) (Failure To Keep Requisite Payroll Records); (9) Violation of California Labor Code §§ 2800
20 and 2802 (Unreimbursed Business Expenses); (10) Violation of California Business & Professions
21 Code §§ 17200, *et seq.* On April 13, 2022, a First Amended Complaint was filed in the Class Action
22 for purposes of adding Plaintiff Michelle Chase as a named plaintiff. The Class Action and PAGA
23 Action were deemed consolidated by this Court.

24 15. On September 18, 2023, the Parties participated in a full-day mediation with Henry J.
25 Bongiovi, Esq., a mediator of wage and hour class and PAGA actions. The Parties did not reach a
26 settlement during the mediation, but the Parties continued to engage in subsequent negotiations with
27 the aid of Mr. Bongiovi for several months, and ultimately reached a resolution. Thereafter, the Parties
28

1 negotiated the long-form Settlement Agreement, which is now presented to the Court for preliminary
2 approval.

3 **B. Class Counsel Thoroughly Investigated the Factual and Legal Issues**

4 16. Class Counsel analyzed Defendants' time and payroll data to assist in the development
5 of various damage models. Among other things, Class Counsel estimated the approximate amount of
6 unpaid wages, amount of unpaid overtime wages, number of workweeks, pay periods, average length
7 of shifts and average number of hours worked per week. Class Counsel also estimated the number of
8 missed, late, or truncated meal and rest periods, the amount of off-the-clock work, and the amount of
9 missed meal and rest period premiums paid during the Class Period.

10 17. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)
11 determining Plaintiffs' suitability as putative class representatives through interviews, background
12 investigations, and analyses of their employment files; (2) evaluating all of Plaintiffs' potential claims;
13 (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions,
14 and the type of employer; (4) analyzing the Settlement Class's time and payroll records; (5) analyzing
15 Defendants' labor policies and practices; (6) researching settlements in similar cases as well as
16 outstanding issues which could affect settlement approval; (7) evaluating Plaintiffs' claims and
17 estimating Defendants' liability for purposes of settlement; (8) drafting the mediation brief; and (9)
18 participating in the mediation. This investigation allowed Class Counsel to fully assess the nature and
19 magnitude of the claims being settled, as well as the impediments to recovery, such as to make an
20 independent assessment of the reasonableness of the terms to which the Parties have agreed.

21 18. Class Counsel only agreed to enter the Settlement following this thorough investigation
22 and evaluation of Plaintiffs' claims. Based on their investigation of the facts, applicable law, and
23 marketplace for similar settlements, and considering the risk of significant delay and uncertainty
24 associated with litigation, and the various defenses asserted by Defendants, Class Counsel firmly
25 believe this Agreement to be in the best interests of the Class Members. Because the Settlement's terms
26 are fair, reasonable, and adequate, the Court should preliminarily approve the Settlement.

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1 **C. The Parties Settled after Mediation**

2 19. On September 18, 2023, the Parties participated in a full-day mediation with Henry J.
3 Bongiovi, Esq., a mediator of wage and hour class and PAGA actions. The Parties did not reach a
4 settlement during the mediation, but the Parties continued to engage in subsequent negotiations with
5 the aid of Mr. Bongiovi for several months, and ultimately reached a resolution. Thereafter, the Parties
6 negotiated the long-form Settlement Agreement, which is now presented to the Court for preliminary
7 approval.

8 **IV. ARGUMENT**

9 **A. The Court Should Preliminarily Approve the Proposed Class Action Settlement**

10 1. The Parties Reached the Settlement Through Arm’s-Length Bargaining Led by
11 Experienced Counsel.

12 20. The Parties participated in mediation with mediator Henry J. Bongiovi, Esq. Mediator
13 Bongiovi managed the Parties’ expectations and provided a useful, neutral analysis of the issues and
14 risks to both sides. (*In re Apple Computer, Inc. Derivative Litig*, No. C 06-4128 JF (HRL), 2008 U.S.
15 Dist. LEXIS 108195 (N.D. Cal. Nov. 5, 2008) (mediator’s participation weighs considerably against
16 any inference of a collusive settlement); *D’Amato v. Deutsche Bank* (2d. Cir. 2001) 236 F.3d 78, 85 (a
17 “mediator’s involvement in pre-certification settlement negotiations helps to ensure that the
18 proceedings were free of collusion and undue pressure.”).) The Parties did not reach a settlement during
19 the mediation, but the Parties continued to engage in subsequent negotiations (both through the mediator
20 and directly) for several months following the mediation. Those subsequent negotiations led to a
21 settlement in mid-December 2023.

22 21. Once the Parties reached a settlement, they engaged in protracted negotiations regarding
23 the written terms of the class action settlement. The Parties maintained the arm’s length, non-collusive
24 and adversarial negotiations while arriving at the final terms of the Settlement. The Agreement is the
25 final product of these settlement negotiations. Objectively, the Settlement terms are fair, adequate and
26 represent a reasonable compromise of the claims at issue.

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2. Class Counsel's Thorough Investigation Provided an Objective Measurement of the Settlement's Reasonableness.

22. As set forth in greater detail above, Class Counsel conducted a very thorough investigation into the factual and legal issues in dispute. In addition to informal discovery, document review, data analysis and legal research, Class Counsel also researched similar wage and hour actions. Although no two cases are identical, this research provided Class Counsel with a marker to inform settlement discussions and, ultimately, to measure this settlement against. The investigation allowed Class Counsel to realistically assess the value of the claims and intelligently engage defense counsel in settlement discussions that culminated in the proposed settlement now before the Court.

23. Class Counsel only agreed to enter the Settlement following their thorough investigation and evaluation of Plaintiffs' claims. Based on this investigation of the facts, applicable law, and marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated with litigation, and the various defenses asserted by Defendants, Class Counsel firmly believe this Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair, reasonable, and adequate, the Court should preliminarily approve the Settlement.

A. The Gross Settlement Amount Meets the Recognized Range of Reasonableness.

24. The Gross Settlement Amount of \$1,416,266.90 is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Prior to settlement, Class Counsel developed economic damage models measuring Defendants' liability exposure while accounting for the uncertainties of continued litigation. The various models were informed by Class Counsel's investigation, including the analysis of a significant sample of time and payroll data. Class Counsel projected Defendants' liability exposure for *class claims* (excluding penalties), if Plaintiffs were to be successful at trial, at \$4,685,848.28 and Defendants' *maximum* exposure (including waiting time and wage statement penalties) at \$8,785,762.08. Thus, the Gross Settlement Amount of \$1,416,266.90 represents approximately 30.22% of Defendants' *class-wide* liability exposure and 16.12% of Defendants' *maximum* exposure – well within the recognized range of reasonableness. The following summarizes Defendants' liability exposure.

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1 1. Defendants' Estimated Exposure for Unpaid Wages

2 25. Plaintiffs' primary claim in this Action alleges that Defendants failed to pay for all hours
3 worked. Specifically, Plaintiffs allege that they and other Class Members were required to perform off-
4 the-clock work pre-shift, post-shift, and during meal periods for which they were not compensated.
5 Plaintiffs allege that Defendants implemented a policy and practice which only permitted putative class
6 members to record their scheduled hours instead of all actual time worked, which meant that Defendants
7 failed to compensate Plaintiffs and other Class Members for time worked off-the-clock. Defendants
8 vigorously denied liability for this claim. Collectively, Defendants asserted, among other things, that
9 its written policies and procedures directed its employees to perform work only while on-the-clock.
10 Defendants asserted that any deviation from these written policies was individual-specific and thus
11 created individualized issues of liability unsuitable for class treatment.

12 26. Based on Defendants' alleged practices requiring employees to work off-the-clock,
13 Plaintiffs assumed one (1) hour of unpaid compensable time per workweek by the Class Members
14 during the Class Period. Plaintiffs estimated Defendants' exposure for this claim at \$1,018,743.24.

15 2. Defendants' Estimated Exposure for Meal Period Violations.

16 27. Plaintiffs also allege that Defendants failed to provide compliant meal periods.
17 Specifically, Plaintiffs allege that as a result of their heavy workloads, strict deadlines, and Defendants'
18 severe understaffing, Plaintiffs, Class Members, and Aggrieved Employees were not able to take timely
19 and duty-free meal periods. Further, Plaintiffs allege that Defendants failed to record the actual time
20 that Class Members worked. As a result, a substantial amount of the meal periods were rounded to
21 exactly thirty (30) or sixty (60) minutes.

22 28. Defendants argued, among other things, that it did not engage in meal rounding and
23 provided all its employees, i.e., Class Members and Aggrieved Employees, with the opportunity to take
24 compliant meal periods. Defendants also argued that it maintained facially compliant meal period
25 policies. Thus, Defendants argued that there was no potential liability for Plaintiffs' alleged meal period
26 violations and any claimed violations required a highly individualized inquiry not suitable to class
27 treatment. Based on these defenses, Plaintiffs estimated the damages for this claim at \$1,487,247.52.

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32. Defendants deny these claims, and also note that the Class is comprised of all non-exempt employees, and even if these claims were true, they would affect only a small subset of that Class. Considering these defenses, Plaintiffs estimated Defendants' exposure for this claim at \$692,610.

(5) Defendants' Estimated Exposure for Wage Statement Violations

33. Plaintiffs alleged that Defendants failed to provide accurate itemized wage statements that include all items required by Labor Code § 226(a)(1)-(9). Specifically, Plaintiffs alleged that Defendants issued wage statements to Plaintiffs and other Class Members that failed to list all applicable hourly rates in effect each pay period, in violation of Cal. Lab. Code § 226(a)(9). Further, as a result of the failure to pay employees for all time worked and failure to pay for all premiums owed, the wage statements issued by Defendants do not indicate the correct number of hours worked, the amount of gross wages earned, or net wages earned during each pay period. Plaintiffs' expert estimated that Defendants could be liable for \$2,553,600 in penalties as a result of these violations.

(6) Defendants' Estimated Exposure for Waiting Time Penalties

34. Plaintiffs allege that Defendants' alleged violations resulted in derivative violations of Labor Code section 203. Defendants contend that Plaintiff could not prove the "willful" prong needed to obtain waiting time penalties under Labor Code section 203. Notwithstanding the uncertain nature of this claim, Plaintiffs estimated Defendants' exposure for these claims to be approximately \$1,546,313.80.

(7) Defendant's PAGA Exposure

35. "Under PAGA, a plaintiff may bring a representative action as an aggrieved employee on behalf of herself and other current or former employees and may seek civil penalties for Labor Code violations." *Wilner v. Manpower, Inc.*, 35 F.Supp.3d 1116 (N.D. Cal. 2014). Thus, Plaintiffs sought penalties for unpaid wages (including unpaid overtime), non-compliant or no meal periods, noncompliant or no rest periods, and unreimbursed business expenses. The PAGA Period is the period from July 14, 2020 through September 30, 2024, and there are approximately 840 Aggrieved Employees who worked a total of 33,434 pay periods.

36. Plaintiffs' claims and corresponding PAGA penalties can be broken down as follows:

Labor Code Section	Number of employees	Statutory penalty	Number of pay periods / violations	Violation rate	Total Penalties
510, 558, 1194 and 1197 (unpaid wages)	840	\$50	33,434	50% of total pay periods	\$1,671,700
512 and 226.7 (meal period violations)	840	\$50	33,434	50% of total pay periods	\$1,671,700
512 and 226.7 (rest period violations)	840	\$50	33,434	50% of total pay periods	\$1,671,700
2802 (unreimbursed business expenses)	840	\$50	33,434	50% of total pay periods	\$1,671,700
226 (wage statements)	840	\$100	33,434	100% of total pay periods	\$3,343,400
201/202 (waiting time)	424	\$100	424	100%	\$42,400
TOTAL					\$10,072,600

37. Defendants argued, however, that PAGA penalties would not be assessed if Defendants prevailed on the arguments for the underlying claims, that PAGA penalties cannot be stacked for different Labor Code provisions, and that the Court would exercise its discretion to reduce the amount of PAGA penalties significantly. Ultimately, the Parties negotiated a good faith PAGA penalties allocation of \$100,000 which is 7% of the Gross Settlement Amount. This amount falls well within the range of approved PAGA Penalties. Seventy-Five percent (75%) of the PAGA Penalties (\$75,000.00) will be paid to the LWDA (“LWDA PAGA Payment”) with the remaining twenty-five percent (25%) of the PAGA Penalties (\$25,000.00) will be distributed to the Aggrieved Employees, which is within the range of PAGA Penalties approved by courts and should be approved.

B. Inherent Risks of Continued Litigation Support Preliminary Approval

38. With respect to the most immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit vacated, reversed, and remanded a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed the trial court to enter judgement in favor of the employer. *See also O’Conner v. Uber Technologies,*

1 *Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also*
2 *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor
3 plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th
4 1077, 1088 (“[T]he reason, if any, that employees might not take their breaks were predominantly
5 individualized questions of fact not susceptible to class treatment.”); *a.S.A. Cab Ltd.* (2009) 176
6 Cal.App.4th 1333, 1341 (affirming denial of certification because employees’ declarations attesting to
7 having taken meal and rest breaks demonstrated that individualized inquiries were required to show
8 harm); *Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following
9 *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack
10 of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying
11 certification of driver meal and rest period claims based on the predominance of individual issues).
12 Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently,
13 the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring
14 settlement.

15 39. Finally, continuing to litigate this action would require continued and extensive resources
16 coupled with significant Court time to proceed through trial and post-trial motions; which can often
17 take years. Furthermore, wage-and-hour litigation is complex and expensive, as it often necessitates
18 extensive expert testimony, particularly with regards to damages. But even if Plaintiffs are successful
19 at trial, Plaintiffs are acutely aware that a judgment does not end the litigation. Plaintiffs fully expect
20 that Defendants would appeal any favorable judgment. As demonstrated by *Magadia, supra*, 999 F.3d
21 668, the risk of an appeal and subsequent reversal is real.

