

AEGIS LAW FIRM, PC

Kashif Haque, State Bar No. 218672

Samuel A. Wong, State Bar No. 217104

Jessica L. Campbell, State Bar No. 280626

Fawn F. Bekam, State Bar No. 307312

Daniel Ishu, State Bar No. 332865

9811 Irvine Center Drive, Suite 100

Irvine, California 92618

Telephone: (949) 379-6250

Facsimile: (949) 379-6251

dishu@aegislawfirm.com

Attorneys for Plaintiff Ryan Gentile, individually,
and on behalf of all others similarly situated.

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

RYAN GENTILE, individually and on behalf
of all others similarly situated,

Plaintiffs,

vs.

HOMESIDE FINANCIAL, LLC; and DOES 1
through 20, inclusive,

Defendants.

Case No. 30-2021-01217575-CU-OE-CXC

Assigned for all purposes to:

Hon. Peter Wilson

Dept. CX-101

**DECLARATION OF DANIEL E. ISHU IN
SUPPORT OF AMENDED [PROPOSED]
ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS/PAGA ACTION
SETTLEMENT**

1 I, Daniel E. Ishu, hereby declare as follows:

2 1. I am an attorney at law licensed to practice before all of the courts of the State of
3 California. I am an associate with Aegis Law Firm, PC (“Aegis”), counsel for Plaintiff in this matter.
4 I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein.

5 2. I submit this supplemental declaration in support of the Parties Joint Stipulation To
6 Amend [Proposed] Order Granting Preliminary Approval Of Class/PAGA Action Settlement And
7 Amended [Proposed] Order. If called as a witness, I could and would competently testify thereto.

8 3. On January 19, 2023, Plaintiff moved the Court for Preliminary Approval of the
9 Class/PAGA Action Settlement.

10 4. On June 13, 2023, the Court granted Plaintiff’s Motion for Preliminary Approval, and set
11 the hearing date for the final fairness and approval motion on November 16, 2023.

12 5. Exhibit 1 that was attached to the signed preliminary approval order contained a fully
13 executed copy of the settlement agreement. Under Article 1, Definition (c) “Class” was defined as “all
14 current and former non-exempt employees who are or were employed by Defendant in California at any
15 time during the Class Period.

16 6. However, through an inadvertent mistake by both parties, Definition (c) “Class” was not
17 defined in the same manner as was agreed to in the full executed Memorandum of Agreement (“MOA”).
18 In the MOA, paragraph 6, Settlement Class Members is defined as:

19
20 The Settlement Class Members means all current and former non-exempt employees of Defendant
21 and all current and former Senior Loan Officers – Outside Sales and Loan Officers – Outside Sales
22 who worked in California during the Covered Period (or if any such person is incompetent,
23 deceased, or unavailable due to military service, the person’s legal representative or successor in
interest evidenced by reasonable verification). The “Settlement Class Members” shall not include
any person who submits a timely and valid request for exclusion.

24 7. The effect of this mistake was that approximately 17 class members were not included in
25 the updated class list that was to be provided to the settlement administrator. These 17 class members
26 are “Senior Loan Officers – Outside Sales and Loan Officers – Outside sales” as mentioned in paragraph
27 6 of the MOA. The “Senior Loan Officers - Outside Sales and Loan Officers – Outside sales” are not
28 considered non-exempt employees.

8. At mediation, the parties bargained for and agreed to a settlement that included the “Senior Loan Officers – Outside Sales and Loan Officers – Outside sales” in addition to the non-exempt employees who were employed by Defendant during the Class Period as defined in the Settlement Agreement.

9. To correct this issue, the parties request the Court to sign an Amended [Proposed] Order that modifies the definition of “Class” to match the above-mentioned definition in paragraph 6 above, which is reflected in the fully executed Revised Settlement Agreement attached hereto as **Exhibit 1**. The parties further request that the Court move the Final Fairness and Approval hearing by approximately 30 days, to allow for mailing of the Class Notice.

10. A true and correct copy of the fully executed Revised Settlement Agreement is attached hereto as **Exhibit 1**.

11. A true and correct copy of the redlined Settlement Agreement showing changes made is attached hereto as **Exhibit 2**.

12. A true and correct copy of the redlined Class Notice showing changes made is attached hereto as **Exhibit 3**.

13. A true and correct copy of the redlined Proposed Order showing changes made is attached hereto as **Exhibit 4**.

14. A true and correct copy of the LWDA's confirmation of submission of the Revised Settlement Agreement and Joint Stipulation To Amend [Proposed] Order Granting Preliminary Approval Of Class/PAGA Action Settlement And Amended [Proposed] Order is attached hereto as **Exhibit 5.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 8, 2023 at Irvine, California.

Dorothy Adams

Daniel E. Ishu
Attorney for Plaintiff

EXHIBIT 1

AEGIS LAW FIRM, PC

KASHIF HAQUE, State Bar No. 218672

SAMUEL A. WONG, State Bar No. 217104

JESSICA L. CAMPBELL, State Bar No. 280626

FAWN F. BEKAM, State Bar No. 307312

DANIEL E. ISHU, State Bar No. 332865

9811 Irvine Center Drive, Suite 100

Irvine, California 92618

Telephone: (949) 379-6250

Facsimile: (949) 379-6251

dishu@aegislawfirm.com

Attorneys for Plaintiff, Ryan Gentile, individually,
and on behalf of all others similarly situated.

AARON H. COLE, State Bar No. 236655

CATHERINE L. BRACKETT, State Bar No. 332918

OGLETREE, DEAKINS, NASH, SMOAK, & STEWART, P.C.

400 South Hope Street, Suite 1200

Los Angeles, CA 90071

Telephone: 213.239.9800

Facsimile: 213.239.9045

Attorneys for Defendant Homeside Financial, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

RYAN GENTILE, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

HOMESIDE FINANCIAL, LLC; and DOES 1
through 20, inclusive,

Defendants.

CASE NO.: 30-2021-01217575-CU-OE-CXC

[Related to Case No. 30-2021-01230333-CU-OE-CXC]

*Assigned for all purposes to:
Hon. Peter Wilson, Dept. CX-101*

JOINT STIPULATION OF SETTLEMENT

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court pursuant to the California Rules of Court, that the Settlement of this Action shall be
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of
5 Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Named Plaintiff Ryan Gentile (“Named Plaintiff”) and the Class Members, on the one hand, and Defendant Homeside Financial, LLC (“Defendant”),
7 on the other hand. Named Plaintiff and Defendant collectively are referred to in this Agreement as
8 “the Parties.”

9 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
10 concluded by agreement of Defendant to pay the settlement amount of Three Hundred Seventy-Six
11 Thousand Dollars (\$376,000.00) as provided in Section 3.06(a) below (“Gross Settlement Amount”) pursuant to the terms and conditions of this Agreement and for the consideration set forth herein,
12 including but not limited to, a release of all claims by Named Plaintiff and the Class Members as set
13 forth herein.

14 **ARTICLE I**

15 **DEFINITIONS**

16 Unless otherwise defined herein, the following terms used in this Agreement shall have the
17 meanings ascribed to them as set forth below:

18 a. “Action” means the actions described as follows: *Ryan Gentile v. Homeside*
19 *Financial, LLC*, Case No. 30-2021-01217575-CU-OE-CXC and Case No. Case No. 30-2021-
20 01230333-CU-OE-CXC, commenced on August 24, 2021 in the Superior Court of the State of
21 California for the County of Orange.

22 b. “Agreement” means this Joint Stipulation of Settlement, including the attached
23 Exhibit(s).

24 c. “Class” all current and former non-exempt employees of Defendant and all current
25 and former Senior Loan Officers – Outside Sales and Loan Officers – Outside Sales who worked in
26 California during the Covered Period (or if any such person is incompetent, deceased, or unavailable
27
28

1 due to military service, the person's legal representative or successor in interest evidenced by
2 reasonable verification). The "Settlement Class Members" shall not include any person who submits
3 a timely and valid request for exclusion.

4 d. "Class Counsel" means the attorneys for the Class and the Class Members, who are:

5 Kashif Haque
6 Samuel A. Wong
7 Jessica L. Campbell
8 Fawn F. Bekam
9 Daniel E. Ishu
10 AEGIS LAW FIRM, PC
11 9811 Irvine Center Drive, Suite 100
12 Irvine, California 92618
13 Telephone: (949) 379-6250
14 Facsimile: (949) 379-6251

15 e. "Class List" means a list based on Defendant's business records that identifies each
16 Class Member's name, last known home or mailing address, Social Security number or, as
17 applicable, other taxpayer identification number, and the number of Qualifying Workweeks worked
18 during the Class Period.

19 f. "Class Member(s)" means all members of the Class.

20 g. "Class Period" means February 27, 2017 through October 14, 2022.

21 h. "Court" means the California Superior Court for the County of Orange, where the
22 Action is currently pending.

23 i. "Date of Finality" means the later of the following: (1) the date the Final Order is
24 signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no
25 appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or
26 other judicial review is taken from the Court's overruling of objections to the settlement, ten (10)
27 days after the appeal is withdrawn or after an appellate decision affirming the Final Order becomes
28 final.

29 j. "Defendant" means Defendant Homeside Financial, LLC

30 k. "Defense Counsel" means counsel for Defendant:

31 Aaron H. Cole
32 Catherine L. Brackett
33 OGLETREE, DEAKINS, NASH, SMOAK, & STEWART, P.C.
34 400 South Hope Street, Suite 1200

Los Angeles, CA 90071
Telephone: 213.239.9800
Facsimile: 213.239.9045

1. "Disposition" means the method by which the Court approves the terms of the Settlement and retains jurisdiction over its enforcement, implementation, construction, administration, and interpretation.

m. "Final Order Approving Settlement of Class Action" or "Final Order" means the final formal court order signed by the Court following the Final Fairness and Approval Hearing in accordance with the terms herein, approving this Agreement.

n. "Gross Settlement Amount" means Three Hundred Seventy-Six Thousand Dollars and Zero Cents (\$376,000.00) to be paid by Defendant as provided by this Agreement to settle this Action. All claims of the Class and all administration costs, attorney's fees and costs, and Incentive Awards, pursuant to Section 3.06(a) below, shall be paid out of the Gross Settlement Amount. The employer's share of payroll taxes arising from the payments made under this settlement shall be paid by Defendant separate from and in addition to the Gross Settlement Amount. The Gross Settlement Amount is subject to a pro rata increase pursuant to Section 3.04(e) below. No part of the Gross Settlement Amount shall revert to Defendant.

o. "Incentive Award" means a monetary amount of up to Five Thousand Dollars (\$5,000.00) for the Named Plaintiff, subject to Court approval, in recognition of his effort and work in prosecuting the Action on behalf of Class Members, and for their general release of claims.

p. "Individual Settlement Payment(s)" means each Participating Class Member's respective share of the Net Settlement Amount. Individual Settlement Payments will be determined by the calculations provided in this Agreement.

q. "LWDA" means The State of California Labor and Workforce Development Agency.

r. "LWDA Payment" means 75% of the \$25,000.00 allocated to the settlement of PAGA claims which, subject to Court approval, will be paid to the LWDA pursuant to Section 3.06(e) of this Agreement, as provided for below.

s. "Motion for Final Approval" means Plaintiffs' submission of a written motion, including any evidence as may be required for the Court to conduct an inquiry into the fairness of

1 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and
2 to enter a Final Order in this Action.

3 t. "Motion for Preliminary Approval" means Plaintiffs' submission of a written motion,
4 including any evidence as may be required for the Court to grant preliminary approval of the
5 Settlement as required by Rule 3.769 of the California Rules of Court.

6 u. "Named Plaintiff" means Ryan Gentile.

7 v. "Net Settlement Amount" means the Gross Settlement Amount less Court-approved
8 administration costs, Class Counsels' attorney's fees and costs, Incentive Awards, and LWDA
9 Payment, pursuant to Section 3.06(a)-(f) below.

10 w. "Non-Participating Class Member(s)" means any Class Member(s) who submit to the
11 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant
12 to Section 3.04(b) below.

13 x. "Notice Packet" means the Notice of Proposed Class Action Settlement in a form
14 substantially similar to the Notice Packet attached hereto as **Exhibit A**, subject to Court approval.

