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and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MARY BETH HUGHES, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

JEFFREY LEE GALITZ, MD, A
PROFESSIONAL MEDICAL
CORPORATION, a California corporation;
DOES 1 through 25,

Defendants.

Case No.: 21STCV30732
*Assigned for all purposes to Hon. Yvette
M. Palazuelos, SSC-9*

**STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT**

I. INTRODUCTION AND SUMMARY OF SETTLEMENT TERMS

This stipulation sets forth the terms of the settlement of a class and representative action filed on behalf of current and former non-exempt employees who worked for Defendant Jeffrey Lee Galitz, M.D., A Professional Medical Corporation dba Woundtech of California (“Galitz”); Podicare Services, Inc (“Podicare”); and Wound Technology Network, Inc. (“WTN”) (Galitz, Podicare, and WTN collectively “Defendants”) in California during the Class Period, as defined below. The Second Amended Complaint alleges causes of action against Defendants for (1) failure to pay overtime; (2) failure to pay

1 for non-productive time; (3) failure to pay wages for all work performed; (4) failure to
2 provide compliant meal breaks and paid rest breaks; (5) inaccurate wage statements; (6)
3 failure to reimburse necessary expenditures; (7) violation of the Unfair Practices Act; (8)
4 failure to pay all wages owed at termination; and (9) recovery of civil penalties under
5 PAGA.

6 Under the terms of the parties' Settlement and after final approval and entry of
7 judgment pursuant to California Rule of Court 3.769, Defendants will pay a gross settlement
8 amount of one million six hundred seventy-five thousand dollars (\$1,675,000) (the "Gross
9 Settlement Amount"), plus the employer's share of payroll taxes. The Settlement will be
10 administered by a third-party settlement administrator with experience administering class
11 action settlements of this type. Until distribution, the Gross Settlement Amount will be held
12 in a Qualified Settlement Fund established by the Settlement Administrator. This is an opt-
13 out settlement, and Class Members (as defined in Section II) will receive a settlement
14 payment unless they timely submit a Request for Exclusion. Settlement Class Members shall
15 not be required to submit a claim form.

16 The Parties agree and propose that the following disbursements will be made from
17 the Gross Settlement Amount, subject to Court approval at the Final Fairness and Approval
18 Hearing:

19 A. Settlement Administration Costs, estimated to be \$6,750;

20 B. Class Counsel's Attorneys' Fees, to be approved by the Court, in an amount
21 not to exceed five hundred fifty-eight thousand three hundred and thirty-three dollars
22 (\$558,333), which is one-third of the Gross Settlement Amount;

23 C. Class Counsel's Costs, as approved by the Court, in an amount not to exceed
24 \$40,000;

25 D. A Service and Release Award to Plaintiff Mary Beth Hughes in the amount
26 of \$10,000 as payment for her time and efforts in pursuing this Action, and for the broader
27 release and other covenants that she will be providing to Defendant;

1 E. An allocation of \$50,000 to Plaintiff's PAGA claims (the "PAGA Amount"),
2 to be distributed as follows: Payment of \$37,500 to the California Labor and Workforce
3 Development Agency (the "LWDA Payment"), which represents the Labor and Workforce
4 Development Agency's ("LWDA") 75% share of \$50,000. The other 25% of the PAGA
5 Amount (\$12,500) will be distributed to those Class members who worked for Defendants at
6 any time during the PAGA Period (defined below).

7 F. The remainder of the Gross Settlement Amount (the "Net Settlement
8 Amount") will be distributed to Settlement Class Members based on the methodology
9 discussed in section IV.L.1, below. It is estimated that the Net Settlement Amount will be
10 approximately \$1,022,417 after deductions for Class Counsel's Attorneys' Fees, Class
11 Counsel's Costs, Settlement Administration Costs, the Service and Release Awards, and the
12 PAGA Amount.

13 Defendants represent that the Class consisted of approximately 89 members as of
14 May 19, 2022.

15 **II. DEFINITIONS**

16 As used in this Stipulation, the following terms shall have the meanings set forth
17 below:

18 A. "Action" means this putative class and representative action pending in Los
19 Angeles County Superior Court titled *Mary Beth Hughes v. Jeffrey Lee Galitz, MD, A*
20 *Professional Medical Corporation, a California corporation*, Case No. 21STCV30732.

21 B. "Agreement" or "Stipulation" means this Stipulation of Class Action and
22 PAGA Settlement.

23 C. "Class" means all individuals who were employed by Galitz and allegedly
24 employed by Podicare and WTN in California as non-exempt employees during the Class
25 Period (as defined below).

26 D. "Class Counsel" means Aaron C. Gundzik and Rebecca G. Gundzik of
27 Gundzik Gundzik Heeger LLP, 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA
28

91423, (818) 290-7461, and Dan Holzman of Caskey & Holzman, 24025 Park Sorrento, Ste. 400, Calabasas, CA 91302, (818) 657-1070.

E. “Class Counsel’s Attorneys’ Fees” means the amount to be awarded to Class Counsel from the Gross Settlement Amount for their attorneys’ fees for their work in this Action, subject to Court approval at the Final Fairness and Approval Hearing. Class Counsel’s Attorneys’ Fees will not exceed \$558,333.00, which is one-third of the Gross Settlement Amount.

F. “Class Counsel’s Costs” means the amount to be awarded to Class Counsel from the Gross Settlement Amount to reimburse Class Counsel for their reasonable costs and expenses incurred in the Action, subject to Court approval at the Final Fairness and Approval Hearing. Class Counsel’s Costs will not exceed \$40,000.

G. “Class Data” means (a) the full name and last known address of each Class Member and PAGA Employee; (b) the number of days that each Class Member actually worked for Defendants during the Class Period in a Class position; (c) the number of wage statements issued to each PAGA Employee during the PAGA Period; and (d) the Class Member’s social security number.

H. “Class Member” is a person who is a member of the Class.

I. “Class Period” means the period from August 19, 2017 through the earlier of July 19, 2022 and the date of preliminary approval.

J. “Complaint” means the Second Amended Complaint on file in the Action.

K. “Court” means the Superior Court of the State of California, in and for the County of Los Angeles, where the Action is pending.

L. “Defendants” means Jeffrey Lee Galitz, M.D., A Professional Medical Corporation, dba Woundtech of California; Podicare Services, Inc.; and Wound Technology Network, Inc.

M. “Defendants’ Counsel” means Lonnie D. Giamela, Fisher & Phillips LLP, 444 South Flower Street, Suite 1500, Los Angeles, CA 90071, (213) 330-4454.

1 N. "Effective Date" means the date of entry of the "Final Approval Order" if no
2 objection is filed. If a timely objection to the settlement is filed, the "Effective Date" will be
3 the later of (1) 7 days after the period for filing an appeal of the Final Approval Order has
4 elapsed without any appeal having been filed or (2) 7 days after any appellate proceedings
5 opposing the Final Approval Order have finally and conclusively been dismissed with no
6 right to pursue further remedies or relief.

7 O. "Employer's Withholding Share" means Defendants' share of all federal,
8 state, and local taxes and required withholdings, including without limitation, FICA,
9 Medicare tax, FUTA, and state unemployment taxes. Defendants will pay the Employer's
10 Withholding Share in addition to the Gross Settlement Amount.

11 P. "Final Approval Order" means the Order Granting Final Approval of Class
12 Action Settlement and Judgment entered by the Court.

13 Q. "Final Fairness and Approval Hearing" means the hearing on Plaintiff's
14 Motion for Final Approval of Class Action Settlement at which the Court will be asked to
15 give final approval to the settlement terms set forth herein and to enter judgment.

16 R. "Gross Settlement Amount" means the one million six hundred seventy-five
17 thousand dollars (\$1,675,000) which Defendants will pay under this Settlement.

18 S. "LWDA Payment" means \$37,500, which is 75% of the PAGA Amount. The
19 LWDA Payment will be paid to the LWDA.

20 T. "Net Settlement Amount" means the amount remaining from the Gross
21 Settlement Amount after payments of Court-approved Class Counsel's Attorney's Fees and
22 Class Counsel's Costs, the Service and Release Award to the Representative Plaintiff and
23 Settlement Administration Costs, and the PAGA Amount. It is estimated that the Net
24 Settlement Amount will be at least \$1,022,417.

25 U. "Notice of Settlement" means the "Notice of Proposed Class Action
26 Settlement and Hearing Date for Approval," the form of which is attached hereto as Exhibit
27 1, or any subsequent version of Exhibit 1, as approved by the Court.

1 V. "Notice of Objection" means a written objection to this Settlement sent by a
2 Settlement Class Member to the Settlement Administrator that complies with the criteria
3 specified herein and in the Notice of Settlement.

4 W. "PAGA Amount" means \$50,000, which is the portion of the Gross
5 Settlement Amount that the Parties allocated to settlement of Plaintiff's PAGA claims.

6 X. "PAGA Employee" means a member of the Class who was employed by
7 Defendants and worked at least one day for Defendants in California at any time during the
8 PAGA Period.

9 Y. "PAGA Employee Portion" means \$12,500, which is 25% of the PAGA
10 Amount. The PAGA Employee Portion will be paid only to PAGA Employees.