22 40. In this matter, Class Counsel negotiated a Gross Settlement Amount of \$1,416,266.90
23 that is approximately 30.22% of Defendants’ *class-wide* liability exposure for damages and 16.12% of
24 Defendants’ maximum class wide liability exposure for *class-wide* damages and penalties. Given the
25 amount of the settlement here, as compared to potential value of the claims, offset by the various
26 inherent risks to continued litigation, the settlement is fair and reasonable.

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1 **B. Proposed Notice Informs the Class About the Case and Settlement**

2 41. The Parties jointly drafted the Class Notice which fairly and neutrally informs the Class
3 Members of their rights and remedies. The Settlement Administrator will first verify addresses, then
4 mail the proposed Class Notice to all Class Members. The Notice will include information regarding
5 the nature of the lawsuit, a summary of the substance of the Settlement’s terms, the class definition, the
6 procedure, and time period within which to requests for exclusions or objections to the Settlement, the
7 date for the final approval hearing, the formula used to calculate settlement payments, and the terms
8 and scope of the Released Claims. Agreement at § III(L)(2). The Parties negotiated this method to
9 ensure delivering the most reasonable method of notice to the Class Members while ensuring cost
10 effective administration of the Settlement.

11 42. Accordingly, both the method of disseminating the Class Notice and content of the Class
12 Notice satisfy due process. (*See* C.R.C. 3.776(e)-(f); *State of Cal. v. Levi Strauss* (1986) 41 Cal.3d
13 460,485 (the class notice must “fairly apprise the class members of the terms of the proposed
14 compromise and of the options open to dissenting class members.”).)

15 **C. The Court Should Preliminarily Approve the Enhancement Award**

16 43. The Settlement provides for a Class Representative Service Award of \$10,000 for each
17 Plaintiff. The service award is fair and reasonable compensation for the Plaintiffs’ efforts bringing the
18 action, assisting Class Counsel with the litigation and settlement, regularly conferring with Class
19 Counsel on the status of their case and the strategies for prosecuting the claims, reviewing the proposed
20 Settlement to ensure that its terms are fair and provide adequate relief for the Settlement Class, and for
21 providing a general release of claims to Defendants in exchange for the Service Award.

22 44. Class Counsel on behalf of Plaintiffs will file a formal motion for the negotiated Class
23 Representative Service Award once preliminary approval of the Settlement is granted. Such motion
24 will be accompanied by declarations from Plaintiffs that describe the services they each performed to
25 prosecute this action, include an estimate of time incurred by Plaintiffs in performing these services,
26 the risks they assumed or benefits they received in prosecuting this action, and identify any adverse
27 consequences they suffered in prosecuting this action. Plaintiffs have **not** negotiated any settlement of
28 individual claims with Defendants separate from the settlement at bar.

1 45. Plaintiffs respectfully submit that the above showing is sufficient for preliminary
2 approval of the negotiated Class Representative Service Award.

3 **D. The Court Should Preliminary Approve the Negotiated Class Counsel Award**

4 46. Class Counsel took this matter on a contingency fee basis and invested significant time
5 and expense successfully prosecuting Plaintiffs' claims. As discussed *supra*, the estimated average
6 Individual Settlement Payment illustrates the demonstrably positive outcome for the Settlement Class
7 Members. Considering the positive outcome for the Settlement Class Members, and in light of the
8 supporting authority, the proposed Class Counsel Attorneys' Fees and Attorneys' Expenses is fair and
9 reasonable.

10 47. Plaintiffs will file a formal motion for the negotiated Class Counsel Attorneys' Fees and
11 Attorneys' Expenses once preliminary approval of the Settlement is granted. Such motion will be
12 accompanied by a declaration that provides evidence of the total amount of time spent by Class Counsel,
13 a description of the work performed, and the reasonableness of the fees charged. Such declaration will
14 also include a detailed description of the costs actually incurred. This declaration will include details
15 related to fee splitting between Class Counsel, and Plaintiffs' written notice of such. Plaintiffs
16 respectfully submit that the above showing is sufficient for preliminary approval of the negotiated
17 attorneys' fees.

18 **E. The Court Should Provisionally Certify the Settlement Class**

19 48. For Settlement purposes, Plaintiffs contend, and Defendants do not dispute, that
20 provisional certification of the Class is appropriate.

21 49. Because all Class Members are Defendants' current and former employees, the class is
22 readily ascertainable from Defendants' regular business records, i.e., payroll records.

23 50. The statutes relating to each of Plaintiffs' claims apply with equal force and effect to the
24 entire Settlement Class. Factually, Defendants' policies and practices apply class-wide and Defendants'
25 liability can be determined by facts common to all members of the class. The wage and hour issues are
26 both numerous and substantial, and a class action is the most advantageous method of dealing with the
27 claims of the Settlement Class.

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1 51. Plaintiffs' wage and hour claims are typical of the proposed Settlement Class because
2 they arise from the same factual basis and are based on the same legal theories applicable to the other
3 Class Members. Likewise, Plaintiffs' interests are entirely coextensive with the interests of the
4 Settlement Class. Plaintiffs allege that they were injured by the same company-wide practices to which
5 the proposed Class Members were subject to and seek the same relief. Plaintiffs have already
6 demonstrated their ability to advocate for the interests of the Class Member by initiating this litigation,
7 undertaking class discovery, and evaluating the proposed settlement to assure that it is fair.

8 52. Additionally, Plaintiffs are represented by competent Class Counsel who have extensive
9 experience in litigating wage and hour class action cases. Class Counsel successfully briefed, argued,
10 certified, and gained state court settlement approval of the same class-wide causes of action that are at
11 issue in this case. Class Counsel's wage and hour class action experience establishes that they are well
12 qualified to represent the interests of this Class.

13 53. A class action is superior to a multitude of individual lawsuits. Given the size and amount
14 of each individual claim, the Class Members likely have little incentive to litigate their claims on an
15 individual basis because the out-of-pocket expense and personal commitment necessary to litigate each
16 claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case
17 adjudication.

18 **F. Class Counsel's Experience**

19 54. Plaintiff, the Settlement Class Members and the Aggrieved Employees are represented
20 by competent and experienced counsel to pursue their claims. The Firm is a boutique plaintiff firm
21 exclusively representing California employees in complex wage and hour class actions and
22 representative actions arising under the California Labor Code Private Attorney General Act. The Firm
23 currently consists of myself, Jackland K Hom, Esq. (Associate Attorney), Shani O. Zakay, Esq.
24 (Partner/Owner), Rachel Newman, Esq. (Associate Attorney), Jennifer Gerstenzang, Esq. (Associate
25 Attorney), Eden Zakay, Esq. (Associate Attorney), Nicole Noursamadi, Esq. (Associate Attorney),
26 Jaclyn Joyce, Esq. (Associate Attorney), Esbeidy Campos (Paralegal), Liana Rios (Paralegal), Brenda
27 Yanez (Legal Assistant), and Berenice Cervantes (Legal Assistant).

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1 55. I am qualified to represent the Plaintiff, the State of California and the Aggrieved
2 Employees. I have extensive experience with wage and hour class and representative actions litigation
3 like this matter, and employment matters in general. I can, will and have adequately represented the
4 interests of the Plaintiff, the State of California and the Aggrieved Employees throughout this action.

5 56. I have represented consumers and employees in California class actions exclusively for
6 more than 5 years. I have been in practice as a plaintiffs' civil litigation attorney since November 2019.

7 **V. PLAINTIFFS' COMPLIANCE WITH THE COURT'S CASE MANAGEMENT ORDER**
8 **RE: MOTIONS FOR PRELIMINARY APPROVAL OF SETTLEMENT**

9 **CMO Section 3(a)(i)**

10 57. There are an estimated 1,256 Class Members. *See* Plaintiffs' Memorandum of Points and
11 Authorities ("Motion") at page 1, line 4; Settlement Agreement at § III(A)(2).

12 58. There are an estimated 840 Aggrieved Employees. *See* Motion at page 1, line 18.

13 **CMO Section 3(a)(ii)-(iii)**

14 59. Class Counsel's estimates for the total amount of damages, monetary penalties or other
15 relief, the explanations of how such estimates were calculated, and the collective total for all the claims
16 are addressed in the Motion at § III(A)(2)(a).

17 60. Class Counsel's estimate as to each claim of the total amount of damages, monetary
18 penalties or other relief that the class would be awarded on each claim if that claim were entirely
19 successful at trial; the reasons for those estimates; and the likely award at trial for all claims collectively
20 are addressed in the Motion at § III(A)(2)(a).

21 **CMO Section 3(a)(v)**

22 61. The average Individual Settlement Payment for Class Members is \$598.38. *See* Motion
23 at page 2, lines 21-23. The average Individual PAGA Payment is approximately \$29.76. *See* Motion at
24 page 2, line 10. Plaintiff cannot provide the range of settlement awards until the Class Data is submitted
25 to the Settlement Administrator. The Class Data is not due until ten (10) business days after Defendants
26 receive notice of an order granting preliminary approval of the Settlement. *See* Settlement Agreement
27 at § III(L)(1).

28 ///

1 **CMO Section 3(a)(vi)**

2 62. The nature and extent of formal and informal discovery exchanged and other factual
3 investigation conducted to determine the size of the class and the strength of the class claims are
4 addressed in Declaration of Vartan Madoyan in Support of Plaintiff's Motion for Preliminary Approval
5 of Class Action and PAGA Settlement ("Madoyan Dec.") at ¶¶ 3-6.

6 **CMO Section 3(a)(vii)**

7 63. I am not aware of any class, representative or other collective action in any other court
8 in this or any other jurisdiction that asserts claims similar to those asserted in this action on behalf of a
9 class or group of individuals some or all of whom would also be members of the class defined in the
10 action. I made reasonable inquiries of other members of my law firm and associated law firms to
11 determine whether those attorneys are aware of any such similar actions, which they are not.

12 **CMO Section 3(a)(viii)**

13 64. Other than this Settlement, Plaintiffs and Defendants have not separately entered into any
14 agreements to resolve individual claims asserted by Plaintiffs against Defendants. Plaintiffs have both
15 provided Defendants with broad general releases of their claims against Defendants as part of this
16 Settlement.

17 **CMO Section 3(c)**

18 65. "[A]ll funds represented by such uncashed checks, plus any interest accrued thereon,
19 shall be paid to the Community Law Project, a Cy Pres, in accordance with the California Code of Civil
20 Procedure section 384." *See* Settlement Agreement at § III(M)(8).

21 66. Distribution to the Community Law Project ("CLP") is consistent with Code of Civil
22 Procedure section 384 and was chosen as the designated cy pres for this matter because CLP provides
23 legal services to low-income and indigent members of the community.

24 **CMO Section 3(d)**

25 67. Multiple bids for settlement administration were sought from Apex Class Action LLC
26 and Atticus Administration, LLC. The Parties selected Apex Class Action LLC as the Settlement
27 Administrator because Apex Class Action LLC was the lowest bidder.

28 68. CMO Sections (d)(ii)(A)-(D) will be addressed in the Declaration of Apex Class Action

1 LLC.

2 **CMO Section 3(e)**

3 69. The Released Parties are defined as: “Defendants and each of their past, present, and
4 future related, direct or indirect companies, parents, owners, subsidiaries, predecessors, successors,
5 affiliates and assigns, as well as each of their past, present, and future officers, directors, employees,
6 partners, members, shareholders and agents, attorneys, insurers, and reinsurers, plus any individual or
7 entity which could be jointly liable with Defendants.” *See* Settlement Agreement at I(FF).

8 70. The Released Class Claims are defined as: “all claims under state, federal, or local law,
9 arising out of the claims that were alleged, or that reasonably could have been alleged, in the Operative
10 Complaint in the Class Action and all other claims, such as those under the California Labor Code,
11 Wage Orders, regulations, and/or other provisions of law, that could have been asserted based on the
12 facts pleaded in the Operative Complaint in the Class Action for: (1) failure to pay overtime wages
13 under Labor Code Sec. 510, 1198; (2) failure to provide meal periods and/or pay meal period premiums
14 under Labor Code Sec. 226.7, 512; (3) failure to provide rest periods and/or pay rest period premiums
15 under Labor Code Sec. 226.7; (4) failure to pay minimum wages under Labor Code Sec. 1194, et seq.;
16 (5) failure to timely pay wages upon termination under Labor Code Sec. 203; (6) failure to timely pay
17 wages during employment under Labor Code Sec. 204, 210; (7) failure to provide accurate, itemized
18 wage statements under Labor Code Sec. 226; (8) failure to keep requisite payroll records under Labor
19 Code Sec. 1174(d); (9) failure to reimburse business expenses under Labor Code Sec. 2800, 2802; (10)
20 violation of California’s unfair competition law under Business and Professions Code Sec. 17200, in
21 the Operative Complaint in the Class Action which occurred during the Class Period, and expressly
22 excluding all other claims, including claims for vested benefits, wrongful termination, unemployment
23 insurance, disability, social security, workers’ compensation, and class claims outside of the Class
24 Period.” *See* Settlement Agreement at I(DD) (emphasis added).

25 **CMO Section 3(f)**

26 71. Notice is to be given by first class mail to addresses believed to be current based on the
27 Class Data provided by Defendants to the Settlement Administrator. *See* Settlement Agreement at §
28 III(L)(3).

1 **CMO Section 3(g)**

2 72. The Settlement does not require any class member to submit claims. *See* Settlement
3 Agreement at § III(L)(2)(a).