15 y. "PAGA" means the California Private Attorneys General Act of 2004, which is
16 codified in California Labor Code §§ 2698 *et seq.*

17 z. "PAGA Settlement Amount" means the portion of the Gross Settlement Amount
18 allocated to the resolution of Class Members' claims arising under PAGA. The Parties have agreed
19 that the PAGA Settlement Amount is Twenty Thousand Dollars (\$25,000.00), subject to Court
20 approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA Payment, and the
21 remaining 25% will be added to the Net Settlement Amount and distributed to Participating Class
22 Members.

23 aa. "PAGA Group Members" means all Class Members employed by Defendant at any
24 time between August 24, 2020 and October 4, 2022.

25 bb. "Participating Class Member(s)" is defined as a Class Member who does not timely
26 exclude himself or herself from the Settlement and will therefore receive his or her share of the Net
27 Settlement Amount automatically without the need to return a claim form. Each Participating Class
28 Member will be paid his/her Individual Settlement Payment.

1 cc. "Preliminary Approval Date" means the date the Court preliminarily approves the
2 Settlement embodied in this Agreement.

3 dd. "Qualified Settlement Fund" or "QSF" means a fund within the meaning of Treasury
4 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement
5 Administrator for the benefit of Participating Class Members.

6 ee. "Qualifying Workweeks" means the number of weeks that Class Members worked
7 for Defendant as non-exempt employees during the Class Period.

8 ff. "Released Parties" means Defendant and its past, present, and/or future officers,
9 directors, shareholders, employees, agents, operators, principals, owners, heirs, representatives,
10 accountants, auditors, consultants, insurers and reinsurers, successors and predecessors in interest,
11 members, divisions, fiduciaries, trustees, partners, shareholders, investors, and attorneys, if any.

12 gg. "Response Deadline" means the deadline by which Class Members must postmark or
13 fax to the Settlement Administrator requests for exclusion or notices of objection. The Response
14 Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by the
15 Settlement Administrator, unless the sixtieth (60th) calendar day falls on a Sunday or federal holiday,
16 in which case the Response Deadline will be extended to the next day on which the U.S. Postal
17 Service is open. The Response Deadline will be extended as set forth herein if there is a re-mailing.

18 hh. "Settlement Administration Costs" means all costs incurred by the Settlement
19 Administrator in administration of the Settlement, including, but not limited to, mailing of notice to
20 the class, calculation of Individual Settlement Payments, generation of Individual Settlement
21 Payment checks and related tax reporting forms, administration of unclaimed checks, and generation
22 of checks to Class Counsel for attorneys' fees and costs, to Named Plaintiffs for their Incentive
23 Awards, and to the LWDA. The Settlement Administration Costs shall be paid from the Gross
24 Settlement Amount.

25 ii. "Settlement Administrator" means Phoenix Settlement Administrators, which the
26 Parties have agreed will be responsible for the administration of the Individual Settlement Payments
27 to be made by Defendant from the Gross Settlement Amount and related matters under this
28 Agreement.

ARTICLE II

CONTINGENT NATURE OF THE AGREEMENT

Section 2.01: Stipulation of Class Certification for Settlement Purposes

Because the Parties have stipulated to the certification of the Class with respect to all causes of action alleged in the Action for settlement purposes only, this Agreement requires preliminary and final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis. This Agreement is contingent upon the approval and certification by the Court. If the Date of Finality does not occur, the fact that the Parties were willing to stipulate for the purposes of this Agreement to a Class shall have no bearing on, nor be admissible in connection with, the issue of certification of the Class with respect to all causes of action alleged in the Action. Defendant does not consent to certification of the Class for any purpose other than to effectuate settlement of the Action. If the Date of Finality does not occur, or if Disposition of this Action is not effectuated, any certification of the Class as to Defendant will be vacated and Named Plaintiffs, Defendant, and the Class will be returned to their positions with respect to the Action as if the Agreement had not been entered into. In the event that the Date of Finality does not occur: (a) any Court orders preliminarily or finally approving certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement reflected in this Agreement, the fact that Defendant did not oppose the certification of a Class under this Agreement, or that the Court preliminarily approved the certification of the Class, shall not be used or cited thereafter by any person or entity, including in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class. If the Date of Finality does not occur, this Agreement shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendant expressly reserves the right to challenge the propriety of class certification in the Action for any purpose, if the Date of Finality does not occur.

The Parties and their respective counsel shall take all steps that may be requested by the Court relating to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain Court approval and implement this Agreement. If the Court does not

1 grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree
2 to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a
3 resolution, the Parties agree to seek the assistance of mediator Eve Wagner to resolve the dispute.

4 **ARTICLE III**

5 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT**

6 The procedure for obtaining Court approval of and implementing this Agreement shall be as
7 follows:

8 **Section 3.01: Motion for Conditional Class Certification and Preliminary Approval**

9 Named Plaintiff will bring a motion before the Court for an order conditionally certifying the
10 Class to include all claims pled in the Action based on the preliminary approval of this Agreement.
11 The date that the Court grants preliminary approval of this Agreement will be the "Preliminary
12 Approval Date."

13 **Section 3.02: The Settlement Administrator**

14 The Parties have chosen Phoenix Settlement Administrators to administer this Settlement and
15 to act as the Settlement Administrator, including but not limited to distributing and responding to
16 inquiries about the Notice Packet; determining the validity of exclusions/opt-outs; calculating the
17 Net Settlement Amount and the Individual Settlement Payments; issuing the Individual Settlement
18 Payment checks and distributing them to Participating Class Members; establishing and maintaining
19 the QSF; and issuing the payment to Class Counsel for attorneys' fees and costs, the Incentive Award
20 checks to Named Plaintiffs, and the employer payroll taxes to the appropriate taxing authorities. The
21 Settlement Administrator shall also create a website and/or Webpage that posts key documents in
22 this matter, including Plaintiff's Operative Complaint, The Class Notice, Orders for Preliminary and
23 Final Approval, as well as the Final Judgement. The Final Judgement shall be posted on the
24 Administrator's website/webpage for 180 days after receipt. The Settlement Administrator shall
25 expressly agree to all of the terms and conditions of this Agreement.

26 All costs of administering the Settlement, including but not limited to all costs and fees
27 associated with preparing, issuing, and mailing any and all notices to Class Members and/or
28 Participating Class Members; all costs and fees associated with computing, processing, reviewing,

1 and mailing the Individual Settlement Payments; all costs and fees associated with preparing any tax
2 returns and any other filings required by any governmental taxing authority or agency; all costs and
3 fees associated with preparing any other checks, notices, reports, or filings to be prepared in the
4 course of administering disbursements from the Net Settlement Amount; and any other costs and fees
5 incurred and/or charged by the Settlement Administrator in connection with the execution of its
6 duties under this Agreement (“Settlement Administration Costs”), shall be paid to the Settlement
7 Administrator from the Gross Settlement Amount.

8 **Section 3.03: Notice to Class Members**

9 No later than five (5) business days after the Preliminary Approval Date, Defendant will
10 provide the Settlement Administrator with a “Class List” in electronic format based on its business
11 records, identifying the names of the Class Members, their last known home addresses, Social
12 Security numbers or, as applicable, other taxpayer identification number, and their dates of
13 employment or weeks worked during the Class Period.

14 Within ten (10) business days of receiving a Class List from Defendant, the Settlement
15 Administrator will send Class Members, by first-class mail at their last known address, the Court
16 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the
17 Settlement Class. The Notice Packet will include a calculation of the Class Member’s approximate
18 share of the Net Settlement Amount. Class Members will have forty-five (45) days from the date of
19 mailing in which to postmark requests for exclusion. Prior to the initial mailing, the Settlement
20 Administrator will check all Class Member addresses against the National Change of Address
21 database and shall update any addresses before mailing. The Settlement Administrator will skip trace
22 and re-mail all returned, undelivered mail within five (5) days of receiving notice that a Notice Packet
23 was undeliverable. If a Class Member’s notice is re-mailed, the Class Member shall have fifteen (15)
24 calendar days from the re-mailing, or forty-five (45) calendar days from the date of the initial mailing,
25 whichever is later, in which to postmark requests for exclusion. Class Members shall not be required
26 to submit claim forms in order to receive a proportional share of the Net Settlement Amount.

27 If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall
28 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose

1 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
2 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
3 mass search on LexisNexis or comparable databases based on set criteria and, if another address is
4 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties
5 that reasonable means be used to locate Class Members and that the Settlement Administrator be
6 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the
7 Individual Settlement Payments to all Participating Class Members.

8 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
9 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly
10 status report provided to the Parties.

11 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
12 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class
13 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class
14 Member's Individual Settlement Payment during the check cashing period on behalf of the Class
15 Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and
16 Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement
17 Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the
18 procedures set forth in Section 3.06(f) below within 30 days of the date the check cashing period
19 expires.

20 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the
21 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration
22 attesting to completion of the notice process, including any attempts to obtain valid mailing addresses
23 for and re-sending of any returned Notice Packets, as well as the number of valid requests for
24 exclusion and objections that the Settlement Administrator received.

25 **Section 3.04: Responses to Notice**

26 **a. Class Member Disputes**

27 If any Class Member disagrees with Defendant's records as to his or her Qualifying
28 Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set

1 forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period
2 and submit such writing, through either mail or fax, to the Settlement Administrator by the Response
3 Deadline, along with any supporting documentation. In the event of a re-mailing, the Response
4 Deadline shall be extended fifteen (15) days from the date of the re-mailing. The Notice will also
5 provide a method for the Class Member to challenge the employment data on which his or her
6 Individual Settlement Payment is based. The Settlement Administrator shall contact the Parties
7 regarding the dispute and the Parties will work in good faith to resolve it. The Court shall have the
8 right to review and reverse any decision made by the Settlement Administrator regarding a claim
9 dispute. If the Parties are unable to resolve the dispute, the Court will be the final arbiter of the
10 Qualifying Workweeks for each Class.

11 **b. Requests for Exclusion from Class**

12 In order for any Class Member to validly exclude himself or herself from the Class and this
13 Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class
14 Member or his or her authorized representative, and must be sent to the Settlement Administrator,
15 postmarked or faxed no later than the Response Deadline (or fifteen (15) days after the Settlement
16 Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall
17 contain instructions on how to validly exclude himself or herself from the Class and this Settlement
18 (*i.e.*, opt out). The date of the initial mailing of the Notice Packet, and the date the signed request for
19 exclusion was postmarked, shall be conclusively determined according to the records of the
20 Settlement Administrator. Any Class Member who timely and validly requests exclusion from the
21 Class and this Settlement will not be entitled to any Individual Settlement Payment, will not be bound
22 by the terms and conditions of this Agreement, and will not have any right to object, appeal, or
23 comment thereon.

24 Any Class Member who fails to timely submit a request for exclusion shall automatically be
25 deemed a Class Member whose rights and claims with respect to the issues raised in the Action are
26 determined by the Court's Final Order Approving Settlement of Class Action, and by the other
27 rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action
28 and/or released in this Agreement will be extinguished.

1 Should the number of Class Members who submit valid requests for exclusion exceed 15,
2 Defendant shall have the right to elect to void the Settlement. Should Defendant exercise the right to
3 void the Settlement, Defendant shall be responsible for the Settlement Administrator's costs incurred
4 to date.

5 **c. Objections to Settlement**

6 For any Class Member to object to this Agreement or any term therein, the person making
7 the objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to the
8 Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15)
9 days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later),
10 a written statement of the grounds of objection, signed by the objecting Class Member or his or her
11 attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and
12 the date the signed objection was postmarked, shall be conclusively determined according to the
13 records of the Settlement Administrator. The Settlement Administrator shall send any objections it
14 receives to Defense Counsel and Class Counsel within three (3) business days of receipt. Class
15 Members may also appear at the final approval hearing to object. The Court retains final authority
16 with respect to the consideration and admissibility of any Class Member objections.

17 **d. Encouragement of Class Members**

18 The Parties to this Agreement and the counsel representing such Parties shall not, directly or
19 indirectly, through any person, encourage or solicit any Class Member to exclude himself or herself
20 from this Settlement (*i.e.*, opt out), or to object to it. However, Class Counsel may respond to
21 inquiries from Class Members.