11 Z. "PAGA Pay Period" means a two-week pay period within the PAGA Period
12 during which a PAGA employee performed work for at least one day for Defendants in
13 California. A pay period during which a PAGA Employee was entirely absent from work,
14 such as a week during which a PAGA Employee was on leave or vacation, is not a PAGA
15 Pay Period.

16 AA. "PAGA Period" means the time period from August 19, 2020 through the
17 earlier of (1) July 19, 2022 and (2) the date of preliminary approval.

18 BB. "PAGA Released Claims" means any and all claims under PAGA that were
19 administratively exhausted by providing the requisite notice to the Labor Workforce
20 Development Agency ("LWDA") LWDA and/or in the Action and for: (1) failure to pay
21 overtime in violation of Labor Code section 510; (2) failure to pay for nonproductive time
22 and rest breaks in violation of Labor Code section 226.2; (3) failure to pay wages for all
23 work performed in violation of Labor Code sections 204 and 1197; (4) unpaid meal and rest
24 period premiums in violation of Labor Code section 226.7(c); (5) non-compliant wage
25 statements in violation of Labor Code section 226(a); (6) unreimbursed business expenses in
26 violation of Labor Code section 2802; (7) violation of California Business & Profession
27 Code Sections 17200, *et seq.*, in relation to the forgoing Labor Code violations; and (8) final
28 wages not timely paid in violation of Labor Code sections 201 and 202. This release shall

1 also include releases for claims under California Labor Code sections 201-204, , 226 et. seq.,
2 226.7, 510, 512, 1174, 1174.5, 1182.12, 1194, 1197, 1198, 2802 and 2810.5. The time
3 period of this release shall be the PAGA Period.

4 CC. “Parties” means the Representative Plaintiff, on behalf of himself and all
5 Settlement Class Members, and Defendants.

6 DD. “Preliminary Approval Date” is the date that the Court grants preliminary
7 approval of this Settlement pursuant to California Rule of Court 3.769(c).

8 EE. “Qualified Settlement Fund” or “QSF” means a federally insured bank
9 account to be established by the Settlement Administrator into which all payments from
10 Defendants related to this Settlement will be deposited and from which all payments
11 authorized by the Court will be made. The QSF will be established prior to Defendants’
12 deposit of the Gross Settlement Amount.

13 FF. “Qualifying Workday” means a day within the Class Period during which a
14 Class Member actually worked for Defendants in a Class position during the Class Period. A
15 day during which a Class Member was entirely absent from work, such as a day during
16 which a Class Member was on leave or vacation, is not a Qualifying Workday.

17 GG. “Released Claims,” means all wage-and-hour claims asserted in the Action or
18 that arise from the facts alleged in the Complaint, including claims for: (1) violation of
19 Labor Code section 510; (2) failure to pay for nonproductive time and rest breaks in
20 violation of Labor Code section 226.2; (3) failure to pay wages for all work performed in
21 violation of Labor Code sections 204 and 1197; (4) unpaid meal and rest period premiums in
22 violation of Labor Code section 226.7(c); (5) non-compliant wage statements in violation of
23 Labor Code section 226(a); (6) unreimbursed business expenses in violation of Labor Code
24 section 2802; (7) violation of California Business & Profession Code Sections 17200, *et*
25 *seq.*, in relation to the forgoing Labor Code violations; and (8) final wages not timely paid in
26 violation of Labor Code sections 201 and 202. This release shall also include releases for
27 claims under California Labor Code sections: 201-204, 226 *et. seq.*, 226.7, 510, 512, 1174,
28 1174.5, 1182.12, 1194, 1197, 1198, 2802, and 2810.5. The time period of this release is

1 from August 19, 2017, through the earlier of July 19, 2022 and the Preliminary Approval
2 Date. The operative complaint shall be amended to include these claims as part of the
3 release.

4 HH. “Released Parties” Defendants Jeffrey Lee Galitz, M.D., a Professional
5 Medical Corporation dba Woundtech of California; Podicare Services, Inc.; and Wound
6 Technology Network, Inc., as well as Defendants’ current and former agents, officers,
7 employees, directors, owners, subsidiaries, affiliates, parent companies, insurers, attorneys,
8 shareholders, investors, related management companies and any other related parties but
9 only as to the Released Claims and PAGA Released Claims.

10 II. “Representative Plaintiff” means Plaintiff Mary Beth Hughes.

11 JJ. “Request for Exclusion” means a signed request by a Class Member to be
12 excluded from the Settlement Class that is submitted in accordance with the procedure set
13 forth herein, also known as an “opt-out request.”

14 KK. “Response Deadline” means the date that is forty-five (45) calendar days
15 after the mailing of the Notices of Settlement. Provided, for Notices of Settlement that are
16 re-mailed to a different address, the Response Deadline will be the earlier of: (1) forty-five
17 (45) calendar days after re-mailing, and (2) ten (10) days before the initial date set by the
18 Court for the Final Fairness and Approval Hearing.

19 LL. “Service and Release Award” means the payment to be made to the
20 Representative Plaintiff for her service to the Class and for the broader general release that
21 she is providing to Defendants, which is in addition to whatever payment she otherwise
22 would be entitled to receive as a Settlement Class Member. The Service and Release Award
23 will not exceed \$10,000.

24 MM. “Settlement” means the disposition of the Action and all related claims
25 effectuated by this Agreement.

26 NN. “Settlement Administration Costs” means the fees and costs incurred or
27 charged by the Settlement Administrator in connection with the execution of its duties under
28 this Agreement including, but not limited to fees and costs associated with: (1) establishing

1 and maintaining the QSF; (2) preparing, issuing and/or monitoring reports, filings, and
2 notices (including the cost of printing and mailing all notices and other documents to the
3 Class Members) required to be prepared in the course of administering the Settlement; (3)
4 computing the amount of the settlement payments, taxes, and any other payments to be
5 made under this Agreement; (4) calculating and handling inquiries about the calculation of
6 individual settlement payments; (5) establishing and operating a settlement payment center
7 website, address, and phone number to receive Class Members' inquiries about the
8 Settlement; (6) providing a due diligence declaration for submission to the Court prior to the
9 final approval hearing; (7) printing and providing Settlement Class Members and Plaintiff
10 with W-2 and 1099 forms as required under this Agreement and applicable law; (8)
11 preparing, issuing, and filing any tax returns and information returns and any other filings
12 required by any governmental taxing authority or other governmental agency; and (9) for
13 such other tasks as the Parties mutually agree or the Court orders the Settlement
14 Administrator to perform. Settlement Administration Costs will not exceed \$6,750 and will
15 be paid out of the Gross Settlement Amount.

16 OO. "Settlement Administrator" refers to Phoenix Settlement Administrators.

17 PP. "Settlement Class" means all Class Members who have not submitted a
18 timely and complete Request for Exclusion.

19 QQ. "Settlement Class Member" is a person who is a member of the Settlement
20 Class.

21 **III. BACKGROUND**

22 During the Class Period, Defendants operated a company which provided telehealth
23 and in-home wound care to patients in California. Plaintiff contends that during the Class
24 Period, she and other alleged non-exempt employees of Defendants were not paid overtime,
25 were not paid for non-productive time, were not paid for all work they performed, were not
26 provided compliant meal breaks and paid rest breaks, were not provided with accurate wage
27 statements, were not reimbursed for all of their necessary expenditures, and were not paid all
28 wages owed at separation.

1 The Parties have undertaken significant investigation and informal discovery during
2 the prosecution of this Action. Such discovery and investigation included extensively
3 interviewing the Representative Plaintiff, Defendants' production and Plaintiff's counsel's
4 review of personnel records, policies, as well as time and pay records for about 20% of
5 Class Members and other detailed information relevant to the Class Members' claims.
6 Counsel for the Parties have investigated the law as applied to the facts discovered regarding
7 the alleged claims of the Class and potential defenses thereto, and the potential damages
8 claimed by the Class.

9 The Parties' attorneys have engaged in extensive discussions about the strengths and
10 weaknesses of the claims and defenses in the Action. On May 19, 2022, the Parties attended
11 a mediation before an experienced and well-regarded mediator, Gig Kyriacou, at the end of
12 which the Parties reached an agreement regarding the resolution of this Action which is
13 embodied in the terms of this Agreement.

14 Plaintiff and Class Counsel have concluded, after considering the sharply disputed
15 factual and legal issues involved in this Action, the risks attending further prosecution, and
16 the substantial benefits to be received pursuant to the compromise and settlement of the
17 Action as set forth in this Agreement, that this Settlement is in the best interests of the
18 Representative Plaintiff and the Settlement Class and is fair and reasonable.

19 This Settlement contemplates: (i) entry of an order preliminarily approving the
20 Settlement and approving certification of a provisional Class for settlement purposes only; (ii)
21 dissemination of a notice to Class Members about the settlement; (iii) entry of a Final
22 Approval Order granting final approval of the Settlement; and (iv) entry of a final judgment.