4 **CMO Section 3(h)-(i)**

5 73. There is no reversion to Defendant and Defendant must separately pay for its share of
6 employer payroll taxes. *See* Settlement Agreement at § III(A)(1).

7 **CMO Section 3(i)**

8 74. The Gross Settlement Amount is *not* sought to be justified in part by an assertion that
9 Defendants cannot afford to pay any greater sum.

10 **CMO Section 4(a)-(b)**

11 75. The Proposed Order includes the proposed notice (Proposed Order at ¶ 10), the proposed
12 exclusion form (Proposed Order at ¶ 12), and the proposed objection form (Proposed Order at ¶ 13).

13 76. The Proposed Order does not attach the Settlement Agreement. *See generally* Proposed
14 Order.

15 **CMO Section 4(c)**

16 77. Counsel has reviewed the terms and the terminology of the order and accompanying
17 forms and confirmed that the various documents are internally consistent, consistent with each other,
18 and consistent with the Settlement Agreement.

19 **CMO Section 4(d)**

20 78. The Proposed Order identifies Apex Class Action LLC as the Settlement Administrator
21 and describes the nature of the services that the administrator will be required to perform. *See* Proposed
22 Order at ¶ 11.

23 **CMO Section 4(e)-(g)**

24 79. The Proposed Order attaches the exclusion and objection forms and informs Class
25 Members to submit the exclusion and objection forms to the Settlement Administrator. *See* Proposed
26 Order at ¶¶ 12-13.

27 80. The Proposed Order does not require the Class Members or the Settlement Administrator
28 to send copies of the exclusion or objection forms to counsel.

1 81. The Proposed Order provides that the Settlement Administrator shall file a declaration
2 concurrently with the filing of any motion for final approval, authenticating a copy of every exclusion
3 or objection form received by the administrator. *See* Proposed Order at ¶¶ 12, 13.

4 82. Neither the order, notice, nor the objection require an objection party to, either personally
5 or through counsel, appear at the hearing on the motion for final approval for that party's objection to
6 be considered or to file or serve, or to state in the objection, a notice of intention to appear at the hearing
7 on the motion for final approval.

8 **CMO Section 4(h)**

9 83. The Settlement Administrator must give notice to any objecting party of any continuance
10 of the hearing of the Motion for Final Approval and Motion for Class Counsel Fees Payment, Class
11 Counsel Litigation Expenses Payment, and Class Representative Service Award. *See* Proposed Order
12 at ¶ 14.

13 **CMO Section 4(i)-(j)**

14 84. Neither the order nor the notice purports to enjoin the class members from filing any
15 actions or administrative claims or proceedings pending the final hearing on the settlement, or for any
16 other period.

17 85. Notice is to be given by first class mail and Class Members are not required to submit a
18 claim form. *See* Settlement Agreement at § III(L)(2)(a).

19 **CMO Section 5(a)**

20 86. Page 1 of the Class Notice includes an estimate of the likely recovery by the individual
21 Class Member to whom the notice is sent.

22 **CMO Section 5(b)**

23 87. Page 5 of the Class Notice includes language that "The Court has determined only that
24 there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and
25 reasonable. Any final determination of those issues will be made at the final approval hearing."

26 **CMO Section 5(c)**

27 88. Page 4 of the Class Notice informs Class Members of where they can find the Settlement
28 Agreement.

1 **CMO Section 5(d)**

2 89. The Class Notice and all documents enclosed therein describe the settlement
3 administrator as the “Settlement Administrator” and not the “claims administrator.”

4 **CMO Section 5(e)**

5 90. Section 4 “What Do I Release Under the Settlement?” of the Class Notice includes a
6 description of the release being given by the Class Members.

7 **CMO Section 6**

8 91. Class Members are not required to submit a claim form. *See* Settlement Agreement at §
9 III(L)(2)(a).

10 **CMO Section 7(a)-(c)**

11 92. The Proposed Objection Form informs Class Members that they “must mail [the
12 objection form] by first class U.S. mail to the settlement administrator[.]” *See* Exhibit C to the
13 Settlement Agreement. The Objection Form provides the name and address of the Settlement
14 Administrator, Apex Class Action, LLC. *Id.* There are placeholders for the date by which the objection
15 must be mailed and will be inserted by the Settlement Administrator prior to mailing. *Id.*

16 93. The Proposed Objection Form does not require information that exceeds the minimum
17 information necessary to identify the objector as a person entitled to object to the settlement, describe
18 the nature of and basis for the objection, and contact the objector to clarify any uncertainties. *See*
19 Exhibit C to the Settlement Agreement.

20 94. Class Members are not required to submit a claim form. *See* Settlement Agreement at §
21 III(L)(2)(a) and Exhibit C to Settlement Agreement.

22 **CMO Section 8(a)-(b)**

23 95. The “Instructions” section of the Proposed Exclusion Form instructs Class Members
24 seeking exclusion that the exclusion form must be mailed or delivered to the Settlement Administrator.
25 *See* Exhibit B to the Settlement Agreement. Section 3 of the Proposed Exclusion Form provides the
26 name and address of the Settlement Administrator. *Id.* There are placeholders for the date by which the
27 exclusion must be mailed and will be inserted by the Settlement Administrator prior to mailing. *Id.*

28 96. The information required to be provided by a class member on the exclusion form does

1 not exceed the minimum information necessary to identify the person as a class member and contact
2 the person to clarify any uncertainties.

3 **CMO Section 9(a)**

4 97. The Settlement Agreement provides: “ ‘PAGA Payment’ shall mean One Hundred
5 Thousand Dollars and Zero Cents (\$100,000.00) to be allocated from the Gross Settlement Amount,
6 with 25% of the payment (\$25,000.00) going to the Aggrieved Employees (“Aggrieved Employee
7 Payment”) and 75% of the payment (\$75,000.00) going to the Labor and Workforce Development
8 Agency (“LWDA”). (“LWDA Payment”).” *See* Settlement Agreement at I(W).

9 **CMO Section 9(b)-(c)**

10 98. *See* ¶¶ 35-37 of this declaration.

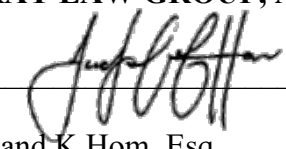
11 **CMO Section 9(d)**

12 99. The Released PAGA Claims only binds “the Plaintiffs, the LWDA, and the State of
13 California....” *See* Settlement Agreement at § III(C).

14 100. The Released PAGA Claims are defined as “all PAGA claims alleged or that could have
15 been alleged in the Operative Complaint in the PAGA Action and Plaintiff Reynaldo Rios’ PAGA
16 notice (July 14,2021 letter) to the LWDA which occurred during the PAGA Period, and expressly
17 excluding all other claims, including claims for vested benefits, wrongful termination, unemployment
18 insurance, disability, social security, workers’ compensation and PAGA claims outside the PAGA
19 Period.” *See* Settlement Agreement at § I(EE).

20
21 I declare under the penalty of perjury under the laws of the State of California that the foregoing
22 is true and correct. Executed this 6th day of August 2025, at San Diego, California.

23 **ZAKAY LAW GROUP, APLC**

24 By:  _____

25 Jackland K Hom, Esq.

26 Attorneys for Plaintiff
27
28

EXHIBIT 1

ZAKAY LAW GROUP, APLC
Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
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jackland@zakaylaw.com

Attorneys for Plaintiffs

[Additional Counsel on Next Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF RIVERSIDE

REYNALDO RIOS, individually, and on
behalf of other aggrieved employees pursuant
to the California Private Attorneys General Act;

Plaintiff,

v.

ABILITY COUNTS, INC., a California
corporation; MOHENI GAJI, individually; and
DOES 1 through 100, inclusive,

Defendants.

Case No. CVRI2104367

[Action Filed: September 17, 2021]

**STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS**

REYNALDO RIOS, individually, and on
behalf of other members of the general public
similarly situated; MICHELLE CHASE,
individually, and on behalf of other members of
the general public similarly situated;

Plaintiff,

v.

ABILITY COUNTS, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: CVRI2105433

[Action Filed: November 29, 2021]

1 **JCL LAW FIRM, APC**

2 Jean-Claude Lapuyade (State Bar #248676)

3 5440 Morehouse Drive, Suite 3600

4 San Diego, CA 92121

5 Telephone: (619) 599-8292

6 Facsimile: (619) 599-8291

7 jlapuyade@jcl-lawfirm.com

8 Joanna Ghosh (SBN 272479)

9 **LAWYERS *for* JUSTICE, PC**

10 410 West Arden Avenue, Suite 203

11 Glendale, California 91203

12 Telephone: (818) 265-1020

13 Facsimile: (818) 265-1021

This “Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims” is entered into by and between Plaintiffs REYNALDO RIOS and MICHELLE CHASE (hereinafter “Plaintiffs”), individually, on behalf of themselves and on behalf of all persons similarly situated, and Defendants ABILITY COUNTS, INC. and MOHENI GAJI (hereinafter “Defendants”) (together the “Parties”):

I. DEFINITIONS

- A. “Actions” shall mean the representative PAGA action lawsuit designated as *Reynaldo Rios v. Ability Counts, Inc., et al.*, Riverside County Superior Court, Case No. CVRI2104367, filed September 17, 2021 (the “PAGA Action”), and the putative class action lawsuit designated as *Reynaldo Rios v. Ability Counts, Inc., et al.*, Riverside County Superior Court, Case No. CVRI2105433, filed November 29, 2021 (the “Class Action”), which were consolidated on June 16, 2022 with the PAGA Action being the lead case.
- B. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of Class and PAGA Action and Release of Claims.
- C. “Aggrieved Employees” means all current and former hourly-paid or non-exempt employees of Defendants Ability Counts, Inc. and Moheni Gaji in California employed during the PAGA Period.
- D. “Attorneys’ Expenses” means the award of expenses that the Court authorizes to be paid to Class Counsel for the expenses they have incurred of up to \$35,000.
- E. “Attorneys’ Fees” means the award of fees that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiffs and the Settlement Class in the Actions, currently not to exceed thirty-five percent (35%) of the Gross Settlement Amount currently estimated to be \$495,693.41 out of \$1,416,266.90. Attorneys’ Fees will be divided between Class Counsel as follows: 85% to Lawyers for Justice, PC, 7.5% to JCL Law Firm, APC, and 7.5% to Zakay Law Group, APLC.
- F. “Claims Administration Expenses” shall mean the amount paid to the Settlement Administrator from the Gross Settlement Amount for administering the Settlement pursuant to this Agreement currently estimated not to exceed \$14,000.00.

- 1 G. “Class” or the “Class Members” means all current and former hourly-paid or non-
2 exempt employees of Defendants in California employed during the Class Period.
- 3 H. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC,
4 Shani Zakay, Esq. of Zakay Law Group, APLC, and Edwin Aiwazian of Lawyers for
5 Justice, PC.
- 6 I. “Class Data” means information regarding Class Members that Defendants will in
7 good faith compile from its records and provide to the Settlement Administrator. It
8 shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class
9 Member’s full name; last known address; Social Security Number; start dates and end
10 dates of employment.
- 11 J. “Class Period” means the period from November 29, 2017 through September 30,
12 2024.
- 13 K. “Class Representatives” shall mean Reynaldo Rios and Michelle Chase.
- 14 L. “Court” means the Superior Court for the State of California, County of Riverside
15 currently presiding over the Actions.
- 16 M. “Defendants” shall mean Ability Counts, Inc. and Moheni Gaji.
- 17 N. “Effective Date” means the date upon which both of the following have occurred the
18 Court enters judgment granting final approval of the Settlement and the Court’s
19 judgment approving the Settlement becomes final. The judgment is final as of the
20 following: (i) if no Class Member files a Notice of Objection to the Settlement, the
21 day the Court enters Judgment in the Action; or (ii) if there is an appeal of the Court’s
22 judgment, the date the judgment is affirmed on appeal, the date of dismissal of such
23 appeal, or the expiration of the time to file a petition for review with any appellate
24 court that has jurisdiction; or (iii) if a petition for review is filed, the date of denial of
25 the petition or the date the Court’s judgment is entered, pursuant to such petition; or
26 (iv) if no appeal is filed, the expiration date of the time for filing or noticing any
27 appeal of the Court’s judgment. If a timely Notice of Objection to the Settlement is
28 filed (including an objection from the LWDA), the Effective Date shall be the later
of: (a) the date on which the time for all appeals relating to objections to the

1 Settlement and the final approval order has expired; or (b) if an appeal, review, or
2 writ is sought, the date on which the highest reviewing court renders its decision
3 denying any petition (were the immediately lower court affirmed the judgment) or
4 affirming the judgment. Provided, however, if the LWDA has commenced an
5 investigation or issued a citation prior to the Effective Date, as determined under the
6 foregoing definition, the Effective Date will be extended to the date that the LWDA
7 concludes its investigation or resolves the citation (whichever is later), or if the
8 LWDA objects to the Settlement, the date when the LWDA's objection to the
9 Settlement is resolved and no longer appealable.

10 O. "Funding Date" shall mean the date by which Defendants have paid the entire Gross
11 Settlement Amount to the Settlement Administrator in accord with the terms of this
12 Agreement.

13 P. "Gross Settlement Amount" means One Million Four Hundred and Sixteen Thousand,
14 Two Hundred and Sixty-Six Dollars and Ninety Cents (\$1,416,266.90) that
15 Defendants must pay into the QSF in connection with this Settlement, inclusive of the
16 sum of Individual Settlement Payments, Claims Administration Expenses, Attorneys'
17 Fees and Attorneys' Expenses, Service Award, and the PAGA Payment and *exclusive*
18 of the employer's share of payroll tax, if any, triggered by any payment under this
19 Settlement.