22 **e. Right of Plaintiff to Adjust Gross Settlement Amount**

23 Defendant has estimated the number of workweeks in which Class Members worked for
24 Defendant during the Class Period as 4,700. If the number of workweeks in which Class Members
25 worked for Defendant during the Class Period increases by more than 10% as of the end of the Class
26 Period, there will be a pro rata adjustment to the Gross Settlement Amount equal to \$80 per additional
27 workweek in which Class Members worked for Defendant during the Class Period.
28

Section 3.05: Final Fairness and Approval Hearing

On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement and determine whether the Court should give it final approval, and (2) consider any objections made and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a Proposed Final Order Approving Settlement of Class Action.

Notice of the Final Approval Order and Judgment shall be posted on the Settlement Administrator's website. The URL for the website shall be printed on the checks sent to Participating Class Members.

Section 3.06: Settlement Payment Procedures

a. Settlement Amount

In exchange for the Released Claims set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount in the amount of Three Hundred Seventy-Six Thousand Dollars (\$376,000.00), subject to a pro rata increase under the condition set forth in Section 3.04(e). The Gross Settlement Amount includes all Individual Settlement Amounts to Participating Class Members, all administration costs, Class Counsel's attorney's fees and costs, PAGA Settlement Amount, and the Incentive Payments.

Within ten (10) business days after the Court signs the Final Order, Defendant shall transfer the Gross Settlement Amount plus Defendant's share of employer-side payroll taxes, as set forth herein, into a QSF established by the Settlement Administrator either directly or by sending the funds to the Settlement Administrator to be deposited and distributed. The Settlement Administrator will use these funds to fund payment of the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, the Incentive Awards, the LWDA Payment, and the Settlement Administration Costs.

Within ten (10) business days after receiving Defendants' final payment, funding the Gross Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, the

1 Incentive Awards, and employer and employee tax withholdings applicable to the Net Settlement
2 Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a
3 search based on the National Change of Address Database to update and correct for any known or
4 identifiable address changes.

5 **b. Payment of Attorneys' Fees and Costs**

6 Class Counsel shall submit an application for an award of attorneys' fees of up to one-third
7 of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is One
8 Hundred Twenty-Five Thousand Three Hundred and Thirty-Three Dollars and Thirty-Three Cents
9 (\$125,333.33). Class Counsel shall submit an application for an award of costs not to exceed Twenty-
10 Five Thousand Dollars (\$25,000.00). Such application for attorneys' fees and costs shall be heard
11 by the Court at the Final Fairness and Approval Hearing. Defendant shall not object to or oppose any
12 such application in these amounts. Class Counsel shall serve Defendant with copies of all documents
13 submitted in support of their application for an award of attorneys' fees and costs.

14 Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the
15 Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys'
16 fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs,
17 and expenses related to the investigation, prosecution, and settlement of the Action incurred through
18 the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees
19 and/or costs that Class Counsel requests, the difference between the requested and awarded amounts
20 will be reallocated to the Net Settlement Amount.

21 **c. Payment of Settlement Administration Costs**

22 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
23 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed Six
24 Thousand Two Hundred and Fifty Dollars (\$6,250.00).

25 **d. Payment of Incentive Award to Named Plaintiffs**

26 Subject to Court approval, the Named Plaintiff shall receive an Incentive Award of up to Five
27 Thousand Dollars (\$5,000.00), the request for which Defendant will not object to or oppose. The
28 Incentive Award shall be paid out of the Gross Settlement Amount and shall not constitute payment

1 to any Participating Class Member(s) other than Named Plaintiff. To the extent that the Court
2 approves less than the amount of incentive award that Class Counsel request, the difference between
3 the requested and awarded amounts will be reallocated to the Net Settlement Amount.

4 Because it is the intent of the Parties that the Incentive Award represents payment to Named
5 Plaintiff for his service to the Class Members, and not wages, the Settlement Administrator will not
6 withhold any taxes from the Incentive Award. The Incentive Award will be reported on a Form 1099,
7 which the Settlement Administrator will provide to the Named Plaintiff and to the pertinent taxing
8 authorities as required by law.

9 **e. Payment to the Labor and Workforce Development Agency**

10 In consideration of claims made under PAGA, Class Counsel will request that the Court
11 approve allocation of Twenty-Five Thousand Dollars (\$25,000) of the Gross Settlement Amount to
12 these claims. Seventy-five percent (75%) of this PAGA Settlement Amount will be paid to the
13 California Labor and Workforce Development Agency ("LWDA Payment"), and twenty-five percent
14 (25%) will be paid to the Net Settlement Amount for distribution to Class Members. Defendant will
15 not oppose this request. The entire PAGA Settlement Amount will be paid out of the Gross
16 Settlement Amount. The Court's adjustment, if any, of the amount allocated to the Named Plaintiff's
17 PAGA claim in the Action will not invalidate this Agreement.

18 **f. Payment of Individual Settlement Payments to Participating Class Members**

19 The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement
20 Payments. The Parties agree that the Net Settlement Amount shall be divided between all
21 Participating Class Members in proportion to the number of individual Qualifying Workweeks for
22 each Class Member. To calculate the minimum amount each Class Member will receive based on
23 their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total
24 number of Qualifying Workweeks of all Class Members during the Class Period and then allocated
25 on a pro rata basis. Each individual Class Member's Qualifying Workweeks will be rounded up to
26 the next whole integer. To Calculate the minimum amount for the Individual PAGA Payments, 25% of
27 the PAGA Settlement Amount (\$6,250.00) will be divided by the total number of pay periods worked by
28 aggrieved employees, then allocated on a pro rata basis. The individual PAGA payments will be allocated

as 100% penalties for tax purposes. Each Class Member's approximate Individual Settlement Payment amount will be included in his or her Notice Packet. After final approval by the Court, the Net Settlement Amount will be dispersed to Participating Class Members (those who did not exclude themselves) on a pro rata basis based on the individual Qualifying Workweeks worked during the Class Period by each Participating Class Member.

Each Individual Settlement Payment will represent wages and penalties allocated using the following formula: 10% allocated to wages, 10% allocated to interest, and 80% allocated to penalties. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The employer-side taxes will be paid separate from and in addition to the Gross Settlement Amount. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms.

No later than ten (10) business days after receiving the Gross Settlement Amount from Defendant, the Settlement Administrator shall prepare and mail the checks for the Individual Settlement Payments to Participating Class Members. Individual Settlement Payments paid from the Net Settlement Amount allocated to wages will be reduced by applicable employer and employee tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of the Individual Settlement Payments if required. The Settlement Administrator will issue a Form 1099 to the extent required by law for the interest and penalty portions of the Individual Settlement Payments. Participating Class Members shall have 180 days from the date their Individual Settlement Payment checks are dated to cash their Settlement checks. Any checks that are not cashed upon the expiration of that 180-day time period will be void, and the uncashed funds shall be paid to the State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds are designated within 30 days of the date the check cashing period expires.

If a check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or a mass search on LexisNexis or comparable databases based on set criteria and, if another address is

1 identified, the Settlement Administrator shall mail the check to the newly identified address. If the
2 Settlement Administrator is unable to obtain a valid mailing address through this process, the
3 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller
4 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated within
5 30 days of the date the check cashing period expires.

6 **g. Default on Payment.**

7 Defendant's failure to fund the Gross Settlement Amount within ten (10) business days after
8 the date that the Court grants final approval of the Settlement shall be considered a default. In the
9 event Defendant fails to timely fund the Gross Settlement Amount, the Settlement Administrator will
10 provide notice to Class Counsel and Defendant's counsel within three (3) business days of the missed
11 payment. Thereafter, Defendant will have seven (7) business days to cure the default and tender
12 payment to the Settlement Administrator. In the event Defendant fails to cure the default within the
13 times set forth herein, the Named Plaintiff may elect to enter judgment against Defendant, on an ex
14 parte basis, for the balance of the unpaid Gross Settlement Amount to date, and the Named Plaintiff
15 will be entitled to recover interest at ten percent (10%) per year from the due date for such payment
16 and reasonable attorneys' fees and costs.

17 **h. No Credit Toward Benefit Plans.**

18 The Individual Settlement Payments made to Participating Class Members under this
19 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to
20 calculate any additional benefits under any benefit plans to which any Class Members may be
21 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase
22 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
23 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class
24 Members may be entitled under any benefit plans.

ARTICLE IV

RELEASES

Section 4.01: Released Claims by Class Members

Upon the date Defendant fully funds the Gross Settlement Amount, Plaintiff and Participating Class Members will release the Released Parties from any and all claims, causes of actions, and factual or legal theories alleged during the Class Period, as alleged in or reasonably could have been alleged based on the facts and legal theories contained in the operative complaint, including all of the following claims for relief: (a) failure to pay all regular wages, minimum wages, piece-rate wages, commission wages, and overtime wages due; (b) failure to pay wages to piece-rate or commission workers for time spent in rest breaks or recovery period or nonproductive time; (c) failure to provide proper meal periods, and to properly provide premium pay in lieu thereof; (d) failure to provide complete, accurate, and/or properly formatted wage statements; (e) waiting time penalties; (f) unfair business practices that could have been premised on the claims, causes of action, or legal theories of relief described above, or any of the claims, causes of action, or legal theories of relief pleaded in the operative complaint; (g) any other claims or penalties under the wage and hour laws pleaded in the Action; and (h) all damages, penalties, interest, and other amounts recoverable under said claims, causes of action, or legal theories of relief. ("Released Claims.")

Section 4.02: Released Claims by PAGA Group Members

Upon the date Defendant fully funds the Gross Settlement Amount, the State of California and PAGA Group Members release the Released Parties from all claims exhausted in Plaintiff's notice(s) sent to the LWDA and all claims under the California Labor Code Private Attorneys General Act of 2004 that were alleged in the operative complaint or reasonably could have been alleged based on the facts and legal theories contained in the operative complaint, which arose during the PAGA Period, regardless of whether PAGA Group Members opt out of the Class Settlement.

Section 4.03: Named Plaintiff's Release of Unknown Claims

Upon the date Defendant fully funds the Gross Settlement Amount, the Named Plaintiff shall release and waive all claims, known and unknown, including all claims that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the

operative complaints in the Action, except those claims as may be prohibited by law and except those claims alleged or reasonably could have been alleged based on the facts and legal theories contained in the Named Plaintiff's operative complaint in Orange County Case No. 30-2022-01261893-CU-WT-WJC.

Section 1542 of the California Civil Code provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

The Named Plaintiff's general release provided herein is made with an express waiver and relinquishment of any claim, right, or benefit under California Civil Code § 1542.

ARTICLE V

LIMITATIONS ON USE OF THIS SETTLEMENT

Section 5.01: No Admission

Defendant disputes the allegations in the Action and disputes that a class should or would have been certified in the Action, except for purposes of this Settlement. This Agreement is entered into solely for the purpose of settling highly disputed claims. Nothing in this Agreement is intended, nor will be construed as, an admission of liability or wrongdoing by Defendant.

Section 5.02: Non-Evidentiary Use

Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage; or (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims released through this Agreement.

Section 5.03: Nullification

The Parties have agreed to the certification of the Class encompassing all claims alleged in the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the Action in its entirety, then (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to stipulate to class certification of all causes of action pled in the Action solely for purposes of the Settlement will have no bearing on, and will not be admissible in connection with, the issue of whether the Class should be certified by the Court in a non-settlement context in this Action or any other action, and in any of those events, Defendant expressly reserves the right to oppose certification of the Class.

In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the Gross Settlement Amount shall not be distributed pending the completion of the appeal.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.01: Amendments or Modification

The terms and provisions of this Agreement may be amended or modified only by an express written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel.

Section 6.02: Assignment

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written consent of each other Party and their respective counsel. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

1 **Section 6.03: Governing Law**

2 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
3 shall be determined, in accordance with the laws of the State of California, without regard to conflicts
4 of laws.

5 **Section 6.04: Entire Agreement**

6 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,
7 contains the entire understanding of the Parties with respect to the subject matter contained herein.
8 In case of any conflict between text contained in Articles I through VI of this Agreement and text
9 contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I through VI) shall be
10 controlling, unless the Exhibits are changed by or in response to a Court order. There are no
11 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject
12 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement
13 supersedes all prior agreements and understandings among the Parties with respect to the settlement
14 of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of
15 prior agreements or proposals.