23 **IV. SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

24 **A. Preliminary Approval of Settlement**

25 Following the execution of this Stipulation by all Parties or at such other time
26 specified by the Court, Class Counsel will submit this Stipulation to the Court as part of
27 Plaintiff's motion for preliminary approval of the settlement. Plaintiff's motion will include
28 such briefing and evidence as may be required for the Court to determine that this

1 Agreement is fair and reasonable, as required by California Code of Civil Procedure section
2 382 and California Rule of Court 3.769. Class Counsel will provide Defendants' counsel
3 with the opportunity to review and comment on all drafts of all papers to be filed in
4 connection with the motion for preliminary approval (notice of motion, memorandum of
5 points and authorities and declarations) at least three court days before filing such motion
6 with the Court. Plaintiff's motion for preliminary approval will also include a proposed
7 order that is mutually agreed-upon by the Parties. Defendants shall not oppose Plaintiff's
8 motion for preliminary approval of the settlement to the extent it is consistent with the terms
9 and conditions of this Agreement. Defendants may, however, provide a written response to
10 any characterization of the law or facts contained in the motion for preliminary approval.

11 The Parties have agreed to the certification of the Class for the sole purposes of
12 effectuating this Settlement. Should the Settlement be terminated for any reason, or should
13 the Settlement not be approved by the Court, the fact that the Parties were willing to
14 stipulate to class certification as part of the Settlement will have no bearing on, and will not
15 be admissible in connection with, the issue of whether a class should be certified in a non-
16 settlement context in this Action, and in any of those events, Defendants expressly reserve
17 the right to oppose class certification. Additionally, if the Settlement does not become final,
18 this Agreement and all negotiations, court orders, and proceedings related thereto shall be
19 without prejudice to the rights of all Parties hereto, and evidence relating to the Agreement
20 and all negotiations shall not be admissible in the Action or otherwise. The Parties further
21 agree that if, for any reason, the Settlement is not approved, the certification for purposes of
22 this Settlement will have no force or effect and will be immediately revoked.

23 **B. Cooperation**

24 The Parties agree to fully cooperate with each other to accomplish the terms of this
25 Agreement, including but not limited to, execution of such documents and to take such other
26 reasonably necessary actions to implement the terms of this Agreement. No party, nor any
27 of its attorneys or agents, shall solicit or encourage any Class Member to opt out of or object
28 to the Settlement.

1 **C. Notice of Settlement**

2 Within 21 calendar days following the Court’s order granting preliminary approval
3 of the Settlement, Defendants will provide the Settlement Administrator with the Class Data
4 in an electronic format acceptable to the Settlement Administrator. At the same time,
5 Defendants will provide the Class Data, without Class Member names (and instead using a
6 unique identifier), addresses or social security numbers, to Class Counsel. This information
7 will remain confidential and will not be disclosed to anyone, except as required to applicable
8 taxing authorities, pursuant to Defendants’ express written authorization, by order of the
9 Court, or as otherwise provided for in this Agreement. To the extent that the Settlement
10 Administrator requests to contact a Class Member by telephone or email, Defendants will
11 provide the Settlement Administrator with such Class Member’s last known telephone
12 number and/or email address, if available to Defendants.

13 Using the Class Data, the Settlement Administrator will: (1) confirm the number of
14 Class Members and Qualifying Workdays, (2) finalize and print the Notice of Settlement;
15 (3) check all addresses against the National Change of Address database; and (4) within ten
16 (10) calendar days of receiving the Class Data, send to each Class Member via First-Class
17 United States mail an English version of the Notice of Settlement to the most recent address
18 known for each Class Member. Based upon the job requirements for Class Members,
19 Defendants represent that all Class Members are proficient in English and that it is not
20 necessary to translate of the Notice of Settlement into any other language.

21 **D. Re-Sending Class Notices**

22 In the event that Defendants’ Counsel or Class Counsel becomes aware of new
23 addresses for any Class Member, prior to the filing of the motion for final approval, such
24 information must immediately be communicated to the Settlement Administrator. The
25 Settlement Administrator will then re-send a Notice of Settlement to the Class Member(s) at
26 the new address.

27 For any Notice of Settlement that is returned as undeliverable, the Settlement
28 Administrator will perform a utility database search or other skip trace. The returned Notices

1 of Settlement will be re-mailed to the new addresses obtained for such Class Members. Such
2 searching and re-mailing will be completed within ten (10) calendar days of the date that
3 Notices of Settlement were originally returned as undeliverable.

4 **E. Requests for Exclusion (Opt-Outs)**

5 Any Class Member who wishes to be excluded from the Settlement must notify the
6 Settlement Administrator in writing of his or her desire to be excluded by mailing his or her
7 own Request for Exclusion to the Settlement Administrator that clearly expresses such
8 desire and is signed by such Class Member. Any such Request for Exclusion shall include
9 the Class Member's name, current address, telephone number, and last four numbers of the
10 Class Member's social security number. To be valid, the Request for Exclusion must be
11 postmarked by no later than the Response Deadline.

12 Any Class Member who submits a valid and timely Request for Exclusion shall be
13 barred from participating in this Settlement, shall be barred from objecting to this
14 Settlement, and shall receive no benefit from the Class Settlement. Provided, however,
15 notwithstanding a valid Request for Exclusion, all PAGA Employees shall receive their
16 share of the PAGA Employee Portion and will be deemed to have released the PAGA
17 Released Claims.

18 Any Class Member who fails to submit a timely, complete, and valid Request for
19 Exclusion shall be barred from opting out of the Settlement. It shall be conclusively
20 presumed that, if a Request for Exclusion is not postmarked on or before the Response
21 Deadline, the Class Member did not make the request in a timely manner. Under no
22 circumstances shall the Settlement Administrator have the authority to extend the deadline
23 for Class Members to submit a Request for Exclusion.

24 Unless a Class Member submits a timely, complete, and valid Request for Exclusion,
25 he or she shall be deemed a Settlement Class Member and shall be bound by the terms and
26 conditions of this Agreement. The releases provided for in this Agreement shall conclusively
27 preclude any Settlement Class Member from asserting any of the Released Claims against
28 any of the Released Parties in any judicial, administrative, or arbitral forum.

1 The Settlement Administrator shall promptly provide Class Counsel and Defendants’
2 Counsel with copies of all Requests for Exclusion that it receives.

3 **F. Declaration of Compliance**

4 At the time determined by Class Counsel, the Settlement Administrator shall provide
5 Class Counsel and Defendants’ Counsel with a declaration attesting to completion of the
6 notice process set forth in this Section IV, including the number of notices sent and returned,
7 an explanation of efforts to resend undeliverable notices, and copies of all Requests for
8 Exclusion, which declaration shall be filed with the Court by Class Counsel along with their
9 papers requesting final approval of the Settlement.

10 **G. Sufficient Notice**

11 Compliance with the procedures described in this Section IV shall constitute due and
12 sufficient notice to Class Members of this Settlement and of the Final Fairness and Approval
13 Hearing, shall satisfy the requirements of due process, and nothing else shall be required of
14 the Representative Plaintiff, Class Counsel, Defendants, Defendants’ Counsel, or the
15 Settlement Administrator to provide notice of the Settlement and the Final Fairness and
16 Approval Hearing.

17 **H. Objections to Settlement**

18 **1. Procedure and Deadline for Objections**

19 A Class Member may object to the Settlement by submitting a written Notice of
20 Objection to the Settlement Administrator, postmarked no later than the Response Deadline,
21 signed by the objecting Class Member or his or her attorney, along with supporting papers
22 (if any). The date the signed Notice of Objection was postmarked shall be conclusively
23 determined according to the records of the Settlement Administrator. The Settlement
24 Administrator shall send any Notices of Objections it receives to Defendants’ counsel and
25 Class Counsel within three (3) business days of receipt. A Class Member may also object to
26 the settlement by appearing at the Final Approval Hearing. The Court retains final authority
27 with respect to the consideration and admissibility of any Notice of Objection.

28

1 If a Class Member submits both a Notice of Objection and a Request for Exclusion,
2 the Settlement Administrator shall make reasonable attempts to clarify the intentions of the
3 Class Member. If the Class Member fails to clarify their position, the Request for Exclusion
4 shall be deemed controlling and the Notice of Objection shall be disregarded.

5 **2. Responses to Notices of Objection**

6 Class Counsel and Defendants' counsel shall file any Notices of Objection from
7 Class Members submitted to the Settlement Administrator, and Class Counsel's and
8 Defendants' Counsel's responses to such objections, at least five (5) court days before the
9 Final Fairness and Approval Hearing.

10 **I. Defendants' Right to Rescind**

11 If four or more Class Members submit timely and valid Requests for Exclusion,
12 Defendants may, at their option, rescind the Settlement. In that event, all actions taken in
13 furtherance of the Settlement will be null and void. Defendants must exercise this right of
14 rescission, in a writing to Class Counsel, within five (5) calendar days following
15 Defendants' Counsel's receipt of information from the Settlement Administrator indicating
16 that the number of valid Requests for Exclusion exceed this limit, which will concurrently
17 be delivered by the Settlement Administrator to Class Counsel. If Defendants exercise their
18 right to rescind, Defendants shall pay all fees of the Settlement Administrator incurred as of
19 such date.