20 Q. "Individual Settlement Payments" means the amount payable from the Net Settlement
21 Amount to each Settlement Class Member and excludes any amounts distributed to
22 Aggrieved Employees pursuant to PAGA.

23 R. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less
24 Attorneys' Fees and Attorneys' Expenses, Service Award, PAGA Payment, and
25 Claims Administration Expenses.

26 S. "Notice Packet" means the Class Notice to be provided to the Class Members by the
27 Settlement Administrator in the form set forth as **Exhibit A** to this Agreement (other
28 than formatting changes to facilitate printing by the Settlement Administrator).

- 1 T. “Operative Complaints” shall mean the “Complaint” filed in the PAGA Action on
2 September 17, 2021 and the “First Amended Complaint” filed in the Class Action on
3 April 14, 2022.
- 4 U. “PAGA” means the California Labor Code Private Attorneys General Act of 2004,
5 Labor Code § 2698 *et seq.*
- 6 V. “PAGA Payment Ratio” means the respective PAGA Pay Periods during the PAGA
7 Period for each Aggrieved Employee divided by the sum total of the PAGA Pay
8 Periods for all Aggrieved Employees during the PAGA Period.
- 9 W. “PAGA Payment” shall mean One Hundred Thousand Dollars and Zero Cents
10 (\$100,000.00) to be allocated from the Gross Settlement Amount, with 25% of the
11 payment (\$25,000.00) going to the Aggrieved Employees (“Aggrieved Employee
12 Payment”) and 75% of the payment (\$75,000.00) going to the Labor and Workforce
13 Development Agency (“LWDA”). (“LWDA Payment”) The amount of the PAGA
14 Payment is subject to Court approval pursuant to California Labor Code section
15 2699(l). Any reallocation of the Gross Settlement Amount to increase the PAGA
16 Payment will not constitute grounds by either party to void this Agreement, so long
17 as the Gross Settlement Amount remains the same.
- 18 X. “PAGA Pay Periods,” for purposes of calculating the distribution of the Aggrieved
19 Employee Payment, as defined herein, means the number of pay periods of
20 employment during the PAGA Period that each Aggrieved Employee worked for
21 Defendants in California.
- 22 Y. “PAGA Period” means the period from July 14, 2020 through September 30, 2024.
- 23 Z. “Parties” means Plaintiffs and Defendants, collectively, and “Party” shall mean either
24 Plaintiffs or Defendants, individually.
- 25 AA. “Payment Ratio” means the respective Workweeks for each Class Member divided
26 by the sum total Workweeks for all Class Members during the Class Period.
- 27 BB. “Plaintiffs” shall mean Reynaldo Rios and Michelle Chase.
- 28 CC. “QSF” means the “Qualified Settlement Fund” established, designated, and
maintained by the Settlement Administrator to fund the Gross Settlement Amount.

1 DD. "Released Class Claims" shall mean all claims under state, federal, or local law,
2 arising out of the claims that were alleged, or that reasonably could have been alleged,
3 in the Operative Complaint in the Class Action and all other claims, such as those
4 under the California Labor Code, Wage Orders, regulations, and/or other provisions
5 of law, that could have been asserted based on the facts pleaded in the Operative
6 Complaint in the Class Action for: (1) failure to pay overtime wages under Labor
7 Code Sec. 510, 1198; (2) failure to provide meal periods and/or pay meal period
8 premiums under Labor Code Sec. 226.7, 512; (3) failure to provide rest periods and/or
9 pay rest period premiums under Labor Code Sec. 226.7; (4) failure to pay minimum
10 wages under Labor Code Sec. 1194, et seq.; (5) failure to timely pay wages upon
11 termination under Labor Code Sec. 203; (6) failure to timely pay wages during
12 employment under Labor Code Sec. 204, 210; (7) failure to provide accurate, itemized
13 wage statements under Labor Code Sec. 226; (8) failure to keep requisite payroll
14 records under Labor Code Sec. 1174(d); (9) failure to reimburse business expenses
15 under Labor Code Sec. 2800, 2802; (10) violation of California's unfair competition
16 law under Business and Professions Code Sec. 17200, in the Operative Complaint in
17 the Class Action which occurred during the Class Period, and expressly excluding all
18 other claims, including claims for vested benefits, wrongful termination,
19 unemployment insurance, disability, social security, workers' compensation, and
20 class claims outside of the Class Period.

21 EE. "Released PAGA Claims" shall mean all PAGA claims alleged or that could have
22 been alleged in the Operative Complaint in the PAGA Action and Plaintiff Reynaldo
23 Rios' PAGA notice (July 14, 2021 letter) to the LWDA which occurred during the
24 PAGA Period, and expressly excluding all other claims, including claims for vested
25 benefits, wrongful termination, unemployment insurance, disability, social security,
26 workers' compensation and PAGA claims outside the PAGA Period.

27 FF. "Released Parties" shall mean Defendants and each of their past, present, and future
28 related, direct or indirect companies, parents, owners, subsidiaries, predecessors,
successors, affiliates and assigns, as well as each of their past, present, and future

officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, and reinsurers, plus any individual or entity which could be jointly liable with Defendants.

GG. “Response Deadline” means the date forty-five (45) calendar days after the Settlement Administrator first mails Notice Packets to Class Members and the last date on which Class Members may submit Requests for Exclusion or Notices of objection to the Settlement.

HH. “Service Award” mean an award in the amount of \$10,000.00 or in an amount that the Court authorizes to be paid to each of the Class Representatives, in addition to their Individual Settlement Payments and individual Aggrieved Employee Payments, in recognition of their efforts and risks in assisting with the prosecution of the Actions.

II. “Settlement” means the disposition of the Actions pursuant to this Agreement.

JJ. “Settlement Administrator” means Apex Class Action LLC, 18 Technology Drive, Suite 164 Irvine, CA 92618; Tel: 1-800-355-0700. The Settlement Administrator establishes, designates and maintains, as a QSF under Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1, into which the amount of the Gross Settlement Amount is deposited for the purpose of resolving the claims of Settlement Class Members and Aggrieved Employees. The Settlement Administrator shall maintain the funds until distribution in an account(s) segregated from the assets of Defendants and any person related to Defendants. ***All accrued interest shall be paid and distributed to the Settlement Class Members as part of their respective Individual Settlement Payments and to the Aggrieved Employees as a part of their respective Aggrieved Employee Payments.***

KK. “Settlement Class Members” or “Settlement Class” means all Class Members who have not submitted a timely and valid Request for Exclusion as provided in this Agreement.

LL. “Workweeks,” or “Workweek” as used herein shall, mean any seven (7) consecutive days beginning on Sunday and ending on Saturday, in which a Class Member is

employed for at least a portion of one day by Defendants during the Class Period in California.

II. RECITALS

A. On September 17, 2021, Plaintiff Reynaldo Rios filed the PAGA Action, alleging a single cause of action for Violation of the California Labor Code § 2698, et seq. (California Labor Code Private Attorneys General Act of 2004).

B. On November 29, 2021, Plaintiff Reynaldo Rios filed the Class Action, alleging:

1. Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
2. Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
3. Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
4. Violation of California Labor Code §§ 1194, 1197 and 1197.1 (Unpaid Minimum Wages);
5. Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
6. Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);
7. Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
8. Violation of California Labor Code § 1174(d) (Failure to Keep Requisite Payroll Records);
9. Violation of California Labor Code § 2800 and 2802 (Unreimbursed Business Expenses);
10. Violation of California Business & Professions Code §§ 17200, et seq.

C. On April 14, 2022, the operative First Amended Complaint in the Class Action was filed in order to add Plaintiff Michelle Chase as a plaintiff.

D. On June 16, 2022, the PAGA Action and Class Action were consolidated, with the PAGA Action becoming the lead case.

1 E. The Class Representatives believe they have meritorious claims based on alleged
2 violations of the California Labor Code, and the Industrial Welfare Commission
3 Wage Orders, and that class certification is appropriate because the prerequisites for
4 class certification can be satisfied in the Actions, and the PAGA Action is manageable
5 as a PAGA representative action.

6 F. Defendants deny any liability or wrongdoing of any kind associated with the claims
7 alleged in the Actions, dispute any wages, damages and penalties claimed by the Class
8 Representatives are owed, and further contend that, for any purpose other than
9 settlement, the Actions are not appropriate for class or representative action treatment.
10 Defendants contend, among other things, that at all times they complied with the
11 California Labor Code and the Industrial Welfare Commission Wage Orders.

12 G. The Class Representatives are represented by Class Counsel. Class Counsel
13 investigated the facts relevant to the Actions, including conducting an independent
14 investigation as to the allegations, reviewing documents and information exchanged
15 through informal discovery, and reviewing documents and information provided by
16 Defendants pursuant to informal requests for information to prepare for mediation.
17 Defendants produced for the purpose of settlement negotiations certain employment
18 data concerning the Settlement Class, which Class Counsel reviewed and analyzed
19 with the assistance of an expert. Based on their own independent investigation and
20 evaluation, Class Counsel are of the opinion that the Settlement with Defendants is
21 fair, reasonable, and adequate, and is in the best interest of the Settlement Class
22 considering all known facts and circumstances, including the risks of significant
23 delay, defenses asserted by Defendants, uncertainties regarding class certification,
24 and numerous potential appellate issues. Although they deny any liability, Defendants
25 are agreeing to this Settlement solely to avoid the inconveniences and cost of further
26 litigation. The Parties and their counsel have agreed to settle the claims on the terms
27 set forth in this Agreement.

28 H. On September 18, 2023, the Parties participated in mediation presided over by Henry
J. Bongiovi, Esq. an experienced mediator of wage and hour class and PAGA actions.

1 The Parties did not reach a settlement during the mediation, but the Parties continued
2 to engage in subsequent negotiations (both the through the Mediator and directly) for
3 several months following the mediation. Those subsequent negotiations led to a
4 settlement in mid-December 2023.

5 I. This Agreement replaces and supersedes any other agreements, understandings, or
6 representations between the Parties. This Agreement represents a compromise and
7 settlement of highly disputed claims. Nothing in this Agreement is intended or will
8 be construed as an admission by Defendants that the claims in the Action of Plaintiffs
9 or the Class Members have merit or that Defendants bear any liability to Plaintiffs or
10 the Class on those claims or any other claims, or as an admission by Plaintiffs that
11 Defendants' defenses in the Actions have merit.

12 J. The Parties believe that the Settlement is fair, reasonable and adequate. The
13 Settlement was arrived at through arm's-length negotiations, taking into account all
14 relevant factors. The Parties recognize the uncertainty, risk, expense and delay
15 attendant to continuing the Actions through trial and any appeal. Accordingly, the
16 Parties desire to settle, compromise and discharge all disputes and claims arising from
17 or relating to the Actions fully, finally, and forever.

18 K. The Parties agree to certification of the Class for purposes of this Settlement only. If
19 for any reason the Settlement does not become effective, Defendants reserve the right
20 to contest certification of any class for any reason and reserve all available defenses
21 to the claims in the Actions.

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

23 **III. TERMS OF AGREEMENT**

24 A. Settlement Consideration and Settlement Payments by Defendants.

25 1. Settlement Consideration. In full and complete settlement of the Action, and
26 in exchange for the releases set forth below, Defendants will pay the Gross
27 Settlement Amount. The Parties agree that this is a non-reversionary
28 Settlement and that no portion of the Gross Settlement Amount shall revert to
Defendants. Other than the Defendants' share of employer payroll taxes and

as provided in Section III.A.4 below, Defendants shall not be required to pay more than the Gross Settlement Amount.

2. Class Size. Defendants represent that the Settlement Class is comprised of 1,256 individuals who collectively worked approximately 112,313 Workweeks (“Projected Workweeks”) during the Class Period. If the Projected Workweeks increase by more than 10% (10% is 11,231 additional Workweeks for a total of 123,544 Workweeks) of the Projected Workweeks stated herein, then Defendants can elect to end the Class Period on the date the Workweeks total 112,313.

3. Settlement Payment. Defendants shall deposit the Gross Settlement Amount into the QSF, through the Settlement Administrator by the Funding Date. Any interest accrued will be added to the NSA and distributed to the Settlement Class Members except that if final approval is reversed on appeal, then Defendants is entitled to prompt return of the principal and all interest accrued.

4. Defendants’ Share of Payroll Taxes. Defendants’ share of employer side payroll taxes is in addition to the Gross Settlement Amount and shall be paid together with the Gross Settlement Amount on the Funding Date.

B. Release by Settlement Class Members. Upon funding of the Gross Settlement Amount and in exchange for the consideration set forth in this Agreement, Plaintiffs and the Settlement Class Members release the Released Parties from the Released Class Claims for the Class Period.