16 **Section 6.05: Waiver of Compliance**

17 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
18 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived
19 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective
20 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or
21 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or
22 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

23 **Section 6.06: Counterparts and Fax/PDF Signatures**

24 This Agreement, and any amendments hereto, may be executed in any number of counterparts
25 and any Party and/or their respective counsel may execute any such counterpart, each of which when
26 executed and delivered shall be deemed to be an original. All counterparts taken together shall
27 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original
28 signature.

1 **Section 6.07: Meet and Confer Regarding Disputes**

2 Should any dispute arise among the Parties or their respective counsel regarding the
3 implementation or interpretation of this Agreement, a representative of Class Counsel and a
4 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior
5 to submitting such disputes to the Court.

6 **Section 6.08: Agreement Binding on Successors**

7 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
8 of each of the Parties.

9 **Section 6.09: Cooperation in Drafting**

10 The Parties have cooperated in the negotiation and preparation of this Agreement. This
11 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
12 was the drafter or participated in the drafting of this Agreement.

13 **Section 6.10: Fair and Reasonable Settlement**

14 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
15 the Action and have arrived at this Agreement through arm's-length negotiation and in the context
16 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties
17 further believe that the Settlement is consistent with public policy, and fully complies with applicable
18 law.

19 **Section 6.11: Headings**

20 The descriptive heading of any section or paragraph of this Agreement is inserted for
21 convenience of reference only and does not constitute a part of this Agreement and shall not be
22 considered in interpreting this Agreement.

23 **Section 6.12: Notice**

24 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
25 communications under this Agreement must be in writing and addressed as follows:

26 *To Named Plaintiffs and the Class:*

27 Kashif Haque
28 Samuel A. Wong
 Jessica L. Campbell

1 Fawn F. Bekam
2 Daniel E. Ishu
3 AEGIS LAW FIRM, PC
4 9811 Irvine Center Drive, Suite 100
5 Irvine, California 92618
6 Telephone: (949) 379-6250
7 Facsimile: (949) 379-6251

8 And

9 *To Defendant:*

10 Aaron H. Cole
11 Catherine L. Brackett
12 OGLETREE, DEAKINS, NASH, SMOAK, & STEWART, P.C.
13 400 South Hope Street, Suite 1200
14 Los Angeles, CA 90071
15 Telephone: 213.239.9800
16 Facsimile: 213.239.9045

17 **Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction**

18 To the extent consistent with class action procedure, this Agreement shall be enforceable by
19 the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court
20 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the
21 liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the
22 terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall
23 retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest
24 extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more
25 of the Parties institutes any legal action or other proceeding against any other Party or Parties to
26 enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover
27 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
28 fees incurred in connection with any enforcement actions.

29 **Section 6.14: Mutual Full Cooperation**

30 The Parties agree fully to cooperate with each other to accomplish the terms of this
31 Agreement, including but not limited to the execution of such documents, and the taking of such
32 other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties
33 to this Agreement shall use their best efforts to effectuate and implement this Agreement and its

1 terms. In the event the Parties are unable to reach agreement on the form or content of any document
2 needed to implement the Settlement, or on any supplemental provisions that may become necessary
3 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

4 **Section 6.15: Authorization to Act**

5 Class Counsel warrants and represents that they are authorized by the Named Plaintiff, and
6 Defense Counsel warrants that they are authorized by Defendant, to take all appropriate action
7 required to effectuate the terms of this Agreement, except for signing documents that are required to
8 be signed by the Parties themselves, including but not limited to this Agreement. Defendant
9 represents and warrants that the individual executing this Agreement on its behalf has the full right,
10 power, and authority to enter into this Agreement and to carry out the transactions contemplated
11 herein.

12 **Section 6.16: No Reliance on Representations**

13 The Parties have made such investigation of the facts and the law pertaining to the matters
14 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,
15 on any statement, promise, or representation of fact or law, made by any other Party or its agents,
16 employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with
17 regard to the advisability of entering into and executing this Agreement, or with respect to any other
18 matters. No representations, warranties, or inducements, except as expressly set forth herein, have
19 been made to any Party concerning this Agreement.

20 **EXECUTION BY PARTIES AND COUNSEL**

21 The Parties and their counsel hereby execute this Agreement.

22
23
24 Dated: 07-21-2023 _____

RYAN GENTILE

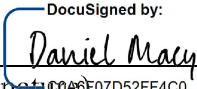
25
26 By: _____

DocuSigned by:

7F000E04652040A
Named Plaintiff

1 Dated: July 21, 2023

HOMESIDE FINANCIAL, LLC

2 By:  DocuSigned by:
3 (Signature) (Signature ID: F07D52FF4C0...)
4 Daniel Macy
5 (Printed Name)
6 EVP
7 (Title)

8 **APPROVED AS TO FORM ONLY:**

9
10 Dated: **August 4, 2023**

AEGIS LAW FIRM, PC

11 
12 By: _____
13 Kashif Haque
14 Samuel A. Wong
15 Jessica L. Campbell
16 Fawn F. Bekam
17 Daniel E. Ishu

18 ATTORNEYS FOR NAMED PLAINTIFF
19 RYAN GENTILE

20 Dated: July 21, 2023

21 **OGLETREE, DEAKINS, NASH, SMOAK, &
22 STEWART, P.C.**
23 By:  _____
24 Aaron H. Cole
25 Catherine L. Brackett

26 ATTORNEYS FOR DEFENDANT HOMESIDE
27 FINANCIAL, LLC
28

EXHIBIT 2

AEGIS LAW FIRM, PC

KASHIF HAQUE, State Bar No. 218672
SAMUEL A. WONG, State Bar No. 217104
JESSICA L. CAMPBELL, State Bar No. 280626
FAWN F. BEKAM, State Bar No. 307312
DANIEL E. ISHU, State Bar No. 332865
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250
Facsimile: (949) 379-6251
dishu@aegislawfirm.com

Attorneys for Plaintiff, Ryan Gentile, individually,
and on behalf of all others similarly situated.

AARON H. COLE, State Bar No. 236655
CATHERINE L. BRACKETT, State Bar No. 332918
OGLETREE, DEAKINS, NASH, SMOAK, & STEWART, P.C.
400 South Hope Street, Suite 1200
Los Angeles, CA 90071
Telephone: 213.239.9800
Facsimile: 213.239.9045

Attorneys for Defendant Homeside Financial, LLC

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

RYAN GENTILE, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

HOMESIDE FINANCIAL, LLC; and DOES 1
through 20, inclusive,

Defendants.

CASE NO.: 30-2021-01217575-CU-OE-CXC

*[Related to Case No. 30-2021-01230333-CU-
OE-CXC]*

*Assigned for all purposes to:
Hon. Peter Wilson, Dept. CX-101*

JOINT STIPULATION OF SETTLEMENT

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court pursuant to the California Rules of Court, that the Settlement of this Action shall be
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of
5 Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Named Plaintiff Ryan Gentile (“Named Plaintiff”)
7 and the Class Members, on the one hand, and Defendant Homeside Financial, LLC (“Defendant”),
8 on the other hand. Named Plaintiff and Defendant collectively are referred to in this Agreement as
9 “the Parties.”

10 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
11 concluded by agreement of Defendant to pay the settlement amount of Three Hundred Seventy-Six
12 Thousand Dollars (\$376,000.00) as provided in Section 3.06(a) below (“Gross Settlement Amount”)
13 pursuant to the terms and conditions of this Agreement and for the consideration set forth herein,
14 including but not limited to, a release of all claims by Named Plaintiff and the Class Members as set
15 forth herein.

16 ARTICLE I

17 DEFINITIONS

18 Unless otherwise defined herein, the following terms used in this Agreement shall have the
19 meanings ascribed to them as set forth below:

20 a. “Action” means the actions described as follows: *Ryan Gentile v. Homeside*
21 *Financial, LLC*, Case No. 30-2021-01217575-CU-OE-CXC and Case No. Case No. 30-2021-
22 01230333-CU-OE-CXC, commenced on August 24, 2021 in the Superior Court of the State of
23 California for the County of Orange.

24 b. “Agreement” means this Joint Stipulation of Settlement, including the attached
25 Exhibit(s).

26 c. “Class” all current and former non-exempt employees of Defendant and all current
27 and former Senior Loan Officers – Outside Sales and Loan Officers – Outside Sales who worked in
28 California during the Covered Period (or if any such person is incompetent, deceased, or unavailable

due to military service, the person's legal representative or successor in interest evidenced by reasonable verification). The "Settlement Class Members" shall not include any person who submits a timely and valid request for exclusion.~~all current and former non-exempt employees who are or were employed by Defendant in California at any time during the Class Period.~~

d. "Class Counsel" means the attorneys for the Class and the Class Members, who are:

Kashif Haque
Samuel A. Wong
Jessica L. Campbell
Fawn F. Bekam
Daniel E. Ishu
AEGIS LAW FIRM, PC
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250
Facsimile: (949) 379-6251

e. "Class List" means a list based on Defendant's business records that identifies each Class Member's name, last known home or mailing address, Social Security number or, as applicable, other taxpayer identification number, and the number of Qualifying Workweeks worked during the Class Period.

f. "Class Member(s)" means all members of the Class.

g. "Class Period" means February 27, 2017 through October 14, 2022.

h. "Court" means the California Superior Court for the County of Orange, where the Action is currently pending.

i. "Date of Finality" means the later of the following: (1) the date the Final Order is signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or other judicial review is taken from the Court's overruling of objections to the settlement, ten (10) days after the appeal is withdrawn or after an appellate decision affirming the Final Order becomes final.

j. "Defendant" means Defendant Homeside Financial, LLC

k. "Defense Counsel" means counsel for Defendant:

Aaron H. Cole

Catherine L. Brackett
OGLETREE, DEAKINS, NASH, SMOAK, & STEWART, P.C.
400 South Hope Street, Suite 1200
Los Angeles, CA 90071
Telephone: 213.239.9800
Facsimile: 213.239.9045

l. “Disposition” means the method by which the Court approves the terms of the Settlement and retains jurisdiction over its enforcement, implementation, construction, administration, and interpretation.

m. “Final Order Approving Settlement of Class Action” or “Final Order” means the final formal court order signed by the Court following the Final Fairness and Approval Hearing in accordance with the terms herein, approving this Agreement.

n. “Gross Settlement Amount” means Three Hundred Seventy-Six Thousand Dollars and Zero Cents (\$376,000.00) to be paid by Defendant as provided by this Agreement to settle this Action. All claims of the Class and all administration costs, attorney’s fees and costs, and Incentive Awards, pursuant to Section 3.06(a) below, shall be paid out of the Gross Settlement Amount. The employer’s share of payroll taxes arising from the payments made under this settlement shall be paid by Defendant separate from and in addition to the Gross Settlement Amount. The Gross Settlement Amount is subject to a pro rata increase pursuant to Section 3.04(e) below. No part of the Gross Settlement Amount shall revert to Defendant.

o. “Incentive Award” means a monetary amount of up to Five Thousand Dollars (\$5,000.00) for the Named Plaintiff, subject to Court approval, in recognition of his effort and work in prosecuting the Action on behalf of Class Members, and for their general release of claims.

p. “Individual Settlement Payment(s)” means each Participating Class Member’s respective share of the Net Settlement Amount. Individual Settlement Payments will be determined by the calculations provided in this Agreement.

q. “LWDA” means The State of California Labor and Workforce Development Agency.

r. “LWDA Payment” means 75% of the \$25,000.00 allocated to the settlement of PAGA claims which, subject to Court approval, will be paid to the LWDA pursuant to Section 3.06(e) of this Agreement, as provided for below.

1 s. “Motion for Final Approval” means Plaintiffs’ submission of a written motion,
2 including any evidence as may be required for the Court to conduct an inquiry into the fairness of
3 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and
4 to enter a Final Order in this Action.

5 t. “Motion for Preliminary Approval” means Plaintiffs’ submission of a written motion,
6 including any evidence as may be required for the Court to grant preliminary approval of the
7 Settlement as required by Rule 3.769 of the California Rules of Court.

8 u. “Named Plaintiff” means Ryan Gentile.

9 v. “Net Settlement Amount” means the Gross Settlement Amount less Court-approved
10 administration costs, Class Counsels’ attorney’s fees and costs, Incentive Awards, and LWDA
11 Payment, pursuant to Section 3.06(a)-(f) below.

12 w. “Non-Participating Class Member(s)” means any Class Member(s) who submit to the
13 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant
14 to Section 3.04(b) below.