20 **J. Pro-Rata Increase in Settlement Fund**

21 If, as reflected in the Class Data delivered to the Settlement Administrator, the total
22 number of Class Member Qualifying Workdays exceeds 21,868 by more than twelve percent
23 (12%) as of July 19, 2022, the Gross Settlement Amount shall increase by the same
24 percentage that the number of Qualifying Workdays exceeds 21,868 by more than twelve
25 percent (12%).

26 **K. Final Fairness and Approval Hearing**

27 On or before the date set by the Court, Class Counsel will file a motion for final
28 approval of this Settlement pursuant to California Rule of Court 3.769. Class Counsel will

1 provide Defendants' counsel with the opportunity to review and comment on drafts of all
2 papers to be filed in connection with the motion for final approval (notice of motion,
3 memorandum of points and authorities and declarations) at least three court days before
4 filing such motion with the Court. Plaintiff's motion for final approval will also include a
5 proposed order that is mutually agreed-upon by the Parties. Defendants shall not oppose
6 Class Counsel's motion for final approval of the settlement to the extent it is consistent with
7 the terms and conditions of this Agreement. Defendants may, however, provide a written
8 response to any characterization of the law or facts contained in the motion for final
9 approval.

10 On the date set by the Court, the Final Fairness and Approval Hearing shall be held
11 before the Court in order to: (1) determine whether the Court should give this Settlement
12 final approval; (2) determine whether Class Counsel's application for attorneys' fees and
13 costs, and request for the Service and Release Award to the Representative Plaintiff, should
14 be granted; (3) determine whether the Court should approve the payment of fees to the
15 Settlement Administrator and the PAGA Settlement Amount and (4) consider any timely
16 Objections to Settlement, including Class Counsel's and Defendants' counsel's responses
17 thereto. Upon final approval, the Court shall enter a Final Approval Order (in a form
18 submitted by Class Counsel and approved by Defendants' counsel) which has the effect of
19 adjudicating all claims set forth in the Complaint and implementing the release of Released
20 Claims and PAGA Released Claims, as set forth in this Agreement. The Final Approval
21 Order will be posted on the Settlement Administrator's website. The posting of the Final
22 Approval Order on the Settlement Administrator's website will constitute notice of entry of
23 the judgment, as required by California Rule of Court 3.771(b).

1 **L. Settlement Payments to Settlement Class Members and PAGA**
2 **Employees**

3 **1. Calculation of Class Settlement Payments**

4 The Net Settlement Amount shall be divided among and distributed to individual
5 Settlement Class Members using the following formula:

$$\begin{array}{c} 6 \qquad \qquad \qquad \textbf{(Individual Settlement Class Member's Qualifying Workdays} \\ 7 \qquad \qquad \qquad \qquad \qquad \qquad \div \\ 8 \qquad \qquad \qquad \textbf{All Settlement Class Members' Qualifying Workdays)} \\ 9 \qquad \qquad \qquad \qquad \qquad \qquad \times \\ 10 \qquad \qquad \qquad \textbf{Net Settlement Amount} \end{array}$$

11 **2. Distribution of PAGA Employee Portion**

12 The PAGA Employee Portion will be divided among and distributed to all PAGA
13 Employees based upon the number of PAGA Pay Periods they worked pursuant to the
14 following formula:

$$\begin{array}{c} 15 \qquad \qquad \qquad \textbf{(Individual PAGA Employee's PAGA Pay Periods} \\ 16 \qquad \qquad \qquad \qquad \qquad \qquad \div \\ 17 \qquad \qquad \qquad \textbf{All PAGA Employees' PAGA Pay Periods)} \\ 18 \qquad \qquad \qquad \qquad \qquad \qquad \times \\ 19 \qquad \qquad \qquad \textbf{\$12,500} \end{array}$$

20 Settlement Class Members who are also PAGA Employees will receive their shares of the
21 PAGA Employee Portion included in the same checks that include their individual
22 Settlement Class Member payments. Class Members who exclude themselves from the
23 Class Settlement will still receive their shares of the PAGA Employee Portion and such
24 Class Members will still be bound by the PAGA Release, notwithstanding their exclusion
25 from the Settlement Class.

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1 **3. Inclusion of Qualifying Workdays and Estimated Settlement**
2 **Payment Information in Notice of Settlement**

3 The Notice of Settlement sent to each Class Member shall state the amount of the
4 Class Member's Qualifying Workdays and PAGA Pay Periods, as reflected in the Class
5 Data. The Notice of Settlement shall provide an estimate of each Class Member's share of
6 the Class settlement and each PAGA Employee's share of the PAGA Employee Portion, as
7 calculated by the Settlement Administrator. The estimated settlement payment included in
8 the Notice of Settlement will be calculated by assuming that no Class Members will be
9 excluded from the Settlement.

10 **4. Eligibility**

11 Settlement Class Members (but not Class Members who exclude themselves from
12 the Settlement), will receive a settlement payment from the Net Settlement Fund, distributed
13 through the Settlement Administrator. All PAGA Employees will still receive a check for
14 their share of the PAGA Employee Portion, regardless of whether they submit a valid
15 Request for Exclusion.

16 If the Parties become aware after settlement checks are mailed that a Class Member
17 was not sent a Notice of Settlement because of an error in the Class Data as provided by
18 Defendants, Defendants may arrange to separately pay the Class Member the amount that
19 the Class Member would have received had they participated in the settlement, as long as
20 the Class Member agrees in writing to be bound by the Judgment and Class releases.

21 **5. Disputes about Qualifying Workdays**

22 If a Class Member disagrees with the number of Qualifying Workdays or PAGA Pay
23 Periods, as stated in their Notice of Settlement, they may dispute that figure by informing
24 the Settlement Administrator of the number of Qualifying Workdays and/or PAGA Pay
25 Periods that they claim to have worked during the Class Period or PAGA Period and provide
26 any supporting documentation (such as, without limitation, payroll or time keeping records,
27 and paycheck stubs) on or before the Response Deadline. If there is a dispute, the Settlement
28 Administrator will consult with Class Counsel and Defendants' counsel to determine

whether an adjustment is warranted. The Settlement Administrator shall determine any such disputes, subject to Court approval. The Settlement Administrator shall be obligated to resolve any such disputes within ten (10) calendar days, but by no later than the date of the Final Approval Hearing.

6. Allocation of Settlement Payments

Payment to each Settlement Class Member shall be allocated as follows: twenty percent (20%) shall be attributed to wages, to be reported on a W-2 form and eighty percent (80%) shall be reported as interest, reimbursement of expenses and penalties. The amount of penalties, interest and reimbursement of expenses will be reported on an IRS Form 1099. All payments of the PAGA Employee Portion will be considered penalties and reported on an IRS Form 1099.

7. Payment of Payroll Taxes

The amount paid to each Settlement Class Member attributable to wages shall be subject to all applicable taxes and other withholdings and shall be net of the Settlement Class Member's share of all federal, state, and local taxes and required withholdings, including without limitation, FICA, Medicare tax, FUTA, and state unemployment taxes. The Employer's Withholding Share shall be paid by Defendants separately and in addition to Defendants' payment of the Gross Settlement Amount.

For each Settlement Class Member, the Settlement Administrator shall determine the Employer's Withholding Share. Information related to the Employer's Withholding Share for each Settlement Class Member shall be provided to Defendants by the Settlement Administrator. If Defendants disagree with the Settlement Administrator's determination of the Employer's Withholding Share, it will communicate with and share information reasonably necessary to reach a good faith determination of the correct Employer's Withholding Share.

8. Payments to Settlement Class Members

Within ten (10) calendar days of Defendants' deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will make the

1 settlement payments to Settlement Class Members and PAGA Employees based on the
2 payment formulae set forth herein.

3 **M. The Settlement Administrator**

4 The Settlement Administrator will perform the duties specified in this Agreement
5 and any other duties incidental to such obligations. The Settlement Administrator's duties
6 shall include, without limitation: establishing the QSF, preparing and distributing the Notice
7 of Settlement; calculating and directing the disbursement of payments to Settlement Class
8 Members, Class Counsel, the Class Representative and the LWDA; calculating and timely
9 paying any and all payroll taxes from the wages portion of the Net Settlement Amount to the
10 appropriate tax authorities, as required under this Agreement and applicable law; handling
11 inquiries about the calculation of individual settlement payments; preparing and filing any
12 tax returns and information returns and any other filings required by any governmental
13 taxing authority or other governmental agency; providing weekly status reports to the
14 Parties' counsel; advising Defendants' counsel and Class Counsel of any Class Members
15 who submit Notices of Objections and/or Requests for Exclusion; providing a due diligence
16 declaration for submission to the Court prior to the final approval hearing; printing and
17 providing Settlement Class Members and Representative Plaintiff with W-2 and 1099 forms
18 as required under this Agreement and applicable law; arranging for and remitting funds from
19 any uncashed settlement payment to the designated recipient, as determined by the Court;
20 and for such other tasks as the Parties mutually agree or the Court orders the Settlement
21 Administrator to perform.

22 The Settlement Administrator shall establish a settlement payment center address,
23 telephone number and email address to receive Class Members' inquiries about the Notice
24 of Settlement, requests to be excluded from the Settlement and settlement payments.