C. Release by the Aggrieved Employees. Upon funding of the Gross Settlement Amount and in exchange for the consideration set forth in this Agreement, the Plaintiffs, the LWDA and the State of California release the Released Parties from the Released PAGA Claims for the PAGA Period. As a result of this release, the Aggrieved Employees shall be precluded from bringing claims against Defendants for the Released PAGA Claims. The express purpose of this Settlement is to forever bar Plaintiffs, the LWDA, the State of California and the Aggrieved Employees from acting on behalf of or purporting to act on behalf of the LWDA to assert any of the

1 Aggrieved Employees' Released PAGA Claims against the Released Parties in any
2 future litigation.

3 D. General Release by Plaintiffs. As of the Funding Date, for the consideration set forth
4 in this Agreement, Plaintiffs waive, release, acquit and forever discharge the Released
5 Parties from any and all claims, whether known or unknown, which exist or may exist
6 on either Plaintiffs' behalf as of the date of this Agreement, including but not limited
7 to any and all tort claims, contract claims, wage claims, wrongful termination claims,
8 disability claims, benefit claims, public policy claims, retaliation claims, statutory
9 claims, personal injury claims, emotional distress claims, invasion of privacy claims,
10 defamation claims, fraud claims, quantum meruit claims, and any and all claims arising
11 under any federal, state or other governmental statute, law, regulation or ordinance,
12 including, but not limited to claims for violation of the Fair Labor Standards Act, the
13 California Labor Code, the Wage Orders of California's Industrial Welfare
14 Commission, other state wage and hour laws, the Americans with Disabilities Act, the
15 Age Discrimination in Employment Act, the Employee Retirement Income Security
16 Act, Title VII of the Civil Rights Act of 1964, the California Fair Employment and
17 Housing Act, the California Family Rights Act, the Family Medical Leave Act,
18 California's Whistleblower Protection Act, California Business & Professions Code
19 Section 17200 et seq., and any and all claims arising under any federal, state or other
20 governmental statute, law, regulation or ordinance. Plaintiffs also waive and relinquish
21 any and all claims, rights or benefits that they may have under California Civil Code
22 § 1542, which provides as follows:

23
24 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE***
25 ***CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO***
26 ***EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE***
27 ***RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE***
28 ***MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR***
OR RELEASED PARTY.

1
2 Thus, notwithstanding the provisions of section 1542, and to implement a full and
3 complete release and discharge of the Released Parties, Plaintiffs expressly
4 acknowledge this Settlement Agreement is intended to include in its effect, without
5 limitation, all claims Plaintiffs do not know or suspect to exist in Plaintiffs' favor at
6 the time of signing this Settlement Agreement, and that this Settlement Agreement
7 contemplates the extinguishment of any such claims. Plaintiffs warrant that Plaintiffs
8 have read this Settlement Agreement, including this waiver of California Civil Code
9 section 1542, and that Plaintiffs have consulted with or had the opportunity to consult
10 with counsel of Plaintiffs' choosing about this Settlement Agreement and specifically
11 about the waiver of section 1542, and that Plaintiffs understand this Settlement
12 Agreement and the section 1542 waiver, and so Plaintiffs freely and knowingly enter
13 into this Settlement Agreement. Plaintiffs further acknowledge that Plaintiffs later may
14 discover facts different from or in addition to those Plaintiffs now know or believe to
15 be true regarding the matters released or described in this Settlement Agreement, and
16 even so Plaintiffs agree that the releases and agreements contained in this Settlement
17 Agreement shall remain effective in all respects notwithstanding any later discovery
18 of any different or additional facts. Plaintiffs expressly assume any and all risk of any
19 mistake in connection with the true facts involved in the matters, disputes, or
20 controversies released or described in this Settlement Agreement or with regard to any
21 facts now unknown to Plaintiffs relating thereto.

22 E. Conditions Precedent: This Settlement will become final and effective only upon the
23 occurrence of all of the following events:

- 24 1. The Court enters an order granting preliminary approval of the Settlement;
- 25 2. The Court enters an order granting final approval of the Settlement and a final
26 judgment;
- 27 3. If an objector appears at the final approval hearing, the time for appeal of the
28 final judgment and order granting final approval of settlement expires; or, if

1 an appeal is timely filed, there is a final resolution of any appeal from the
2 judgment and order granting final approval of Ssettlement; and

3 4. Defendants fully fund the Gross Settlement Amount.

4 F. Nullification of Settlement Agreement. If (a) Defendants fail to fully fund the Gross
5 Settlement Amount or (b) In the event the Settlement Agreement is not granted final
6 approval by the Court, or if the Court's order granting final approval fails to become
7 effective or is reversed, modified or withdrawn, or Defendants are otherwise prevented
8 or prohibited from obtaining the Released Class Claims and/or the Released PAGA
9 claims, then:

10 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
11 and shall not be admissible in any judicial, administrative or arbitral
12 proceeding for any purpose or with respect to any issue, substantive or
13 procedural;

14 2. The conditional class certification (obtained for any purpose) shall be void *ab*
15 *initio* and of no force or effect, and shall not be admissible in any judicial,
16 administrative or arbitral proceeding for any purpose or with respect to any
17 issue, substantive or procedural; and

18 3. None of the Parties to this Settlement will be deemed to have waived any
19 claims, objections, defenses or arguments in the Actions, including with
20 respect to the issue of class certification.

21 4. If the Agreement is nullified due to Defendants' failure to fully fund the Gross
22 Settlement Amount, then Defendants shall bear the sole responsibility for any
23 cost to issue or reissue any curative notice to the Settlement Class Members
24 and all Claims Administration Expenses incurred to the date of nullification.
25 If the Agreement is nullified for any other reason, both Parties shall equally
26 bear the responsibility for any cost to issue or reissue any curative notice to
27 the Settlement Class Members and all Claims Administration Expenses
28 incurred to the date of nullification.

1 G. Certification of the Settlement Class. The Parties stipulate to conditional class
2 certification of the Class for the Class Period for purposes of settlement only. In the
3 event that this Settlement is not approved by the Court, fails to become effective, or is
4 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
5 Defendants from obtaining a complete resolution of the Released Class Claims and/or
6 the Released PAGA Claims, the conditional class certification (obtained for any
7 purpose) shall be void *ab initio* and of no force or effect, and shall not be admissible
8 in any judicial, administrative or arbitral proceeding for any purpose or with respect to
9 any issue, substantive or procedural.

10 H. Tax Liability. The Parties make no representations as to the tax treatment or legal
11 effect of the payments called for, and Class Members and/or Aggrieved Employees are
12 not relying on any statement or representation by the Parties in this regard. Class
13 Members and/or Aggrieved Employees understand and agree that they will be
14 responsible for the payment of any taxes and penalties assessed on the Individual
15 Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved
16 Employee Payment and will be solely responsible for any penalties or other obligations
17 resulting from their personal tax reporting of Individual Settlement Payments and/or
18 Aggrieved Employees' individual shares of the Aggrieved Employees Payment.

19 I. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
20 the "acknowledging party" and each Party to this Agreement other than the
21 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision
22 of this Agreement, and no written communication or disclosure between or among the
23 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
24 such communication or disclosure constitute or be construed or be relied upon as, tax
25 advice within the meaning of United States Treasury Department circular 230 (31 CFR
26 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
27 her or its own, independent legal and tax counsel for advice (including tax advice) in
28 connection with this Agreement, (b) has not entered into this Agreement based upon
the recommendation of any other Party or any attorney or advisor to any other Party,

1 and (c) is not entitled to rely upon any communication or disclosure by any attorney
2 or adviser to any other party to avoid any tax penalty that may be imposed on the
3 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
4 any limitation that protects the confidentiality of any such attorney's or adviser's tax
5 strategies (regardless of whether such limitation is legally binding) upon disclosure by
6 the acknowledging party of the tax treatment or tax structure of any transaction,
7 including any transaction contemplated by this Agreement.

8 J. Preliminary Approval Motion. As soon as practicable, Plaintiffs shall file with the
9 Court a motion for order granting preliminary approval and supporting papers, which
10 shall include this Settlement Agreement. Plaintiffs will provide Defendants with a draft
11 of the motion at least five (5) business days prior to the filing of the motion to give
12 Defendants an opportunity to propose changes or additions to the motion.

13 K. Settlement Administrator. The Settlement Administrator shall be responsible for:
14 establishing and administering the QSF; calculating, processing and mailing payments
15 to the Class Representatives, Class Counsel, LWDA, and Class Members; printing and
16 mailing the Notice Packets to the Class Members as directed by the Court; receiving
17 and reporting the objections and requests for exclusion; calculating, deducting and
18 remitting all legally required taxes from Individual Settlement Payments and
19 distributing tax forms for the Wage Portion, the Penalty Portion and the Interest
20 Portion of the Individual Settlement Payments and/or Aggrieved Employees'
21 individual shares of the Aggrieved Employee Payment; processing and mailing tax
22 payments to the appropriate state and federal taxing authorities; providing
23 declaration(s) as necessary in support of preliminary and/or final approval of this
24 Settlement; and other tasks as the Parties mutually agree or the Court orders the
25 Settlement Administrator to perform. The Settlement Administrator shall keep the
26 Parties timely apprised of the performance of all Settlement Administrator
27 responsibilities by among other things, sending a weekly status report to the Parties'
28 counsel stating the date of the mailing, the number of Requests for Exclusion it
receives (including the numbers of valid and deficient), and number of Notices of

1 Objections received. The Settlement Administrator shall also be responsible for
2 creating and maintaining a webpage hosted on its website containing information
3 about the Settlement including but not limited to, a timeline for approval, dates and
4 locations of approval hearings, and settlement distribution through the check cashing
5 deadline.

6 L. Notice Procedure.

7 1. Class Data. No later than ten (10) business days after Defendants receive
8 notice of an order granting preliminary approval of this Settlement,
9 Defendants shall provide the Settlement Administrator with the Class Data for
10 purposes of preparing and mailing Notice Packets to the Class Members. The
11 Class Data will be presumed to be correct unless a particular Class Member
12 proves otherwise to the Settlement Administrator by credible written
13 evidence. All Workweek disputes will be resolved and decided by the
14 Settlement Administrator, and the Settlement Administrator's decision on all
15 Workweek disputes is final and non-appealable. The Class Data provided to
16 the Settlement Administrator will not be provided to Class Counsel, and it will
17 remain confidential; it shall be used solely to administer the Settlement, and
18 it will not be used or disclosed to anyone except as required by applicable tax
19 authorities, pursuant to Defendants' express written consent, or by order of
20 the Court.

21 2. Notice Packets.

22 a) The Notice Packet shall contain the notice of class action settlement
23 ("Class Notice") in a form substantially similar to the form attached as
24 **Exhibit A**, Request for Exclusion form attached hereto as **Exhibit B**,
25 and Notice of Objection Form attached hereto as **Exhibit C**. The Class
26 Notice shall inform Class Members and Aggrieved Employees that
27 they need not do anything in order to receive an Individual Settlement
28 Payment and/or Aggrieved Employees' individual shares of the
Aggrieved Employee Payment and to keep the Settlement

1 Administrator apprised of their current mailing address, to which the
2 Individual Settlement Payments and/or Aggrieved Employees'
3 individual shares of the Aggrieved Employee Payment will be mailed
4 following the Funding Date. The Class Notice shall set forth the scope
5 of the releases. Each Class Notice shall state the number of
6 Workweeks and PAGA Pay Periods worked by the recipient during
7 the Class Period and PAGA Period, if any, and the estimated amount
8 of the Class Member's Individual Settlement Payment and each
9 Aggrieved Employee's individual share of the Aggrieved Employee
10 Payment, if any. The Settlement Administrator shall use the Class
11 Data to determine the number of Workweeks and PAGA Pay Periods.
12 The Class Notice will also advise the Aggrieved Employees that they
13 will release the Released PAGA Claims and will receive their share of
14 the Aggrieved Employee Payment regardless of whether they request
15 to be excluded from the class portion of the Settlement.

16 b) The Notice Packet's mailing envelope shall include the following
17 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
18 ENTITLED TO PARTICIPATE IN A CLASS ACTION
19 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
20 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
21 NOTICE."

22 3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
23 Settlement Administrator will perform a search based on the "National
24 Change of Address Database" to update and correct any known or identifiable
25 address changes. No later than twenty-one (21) calendar days after
26 preliminary approval of the Settlement, the Settlement Administrator shall
27 mail copies of the Notice Packet to all Class Members via regular First-Class
28 U.S. Mail. The Settlement Administrator shall exercise its best judgment to
determine the current mailing address for each Class Member. The address

1 identified by the Settlement Administrator as the current mailing address shall
2 be presumed to be the best mailing address for each Class Member.

- 3 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
4 Administrator as non-delivered on or before the Response Deadline shall be
5 re-mailed to any forwarding address provided. If no forwarding address is
6 provided, the Settlement Administrator shall promptly attempt to determine a
7 correct address by lawful use of skip-tracing, or other search using the name,
8 address and/or Social Security number of the Class Member involved, and
9 shall then perform a re-mailing, if another mailing address is identified by the
10 Settlement Administrator. In addition, if any Notice Packets, which are
11 addressed to Class Members who are currently employed by Defendants, are
12 returned to the Settlement Administrator as non-delivered and no forwarding
13 address is provided, the Settlement Administrator shall notify Defendants.
14 Defendants will request that the currently employed Class Member provide a
15 corrected address and transmit to the Settlement Administrator any corrected
16 address provided by the Class Member. Class Members who are sent a re-
17 mailed Notice Packet shall have their Response Deadline extended fifteen (15)
18 days from the original Response Deadline.

- 19 5. Disputes Regarding Individual Settlement Payments. Class Members will
20 have the opportunity, should they disagree with Defendants' records regarding
21 the start and end dates of employment to provide documentation and/or an
22 explanation to show contrary dates. If there is a dispute, the Settlement
23 Administrator will consult with the Parties to determine whether an
24 adjustment is warranted. The Settlement Administrator shall determine the
25 eligibility for, and the amounts of, any Individual Settlement Payments under
26 the terms of this Agreement. The Settlement Administrator's determination
27 of the eligibility for and amount of any Individual Settlement Payment shall
28 be binding upon the Class Member and the Parties.