15 x. “Notice Packet” means the Notice of Proposed Class Action Settlement in a form
16 substantially similar to the Notice Packet attached hereto as **Exhibit A**, subject to Court approval.

17 y. “PAGA” means the California Private Attorneys General Act of 2004, which is
18 codified in California Labor Code §§ 2698 *et seq.*

19 z. “PAGA Settlement Amount” means the portion of the Gross Settlement Amount
20 allocated to the resolution of Class Members’ claims arising under PAGA. The Parties have agreed
21 that the PAGA Settlement Amount is Twenty Thousand Dollars (\$25,000.00), subject to Court
22 approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA Payment, and the
23 remaining 25% will be added to the Net Settlement Amount and distributed to Participating Class
24 Members.

25 aa. “PAGA Group Members” means all Class Members employed by Defendant at any
26 time between August 24, 2020 and October 4, 2022.

27 bb. “Participating Class Member(s)” is defined as a Class Member who does not timely
28 exclude himself or herself from the Settlement and will therefore receive his or her share of the Net

1 Settlement Amount automatically without the need to return a claim form. Each Participating Class
2 Member will be paid his/her Individual Settlement Payment.

3 cc. “Preliminary Approval Date” means the date the Court preliminarily approves the
4 Settlement embodied in this Agreement.

5 dd. “Qualified Settlement Fund” or “QSF” means a fund within the meaning of Treasury
6 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement
7 Administrator for the benefit of Participating Class Members.

8 ee. “Qualifying Workweeks” means the number of weeks that Class Members worked
9 for Defendant as non-exempt employees during the Class Period.

10 ff. “Released Parties” means Defendant and its past, present, and/or future officers,
11 directors, shareholders, employees, agents, operators, principals, owners, heirs, representatives,
12 accountants, auditors, consultants, insurers and reinsurers, successors and predecessors in interest,
13 members, divisions, fiduciaries, trustees, partners, shareholders, investors, and attorneys, if any.

14 gg. “Response Deadline” means the deadline by which Class Members must postmark or
15 fax to the Settlement Administrator requests for exclusion or notices of objection. The Response
16 Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by the
17 Settlement Administrator, unless the sixtieth (60th) calendar day falls on a Sunday or federal holiday,
18 in which case the Response Deadline will be extended to the next day on which the U.S. Postal
19 Service is open. The Response Deadline will be extended as set forth herein if there is a re-mailing.

20 hh. “Settlement Administration Costs” means all costs incurred by the Settlement
21 Administrator in administration of the Settlement, including, but not limited to, mailing of notice to
22 the class, calculation of Individual Settlement Payments, generation of Individual Settlement
23 Payment checks and related tax reporting forms, administration of unclaimed checks, and generation
24 of checks to Class Counsel for attorneys’ fees and costs, to Named Plaintiffs for their Incentive
25 Awards, and to the LWDA. The Settlement Administration Costs shall be paid from the Gross
26 Settlement Amount.

27 ii. “Settlement Administrator” means Phoenix Settlement Administrators, which the
28 Parties have agreed will be responsible for the administration of the Individual Settlement Payments

1 to be made by Defendant from the Gross Settlement Amount and related matters under this
2 Agreement.

3 **ARTICLE II**

4 **CONTINGENT NATURE OF THE AGREEMENT**

5 **Section 2.01: Stipulation of Class Certification for Settlement Purposes**

6 Because the Parties have stipulated to the certification of the Class with respect to all causes
7 of action alleged in the Action for settlement purposes only, this Agreement requires preliminary and
8 final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis.
9 This Agreement is contingent upon the approval and certification by the Court. If the Date of Finality
10 does not occur, the fact that the Parties were willing to stipulate for the purposes of this Agreement
11 to a Class shall have no bearing on, nor be admissible in connection with, the issue of certification
12 of the Class with respect to all causes of action alleged in the Action. Defendant does not consent to
13 certification of the Class for any purpose other than to effectuate settlement of the Action. If the Date
14 of Finality does not occur, or if Disposition of this Action is not effectuated, any certification of the
15 Class as to Defendant will be vacated and Named Plaintiffs, Defendant, and the Class will be returned
16 to their positions with respect to the Action as if the Agreement had not been entered into. In the
17 event that the Date of Finality does not occur: (a) any Court orders preliminarily or finally approving
18 certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall
19 not be used or cited thereafter by any person or entity; and (b) the fact of the settlement reflected in
20 this Agreement, the fact that Defendant did not oppose the certification of a Class under this
21 Agreement, or that the Court preliminarily approved the certification of the Class, shall not be used
22 or cited thereafter by any person or entity, including in any manner whatsoever, including without
23 limitation any contested proceeding relating to the certification of any class. If the Date of Finality
24 does not occur, this Agreement shall be deemed null and void, shall be of no force or effect
25 whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendant expressly
26 reserves the right to challenge the propriety of class certification in the Action for any purpose, if the
27 Date of Finality does not occur.
28

1 The Parties and their respective counsel shall take all steps that may be requested by the Court
2 relating to the approval and implementation of this Agreement and shall otherwise use their
3 respective best efforts to obtain Court approval and implement this Agreement. If the Court does not
4 grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree
5 to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a
6 resolution, the Parties agree to seek the assistance of mediator Eve Wagner to resolve the dispute.

7 **ARTICLE III**

8 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT**

9 The procedure for obtaining Court approval of and implementing this Agreement shall be as
10 follows:

11 **Section 3.01: Motion for Conditional Class Certification and Preliminary Approval**

12 Named Plaintiff will bring a motion before the Court for an order conditionally certifying the
13 Class to include all claims pled in the Action based on the preliminary approval of this Agreement.
14 The date that the Court grants preliminary approval of this Agreement will be the "Preliminary
15 Approval Date."

16 **Section 3.02: The Settlement Administrator**

17 The Parties have chosen Phoenix Settlement Administrators to administer this Settlement and
18 to act as the Settlement Administrator, including but not limited to distributing and responding to
19 inquiries about the Notice Packet; determining the validity of exclusions/opt-outs; calculating the
20 Net Settlement Amount and the Individual Settlement Payments; issuing the Individual Settlement
21 Payment checks and distributing them to Participating Class Members; establishing and maintaining
22 the QSF; and issuing the payment to Class Counsel for attorneys' fees and costs, the Incentive Award
23 checks to Named Plaintiffs, and the employer payroll taxes to the appropriate taxing authorities. The
24 Settlement Administrator shall also create a website and/or Webpage that posts key documents in
25 this matter, including Plaintiff's Operative Complaint, The Class Notice, Orders for Preliminary and
26 Final Approval, as well as the Final Judgement. The Final Judgement shall be posted on the
27 Administrator's website/webpage for 180 days after receipt. The Settlement Administrator shall
28 expressly agree to all of the terms and conditions of this Agreement.

1 All costs of administering the Settlement, including but not limited to all costs and fees
2 associated with preparing, issuing, and mailing any and all notices to Class Members and/or
3 Participating Class Members; all costs and fees associated with computing, processing, reviewing,
4 and mailing the Individual Settlement Payments; all costs and fees associated with preparing any tax
5 returns and any other filings required by any governmental taxing authority or agency; all costs and
6 fees associated with preparing any other checks, notices, reports, or filings to be prepared in the
7 course of administering disbursements from the Net Settlement Amount; and any other costs and fees
8 incurred and/or charged by the Settlement Administrator in connection with the execution of its
9 duties under this Agreement (“Settlement Administration Costs”), shall be paid to the Settlement
10 Administrator from the Gross Settlement Amount.

11 **Section 3.03: Notice to Class Members**

12 No later than five (5) business days after the Preliminary Approval Date, Defendant will
13 provide the Settlement Administrator with a “Class List” in electronic format based on its business
14 records, identifying the names of the Class Members, their last known home addresses, Social
15 Security numbers or, as applicable, other taxpayer identification number, and their dates of
16 employment or weeks worked during the Class Period.

17 Within ten (10) business days of receiving a Class List from Defendant, the Settlement
18 Administrator will send Class Members, by first-class mail at their last known address, the Court
19 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the
20 Settlement Class. The Notice Packet will include a calculation of the Class Member’s approximate
21 share of the Net Settlement Amount. Class Members will have forty-five (45) days from the date of
22 mailing in which to postmark requests for exclusion. Prior to the initial mailing, the Settlement
23 Administrator will check all Class Member addresses against the National Change of Address
24 database and shall update any addresses before mailing. The Settlement Administrator will skip trace
25 and re-mail all returned, undelivered mail within five (5) days of receiving notice that a Notice Packet
26 was undeliverable. If a Class Member’s notice is re-mailed, the Class Member shall have fifteen (15)
27 calendar days from the re-mailing, or forty-five (45) calendar days from the date of the initial mailing,
28

1 whichever is later, in which to postmark requests for exclusion. Class Members shall not be required
2 to submit claim forms in order to receive a proportional share of the Net Settlement Amount.

3 If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall
4 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose
5 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
6 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
7 mass search on LexisNexis or comparable databases based on set criteria and, if another address is
8 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties
9 that reasonable means be used to locate Class Members and that the Settlement Administrator be
10 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the
11 Individual Settlement Payments to all Participating Class Members.

12 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
13 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly
14 status report provided to the Parties.

15 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
16 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class
17 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class
18 Member's Individual Settlement Payment during the check cashing period on behalf of the Class
19 Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and
20 Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement
21 Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the
22 procedures set forth in Section 3.06(f) below within 30 days of the date the check cashing period
23 expires.

24 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the
25 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration
26 attesting to completion of the notice process, including any attempts to obtain valid mailing addresses
27 for and re-sending of any returned Notice Packets, as well as the number of valid requests for
28 exclusion and objections that the Settlement Administrator received.

1 **Section 3.04: Responses to Notice**

2 **a. Class Member Disputes**

3 If any Class Member disagrees with Defendant's records as to his or her Qualifying
4 Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set
5 forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period
6 and submit such writing, through either mail or fax, to the Settlement Administrator by the Response
7 Deadline, along with any supporting documentation. In the event of a re-mailing, the Response
8 Deadline shall be extended fifteen (15) days from the date of the re-mailing. The Notice will also
9 provide a method for the Class Member to challenge the employment data on which his or her
10 Individual Settlement Payment is based. The Settlement Administrator shall contact the Parties
11 regarding the dispute and the Parties will work in good faith to resolve it. The Court shall have the
12 right to review and reverse any decision made by the Settlement Administrator regarding a claim
13 dispute. If the Parties are unable to resolve the dispute, the Court will be the final arbiter of the
14 Qualifying Workweeks for each Class.

15 **b. Requests for Exclusion from Class**

16 In order for any Class Member to validly exclude himself or herself from the Class and this
17 Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class
18 Member or his or her authorized representative, and must be sent to the Settlement Administrator,
19 postmarked or faxed no later than the Response Deadline (or fifteen (15) days after the Settlement
20 Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall
21 contain instructions on how to validly exclude himself or herself from the Class and this Settlement
22 (*i.e.*, opt out). The date of the initial mailing of the Notice Packet, and the date the signed request for
23 exclusion was postmarked, shall be conclusively determined according to the records of the
24 Settlement Administrator. Any Class Member who timely and validly requests exclusion from the
25 Class and this Settlement will not be entitled to any Individual Settlement Payment, will not be bound
26 by the terms and conditions of this Agreement, and will not have any right to object, appeal, or
27 comment thereon.
28

1 Any Class Member who fails to timely submit a request for exclusion shall automatically be
2 deemed a Class Member whose rights and claims with respect to the issues raised in the Action are
3 determined by the Court's Final Order Approving Settlement of Class Action, and by the other
4 rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action
5 and/or released in this Agreement will be extinguished.

6 Should the number of Class Members who submit valid requests for exclusion exceed 15,
7 Defendant shall have the right to elect to void the Settlement. Should Defendant exercise the right to
8 void the Settlement, Defendant shall be responsible for the Settlement Administrator's costs incurred
9 to date.

10 **c. Objections to Settlement**

11 For any Class Member to object to this Agreement or any term therein, the person making
12 the objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to the
13 Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15)
14 days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later),
15 a written statement of the grounds of objection, signed by the objecting Class Member or his or her
16 attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and
17 the date the signed objection was postmarked, shall be conclusively determined according to the
18 records of the Settlement Administrator. The Settlement Administrator shall send any objections it
19 receives to Defense Counsel and Class Counsel within three (3) business days of receipt. Class
20 Members may also appear at the final approval hearing to object. The Court retains final authority
21 with respect to the consideration and admissibility of any Class Member objections.