25 In addition, the Settlement Administrator shall establish a static website and, on the
26 website, post this stipulation, any preliminary approval order and the Final Approval Order
27 and Judgment. Posting of the Final Approval Order and Judgment on such website shall
28 constitute notice of judgment to the Settlement Class, as required by California Rule of

1 Court 3.771(b).

2 The Parties confirm, and Class Counsel and Defendants' Counsel confirm that they
3 do not have any financial interest in the Settlement Administrator or otherwise have a
4 relationship with the Settlement Administrator that could create a conflict of interest.

5 **N. Time for Payment by Defendants**

6 Within ten (10) calendar days after the Effective Date, Defendants shall deliver the
7 Gross Settlement Amount and Employer's Withholding Share to the QSF.

8 **O. Payments to Class Counsel, the Representative Plaintiff, the LWDA and**
9 **the Settlement Administrator**

10 Subject to Court approval, within ten (10) calendar days of Defendants' deposit of
11 the Gross Settlement Amount with the Settlement Administrator, the Settlement
12 Administrator shall make payment from the QSF to: (1) Class Counsel, for Class Counsel's
13 Attorneys' Fees and Class Counsel's Costs, as approved by the Court; (2) the Representative
14 Plaintiff for the Service and Release Award, as approved by the Court; (3) to the LWDA for
15 the LWDA Amount, as approved by the Court; and (4) to the Settlement Administrator for
16 the Settlement Administration Costs, as approved by the Court. These payments will be
17 reported on an IRS Form 1099.

18 **P. Un-cashed/Un-deposited Settlement Payment Checks**

19 If any Settlement Class Member's settlement payment check has not been cashed or
20 deposited within sixty (60) calendar days after disbursement, the Settlement Administrator
21 shall attempt to contact each individual to advise them to cash their checks, and to offer to
22 replace any checks reported as either lost or stolen. In attempting to contact such persons,
23 the Settlement Administrator will send notices (1) by mail to the individuals' last known
24 addresses (as provided by Defendants) after first checking those addresses against the
25 NCOA database and skip tracing and (2) by telephoning or emailing such persons, in the
26 event that Defendants provide telephone numbers and/or email addresses for such persons.

27 If a Class Member's check is not cashed within 180 calendar days, the check will be
28 void and a stop payment order may be placed on the check. In such event, the Settlement

1 nevertheless will be binding upon the Settlement Class Member. The funds represented by
2 all uncashed settlement checks will be transmitted by the Settlement Administrator to the
3 California State Controller as unclaimed property in the name of the individual Settlement
4 Class Member.

5 **Q. Class Counsel Attorneys' Fees and Costs**

6 Defendants will not oppose Class Counsel's application for an award of attorneys'
7 fees of up to five hundred fifty-eight thousand three hundred and thirty-three dollars
8 (\$558,333), which is one-third of the Gross Settlement Amount.

9 Defendants will not oppose Class Counsel's application for an award of their
10 reasonable litigation expenses and costs in an amount not to exceed \$40,000.

11 Class Counsel's Attorney's Fees and Class Counsel's Costs, as awarded by the
12 Court, shall be paid from the Gross Settlement Amount.

13 To the extent the Court does not approve any or the entire amount of Class Counsel's
14 Attorney's Fees or Class Counsel's Costs, it shall not affect the terms of the Parties'
15 settlement and any such unapproved amounts shall remain part of the Net Settlement
16 Amount and shall be distributed in accordance with the provisions of this Stipulation.
17 Approval of the Settlement by the Court shall not be contingent on approval of the amounts
18 of Class Counsel's Attorney's Fees or Class Counsel's Costs requested by Class Counsel.

19 Upon the payment of the Court-approved amount of Class Counsel's Attorneys' Fees
20 and Class Counsel's Costs, and except as otherwise provided by this Stipulation, Class
21 Counsel waives any claim to costs and attorneys' fees and expenses against Defendants
22 arising from or related to the Action, including but not limited to claims based on the
23 California Labor Code, the California Code of Civil Procedure, or any other statute or law.
24 Provided, however, nothing in this Agreement shall prevent Class Counsel from seeking
25 additional fees for enforcing the terms of this Stipulation.

1 **R. Service and Release Award to Representative Plaintiff**

2 The Representative Plaintiff's Service and Release Award as approved by the Court,
3 shall be paid from the Gross Settlement Amount.

4 The Representative Plaintiff shall be responsible for all portions of federal, state, and
5 local tax liabilities that may result from the payment of the Service and Release Award and
6 agrees that Defendants shall bear no responsibility for any such tax liabilities.

7 To the extent the Court does not approve any or all of the amount of the Service and
8 Release Award sought by the Representative Plaintiff, any amounts not awarded by the
9 Court will remain part of the Net Settlement Amount and will be distributed in accordance
10 with the terms of this Stipulation and the Parties agree that the Settlement shall remain
11 binding with such modification(s) and its terms will otherwise be unchanged.

12 **S. Taxes**

13 **1. Withholding and Reporting Requirements**

14 The Settlement Administrator shall be responsible for ensuring that all taxes required
15 to be withheld from the wage portions of each Settlement Class Member's individual
16 settlement payment, along with the Employer's Withholding Share, are timely paid to the
17 appropriate tax authorities. The Settlement Administrator's responsibilities in this regard
18 will also include the following: (a) filing all Federal, state, and local employment tax
19 returns, tax withholding returns, and any other tax returns associated with the taxes, (b)
20 timely and proper filing of all required Federal, state, and local information returns (e.g.,
21 1099s, W-2s, etc.) with the appropriate taxing authorities, and (c) completion of any other
22 steps necessary for compliance with any tax obligations of the settlement fund under
23 Federal, state and/or local law. To verify the Settlement Administrator's compliance with
24 the foregoing withholding and reporting requirements, as soon as administratively
25 practicable, the Settlement Administrator shall furnish Class Counsel and Defendants'
26 Counsel with copies of all filed tax returns and information returns (including all 1099 and
27 W-2 information returns), and a final accounting adequate to demonstrate full compliance
28 with all tax withholding, payment and reporting obligations.

1 **2. Circular 230 Disclaimer**

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

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

20 **A. No Admission of Liability**

21 Neither the acceptance nor the performance by Defendants of the terms of this
22 Stipulation nor any of the related negotiations or proceedings is or shall be claimed to be,
23 construed as, or deemed a precedent or an admission by Defendants of the truth or merit of
24 any allegations in the original Complaint, First Amended Complaint or Second Amended
25 Complaint, or that it has any liability to the Representative Plaintiff or the Class Members
26 on their claims. Defendants deny that they have engaged in any unlawful activity, have
27 failed to comply with the law in any respect, or have any liability to anyone under the claims
28 asserted in the Action. Defendants enter this Agreement solely for the purpose of

1 compromising highly disputed claims, that further litigation of the Action would be
2 protracted and expensive, and that a resolution as set forth herein would limit further
3 expense, inconvenience, and distraction including to its business operations and personnel.

4 **B. Nullification**

5 In the event that the Court does not approve the Settlement in accordance with this
6 Stipulation, the Parties agree to negotiate in good faith to resolve any issues raised by the
7 Court and amend this Stipulation to obtain Court approval of the Settlement. However, if,
8 after a good faith effort to resolve any issues, the Court for any reason does not approve this
9 Settlement, this Stipulation shall be null and void and all Parties to this Settlement shall
10 stand in the same position, without prejudice, as if the Settlement had been neither entered
11 into nor filed with the Court.

12 **VI. RELEASE**

13 **A. Settlement Class Member Release**

14 It is the desire of the Representative Plaintiff, Class Members (except those who
15 exclude themselves from the Settlement), and Defendants to fully, finally, and forever settle,
16 compromise, and discharge the Released Claims. Upon entry of the Final Approval Order
17 and Judgment and Defendants' payment of the Gross Settlement Amount and Employer's
18 Withholding Share, and except as to such rights or claims as may be created by this
19 Settlement Agreement, the Settlement Class Members, on behalf of themselves, and each of
20 their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have, and
21 by operation of the final judgment shall have, fully released and discharged the Released
22 Parties from any and all Released Claims.

23 **B. PAGA Employee Release**

24 Regardless of whether they submitted a valid Request for Exclusion, all PAGA
25 Employees shall fully, finally, and forever settle, compromise, and discharge the PAGA
26 Released Claims. Upon entry of the Final Approval Order and Judgment and Defendants'
27 payment of the Gross Settlement Amount, and except as to such rights or claims as may be
28 created by this Settlement Agreement, all PAGA Employees, on behalf of themselves, and

1 each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to
2 have, and by operation of the final judgment shall have, fully released and discharged the
3 Released Parties from any and all PAGA Released Claims arising during the PAGA Period.