- 1 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
2 by the Settlement Administrator concerning the administration of the
3 Settlement will be resolved by the Court under the laws of the State of
4 California. Before any such involvement of the Court, counsel for the Parties
5 will confer in good faith to resolve the disputes without the necessity of
6 involving the Court.
- 7 7. Exclusions. The Class Notice contained in the Notice Packet shall state that
8 Class Members who wish to exclude themselves from the class portion of the
9 Settlement must submit a signed copy of the “Request for Exclusion” form by
10 the Response Deadline. The Request for Exclusion form will be mailed
11 together with the Notice Packet to all Class Members. The Request for
12 Exclusion will not be valid if it is not timely submitted, if it is not signed by
13 the Class Member, or if it does not contain the name and address and last four
14 digits of the Social Security number of the Class Member. The date of the
15 postmark on the mailing envelope or fax stamp on the Request for Exclusion
16 shall be the exclusive means used to determine whether the Request for
17 Exclusion was timely submitted. Any Class Member who submits a timely
18 Request for Exclusion shall be excluded from the Settlement Class will not be
19 entitled to an Individual Settlement Payment and will not be otherwise bound
20 by the terms of the class portion of the Settlement or have any right to object,
21 appeal or comment thereon. However, any Class Member that submits a
22 timely Request for Exclusion that is also a member of the Aggrieved
23 Employees will still receive his/her pro rata share of the Aggrieved Employee
24 Payment and will be bound by the Released PAGA Claims. Class Members
25 who fail to submit a valid and timely Request for Exclusion on or before the
26 Response Deadline shall be bound by all terms of the Settlement and any final
27 judgment entered in the Actions if the Settlement is approved by the Court.
28 No later than fourteen (14) calendar days after the Response Deadline, the
 Settlement Administrator shall provide counsel for the Parties with a final list

1 of the Class Members who have timely submitted Requests for Exclusion. At
2 no time shall any of the Parties or their counsel seek to solicit or otherwise
3 encourage Class Members to submit Requests for Exclusion from the class
4 portion of the Settlement.

- 5 8. Objections. The Class Notice contained in the Notice Packet shall state that
6 Class Members who wish to object to the Settlement may submit to the
7 Settlement Administrator a written statement of objection (“Notice of
8 Objection”) by the Response Deadline. The postmark date of mailing shall be
9 deemed the exclusive means for determining that a Notice of Objection was
10 served timely. The Notice of Objection, if in writing, must be signed by the
11 Class Member and state: (1) the case name and number; (2) the name of the
12 Class Member; (3) the address of the Class Member; and (4) the last four digits
13 of the Class Member’s Social Security number; (5) the basis for the objection;
14 and (6) if the Class Member intends to appear at the final approval hearing.
15 Class Members who fail to make objections in writing in the manner specified
16 above may still make their objections orally at the final approval/settlement
17 fairness hearing with the Court’s permission. Class Members will have a right
18 to appear at the final approval/settlement fairness hearing to have their
19 objections heard by the Court regardless of whether they submitted a written
20 objection. At no time shall any of the Parties or their counsel seek to solicit
21 or otherwise encourage Class Members to file or serve written objections to
22 the Settlement or appeal from the order and final judgment. Class Members
23 who submit a written Request for Exclusion may not object to the Settlement.
24 Class Members may not object to the PAGA Payment.
- 25 9. Option to Nullify. Defendants shall retain the right, in the exercise of their
26 sole discretion, to nullify the Settlement if more than 10% of the Class
27 Members submit Notices of Objection and/or Requests for Exclusion.
28

1 M. Funding and Allocation of the Gross Settlement Amount. Defendants are required to
2 pay the Gross Settlement Amount, plus any employer's share of payroll taxes as
3 mandated by law within thirty (30) calendar days of the Effective Date.

4 1. Calculation of Individual Settlement Payments. Individual Settlement
5 Payments shall be paid from the Net Settlement Amount and shall be paid
6 pursuant to the formula set forth herein. Using the Class Data, the Settlement
7 Administrator shall add up the total number of Workweeks for all Class
8 Members. The respective Workweeks for each Class Member will be divided
9 by the total Workweeks for all Class Members, resulting in the Payment Ratio
10 for each Class Member. Each Class Member's Payment Ratio will then be
11 multiplied by the Net Settlement Amount to calculate each Class Member's
12 estimated Individual Settlement Payments. Each Individual Settlement
13 Payment will be reduced by any legally mandated employee tax withholdings
14 (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class
15 Members who submit valid and timely Requests for Exclusion will be
16 redistributed to Settlement Class Members who do not submit valid and timely
17 Requests for Exclusion on a pro rata basis based on their respective Payment
18 Ratios.

19 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
20 Class Data, the Settlement Administrator shall add up the total number of
21 PAGA Pay Periods for all Aggrieved Employees during the PAGA Period.
22 The respective PAGA Pay Periods for each Aggrieved Employee will be
23 divided by the total PAGA Pay Periods for all Aggrieved Employees, resulting
24 in the "PAGA Payment Ratio" for each Aggrieved Employee. Each
25 Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the
26 Aggrieved Employee's portion of the Aggrieved Employee Payment,
27 \$25,000.00 (25% of \$100,000.00), to calculate each Aggrieved Employee's
28 estimated share of the Aggrieved Employee Payment.

- 1 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
2 Settlement Payments shall be allocated and treated as 20% wages (“Wage
3 Portion”) and 40% penalties (“Penalty Portion”) and 40% pre-judgment
4 interest (“Interest Portion”). The Wage Portion of the Individual Settlement
5 Payments shall be reported on IRS Form W-2 and the Penalty Portion and
6 Interest Portion of the Individual Settlement Payments shall be reported on
7 IRS Form 1099 pursuant to the Settlement Agreement. Plaintiffs and each
8 Settlement Class Member shall bear the full responsibility for payment of any
9 taxes or withholdings that are found to be owed from the Individual Settlement
10 Payments.
- 11 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
12 Employee Payments shall be allocated and treated as 100% penalties and shall
13 be reported on IRS Form 1099.
- 14 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
15 individual shares of the Aggrieved Employee Payment made to Settlement
16 Class Members and/or Aggrieved Employees under this Settlement
17 Agreement, as well as any other payments made pursuant to this Settlement
18 Agreement, will not be utilized to calculate any additional benefits under any
19 benefit plans to which any Class Members may be eligible, including, but not
20 limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase
21 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan.
22 Rather, it is the Parties’ intention that this Settlement Agreement will not
23 affect any rights, contributions, or amounts to which any Class Members may
24 be entitled under any benefit plans.
- 25 6. All monies received by Settlement Class Members under the Settlement which
26 are attributable to wages shall constitute income to such Settlement Class
27 Members solely in the year in which such monies actually are received by the
28 Settlement Class Members. It is the intent of the Parties that Individual
 Settlement Payments and individual shares of the Aggrieved Employee Payment

1 provided for in this Settlement Agreement are the sole payments to be made by
2 Defendants to Settlement Class Members and/or Aggrieved Employees in
3 connection with this Settlement Agreement, with the exception of Plaintiffs, and
4 that the Settlement Class Members and/or Aggrieved Employees are not entitled
5 to any new or additional compensation or benefits as a result of having received
6 the Individual Settlement Payments and/or their individual shares of the
7 Aggrieved Employee Payment.

8 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
9 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
10 and/or Aggrieved Employees' last known mailing address no later than fifteen
11 (15) calendar days after the Funding Date.

12 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
13 Employees shall remain valid and negotiable for one hundred and eighty (180)
14 days from the date of their issuance. If a Settlement Class Member and/or
15 Aggrieved Employee does not cash his or her settlement check within ninety
16 (90) days, the Settlement Administrator will send a letter to such persons,
17 advising that the check will expire after the 180th day, and invite that
18 Settlement Class Member and/or Aggrieved Employee to request reissuance
19 in the event the check was destroyed, lost or misplaced. In the event an
20 Individual Settlement Payment and/or Aggrieved Employee's individual
21 share of the Aggrieved Employee Payment check has not been cashed within
22 one hundred and eighty (180) days, all funds represented by such uncashed
23 checks, plus any interest accrued thereon, shall be paid to the Community Law
24 Project, a Cy Pres, in accordance with California Code of Civil Procedure
25 section 384.

26 9. Service Award. In addition to the Individual Settlement Payment as a
27 Settlement Class Member and their individual share of the Aggrieved
28 Employee Payment, Plaintiffs will apply to the Court for an award of not more
than \$10,000.00 each as the Service Award. Defendants will not oppose a

1 Service Award of not more than \$10,000.00 for each Plaintiff. The Settlement
2 Administrator shall pay the Service Award, either in the amount stated herein
3 if approved by the Court or some other amount as approved by the Court, to
4 Plaintiffs from the Gross Settlement Amount no later than fifteen (15)
5 calendar days after the Funding Date. Any portion of the requested Service
6 Award that is not awarded to the Class Representatives shall be part of the Net
7 Settlement Amount and shall be distributed to Settlement Class Members as
8 provided in this Agreement. The Settlement Administrator shall issue an IRS
9 Form 1099 — MISC to Plaintiffs for their Service Awards. Plaintiffs shall be
10 solely and legally responsible to pay any and all applicable taxes on their
11 Service Awards and shall hold harmless the Released Parties from any claim
12 or liability for taxes, penalties, or interest arising as a result of the Service
13 Awards. Approval of this Settlement shall not be conditioned on Court
14 approval of the requested amount of the Service Awards. If the Court reduces
15 or does not approve the requested Service Awards, Plaintiffs shall not have
16 the right to revoke the Settlement, and it will remain binding.

- 17 10. Attorneys' Fees and Attorneys' Expenses. Defendants understand Class
18 Counsel will file a motion for or Attorneys' Fees not to exceed thirty-five
19 percent (35%) of the Gross Settlement Amount currently estimated to be
20 \$495,693.41 and Attorneys' Expenses supported by declaration not to exceed
21 Thirty-Five Thousand Dollars (\$35,000.00). Any awarded Attorneys' Fees
22 and Attorneys' Expenses shall be paid from the Gross Settlement Amount.
23 Any portion of the requested Attorneys' Fees and/or Attorneys' Expenses that
24 are not awarded to Class Counsel shall be part of the Net Settlement Amount
25 and shall be distributed to Settlement Class Members as provided in this
26 Agreement. The Settlement Administrator shall allocate and pay the
27 Attorneys' Fees to Class Counsel from the Gross Settlement Amount no later
28 than fifteen (15) calendar days after the Funding Date. Class Counsel shall be
solely and legally responsible to pay all applicable taxes on the payment made

pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to this paragraph. In the event that the Court reduces or does not approve the requested Attorneys' Fees and/or Attorneys' Expenses, Plaintiffs and Class Counsel shall not have the right to revoke the Settlement, or to appeal such order, and the Settlement will remain binding.

11. PAGA Payment. One Hundred Thousand Dollars and Zero Cents (\$100,000.00) shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the Private Attorneys General Act of 2004. The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Payment (\$75,000.00) to the LWDA no later than fifteen (15) calendar days after the Effective Date. Twenty-five percent (25%) of the PAGA Payment (\$25,000.00) will be distributed to the Aggrieved Employees as described in this Agreement. For purposes of distributing the Aggrieved Employee Payment portion of the PAGA Payment to the Aggrieved Employees, each Aggrieved Employee shall receive their pro-rata share of the Aggrieved Employee Payment using the PAGA Payment Ratio as defined above.

12. Claims Administration Expenses. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Amount. The estimate of the Claims Administration Expenses is \$14,000.00. The Settlement Administrator shall be paid the Claims Administration Expenses no later than fifteen (15) calendar days after the Effective Date.

N. Final Approval Motion. Class Counsel and Plaintiffs shall use best efforts to file with the Court a motion for order granting final approval and entering judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Service Award, the Attorneys' Fees and Attorneys' Expenses, the PAGA Payment, and the Claims Administration Expenses. Plaintiffs

1 will provide Defendants with a draft of the motion at least five (5) business days prior
2 to the filing of the motion to give Defendants an opportunity to propose changes or
3 additions to the motion.

4 1. Declaration by Settlement Administrator. No later than seven (7) days after
5 the Response Deadline, the Settlement Administrator shall submit a
6 declaration in support of Plaintiffs' motion for final approval of this
7 Settlement detailing the number of Notice Packets mailed and re-mailed to
8 Class Members, the number of undeliverable Notice Packets, the number of
9 timely Requests for Exclusion, the number of Notices of Objections received,
10 the amount of the average Individual Settlement Payment and highest
11 Individual Settlement Payment, the Claims Administration Expenses, and any
12 other information as the Parties mutually agree or the Court orders the
13 Settlement Administrator to provide.

14 2. Final Approval Order and Judgment. Class Counsel shall present an order
15 granting final approval of class action settlement to the Court for its approval,
16 and judgment thereon, at the time Class Counsel files the motion for final
17 approval.

18 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
19 an opportunity for counsel for Defendants to review the motions for preliminary and
20 final approval, including the order granting final approval of class action settlement,
21 and Judgment before filing with the Court. The Parties and their counsel will cooperate
22 with each other and use their best efforts to effectuate the Court's approval of the
23 motions for preliminary and final approval of the Settlement, and entry of judgment.