22 **d. Encouragement of Class Members**

23 The Parties to this Agreement and the counsel representing such Parties shall not, directly or
24 indirectly, through any person, encourage or solicit any Class Member to exclude himself or herself
25 from this Settlement (*i.e.*, opt out), or to object to it. However, Class Counsel may respond to
26 inquiries from Class Members.

1 **e. Right of Plaintiff to Adjust Gross Settlement Amount**

2 Defendant has estimated the number of workweeks in which Class Members worked for
3 Defendant during the Class Period as 4,700. If the number of workweeks in which Class Members
4 worked for Defendant during the Class Period increases by more than 10% as of the end of the Class
5 Period, there will be a pro rata adjustment to the Gross Settlement Amount equal to \$80 per additional
6 workweek in which Class Members worked for Defendant during the Class Period.

7 **Section 3.05: Final Fairness and Approval Hearing**

8 On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final
9 Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement
10 and determine whether the Court should give it final approval, and (2) consider any objections made
11 and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the
12 Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a
13 Proposed Final Order Approving Settlement of Class Action.

14 Notice of the Final Approval Order and Judgment shall be posted on the Settlement
15 Administrator's website. The URL for the website shall be printed on the checks sent to Participating
16 Class Members.

17 **Section 3.06: Settlement Payment Procedures**

18 **a. Settlement Amount**

19 In exchange for the Released Claims set forth in this Agreement, Defendant agrees to pay the
20 Gross Settlement Amount in the amount of Three Hundred Seventy-Six Thousand Dollars
21 (\$376,000.00), subject to a pro rata increase under the condition set forth in Section 3.04(e). The
22 Gross Settlement Amount includes all Individual Settlement Amounts to Participating Class
23 Members, all administration costs, Class Counsel's attorney's fees and costs, PAGA Settlement
24 Amount, and the Incentive Payments.

25 Within ten (10) business days after the Court signs the Final Order, Defendant shall transfer
26 the Gross Settlement Amount plus Defendant's share of employer-side payroll taxes, as set forth
27 herein, into a QSF established by the Settlement Administrator either directly or by sending the funds
28 to the Settlement Administer to be deposited and distributed. The Settlement Administrator will use

1 these funds to fund payment of the Individual Settlement Payments to Participating Class Members,
2 Class Counsel's attorneys' fees and costs, the Incentive Awards, the LWDA Payment, and the
3 Settlement Administration Costs.

4 Within ten (10) business days after receiving Defendants' final payment, funding the Gross
5 Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments
6 to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, the
7 Incentive Awards, and employer and employee tax withholdings applicable to the Net Settlement
8 Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a
9 search based on the National Change of Address Database to update and correct for any known or
10 identifiable address changes.

11 **b. Payment of Attorneys' Fees and Costs**

12 Class Counsel shall submit an application for an award of attorneys' fees of up to one-third
13 of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is One
14 Hundred Twenty-Five Thousand Three Hundred and Thirty-Three Dollars and Thirty-Three Cents
15 (\$125,333.33). Class Counsel shall submit an application for an award of costs not to exceed Twenty-
16 Five Thousand Dollars (\$25,000.00). Such application for attorneys' fees and costs shall be heard
17 by the Court at the Final Fairness and Approval Hearing. Defendant shall not object to or oppose any
18 such application in these amounts. Class Counsel shall serve Defendant with copies of all documents
19 submitted in support of their application for an award of attorneys' fees and costs.

20 Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the
21 Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys'
22 fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs,
23 and expenses related to the investigation, prosecution, and settlement of the Action incurred through
24 the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees
25 and/or costs that Class Counsel requests, the difference between the requested and awarded amounts
26 will be reallocated to the Net Settlement Amount.

27 **c. Payment of Settlement Administration Costs**
28

1 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
2 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed Six
3 Thousand Two Hundred and Fifty Dollars (\$6,250.00).

4 **d. Payment of Incentive Award to Named Plaintiffs**

5 Subject to Court approval, the Named Plaintiff shall receive an Incentive Award of up to Five
6 Thousand Dollars (\$5,000.00), the request for which Defendant will not object to or oppose. The
7 Incentive Award shall be paid out of the Gross Settlement Amount and shall not constitute payment
8 to any Participating Class Member(s) other than Named Plaintiff. To the extent that the Court
9 approves less than the amount of incentive award that Class Counsel request, the difference between
10 the requested and awarded amounts will be reallocated to the Net Settlement Amount.

11 Because it is the intent of the Parties that the Incentive Award represents payment to Named
12 Plaintiff for his service to the Class Members, and not wages, the Settlement Administrator will not
13 withhold any taxes from the Incentive Award. The Incentive Award will be reported on a Form 1099,
14 which the Settlement Administrator will provide to the Named Plaintiff and to the pertinent taxing
15 authorities as required by law.

16 **e. Payment to the Labor and Workforce Development Agency**

17 In consideration of claims made under PAGA, Class Counsel will request that the Court
18 approve allocation of Twenty-Five Thousand Dollars (\$25,000) of the Gross Settlement Amount to
19 these claims. Seventy-five percent (75%) of this PAGA Settlement Amount will be paid to the
20 California Labor and Workforce Development Agency (“LWDA Payment”), and twenty-five percent
21 (25%) will be paid to the Net Settlement Amount for distribution to Class Members. Defendant will
22 not oppose this request. The entire PAGA Settlement Amount will be paid out of the Gross
23 Settlement Amount. The Court’s adjustment, if any, of the amount allocated to the Named Plaintiff’s
24 PAGA claim in the Action will not invalidate this Agreement.

25 **f. Payment of Individual Settlement Payments to Participating Class Members**

26 The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement
27 Payments. The Parties agree that the Net Settlement Amount shall be divided between all
28 Participating Class Members in proportion to the number of individual Qualifying Workweeks for

1 each Class Member. To calculate the minimum amount each Class Member will receive based on
2 their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total
3 number of Qualifying Workweeks of all Class Members during the Class Period and then allocated
4 on a pro rata basis. Each individual Class Member's Qualifying Workweeks will be rounded up to
5 the next whole integer. To Calculate the minimum amount for the Individual PAGA Payments, 25% of
6 the PAGA Settlement Amount (\$6,250.00) will be divided by the total number of pay periods worked by
7 aggrieved employees, then allocated on a pro rata basis. The individual PAGA payments will be allocated
8 as 100% penalties for tax purposes. Each Class Member's approximate Individual Settlement Payment
9 amount will be included in his or her Notice Packet. After final approval by the Court, the Net
10 Settlement Amount will be dispersed to Participating Class Members (those who did not exclude
11 themselves) on a pro rata basis based on the individual Qualifying Workweeks worked during the
12 Class Period by each Participating Class Member.

13 Each Individual Settlement Payment will represent wages and penalties allocated using the
14 following formula: 10% allocated to wages, 10% allocated to interest, and 80% allocated to penalties.
15 The amounts paid as wages shall be subject to all tax withholdings customarily made from an
16 employee's wages and all other authorized and required withholdings and shall be reported by W-2
17 forms. The employer-side taxes will be paid separate from and in addition to the Gross Settlement
18 Amount. The amounts paid as penalties and interest shall be subject to all authorized and required
19 withholdings other than the tax withholdings customarily made from employees' wages and shall be
20 reported by IRS 1099 forms.

21 No later than ten (10) business days after receiving the Gross Settlement Amount from
22 Defendant, the Settlement Administrator shall prepare and mail the checks for the Individual
23 Settlement Payments to Participating Class Members. Individual Settlement Payments paid from the
24 Net Settlement Amount allocated to wages will be reduced by applicable employer and employee
25 tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of
26 the Individual Settlement Payments if required. The Settlement Administrator will issue a Form 1099
27 to the extent required by law for the interest and penalty portions of the Individual Settlement
28 Payments. Participating Class Members shall have 180 days from the date their Individual

1 Settlement Payment checks are dated to cash their Settlement checks. Any checks that are not cashed
2 upon the expiration of that 180-day time period will be void, and the uncashed funds shall be paid to
3 the State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds
4 are designated within 30 days of the date the check cashing period expires.

5 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
6 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
7 a mass search on LexisNexis or comparable databases based on set criteria and, if another address is
8 identified, the Settlement Administrator shall mail the check to the newly identified address. If the
9 Settlement Administrator is unable to obtain a valid mailing address through this process, the
10 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller
11 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated within
12 30 days of the date the check cashing period expires.

13 **g. Default on Payment.**

14 Defendant's failure to fund the Gross Settlement Amount within ten (10) business days after
15 the date that the Court grants final approval of the Settlement shall be considered a default. In the
16 event Defendant fails to timely fund the Gross Settlement Amount, the Settlement Administrator will
17 provide notice to Class Counsel and Defendant's counsel within three (3) business days of the missed
18 payment. Thereafter, Defendant will have seven (7) business days to cure the default and tender
19 payment to the Settlement Administrator. In the event Defendant fails to cure the default within the
20 times set forth herein, the Named Plaintiff may elect to enter judgment against Defendant, on an ex
21 parte basis, for the balance of the unpaid Gross Settlement Amount to date, and the Named Plaintiff
22 will be entitled to recover interest at ten percent (10%) per year from the due date for such payment
23 and reasonable attorneys' fees and costs.

24 **h. No Credit Toward Benefit Plans.**

25 The Individual Settlement Payments made to Participating Class Members under this
26 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to
27 calculate any additional benefits under any benefit plans to which any Class Members may be
28 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase

1 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
2 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class
3 Members may be entitled under any benefit plans.

4 **ARTICLE IV**

5 **RELEASES**

6 **Section 4.01: Released Claims by Class Members**

7 Upon the date Defendant fully funds the Gross Settlement Amount, Plaintiff and Participating
8 Class Members will release the Released Parties from any and all claims, causes of actions, and
9 factual or legal theories alleged during the Class Period, as alleged in or reasonably could have been
10 alleged based on the facts and legal theories contained in the operative complaint, including all of
11 the following claims for relief: (a) failure to pay all regular wages, minimum wages, piece-rate wages,
12 commission wages, and overtime wages due; (b) failure to pay wages to piece-rate or commission
13 workers for time spent in rest breaks or recovery period or nonproductive time; (c) failure to provide
14 proper meal periods, and to properly provide premium pay in lieu thereof; (d) failure to provide
15 complete, accurate, and/or properly formatted wage statements; (e) waiting time penalties; (f) unfair
16 business practices that could have been premised on the claims, causes of action, or legal theories of
17 relief described above, or any of the claims, causes of action, or legal theories of relief pleaded in the
18 operative complaint; (g) any other claims or penalties under the wage and hour laws pleaded in the
19 Action; and (h) all damages, penalties, interest, and other amounts recoverable under said claims,
20 causes of action, or legal theories of relief. ("Released Claims.")

1 **Section 4.02: Released Claims by PAGA Group Members**

2 Upon the date Defendant fully funds the Gross Settlement Amount, the State of California
3 and PAGA Group Members release the Released Parties from all claims exhausted in Plaintiff's
4 notice(s) sent to the LWDA and all claims under the California Labor Code Private Attorneys
5 General Act of 2004 that were alleged in the operative complaint or reasonably could have been
6 alleged based on the facts and legal theories contained in the operative complaint , which arose during
7 the PAGA Period, regardless of whether PAGA Group Members opt out of the Class Settlement.

8 **Section 4.03: Named Plaintiff's Release of Unknown Claims**

9 Upon the date Defendant fully funds the Gross Settlement Amount, the Named Plaintiff shall
10 release and waive all claims, known and unknown, including all claims that were alleged in the
11 Action or reasonably could have been alleged based on the facts and legal theories contained in the
12 operative complaints in the Action, except those claims as may be prohibited by law and except those
13 claims alleged or reasonably could have been alleged based on the facts and legal theories contained
14 in the Named Plaintiff's operative complaint in Orange County Case No. 30-2022-01261893-CU-
15 WT-WJC.

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

17 *"A general release does not extend to claims which the creditor does not*
18 *know or suspect to exist in his or her favor at the time of executing the*
19 *release, which if known by him or her must have materially affected his*
20 *or her settlement with the debtor."*

21 The Named Plaintiff's general release provided herein is made with an express waiver and
22 relinquishment of any claim, right, or benefit under California Civil Code § 1542.