4 **VII. RELEASE BY THE REPRESENTATIVE PLAINTIFF**

5 Upon entry of the Final Approval Order and Judgment and Defendants' payment of
6 the Gross Settlement Amount and Employer's Withholding Share, and except as to such
7 rights or claims as may be created by this Settlement Agreement, the Representative
8 Plaintiff fully releases and forever discharges Defendants and the Released Parties from any
9 and all claims, causes of action, damages, wages, benefits, expenses, penalties, debts,
10 liabilities, demands, obligations, attorney's fees, costs, and any other form of relief or
11 remedy in law, equity, or whatever kind or nature, whether known or unknown, suspected or
12 unsuspected that arise from or are related to Plaintiff's employment by Defendants or the
13 Action, including but not limited to (1) all Released Claims, (2) the Action and any claims
14 arising out of or related to the Action, (3) any claims under federal, state or local law for or
15 relating to wages, benefits, compensation, vacation or other paid time off, and claims for
16 liquidated damages, penalties, or costs and fees associated therewith, including under the
17 California Labor Code including PAGA or applicable wage order(s), (4) wrongful
18 termination, discrimination, harassment, and/or retaliation, including under the California
19 Fair Employment and Housing Act, Title VII of the Civil Rights Act of 1964, the Family
20 Medical Leave Act, the California Family Rights Act, the Americans with Disabilities Act,
21 the Equal Pay Act, the California Labor Code, the California Government Code, (5) any act,
22 omission, or occurrence or claim arising out of or related to the Action or Plaintiff's
23 employment or termination thereof with Defendants taking place on or before the date of
24 this Agreement, and (6) and any other form of relief or remedy of any kind, nature, or
25 description whatsoever, whether premised on statute, contract, tort, or other theory of
26 liability under state, federal, or local law. Provided, however, this release shall not include
27 any claims for workers' compensation benefits or other claims that cannot be released as a
28 matter of law.

1 The Representative Plaintiff hereby agrees that, notwithstanding section 1542 of the
2 California Civil Code (“Section 1542”), all claims that the Representative Plaintiff may
3 have, known or unknown, suspected or unsuspected, are hereby released as of the date of
4 this Agreement. Section 1542 provides:

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

10 The Representative Plaintiff expressly waives the provisions of Section 1542 with full
11 knowledge and with the specific intent to release all known or unknown, suspected or
12 unsuspected, claims arising on or before the date of this Agreement, and therefore
13 specifically waives the provisions of any statute, rule, decision, or other source of law of the
14 United States or of any state of the United States or any subdivision of a state which
15 prevents release of unknown claims.

16 **VIII. MISCELLANEOUS PROVISIONS**

17 **A. Amendments**

18 This Settlement Agreement may only be modified or changed by a writing signed by
19 the Parties hereto or by their counsel. All such modifications or changes must also be
20 approved by the Court.

21 **B. Integrated Agreement**

22 After this Stipulation is signed and delivered by all Parties to the Action and their
23 counsel, this Stipulation and its exhibits will constitute the entire agreement between the
24 Parties to the Action relating to the Settlement, and it will then be deemed that no oral
25 representations, warranties, covenants, or inducements have been made to any Party
26 concerning this Stipulation or its exhibits other than the representations, warranties,
27 covenants, and inducements expressly stated in this Stipulation and its exhibits.

28 **C. No Inducements**

The Parties acknowledge that they are entering into this Agreement as a free and
voluntary act without duress or undue pressure or influence of any kind or nature

1 whatsoever and that neither Plaintiff nor Defendants have relied on any promises,
2 representations, or warranties regarding the subject matter hereof other than as set forth in
3 this Stipulation.

4 **D. No Prior Assignment**

5 The Parties hereto represent, covenant, and warrant that they have not directly or
6 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber
7 to any person or entity any portion of any liability, claim, demand, action, cause of action, or
8 rights herein released and discharged except as set forth herein.

9 **E. No Retaliation or Advice**

10 Defendants agree not to retaliate against any Class Member, and Defendants will not
11 induce or offer any advice to any current or former employee to opt out of, or object to, the
12 Settlement.

13 **F. Attorney's Fees**

14 To the extent that any Party institutes any legal action, arbitration, or other
15 proceeding to enforce the terms of the Settlement, the prevailing Party will be entitled to
16 recover their reasonable attorneys' fees and costs from the other Party or Parties.

17 **G. Applicable Law**

18 All terms and conditions of this Stipulation and its exhibits will be governed by and
19 interpreted according to the laws of the State of California, without giving effect to any
20 conflict of law principles or choice of law principles.

21 **H. Entry of Judgment Pursuant to Terms of Settlement**

22 The Parties agree that upon the Settlement of this case, the Court may enter judgment
23 pursuant to the terms of this Settlement and specifying the Gross Settlement Amount. The
24 Court will retain jurisdiction over the Parties to enforce the Settlement until performance in
25 full of the terms of the Settlement.

26 **I. Notices**

27 All notices, requests, demands and other communications required or permitted to be
28 given pursuant to this Agreement shall be in writing, and shall be delivered personally or by

1 first class mail or email to Class Counsel or Defendants' Counsel at their respective
2 addresses as set forth at the beginning of this Agreement or at any new address as to which
3 counsel have advised the Court and the other Parties.

4 **J. Binding on Successors**

5 This Agreement shall be binding and shall inure to the benefit of the Parties to the
6 Action and their respective successors, assigns, executors, administrators, heirs, and legal
7 representatives.

8 **K. Counterparts**

9 This Stipulation, and any amendments hereto, may be executed in any number of
10 counterparts, each of which when executed and delivered shall be deemed to be an original
11 and all of which taken together shall constitute the same instrument.

12 **L. Warranties and Representations**

13 With respect to themselves, each of the Parties to this Action and or their agent or
14 counsel represents, covenants, and warrants that they have full power and authority to enter
15 into and consummate all transactions contemplated by this Stipulation and have duly
16 authorized the execution, delivery, and performance of this Stipulation.

17 **M. Representation by Counsel**

18 The Parties to this Action acknowledge that they have been represented by counsel
19 throughout all negotiations that preceded the execution of this Stipulation, and that this
20 Stipulation has been executed with the consent and advice of counsel.

21 **N. Signatories**

22 It is agreed that because the Class Members are so numerous, it is impossible or
23 impractical to have each Class Member execute this Stipulation. The Notice of Settlement
24 will advise all Class Members of the binding nature of the release, and the release shall have
25 the same force and effect as if this Stipulation was executed by each member of the
26 Settlement Class.

27 **O. Interim Stay of Proceedings**

28 The Parties agree to stay all proceedings in the Action, subject to necessary

1 compliance with the Court's orders, except such proceedings necessary to implement and
2 complete the Settlement, in abeyance pending the Final Approval Hearing to be conducted
3 by the Court.

4 **P. Invalidity of Any Provision**

5 Before declaring any term or provision of this Stipulation invalid, the Parties request
6 that the Court first attempt to construe the terms or provisions valid to the fullest extent
7 possible consistent with applicable precedents so as to define all provisions of this
8 Stipulation as valid and enforceable.

9 BY SIGNING BELOW, THE PARTIES AGREE TO THIS STIPULATION AND ITS
10 TERMS:

11 Dated: Jun 24, 2022


MaryBeth Hughes (Jun 24, 2022 15:28 PDT)

Plaintiff Mary Beth Hughes

13 Dated: July 8, 2022



Defendant Jeffrey Lee Galitz, MD, A
Professional Medical Corporation

16 By: Michael A. Sciortino, Esq.

17 Its: Chief General Counsel

18 Dated: July 8, 2022



Defendant Podicare Services, Inc.

20 By: Michael A. Sciortino, Esq.

21 Its: Chief General Counsel

22 Dated: July 8, 2022



Defendant Wound Technology Network, Inc.

24 By: Michael A. Sciortino, Esq.

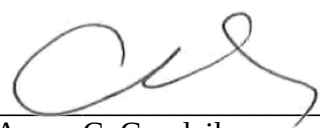
25 Its: Chief General Counsel

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Approved as to form:

DATED: June 24, 2022

GUNDZIK GUNDZIK HEEGER LLP

By: 
Aaron C. Gundzik
Attorneys for Plaintiff Mary Beth Hughes,
individually and on behalf of all others
similarly situated

DATED: June 24, 2022

CASKEY & HOLZMAN


Daniel M. Holzman
Attorneys for Plaintiff Mary Beth Hughes,
individually and on behalf of all others
similarly situated

DATED: July 11, 2022

FISHER & PHILLIPS LLP


Lonnie D. Giamela
Attorneys for Defendants

Exhibit 1

If you have been employed by Jeffrey Lee Galitz, M.D., A Professional Medical Corporation, dba Woundtech of California; Podicare Services, Inc.; and/or Wound Technology Network, Inc., you may be entitled to receive money from a class action settlement.

*The Los Angeles County Superior Court authorized this notice.
This is not a solicitation from a lawyer.*

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

You are receiving this Notice because the Court has preliminarily approved a proposed settlement in a class action filed on behalf of all non-exempt employees of Defendants Jeffrey Lee Galitz, M.D., A Professional Medical Corporation dba Woundtech of California; Podicare Services, Inc.; and/or Wound Technology Network, Inc. (“Defendants”) who worked for Defendant in California from August 19, 2017 through July 19, 2022 (“Class Period”). A hearing to determine whether the settlement should receive the Court’s final approval will be held on _____ at _____.m. in Department 9 of the Los Angeles County Superior Court, which is located at 312 N. Spring Street, Los Angeles, CA 90012.