24 O. Cooperation. The Parties and their counsel will cooperate with each other and use
25 their best efforts to implement the Settlement. The Parties will cooperate in vacating
26 any and all class certification deadlines and trial dates in the Actions. The Parties will
27 cooperate in staying any and all discovery deadlines in the Actions.
28

- 1 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Actions,
2 except such proceedings necessary to implement and complete the Settlement, pending
3 the final approval/settlement fairness hearing to be conducted by the Court.
- 4 Q. Amendment or Modification. This Agreement may be amended or modified only by
5 a written instrument signed by counsel for all Parties or their successors-in-interest.
- 6 R. Entire Agreement. This Agreement and any attached exhibit constitute the entire
7 Agreement among these Parties, and no oral or written representations, warranties or
8 inducements have been made to any Party concerning this Agreement or its exhibit(s)
9 other than the representations, warranties and covenants contained and memorialized
10 in this Agreement and its exhibit(s).
- 11 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
12 represent they are expressly authorized by the Parties whom they represent to negotiate
13 this Agreement and to take all appropriate action required or permitted to be taken by
14 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
15 documents required to effectuate the terms of this Agreement. The persons signing
16 this Agreement on behalf of Defendants represents and warrants that he/she is
17 authorized to sign this Agreement on behalf of Defendants. Plaintiffs represent and
18 warrant that they are authorized to sign this Agreement and that they have not assigned
19 any claim, or part of a claim, covered by this Settlement to a third-party.
- 20 T. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
21 to the benefit of, the successors or assigns of the Parties, as previously defined.
- 22 U. California Law Governs. All terms of this Agreement and any disputes shall be
23 governed by and interpreted according to the laws of the State of California.
- 24 V. Counterparts. This Agreement may be executed in one or more counterparts by
25 facsimile, electronic signature, or e-mail, for purposes of this Agreement shall be
26 accepted as an original. All executed counterparts and each of them shall be deemed
27 to be one and the same instrument provided that counsel for the Parties to this
28 Agreement shall exchange among themselves copies or originals of the signed

1 counterparts. Any executed counterpart will be admissible in evidence to prove the
2 existence and contents of this Agreement.

3 W. Court Filings. The Parties shall not object to any Court filings consistent with this
4 Agreement.

5 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
6 is a fair, adequate and reasonable settlement of the Actions and have arrived at this
7 Settlement after extensive arms-length negotiations, taking into account all relevant
8 factors, present and potential.

9 Y. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
10 respect to the interpretation, implementation and enforcement of the terms of this
11 Agreement and all orders and judgments entered in connection therewith, and the
12 Parties and their counsel submit to the jurisdiction of the Court for purposes of
13 interpreting, implementing and enforcing the Settlement and all orders and judgments
14 entered in connection with this Agreement.

15 Z. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
16 the Court shall first attempt to construe the provisions valid to the fullest extent
17 possible consistent with applicable precedents so as to define all provisions of this
18 Agreement valid and enforceable.

19 AA. No Unalleged Claims. Plaintiffs and Class Counsel represent that they do not currently
20 intend to pursue any claims against the Released Parties, including, but not limited to,
21 any and all claims relating to or arising from Plaintiffs' employment with Defendants,
22 regardless of whether Class Counsel is currently aware of any facts or legal theories
23 upon which any claims or causes of action could be brought against Released Parties,
24 including those facts or legal theories alleged in the Operative Complaints in the
25 Actions. The Parties further acknowledge, understand and agree that this
26 representation is essential to the Agreement and that this Agreement would not have
27 been entered into were it not for this representation.

28 BB. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
certification for purposes of this Settlement only.

1 CC. No Admissions by the Parties. Plaintiffs have claimed and continue to claim that the
2 Released Class Claims and Released PAGA Claims have merit and give rise to liability
3 on the part of Defendants. Defendants claim that the Released Class Claims and
4 Released PAGA Claims have no merit and do not give rise to liability. This Agreement
5 is a compromise of disputed claims. Nothing contained in this Agreement and no
6 documents referred to and no action taken to carry out this Agreement may be
7 construed or used as an admission by or against the Defendants or Plaintiffs or Class
8 Counsel as to the merits or lack thereof of the claims asserted. Other than as may be
9 specifically set forth herein, each Party shall be responsible for and shall bear its/his
10 own attorney's fees and costs.

11 DD. No Public Comment. The Parties and their counsel agree that they will not issue any
12 press releases, initiate any contact with the press, respond to any press inquiry, or have
13 any communication with the press about the fact, amount or terms of the Settlement
14 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
15 of its terms for any marketing or promotional purposes. Nothing herein will restrict
16 Class Counsel from including publicly available information regarding this settlement
17 in future judicial submissions regarding Class Counsel's qualifications and experience.
18 Further, Class Counsel will not include, reference or use the Settlement Agreement for
19 any marketing or promotional purposes, either before or after the motion for
20 preliminary approval is filed.

21 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFFS:

22 DATED: 04/24/2025
23 _____


24 REY Rey (Apr 24, 2025 23:18 CDT)
Reynaldo Rios

25 DATED: _____
26 _____

Michelle Chase

27 IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:
28 _____

1 CC. No Admissions by the Parties. Plaintiffs have claimed and continue to claim that the
2 Released Class Claims and Released PAGA Claims have merit and give rise to liability
3 on the part of Defendants. Defendants claim that the Released Class Claims and
4 Released PAGA Claims have no merit and do not give rise to liability. This Agreement
5 is a compromise of disputed claims. Nothing contained in this Agreement and no
6 documents referred to and no action taken to carry out this Agreement may be
7 construed or used as an admission by or against the Defendants or Plaintiffs or Class
8 Counsel as to the merits or lack thereof of the claims asserted. Other than as may be
9 specifically set forth herein, each Party shall be responsible for and shall bear its/his
10 own attorney's fees and costs.

11 DD. No Public Comment. The Parties and their counsel agree that they will not issue any
12 press releases, initiate any contact with the press, respond to any press inquiry, or have
13 any communication with the press about the fact, amount or terms of the Settlement
14 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
15 of its terms for any marketing or promotional purposes. Nothing herein will restrict
16 Class Counsel from including publicly available information regarding this settlement
17 in future judicial submissions regarding Class Counsel's qualifications and experience.
18 Further, Class Counsel will not include, reference or use the Settlement Agreement for
19 any marketing or promotional purposes, either before or after the motion for
20 preliminary approval is filed.

21 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFFS:

22
23 DATED: _____

Reynaldo Rios

24
25 DATED: 04/03/2025 _____

~~Michelle Chase~~ (Apr 3, 2025 08:43 PDT)
Michelle Chase

26
27 IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:
28

1 DATED: 04/01/25

Paul Miller

Paul Miller (Apr 1, 2025 16:29 PDT)

Ability Counts, Inc.

Paul Miller, PhD

Printed Name

President, Board of Directors

Title

6 DATED: 7/1/2025

Moheni Gaji

9 IT IS SO AGREED AS TO FORM BY COUNSEL:

11 DATED: April 25, 2025

JCL LAW FIRM, A.P.C.

12 By: 

Jean-Claude Lapuyade, Esq.

13 Attorneys for Plaintiffs and the Settlement Class
14 Members

16 DATED: April 25, 2025

ZAKAY LAW GROUP, APLC

17 By: 

18 Shani O. Zakay, Esq.

19 Attorneys for Plaintiffs and the Settlement Class
20 Members

21 DATED: April 25, 2025

LAWYERS FOR JUSTICE, PC

22 By: 

Edwin Aiwarzian, Esq.

23 Vartan Madoyan, Esq.

24 Attorneys for Plaintiffs and the Settlement Class
25 Members

26 DATED: April 2, 2025

MESSNER REEVES, LLP

27 By: 

Kathleen Carter, Esq.

28 Jeffrey Gillette, Esq.

Attorneys for Defendants

EXHIBIT A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE (“Class Notice”)**

(Reynaldo Rios v. Ability Counts, Inc., et al., Riverside County Superior Court, Case No. CVRI2105433)
(Reynaldo Rios v. Ability Counts, Inc., et al., Riverside County Superior Court, Case No. CVRI2104367)

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement share is: \$<< [REDACTED] >>. See the explanation below in section 5. After final approval by the Court, the payment will be mailed to you at the same address as this Class Notice. If your address has changed, please notify the “Settlement Administrator” as explained below. In exchange for the Settlement payment, you will release claims against the Defendants as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Class portion of the Settlement, you must send a written Request for Exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Class portion of the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the Settlement should not be approved. Directions are provided below.

1. Why did I get this Class Notice?

A proposed class action settlement (the “Settlement”) of the Actions pending in the Superior Court for the State of California, County of Riverside (the “Court”) has been reached between Plaintiffs Reynaldo Rios and Michelle Chase (“Plaintiffs”) and Defendant Ability Counts, Inc. and Moheni Gaji (“Defendants”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

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

All current and former hourly-paid or non-exempt employees of Defendants in California employed during the Class Period. (“Class Members”)

The “Class Period” is the period of time running from November 29, 2017 through September 30, 2024.

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

2. What is this class action lawsuit about?

On September 17, 2021, Plaintiff Reynaldo Rios filed the representative PAGA Action, Case No. CVRI2104367 (the “PAGA Action”), alleging a single cause of action for Violation of the California Labor Code § 2698, et seq. (California Labor Code Private Attorneys General Act of 2004) (“PAGA”). PAGA is a mechanism by which the State of California itself can enforce state labor laws through the employee suing under the PAGA who does so as the proxy or agent of the State’s labor law enforcement agency. The purpose of the PAGA is not to recover damages or restitution, but to create a means of “deputizing” citizens as private attorney general to enforce the Labor Code and recover penalties.

On November 29, 2021, Plaintiff Reynaldo Rios filed the Class Action, alleging: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197 and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements); (8) Violation of California Labor Code § 1174(d) (Failure to Keep Requisite Payroll Records); (9) Violation of California Labor Code § 2800 and 2802 (Unreimbursed Business Expenses); and (10) Violation of California Business & Professions Code §§ 17200, et seq. (the “Class Action”). On April 14, 2022, the operative first amended complaint in the Class Action was filed in order to add Plaintiff Michelle Chase as a plaintiff.

On June 16, 2022, the PAGA Action and Class Action were consolidated, with the PAGA Action becoming the lead case. The PAGA Action and Class Action are collectively referred to as the “Actions.”

Defendants deny and dispute all claims asserted in the Actions. Specifically, Defendants contend that the Actions could not properly be maintained as a class action; that Defendants properly paid the Class Members all wages and overtime that was due, provided all legally required meal breaks and rest breaks, paid all wages due to the Class Members at the time of their terminations, provided accurate, itemized wage statements, did not violate California Business and Professions Code sections 17200-17210, and are not liable for any of the penalties claimed or that could be claimed in the Actions.

On September 18, 2023, the parties participated in an all-day mediation with Henry J. Bongiovi, Esq., an experienced mediator of wage and hour class and PAGA actions. The Actions ultimately were settled. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiffs to serve as the “Class Representatives”, and the law firms of JCL Law Firm, APC, Zakay Law Group, APLC, and Lawyers for Justice, PC to serve as “Class Counsel”.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an “all in” amount of One Million Four Hundred and Sixteen Thousand, Two Hundred Sixty-Six Dollars and Ninety Cents (\$1,416,266.90) (the “Gross Settlement Amount”) to fund the Settlement. The Gross Settlement Amount includes the payment of all Individual Settlement Payments, Claims Administration Expenses, Attorneys’ Fees and Attorneys’ Expenses, Service Award to each of the Plaintiffs, and the PAGA Payment.

After the judgment becomes final, Defendants will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. The judgment becomes final on the date the judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed and the judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- “Claims Administration Expenses”. Payment to the Settlement Administrator, estimated not to exceed \$14,000.00 for expenses, including expenses of sending this Class Notice, processing opt-outs, and distributing settlement payments.
- “Attorneys’ Fees” and “Attorneys’ Expenses”. Payment to Class Counsel not to exceed thirty-five percent (35%) of the Gross Settlement Amount (currently \$495,639.41) plus costs and expenses not to exceed \$35,000 for all costs and expenses incurred as documented in Class Counsel’s billing records, both subject to Court approval. Collectively, the Attorneys’ Fees and Attorneys’ Expenses are referred to as the “Class Counsel Award.” Class Counsel have been prosecuting the Actions on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative “Service Awards”. Class Representative Service Awards of up to Ten Thousand Dollars (\$10,000) to each Plaintiff, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Class in initiating and prosecuting the Actions, and for the risks they undertook.
- PAGA Settlement. A payment of \$100,000 (“PAGA Payment”) relating to Plaintiff Reynaldo Rios’ claim under PAGA, \$75,000 of which will be paid to the State of California’s Labor and Workforce Development Agency (“LWDA”) and the remaining \$25,000 will be distributed to the Aggrieved Employees (“Aggrieved Employee Payment”).
- Calculation of Individual Settlement Payments. After payments of the Court-approved Class Counsel Award, the Service Awards, the PAGA Payment, and the Claims Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the “Net Settlement Amount,” shall be distributed to Class Members who do **not** request exclusion (“Settlement Class Members”). The “Individual Settlement Payment” for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of Workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member’s Workweeks that occurred during the Class Period. A “Workweek” is defined as any seven (7) consecutive days beginning on Sunday and ending on Saturday, in which a Class Member is employed for at least portion of one day by Defendants during the Class Period in California.
- Calculation of Individual Payments to Aggrieved Employees. The Aggrieved Employee Payment portion of the PAGA Payment shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out from the Class portion of the Settlement. The Aggrieved Employee Payment will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. “Aggrieved Employees” means all current and former hourly-paid or non-exempt employees of Defendants Ability Counts, Inc. and Moheni Gaji in California employed during the “PAGA Period”. The PAGA Period means the period between July 14, 2020 to September 30, 2024.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Individual Settlement Payment and/or individual Aggrieved Employee Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to advise of your correct address to ensure you receive your payment.

You may find the full text of the “Settlement Agreement” entitled “Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims” attached as Exhibit 1 to the Declaration of Jean-Claude Lapuyade in Support of Plaintiffs’ motion for preliminary approval of the Settlement filed on MM/DD/YYYY, with the Riverside County Superior Court, Dept. 1, located at 4050 Main Street, Riverside, CA 92501. You may also find the Settlement Agreement online by visiting the Riverside County Superior Court website <https://www.riverside.courts.ca.gov/>.