23 **ARTICLE V**

24 **LIMITATIONS ON USE OF THIS SETTLEMENT**

25 **Section 5.01: No Admission**

26 Defendant disputes the allegations in the Action and disputes that a class should or would
27 have been certified in the Action, except for purposes of this Settlement. This Agreement is entered
28

1 into solely for the purpose of settling highly disputed claims. Nothing in this Agreement is intended,
2 nor will be construed as, an admission of liability or wrongdoing by Defendant.

3 **Section 5.02: Non-Evidentiary Use**

4 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor
5 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or
6 deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties,
7 including but not limited to, evidence of a presumption, concession, indication, or admission by any
8 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage; or
9 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further
10 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this
11 Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims
12 released through this Agreement.

13 **Section 5.03: Nullification**

14 The Parties have agreed to the certification of the Class encompassing all claims alleged in
15 the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason
16 fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this
17 Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order
18 is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the
19 Action in its entirety, then (i) this Agreement shall be considered null and void; (ii) neither this
20 Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all
21 Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had
22 been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to
23 stipulate to class certification of all causes of action pled in the Action solely for purposes of the
24 Settlement will have no bearing on, and will not be admissible in connection with, the issue of
25 whether the Class should be certified by the Court in a non-settlement context in this Action or any
26 other action, and in any of those events, Defendant expressly reserves the right to oppose certification
27 of the Class.
28

1 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the
2 Gross Settlement Amount shall not be distributed pending the completion of the appeal.

3 **ARTICLE VI**

4 **MISCELLANEOUS PROVISIONS**

5 **Section 6.01: Amendments or Modification**

6 The terms and provisions of this Agreement may be amended or modified only by an express
7 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel.

8 **Section 6.02: Assignment**

9 None of the rights, commitments, or obligations recognized under this Agreement may be
10 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written
11 consent of each other Party and their respective counsel. The representations, warranties, covenants,
12 and agreements contained in this Agreement are for the sole benefit of the Parties under this
13 Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

14 **Section 6.03: Governing Law**

15 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
16 shall be determined, in accordance with the laws of the State of California, without regard to conflicts
17 of laws.

18 **Section 6.04: Entire Agreement**

19 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,
20 contains the entire understanding of the Parties with respect to the subject matter contained herein.
21 In case of any conflict between text contained in Articles I through VI of this Agreement and text
22 contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I through VI) shall be
23 controlling, unless the Exhibits are changed by or in response to a Court order. There are no
24 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject
25 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement
26 supersedes all prior agreements and understandings among the Parties with respect to the settlement
27 of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of
28 prior agreements or proposals.

1 **Section 6.05: Waiver of Compliance**

2 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
3 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived
4 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective
5 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or
6 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or
7 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

8 **Section 6.06: Counterparts and Fax/PDF Signatures**

9 This Agreement, and any amendments hereto, may be executed in any number of counterparts
10 and any Party and/or their respective counsel may execute any such counterpart, each of which when
11 executed and delivered shall be deemed to be an original. All counterparts taken together shall
12 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original
13 signature.

14 **Section 6.07: Meet and Confer Regarding Disputes**

15 Should any dispute arise among the Parties or their respective counsel regarding the
16 implementation or interpretation of this Agreement, a representative of Class Counsel and a
17 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior
18 to submitting such disputes to the Court.

19 **Section 6.08: Agreement Binding on Successors**

20 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
21 of each of the Parties.

22 **Section 6.09: Cooperation in Drafting**

23 The Parties have cooperated in the negotiation and preparation of this Agreement. This
24 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
25 was the drafter or participated in the drafting of this Agreement.

26 **Section 6.10: Fair and Reasonable Settlement**

27 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
28 the Action and have arrived at this Agreement through arm's-length negotiation and in the context

1 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties
2 further believe that the Settlement is consistent with public policy, and fully complies with applicable
3 law.

4 **Section 6.11: Headings**

5 The descriptive heading of any section or paragraph of this Agreement is inserted for
6 convenience of reference only and does not constitute a part of this Agreement and shall not be
7 considered in interpreting this Agreement.

8 **Section 6.12: Notice**

9 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
10 communications under this Agreement must be in writing and addressed as follows:

11 *To Named Plaintiffs and the Class:*

12 Kashif Haque
13 Samuel A. Wong
14 Jessica L. Campbell
15 Fawn F. Bekam
16 Daniel E. Ishu
17 AEGIS LAW FIRM, PC
18 9811 Irvine Center Drive, Suite 100
19 Irvine, California 92618
20 Telephone: (949) 379-6250
21 Facsimile: (949) 379-6251

22 And

23 *To Defendant:*

24 Aaron H. Cole
25 Catherine L. Brackett
26 OGLETREE, DEAKINS, NASH, SMOAK, & STEWART, P.C.
27 400 South Hope Street, Suite 1200
28 Los Angeles, CA 90071
Telephone: 213.239.9800
Facsimile: 213.239.9045

29 **Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction**

30 To the extent consistent with class action procedure, this Agreement shall be enforceable by
31 the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court
32 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the

1 liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the
2 terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall
3 retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest
4 extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more
5 of the Parties institutes any legal action or other proceeding against any other Party or Parties to
6 enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover
7 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
8 fees incurred in connection with any enforcement actions.

9 **Section 6.14: Mutual Full Cooperation**

10 The Parties agree fully to cooperate with each other to accomplish the terms of this
11 Agreement, including but not limited to the execution of such documents, and the taking of such
12 other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties
13 to this Agreement shall use their best efforts to effectuate and implement this Agreement and its
14 terms. In the event the Parties are unable to reach agreement on the form or content of any document
15 needed to implement the Settlement, or on any supplemental provisions that may become necessary
16 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

17 **Section 6.15: Authorization to Act**

18 Class Counsel warrants and represents that they are authorized by the Named Plaintiff, and
19 Defense Counsel warrants that they are authorized by Defendant, to take all appropriate action
20 required to effectuate the terms of this Agreement, except for signing documents that are required to
21 be signed by the Parties themselves, including but not limited to this Agreement. Defendant
22 represents and warrants that the individual executing this Agreement on its behalf has the full right,
23 power, and authority to enter into this Agreement and to carry out the transactions contemplated
24 herein.

25 **Section 6.16: No Reliance on Representations**

26 The Parties have made such investigation of the facts and the law pertaining to the matters
27 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,
28 on any statement, promise, or representation of fact or law, made by any other Party or its agents,

1 employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with
2 regard to the advisability of entering into and executing this Agreement, or with respect to any other
3 matters. No representations, warranties, or inducements, except as expressly set forth herein, have
4 been made to any Party concerning this Agreement.

5 **EXECUTION BY PARTIES AND COUNSEL**

6 The Parties and their counsel hereby execute this Agreement.

7
8
9 Dated: _____ RYAN GENTILE

10
11 By: _____
12 Named Plaintiff

13
14 Dated: _____ HOMESIDE FINANCIAL, LLC

15 By: _____
16 (Signature)

17 _____
18 (Printed Name)

19 _____
20 (Title)

21 **APPROVED AS TO FORM ONLY:**

22
23 Dated: _____ AEGIS LAW FIRM, PC

24
25 By: _____
26 Kashif Haque
27 Samuel A. Wong
28 Jessica L. Campbell
Fawn F. Bekam
Daniel E. Ishu

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

ATTORNEYS FOR NAMED PLAINTIFF
RYAN GENTILE

Dated:

**OGLETREE, DEAKINS, NASH, SMOAK, &
STEWART, P.C.**

By: _____
Aaron H. Cole
Catherine L. Brackett

ATTORNEYS FOR DEFENDANT HOMESIDE
FINANCIAL, LLC

EXHIBIT 3

THIS IS AN IMPORTANT COURT-APPROVED NOTICE. READ CAREFULLY.

Ryan Gentile, et al., v. Homeside Financial LLC, et al.

Orange County Superior Court

Case No. 30-2021-01217575-CU-OE-CXC and Case No. 30-2021-01230333-CU-OE-CXC

If you worked as an hourly or “non-exempt” employee or a Senior Loan Officers – Outside Sales or Loan Officers – Outside Sales in California for Homeside Financial, LLC (“Homeside Financial”) at any time from February 27, 2017, through October 14, 2022, a Class and PAGA action lawsuit may affect your rights.

This is a court-authorized notice. It is not a solicitation from a lawyer.

- You have been identified as a Class Member (as defined below) in a Lawsuit (as defined below) brought by a former Homeside Financial, LLC employee.
- Homeside Financial, LLC denies any liability and all allegations of wrongdoing alleged in the Lawsuit. However, the parties have agreed to settle the case, and the Court has preliminarily approved a class and PAGA action settlement in accordance with the terms of the parties’ settlement agreement (the “Settlement”). The Settlement will affect all hourly paid employees and Senior Loan Officers – Outside Sales and Loan Officers – Outside Sales of Homeside Financial, LLC in California between February 27, 2017 and October 14, 2022 (the “Class Period”).
- If the Court grants final approval of the Settlement, there will be money available to you. You have three options in response to this Settlement, as summarized below:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
OPTION 1: PARTICIPATE IN THE SETTLEMENT – <u>NO ACTION REQUIRED</u>	Stay in this Lawsuit. Receive a payment. Give up certain rights. By doing nothing, you become part of the Settlement Class (as defined below) and will collect a settlement award as detailed below. But you give up certain rights to sue Homeside Financial, LLC separately about the legal claims raised in this Lawsuit.
OPTION 2: OBJECT TO THE SETTLEMENT – <u>ACTION REQUIRED</u>	Stay in this Lawsuit. Object to the Settlement. May give up certain rights. If you object to the Settlement, you will remain a member of the Class (as defined below), and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members (as defined below) who do not object.
OPTION 3: ASK TO BE EXCLUDED FROM THE SETTLEMENT – <u>ACTION REQUIRED</u>	Get out of this Lawsuit. Get no class action payment from it. Keep rights. If you ask to be excluded from the Settlement, you won’t receive any class action payment. But you keep any rights to sue Homeside Financial, LLC separately about the legal claims raised or that could have been raised in this Lawsuit. Even if you ask to be

	excluded from the class action settlement, you will still be included in the PAGA settlement.
--	---

- Your options are explained in this notice. To object to the Settlement or to ask to be excluded, you must act before [DATE].
- **Any questions?** Read on or contact Class Counsel (as defined below) or the Settlement Administrator (as defined below).

WHAT THIS NOTICE CONTAINS

BASIC INFORMATIONPAGE - 3 -

1. Why did I get this notice?
2. What is the Lawsuit about?
3. What is a class action and who is involved? What is a PAGA action?
4. Why is this Lawsuit a class action?
5. What are the terms of the proposed Settlement?

WHO IS IN THE CLASSPAGE - 5 -

6. Am I part of this Class?
7. I'm still not sure if I am included.

YOUR RIGHTS AND OPTIONSPAGE - 5 -

8. What is my approximate Individual Settlement Payment?
9. What rights am I releasing if I participate in the Settlement?
10. How do I object to the Settlement?
11. Why would I ask to be excluded?
12. How do I ask to be excluded from the Class?

THE LAWYERS REPRESENTING YOUPAGE - 8 - ~~7~~

13. Do I have a lawyer in this case?
14. How will the lawyers be paid?
15. How will the Plaintiff be paid?

THE SETTLEMENT, APPROVAL, AND PAYMENT PROCESSPAGE - 8 -

16. Who is handling the settlement administration process?
17. When is the Final Approval Hearing and do I have to attend?

GETTING MORE INFORMATION.....PAGE - 8 -

18. Are more details available?

BASIC INFORMATION

1. Why did I get this notice?

Homeside Financial, LLC's records show that you currently work, or previously worked, for Homeside Financial, LLC in California as a non-exempt employee or a Senior Loan Officers – Outside Sales and/or Loan Officers – Outside Sales during the Covered Period of February 27, 2017 through October 14, 2022~~non-exempt, hourly paid employee~~. This notice explains that the Court has given preliminary approval to a Settlement in a conditionally certified class action lawsuit that may affect you. 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 hearing. You have legal rights and options that you may exercise as part of this Settlement. Judge Peter Wilson of the Superior Court of the State of California, County of Orange, is overseeing this lawsuit. The lawsuit is known as *Ryan Gentile, et al., v. Homeside Financial LLC, et al.*, Case No. 30-2021-01217575-CU-OECXC. There is a separate, related lawsuit known as *Ryan Gentile, et al., v. Homeside Financial LLC, et al.*, Case No. 30-2021-01230333-CU-OE-CXC (collectively the "Lawsuit").