This Notice explains the proposed settlement and provides an estimate of how much money you will receive as a settlement payment if you do not exclude yourself from the settlement. If you do not want to be part of the settlement class, then you must submit a Request for Exclusion (described in section 9, below) no later than [45 days from mailing] otherwise you will be bound by the terms of the settlement, including the release of certain claims that you may have against Defendant, as described in section 8 of this Notice.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT ARE:	
Option #1: Do Nothing and Receive Your Payment	If you do nothing and the Court grants final approval of the Settlement, you will automatically receive your share of the money from the Settlement and give up your right to sue Defendants for claims released by the Settlement, as further explained in section 8 below. Your estimated payment is in section 6 below.
Option #2: Opt Out or Exclude Yourself	If you do not want to participate in the Settlement, you may opt out. To opt out from the Settlement, you must submit a written request for exclusion to the Settlement Administrator, by [Response Deadline] . See section 9(b) below for instructions on how to submit a valid request. If you opt out from the Settlement, you will not be able to object, appeal, or comment on the Settlement. Even if you opt out or exclude yourself from the Settlement, you will still receive a payment for your PAGA Employee Portion.
Option #3: Object	If you do not think the Settlement is fair and do not opt out, you may object to the Settlement. To do so, you should mail a written statement of objection to the Settlement Administrator, by [Response Deadline] . See section 9(c) below for instructions on how to submit an objection. You cannot object if you have excluded yourself from the Settlement. If the court overrules your objection and grants final approval of the Settlement, you will be bound by the Settlement and its releases as stated in section 8 below. Regardless of whether you submit a written objection, however, the Court will hear your objection if you attend the final approval hearing and ask to speak regarding your objection. The final approval hearing is scheduled for _____, 2022, at _____.m. in Department 17 of the Spring Street Courthouse for Los Angeles Superior Court located at 312 N. Spring Street, Los Angeles, CA 90012. More information about attending this hearing is set forth in section 10 below.

FOR MORE INFORMATION CALL 1-800-_____.

1. PURPOSE OF THIS NOTICE

The Court has ordered that this Notice be sent to you because you have been identified as a member of the class by Defendants' records. The purpose of this notice is to provide you with information about the lawsuit and the proposed settlement and to advise you of your options.

2. PERSON ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT

The people eligible to receive a settlement payment are all individuals who were employed by Defendant Jeffrey Lee Galitz, MD, a Professional Corporation dba Woundtech of California and allegedly employed by Defendants Podicare Services, Inc. ("Podicare") and Wound Technology Network, Inc. ("WTN") in California as non-exempt employees at any time from August 19, 2017, through July 19, 2022. You are receiving this notice because, according to Defendants' records, you are eligible to participate in the settlement.

3. DESCRIPTION OF THE ACTION

A former employee of Defendant filed a class action against Defendants in the Los Angeles Superior Court. The case is called *Mary Beth Hughes v. Jeffrey Lee Galitz, MD, A Professional Medical Corporation, a California corporation*, Case No. 21STCV30732 (the "Action"). The Action alleges that Plaintiff and other non-exempt employees of Defendants were incorrectly classified as exempt employees and as a result, were not paid overtime, were not paid for non-productive time, were not paid for all work they performed, were not provided compliant meal breaks and paid rest breaks, were not provided with accurate wage statements, were not reimbursed for all of their necessary expenditures, and were not paid all wages owed at separation. Based on these facts and others, Plaintiff's Second Amended Complaint alleges causes of action for: (1) failure to pay overtime; (2) failure to pay for non-productive time; (3) failure to pay wages for all work performed; (4) failure to provide compliant meal breaks and paid rest breaks; (5) inaccurate wage statements; (6) failure to reimburse necessary expenditures; (7) violation of the Unfair Practices Act; (8) failure to pay all wages owed at termination; and (9) recovery of civil penalties under PAGA.

Defendants deny all of Plaintiff's allegations and deny any wrongdoing. Among other things, Defendants contend that all employees have been properly compensated and that Defendants complied with all applicable California labor laws.

The Court has made no ruling on the merits of the alleged claims or the defenses asserted by Defendants. The Court has preliminarily approved the proposed settlement. The Court will decide whether to give final approval to the settlement at a hearing scheduled for _____, 2022 at _____.m. (the "Final Approval Hearing").

4. WHO ARE THE ATTORNEYS REPRESENTING THE PARTIES?

Attorneys representing Plaintiff and the class ("Class Counsel") are:

Aaron C. Gundzik Rebecca Gundzik Gundzik Gundzik Heeger LLP 14011 Ventura Blvd., Suite 206E Sherman Oaks, CA 91423 Telephone: (818) 290-7461 Facsimile: (818) 918-2316	Daniel M. Holzman Caskey & Holzman 24025 Park Sorrento, Ste. 400 Calabasas, CA 91302 Telephone: (818) 657-1070 Facsimile: (818) 297-1775
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Attorneys representing Defendants are:

Lonnie D. Giamela Fisher & Phillips LLP 444 South Flower Street, Suite 1500 Los Angeles, CA 90071 Telephone: (213) 330-4454 Facsimile: (213) 330-4501	
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FOR MORE INFORMATION CALL 1-800-_____.

5. THE TERMS OF THE PROPOSED SETTLEMENT

The following is a summary of the settlement. The specific and complete terms of the proposed Settlement are stated in the Stipulation of Class and Representative Action Settlement (“Settlement Agreement”), a copy of which is filed with the Court. You can obtain a copy of the Settlement Agreement from Class Counsel (see contact information in Section 4 above) or review it on the following website: www._____.

Defendant has agreed to pay \$1,675,000 to settle any and all obligations for the claims alleged in the lawsuit. This amount is called the Gross Settlement Amount. As discussed below, the Gross Settlement Amount will be used to cover all payments to the settlement class, settlement administration costs, attorneys’ fees and costs, service and release award to the Plaintiff, and funds owed to the state of California in settlement of penalties. All of these payments will be deducted from the Gross Settlement Amount. The remaining amount (called the Net Settlement Amount) will be distributed to class members who do not timely submit Requests for Exclusion, as discussed below.

(a) Attorneys’ Fees and Costs: Class Counsel has worked on this matter without compensation and have advanced funds to pay for expenses necessary to prosecute the Action. Accordingly, under the settlement, Class Counsel may request an amount not to exceed \$558,333, which is one-third of the Gross Settlement Amount, to compensate them for their work on the case, plus their reasonable costs and expenses incurred in the litigation not to exceed \$40,000. Subject to court approval, the attorneys’ fees and costs will be deducted from the Gross Settlement Amount.

(b) Service and Release Award: The Plaintiff is requesting a service and release award of \$10,000 in addition to the amount she will receive as members of the class, to compensate her for undergoing the burden and expense of prosecuting the action and for the broader release of claims she is required to provide to Defendants. Subject to court approval, the service and release award will be deducted from the Gross Settlement Amount.

(c) Settlement Administration Costs: The Settlement Administrator, _____, has advised the parties that the settlement administration costs will not exceed \$_____. Subject to court approval, the settlement administration costs will be deducted from the Gross Settlement Amount.

(d) Payment of Penalties: A total of \$50,000 of the Gross Settlement Amount will be allocated to settle allegations that Defendant owes penalties to the state for alleged violations of the California Labor Code. Of this amount, \$37,500 (75%) will be paid to the California Labor & Workforce Development Agency (“LWDA”). Subject to court approval, the \$37,500 payment to the LWDA will also be deducted from the Gross Settlement Amount. The other 25%, which is \$12,500, will be distributed to class members who worked for Defendants in California at any time between August 19, 2020, and **[the earlier of July 19, 2022, and the preliminary approval date]** based upon the number of pay periods such class members worked during the forgoing time period.

(e) Payments to Settlement Class Members: The remainder of the Gross Settlement Amount (called the Net Settlement Amount) will be distributed to class members who do not exclude themselves from the settlement (called Settlement Class Members). The amount of each Settlement Class Member’s share of the Net Settlement Amount will be calculated by dividing the total number of qualifying workdays worked by the Class Member during the Class Period by the total number of qualifying workdays worked by all Settlement Class Members during the Class Period and multiplying that fraction by the Net Settlement Amount. A qualifying workday is a full or partial day that a class member worked for Defendant during the Class Period.

6. WHAT YOU WILL RECEIVE UNDER THE SETTLEMENT

According to Defendant’s records, you worked a total of ___ qualifying workdays during the Class Period. Under the settlement, you will receive approximately \$_____. This amount may increase or decrease based on various factors, including the number of class members who submit Requests for Exclusion, the amounts approved by the Court for attorneys’ fees and costs, settlement administration costs, the service and release award to Plaintiff, and disputes by other class members regarding their qualifying workdays during the Class Period. You also worked ___ qualifying workweeks during the PAGA Period, and based thereon, you will receive an additional amount of approximately \$____, which is your

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share of the PAGA Settlement. **To receive your settlement payment, you do not need to do anything. You will receive a settlement payment unless you exclude yourself from the settlement.**

You can contest the number of qualifying workdays attributed to you in Section 6 above. To do so, you must provide the Settlement Administrator with a written explanation of your position. The statement must also include your full name, current address and telephone number, and must identify this case (*Mary Beth Hughes v. Jeffrey Lee Galitz, MD, A Professional Medical Corporation, a California corporation*, Case No. 21STCV30732). **You must provide written documentation supporting the number of workdays you believe that you worked; otherwise, the number listed above will be presumed correct.** You must postmark your written statement no later than **[45 days from mailing]**. The Settlement Administrator will consider the documentation you submit and will communicate with you and the parties as necessary regarding the dispute to determine whether an adjustment is warranted before making a final determination regarding your settlement payment. The Settlement Administrator will mail you its final determination.