Tax Matters. Twenty percent (20%) of each Individual Settlement Payment is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. Forty percent (40%) penalties (“Penalty Portion”) of each Individual Settlement Payment is allocated to penalties and 40% pre-judgment interest (“Interest Portion”) of each Individual Settlement Payment is allocated to interest and other non-wage payments, and no taxes will be withheld, and each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from Aggrieved Employee Payments paid to Aggrieved Employees, and each Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendants’ counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon funding in full of the Gross Settlement Amount by Defendants, Plaintiffs and the Settlement Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties as defined in the Settlement Agreement. “Released Class Claims” means all claims under state, federal, or local law, arising out of the claims that were alleged, or that reasonably could have been alleged, in the operative complaint in the Class Action and all other claims, such as those under the California Labor Code, Wage Orders, regulations, and/or other provisions of law, that could have been asserted based on the facts pleaded in the operative complaint in the Class Action for: (1) failure to pay overtime wages under Labor Code Sec. 510, 1198; (2) failure to provide meal periods and/or pay meal period premiums under Labor Code Sec. 226.7, 512; (3) failure to provide rest periods and/or pay rest period premiums under Labor Code Sec. 226.7; (4) failure to pay minimum wages under Labor Code Sec. 1194, et seq.; (5) failure to timely pay wages upon termination under Labor Code Sec. 203; (6) failure to timely pay wages during employment under Labor Code Sec. 204, 210; (7) failure to provide accurate, itemized wage statements under Labor Code Sec. 226; (8) failure to keep requisite payroll records under Labor Code Sec. 1174(d); (9) failure to reimburse business expenses under Labor Code Sec. 2800, 2802; (10) violation of California’s unfair competition law under Business and Professions Code Sec. 17200, in the operative complaint in the Class Action which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and class claims outside of the Class Period.

The Released PAGA Claims shall be released as follows: Upon funding in full of the Gross Settlement Amount by Defendants, all Aggrieved Employees shall release all Released PAGA Claims, irrespective of whether they opted-out of the Class portion of the Settlement, and will be bound by this PAGA Release (the “PAGA Release”). “Released PAGA Claims” means all PAGA claims alleged in the operative complaint in the PAGA Action and Plaintiff Reynaldo Rios’ PAGA notice (July 14, 2021 letter) to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation and PAGA claims outside the PAGA Period.

This means that, if you do not timely and formally exclude yourself from the Class portion of the Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants about the legal issues resolved by

this Settlement. It also means that all of the Court's orders in these Actions will apply to you and legally bind you.

5. How much will my payment be?

Defendants' records reflect that you have <<____>> Workweeks worked during the Class Period (November 29, 2017 through September 30, 2024).

Based on this information, your estimated Individual Settlement Payment is <<____>>.

Defendants' records reflect that you have <<____>> pay periods worked during the PAGA Period (July 14, 2020 through September 30, 2024).

Based on this information, your estimated Aggrieved Employee Payment is <<____>>.

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

6. How can I get a payment?

To get money from the Settlement, you do not have to do anything. A check for your Settlement payment will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: APEX Class Action LLC.

The Court will hold a hearing on _____ to decide whether to finally approve the Settlement. The Court has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable. Any final determination of those issues will be made at the final approval hearing. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the judgment on the Settlement Administrator's website at www.apexclassaction.com/_____.

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

If you do not wish to participate in the Class portion of the Settlement, you may exclude yourself from the Class portion of the Settlement or "opt out." **If you opt out, you will receive NO money from the Class portion of the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Class portion of the Settlement or "opt out," you will be bound by the Released PAGA Claims, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the Aggrieved Employee Payment.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated Request for Exclusion postmarked no later than _____. The address for the Settlement Administrator is APEX Class Action LLC, 18 Technology Drive, Ste. 164, Irvine, CA 92618. The Request for Exclusion must state in substance: "I wish to opt out of the Settlement of the class action lawsuit entitled *Rios v. Ability Counts, Inc., et al., Riverside County Superior Court, Case No. CVRI2105433*. I understand that by requesting to be excluded from the Settlement, I will receive no money from the Settlement described in this Class Notice." The Request for Exclusion must contain your name, address, and signature for verification purposes. The Request for Exclusion must be signed by you. No other person may opt out for a Class Member.

Written Requests for Exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is ***Rios v. Ability Counts, Inc., et al., Riverside County Superior Court, Case No. CVRI2105433***. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

To object to the Settlement, you cannot submit a Request for Exclusion and opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is 18 Technology Drive, Suite 154, Irvine, CA 92618.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
Fax: (619) 599-2891
E-Mail: jlapuyade@jcl-lawfirm.com

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121 Tel: (619) 599-8292
Fax: (619) 599-8291
Email: shani@zakaylaw.com
Website: www.zakaylaw.com

Counsel for Defendants:

Messner Reeves LLP
Kathleen Carter, Esq.
Jeffrey R Gillette, Esq.
611 Anton Boulevard, Suite 450
Costa Mesa, California 92626
Telephone: (949) 612-9128
Facsimile: (949) 438-2304
Email: kcarter@messner.com
jgillette@messner.com

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

The Court will hold a final approval hearing at **00:00 AM/PM on _____**, at the Riverside County Superior Court, Dept. 1, located at 4050 Main Street, Riverside CA 92501 before Judge Harold W. Hopp. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the final approval hearing, although any Class Member is welcome to attend the hearing.

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

You may call the Settlement Administrator at 1-888-250-6810 or write to ***Rios v. Ability Counts, Inc., et al., Riverside County Superior Court, Case No. CVRI2105433***, Settlement Administrator, c/o _____.

This Class Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the final judgment or other Settlement documents by writing to JCL Law Firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121.

PLEASE DO NOT CALL THE COURT ABOUT THIS CLASS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your Individual Settlement Payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to the Community Law Project. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT B

Superior Court of California, County of Riverside
Rios v. Ability Counts, Inc.
Riverside County Superior Court Case No. CVRI2105433

REQUEST FOR EXCLUSION FORM

Instructions: Please complete this Form ONLY IF YOU **DO NOT** WANT TO PARTICIPATE IN THE SETTLEMENT FOR THE CLASS that is described in the Notice of Pendency of Class Action Settlement and Final Hearing Date that accompanies this Form. If you choose to complete this Form, the deadline for mailing it to the Settlement Administrator is [**** INSERT DATE****]. Please note that exclusion from the Settlement of the Class does not result in exclusion from the settlement in the companion PAGA case no. CVR12104367.

I. PERSONAL INFORMATION

Name (first, middle and last): _____
Home Street Address: _____
City, State, Zip Code: _____
Telephone Number: (____) _____

II. REQUEST FOR EXCLUSION

By signing and returning this Form, I certify that I wish to opt out of the settlement of the class action lawsuit entitled *Rios v. Abilit Counts, Inc.*, Case No CVRI2105433, filed in the Superior Court of California, County of Riverside. I understand that by requesting to be excluded from the Settlement, I will receive no money from the Settlement described in the Notice of Pendency of Class Action Settlement and Final Hearing Date that accompanies this Form. I understand that exclusion from the Settlement does not result in exclusion from the settlement in the companion PAGA case no. CVR12104367.

Any Class Member that submits a timely Request for Exclusion who is also a member of the Aggrieved Employees in the companion PAGA case no. CVR12104367 will still receive his/her pro rata share from the Settlement of the PAGA case.

III. MAILING INSTRUCTIONS

If you choose to return this Form, you must return it to the Settlement Administrator postmarked on or before [****INSERT DATE****] AT THE ADDRESS LISTED BELOW:

APEX Class Action LLC
18Technology Drive, Suite 164
Irvine, CA 92618

IV. PLEASE SIGN BELOW

I declare that the foregoing is true and correct.

Dated: _____

(Signature)

(Print Name)

EXHIBIT C

Settlement Administrator
APEX Class Action LLC
18 Technology Drive, Suite 164
Irvine CA 92618

Must Be Postmarked
No Later Than
XXX, 202X

OBJECTION FORM

SUPERIOR COURT OF THE STATE OF CALIFORNIA – COUNTY OF RIVERSIDE
Rios v. Ability Counts, Inc., Riverside County Superior Court Case No. CVRI2105433

Indicate Name/Address Changes, if any:

<<Name>>

<<Address>>

<<City>>, <<State>> <<Zip Code>>

YOU DO NOT NEED TO COMPLETE THIS FORM TO PARTICIPATE IN THE SETTLEMENT. THIS FORM IS TO BE USED ONLY IF YOU WANT TO PARTICIPATE IN THE SETTLEMENT, BUT YOU OBJECT TO THE TERMS OF THE SETTLEMENT. IF YOU OBJECT TO THE SETTLEMENT, YOU MUST SIGN AND COMPLETE THIS FORM ACCURATELY AND IN ITS ENTIRETY AND YOU MUST MAIL IT BY FIRST CLASS U.S. MAIL TO THE SETTLEMENT ADMINISTRATOR SO THAT IT IS POSTMARKED ON OR BEFORE XXX, 202X. THE ADDRESS FOR THE SETTLEMENT ADMINISTRATOR IS NOTED AT THE TOP OF THIS FORM. IF YOU DO NOT OBJECT TO THE SETTLEMENT, DO NOT SUBMIT THIS FORM.

The Court will consider your objection at the Final Approval Hearing if you submit a timely and valid written statement of objection. All of the information on this form is required. If you do not provide all of the information below, your objection will be deemed null and void.

I, _____, (name of Class Member) hereby object to the Settlement in this case for the following reasons:

Dated: _____

Signature: _____

Print or Type Name: _____

Telephone Number: _____

EXHIBIT 2

EXHIBIT 3



Quotation Request:
Jackland Hom
Zakay Law Group, APC
Jackland@zakaylaw.com
619.255.9047

Case Name: Rios v. Ability Counts
Date: Friday, February 21, 2025
RFP Number: 14690012

Prepared By:
Sean Hartranft
Apex Class Action LLC
Sean@apexclassaction.com
949.878.3676

Settlement Specifications	
Estimated Class Size:	1,256
Certified Language Translation:	Yes
Static Settlement Website	No
Percentage of Undeliverable Mail	20%

Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
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Data Analytics and Standardization				
Import and Standardize Data*	Per Hour	\$125.00	3	\$375.00
Data Analyst	Per Hour	\$150.00	3	\$450.00
*Data provided must be in a workable format. Apex can standardize provided data at an additional cost of \$150/hr.				
Sub Total:				\$825.00

Mailing of Class Notice				
Form Set Up	Per Hour	\$120.00	1	\$120.00
Print & Mail Class Notice	Per Piece	\$1.25	1,256	\$1,570.00
USPS First Class Postage	Per Piece	\$0.69	1,256	\$866.64
Remail Undeliverable Mail (Skip-Trace)	Per Piece	\$2.00	251	\$502.40
Receive and Process Undeliverable Mail	Per Hour	\$75.00	1	\$75.00
Process Class Member Correspondence via mail, e-mail & fax	Per Piece	\$75.00	3	\$225.00
NCOA Address Update (USPS)	Static Rate	\$193.12	1	\$193.12
Certified Language Translation: Spanish	Static Rate	\$1,200.00	1	\$1,200.00
Sub Total:				\$4,752.16

Project Management				
Project Management	Per Hour	\$150.00	3	\$450.00
Project Coordinator	Per Hour	\$90.00	3	\$270.00
Data Analyst and Reporting	Per Hour	\$140.00	1	\$140.00
Sub Total:				\$860.00



Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
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Toll-Free Contact Center, Website & Reporting				
Bilingual Toll-Free Contact Center	Static Rate	\$270.00	1	\$270.00
Settlement Status Reports	Static Rate	\$750.00	1	Waived
Sub Total:				\$270.00

Distribution & Settlement Fund Management				
Settlement Calculations (Preliminary and Final)	Per Hour	\$120.00	3	\$360.00
Account Management and Reconciliation	Per Hour	\$140.00	3	\$420.00
Print & Mail Distribution Settlement Check (W-2/1099)	Per Piece	\$1.25	1,256	\$1,570.00
USPS First Class Postage	Per Piece	\$0.69	1,256	\$866.64
Remail Distribution to Updated Address (Skip Trace)	Per Piece	\$2.00	126	\$251.20
Individual Income Tax Preparation & Reporting	Per Hour	\$100.00	10	\$1,000.00
QSF Income Tax Reporting (per calendar year)	Per Year	\$1,250.00	1	\$1,250.00
Sub Total:				\$5,717.84

Post Distribution Reconciliation				
Bank Account Reconciliation	Per Hour	\$135.00	3	\$405.00
Project Management Reconciliation	Per Hour	\$100.00	3	\$300.00
Declarations	Per Hour	\$120.00	3	\$360.00
Sub Total:				\$1,065.00

WILL NOT EXCEED:			\$13,490.00
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Thank you for your business!



Terms & Conditions

The following Terms and Conditions govern the provision of all services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. **Services:** Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").

2. **Payment Terms:** As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.

3. **Incurred Expenses:** In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.

4. **Invoicing:** Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In case of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.

5. **Case Duration:** The duration of these Terms and Conditions, except for the data storage obligations stated in Section 13, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.

6. **Termination of Services:** Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (i) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.

7. **Independent Contractor:** As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.

8. **Apex warrants that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services. It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.**

9. **Limitation of Liability:** The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.

10. **Indemnification:** The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.

11. **Confidentiality:** Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of this these terms may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the parties concerning confidentiality. These terms may only be amended in writing and signed by both parties.

12. **Ownership of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex. It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.**

13. **Apex may derive financial benefits from financial institutions in connection with the deposit and investment of funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.**

14. **COMPLETE AGREEMENT.** These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.

15. **This provision outlines the requirements for providing notice or other communication under this agreement. All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.**

16. **Force Majeure:** In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.

17. **The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions. No choice of law or conflict of laws provisions shall affect this governing law provision.**

18. **Severability:** This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.

19. **Nonwaiver:** This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.