7. PAYMENT SCHEDULE

The Settlement Administrator will send out settlement checks to class members after the settlement is finally approved by the Court. You will have 180 days after the Settlement Administrator mails your settlement check to cash it; otherwise, the check will be voided and the amount of your settlement payment will be sent to the California State Controller as unclaimed property in your name and you will need to contact that agency to obtain your funds. For tax purposes, twenty percent (20%) of your settlement payment shall be attributed to wages and reported on a W-2 form; eighty percent (80%) will be attributed to interest, penalties and reimbursement of expenses. The amount of interest, penalties and reimbursements will be reported on an IRS Form 1099. Nothing in this Notice should be construed as providing you with tax advice. You should consult with your tax advisor concerning the tax consequences of the payment you receive.

8. RELEASE OF CLAIMS

A. Release by Class Members who do not exclude themselves from the Settlement.

Unless you submit a valid Request for Exclusion (described below in Section 9), you will release Defendants Jeffrey Lee Galitz, M.D., a Professional Medical Corporation dba Woundtech of California; Podicare Services, Inc.; and Wound Technology Network, Inc., as well as Defendants' current and former agents, officers, employees, directors, owners, subsidiaries, affiliates, parent companies, insurers, attorneys, shareholders, investors, related management companies and any other related parties from all wage-and-hour claims asserted in the Action or that arise from the facts alleged in the Complaint, including claims for: (1) violation of Labor Code section 510; (2) failure to pay for nonproductive time and rest breaks in violation of Labor Code section 226.2; (3) failure to pay wages for all work performed in violation of Labor Code sections 204 and 1197; (4) unpaid meal and rest period premiums in violation of Labor Code section 226.7(c); (5) non-compliant wage statements in violation of Labor Code section 226(a); (6) unreimbursed business expenses in violation of Labor Code section 2802; (7) violation of California Business & Profession Code Sections 17200, *et seq.*, in relation to the forgoing Labor Code violations; and (8) final wages not timely paid in violation of Labor Code sections 201 and 202. This release shall also include releases for claims under California Labor Code sections: 201-204, 226 *et seq.*, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1194, 1197, 1198, 2802, and 2810.5. The time period of this release is from August 19, 2017, through **[the earlier of July 19, 2022, and the Preliminary Approval Date]**.

B. Release by Class Members who worked for Defendant During the PAGA Period.

If you worked for Defendant at any time from August 19, 2020 through the earlier of (1) July 19, 2022 and (2) the date of preliminary approval, you will receive a payment that is your share of the PAGA Employee Portion and you will release Defendants Jeffrey Lee Galitz, M.D., a Professional Medical Corporation dba Woundtech of California; Podicare Services, Inc.; and Wound Technology Network, Inc., as well as Defendants' current and former agents, officers, employees, directors, owners, subsidiaries, affiliates, parent companies, insurers, attorneys, shareholders, investors, related management companies and any other related parties from any and all claims under PAGA that were administratively exhausted by providing the requisite notice to the Labor Workforce Development Agency ("LWDA") LWDA and/or in the Action and for: (1) failure to pay overtime in violation of Labor Code section 510; (2) failure to pay for nonproductive time and rest breaks in violation of Labor Code section 226.2; (3) failure to pay wages for all work performed in violation of Labor Code

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sections 204 and 1197; (4) unpaid meal and rest period premiums in violation of Labor Code section 226.7(c); (5) non-compliant wage statements in violation of Labor Code section 226(a); (6) unreimbursed business expenses in violation of Labor Code section 2802; ; (7) violation of California Business & Profession Code Sections 17200, *et seq.*, in relation to the forgoing Labor Code violations; and (8) final wages not timely paid in violation of Labor Code sections 201 and 202. This release shall also include releases for claims under California Labor Code sections 201-204, , 226 *et. seq.*, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1194, 1197, 1198, 2802 and 2810.5. The time period of this release shall be from August 19, 2017, through **[the earlier of July 19, 2022, and the Preliminary Approval Date]**. You cannot exclude yourself from this release.

9. YOUR OPTIONS

As a member of the settlement class you have three options. Each option will affect your rights, which you should understand before making your decision. Your rights regarding each option, and the procedure you must follow to select each option, are explained below:

(a) You Can Do Nothing.

If you do nothing, you will remain a member of the settlement class and will receive a settlement payment. You will also be bound by the release of claims set forth in Section 8 above. The payment will remain valid and negotiable for one hundred eighty (180) days from the date of the issuance. This deadline to cash the payment check shall not be extended for you absent Court Order.

(b) You Can Exclude Yourself from the Settlement Class.

If you do not want to remain a member of the settlement class, you can request exclusion (i.e., opt out) by sending the Settlement Administrator a written Request for Exclusion at the address specified in Section 11 below. The deadline to postmark a Request for Exclusion is **[45 days from mailing]**. A Request for Exclusion is a written statement that unambiguously requests exclusion from the settlement class. The Request for Exclusion must include the case name and number (*Mary Beth Hughes v. Jeffrey Lee Galitz, MD, A Professional Medical Corporation, a California corporation*, Case No. 21STCV30732), your name, current address and telephone number, and the last four digits of your social security number (for verification purposes). You must also sign the Request for Exclusion. You should keep a copy of your Request for Exclusion. Moreover, to demonstrate receipt by the Settlement Administrator, you may elect to send your Request for Exclusion via certified mail. Requests for Exclusion that do not include all required information, or that are not postmarked on or before **[45 days from mailing]**, will not be valid.

If you submit a valid and timely Request for Exclusion, you will not be bound by the settlement or the release of claims in Section 8(a) above; however, you will not receive any money under the settlement. You will also be barred from objecting to this settlement. By opting out of the settlement class, you will retain whatever rights or claims you may have against Defendant.

If you do not submit a timely and valid Request for Exclusion from the settlement class by the deadline specified above, then you will be bound by all terms and conditions of the settlement, including the Release of Claims, if it is approved by the Court and by the judgment, and you will receive a settlement payment.

Please note, you may not exclude yourself from the PAGA Settlement.

(c) You Can Object to the Settlement.

If you do not submit a Request for Exclusion from the settlement, you may object to the settlement by sending your written objections to the Settlement Administrator at the address specified in Section 11 below. The deadline to postmark your objections is **[45 days from mailing]**. Only class members who have not requested exclusion may object to the settlement.

Your objection must state the basis of your objection and include any papers and briefs in support of your position. Your objection must be signed and must contain your current address and telephone number (or that of your attorney) and refer

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to this case (*Mary Beth Hughes v. Jeffrey Lee Galitz, MD, A Professional Medical Corporation, a California corporation*, Case No. 21STCV30732).

If you object to the settlement and if the Court approves the settlement notwithstanding your objections, you will be bound by the terms of the settlement and be deemed to have released all of the Released Claims as set forth in Section 8(a) above, and you will not be permitted to file a Request for Exclusion.

10. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT

The Final Approval Hearing on the fairness and adequacy of the proposed settlement, the plan of distribution, the service and release awards to the Plaintiff, and Class Counsel's request for attorneys' fees and costs, and other issues will be held on _____, 20__ at _____.m., in Department 9 of the Los Angeles County Superior Court, 312 N. Spring Street, Los Angeles, CA 90012. The Final Approval Hearing may be continued to another date without further notice. If you plan to attend the Final Approval Hearing, it is recommended that you contact the Settlement Administrator to confirm the date and time.

11. NON-RETALIATION

Defendant will not retaliate or take any adverse action against a class member for participating in the settlement.

12. ADDITIONAL INFORMATION AND COURTHOUSE SOCIAL DISTANCING INFORMATION.

This Notice only summarizes the lawsuit and settlement. For more information, you may inspect the Court file at the Los Angeles County Superior Court, 312 N. Spring Street, Los Angeles, CA 90012, subject to the social distancing procedures in place at the Courthouse. You may also review the settlement agreement and other documents on-line at [www._____](http://www._____.) or you may contact the Settlement Administrator as follows:

[_____]
Telephone: _____
Facsimile: _____
Email: _____
Website: _____

You may also contact Class Counsel at the address and telephone number provided in Section 4 above. If your address changes or is different from the address on the envelope enclosing this Notice, please promptly notify the settlement administrator.

If you are planning to come to the Final Approval Hearing, effective Monday, April 4, 2022, face masks are strongly recommended inside all Los Angeles County courthouses in alignment with Los Angeles County Department of Public Health guidance.

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE

FOR MORE INFORMATION CALL 1-800-_____.