2. What is this Lawsuit about?

The Lawsuit is about whether Homeside Financial, LLC ("Defendant") paid all wages owed including minimum wage, overtime, and piece-rate wages; provided proper meal periods; authorized rest periods; paid all wages owed upon termination of employment; provided proper wage statements; violated California's Unfair Competition Law; or violated the Private Attorneys General Act of 2004, under California laws applicable to hourly, non-exempt employees.

Homeside Financial, LLC denies any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit and further denies that any of the claims are appropriate for class treatment. Homeside Financial, LLC contends, among other things, that it has complied at all times with applicable law in connection with its compensation of Class Members.

3. What is a class action and who is involved? What is a PAGA action?

In a class action lawsuit such as this, persons called "Class Representatives" sue on behalf of other people who may have similar claims. The people together are a "Class" and individually are "Class Members." The Class Representatives are also called the Plaintiffs. The company that was sued (in this case Homeside Financial, LLC) is called the Defendant. In Class litigation, one Court resolves the issues for everyone in the Class in one lawsuit – except for those people who choose to exclude themselves from the Class.

This class action also includes a "Private Attorneys General Act" ("PAGA") claim, where the Plaintiff is attempting to recover civil penalties on behalf of the State of California and other aggrieved employees. In a PAGA action, the State receives 75% of any recovered civil penalties, and the employees receive 25%. This Settlement will resolve all claims by the State for civil penalties arising from the claims made by Plaintiff in the Lawsuit during the period of August 24, 2020 through October 4, 2022 ("PAGA Period").

4. Why is this Lawsuit a class action?

As part of the Settlement with Homeside Financial, LLC, Plaintiff and Homeside Financial, LLC agreed to conditionally certify the Class as a class action with respect to all of the claims Plaintiff alleged against Homeside Financial, LLC, for settlement purposes only, and to ask the Court to approve the Settlement. The Court has not ruled on the merits of these claims, and the decision to certify the agreed-upon Class for settlement purposes should not be viewed as a prediction or agreement that Plaintiff or the Class would ultimately prevail on the merits of the action. Homeside Financial, LLC specifically contests that Plaintiff or the Class would ultimately prevail in the case.

5. What are the terms of the proposed Settlement?

The major terms of the Settlement are as follows:

1. Homeside Financial, LLC has agreed to pay \$376,000.00 to settle the claims made in the Lawsuit within ten (10) business days after the Court signs the Final Order. This amount is also known as the “Gross Settlement Amount.”
2. Plaintiff Ryan Gentile agreed to release all of his claims in the Lawsuit against Homeside Financial, LLC.
3. Plaintiff seeks the following deductions from the \$376,000.00 Gross Settlement Amount:
 - a. One-third of the Gross Settlement Amount (which is currently equal to \$125,333.33) for Class Counsel’s attorneys’ fees.
 - b. Up to \$25,000 for reimbursement of Class Counsel’s litigation costs.
 - c. An incentive award of \$5,000 for Plaintiff Ryan Gentile for having filed this Lawsuit, work performed, and risks undertaken.
 - d. Up to \$6,250 to cover the costs of the Settlement Administrator.
 - e. An allocation of \$25,000.00 in civil penalties, \$18,750.00 of which will be paid to the California Labor and Workforce Development Agency, for release of Private Attorneys General Act of 2004 (“PAGA”) claims. The remaining \$6,250.00 will be distributed to Class Members who worked for Defendant at any time from August 24, 2020 through October 14, 2022.

If the Court approves each of the requested deductions from the Gross Settlement Amount, the Parties estimate there will be approximately \$189,416.67 remaining. The remaining funds will be referred to as the “Net Settlement Amount.” The Net Settlement Amount will be distributed to Class Members who do not request exclusion (the “Participating Class Members”) according to the following formula:

The Settlement Administrator will calculate the total Qualifying Workweeks for all Settlement Class Members. Qualifying Workweeks means the number of workweeks

during which Class Members worked for Defendant during the Class Period (February 27, 2017 through October 14, 2022). The Net Settlement Amount will be divided by the total number of Qualifying Workweeks of all Class Members during the Class Period and then allocated on a pro rata basis.

PAGA Settlement Payments. 25% of the PAGA Settlement Amount (\$6,250.00) (“PAGA Group Payment”) will be paid to PAGA Group Members based on the number of pay periods they worked for Defendant in California during the PAGA Period. If you are a PAGA Group Member, you will receive a pro rata share of the PAGA Group Payment regardless of whether you opt-out of the class settlement. The PAGA Settlement Payments will be characterized as 100% penalties for tax purposes.

Your estimated Individual Settlement Payment is listed in Section 8 of this Notice. Payroll deductions will be made to your Individual Settlement Payment for state and federal withholding taxes and any other applicable payroll deductions owed by you as a result of the payment, with 10% allocated to wages, 10% allocated to interest, and 80% allocated to penalties. The taxes ordinarily paid by an employer will be paid separate from and in addition to the Gross Settlement Amount.

WHO IS IN THE CLASS?

6. Am I part of this Class?

The “Settlement Class” is the group of all current and former non-exempt employees of Defendant and all current and former Senior Loan Officers – Outside Sales and Loan Officers – Outside Sales who worked in California during the Covered Period of February 27, 2017 through October 14, 2022 (or if any such person is incompetent, deceased, or unavailable due to military service, the person’s legal representative or successor in interest evidenced by reasonable verification).~~all current and former non-exempt employees who are or were employed by Defendant in California at any time from February 27, 2017 through October 14, 2022 (the “Class Period”).~~

7. I’m still not sure if I am included.

If you still are not sure whether you are included in the Class, you can get free help by contacting _____ the “Settlement Administrator,” at the designated phone number for this matter at _____, or by calling or writing the lawyers representing the Class in this case (“Class Counsel”), at the phone number or address listed in Section 18.

YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Class, object to the settlement, or ask to be excluded from the Settlement, and you have to decide this by no later than [DATE].

8. What is my approximate Individual Settlement Payment?

According to payroll records maintained by Homeside Financial, LLC, the total number of weeks you worked in California for Homeside Financial, LLC as an hourly paid employee or as a Senior Loan Officer – Outside Sales or a Loan Officer – Outside Sales during the Class Period is _____.

Based on information provided above, anticipated court-approved deductions, and preliminary calculations of Qualifying Workweeks, it is estimated your share of the Settlement will be \$_____, less applicable taxes and withholdings. This amount includes your share of the PAGA Group Payment, which is estimated to be \$_____ (collectively “Individual Settlement Payment”).

You do not need to do anything further to receive your Individual Settlement Payment, other than to ensure that the Settlement Administrator has an accurate mailing address for you.

If you believe your total weeks worked during the Class Period shown above are not correct, you may send a letter or fax to the Settlement Administrator indicating what you believe is correct. You may also send any documents or other information that supports your belief that the information set forth above is incorrect. Your written submission may be sent via mail or fax to the address or fax number for the Settlement Administrator provided in Section 18. The Settlement Administrator will resolve any dispute based upon Defendant’s records and any documents or information you provide. The Court may review the Settlement Administrator’s decision on any disputes. Please be advised that the number of weeks you worked as an hourly paid employee or as a Senior Loan Officer – Outside Sales or a Loan Officer – Outside Sales in California during the Class Period is presumed to be correct unless you submit documents to support your dispute. Any such dispute must be mailed to the Settlement Administrator no later than [DATE], which is 60 calendar days after this notice was initially mailed. However, if this deadline falls on a Sunday or federal holiday, it will be extended to the next day on which the U.S. Postal Service is open. In addition, if this notice is re-mailed due to an initial delivery failure, this deadline will be extended 15 calendar days from the date of the re-mailing.

9. What rights am I releasing if I participate in the Settlement?

Upon the date Homeside Financial, LLC fully funds the Gross Settlement Amount, you will release Homeside Financial, LLC, and its past, present, and/or future officers, directors, shareholders, employees, agents, operators, principals, owners, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, successors and predecessors in interest, members, divisions, fiduciaries, trustees, partners, shareholders, investors, and attorneys, if any (“Released Parties”) from all claims, causes of actions, and factual or legal theories during the period from February 27, 2017 through October 14, 2022 that were alleged in the operative complaint or reasonably could have been alleged based on the facts and legal theories contained in the operative complaint, including all of the following claims for relief: (a) failure to pay all regular wages, minimum wages, piece-rate wages, commission wages, and overtime wages due; (b) failure to pay wages to piece-rate or commission workers for time spent in rest breaks or recovery period or non-productive time; (c) failure to provide proper meal periods, and to properly provide premium pay in lieu thereof; (d) failure to provide complete, accurate, and/or properly formatted wage statements; (e) waiting time penalties; (f) unfair business practices that could have been premised on the claims, causes of action, or legal theories of relief described above or any of the claims, causes of action, or legal theories of relief pleaded in the operative complaint; (g) any other claims or penalties under the wage and hour laws pleaded in the Action; and (h) all damages, penalties, interest, and other amounts recoverable under said claims, causes of action, or legal theories of relief (“Released Claims”).

Additionally, if you are a PAGA Group Member, you will have released the right to bring a claim against the Released Parties for civil penalties under PAGA that arose during the period from August 24, 2020 through October 14, 2022, on behalf of the State based on the facts alleged in the operative Complaint in this Lawsuit and the PAGA Letter(s) submitted to the LWDA, including the Released

Claims (collectively, “Released PAGA Claims.”) You will release these Released PAGA Claims even if you opt-out of the class action settlement.

10. How do I object to the Settlement?

If you are a Class Member and would like to object to the Settlement, you must not submit a request for exclusion (i.e., must not opt out). If you submit both a request for exclusion and an objection, you will be excluded from the settlement (see Sections 11 and 12 below), and your objection will not be considered. No later than [DATE], you should mail or fax a written objection to the Settlement Administrator (at the address or fax number in Section 18 below) setting forth the grounds of objection, signed and dated by you or your attorney, along with any supporting documents. You can also appear at the final approval hearing yourself or through an attorney. The information for the hearing is included in Section 17 of this notice.

11. Why would I ask to be excluded?

You have the right to exclude yourself from the Settlement. If you exclude yourself from the Class—sometimes called “opting-out” of the Class – you won’t get any money or benefits from the Settlement. However, you may then be able to sue or continue to sue Homeside Financial, LLC for your own Claims if permitted by law. If you exclude yourself, you will not be legally bound by the Court’s disposition of this Lawsuit. Homeside Financial, LLC may in its discretion withdraw from this Settlement if more than 15 Class Members opt out of the Settlement. If you exclude yourself, you should talk to your own lawyer soon, because your claims may be subject to a statute of limitations. If you exclude yourself, you will not be legally bound by the Court’s ruling in this Lawsuit, except PAGA Group Members will still be bound by the release by PAGA Group Members, even if they request exclusion from the class settlement. Whether or not you submit a Request for Exclusion, if you are a PAGA Group Member, you will still be entitled to your portion of the PAGA Group Payment.

12. How do I ask to be excluded from the Class?

If you are a member of the Class described above and would like to exclude yourself from the Class, you need to submit a written request for exclusion which states the following:

“I wish to exclude myself from the settlement reached in the matter of *Ryan Gentile v. Homeside Financial, LLC*, Case No. 30-2021-01217575-CU-OECXC. I understand that by excluding myself, I will not receive any money from the class action settlement.”

This request must be signed and mailed or faxed to the Settlement Administrator at the address below in Section 18, and it must be postmarked or faxed on or before [DATE]. The date of the postmark on the mailing envelope, or the date on the fax transmission, shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. Any Class Member who requests to be excluded from the Class will not be entitled to any recovery under the class action Settlement and will not be bound by the class action Settlement or have any right to object, appeal, or comment thereon. Class Members who fail to submit a valid and timely request for exclusion on or before [DATE] shall be bound by all terms of the class action Settlement and any final disposition entered in this class action if the Settlement is approved by the Court.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

For purposes of this Settlement, the Court decided that Aegis Law Firm, PC is qualified to represent you and all Class Members. This law firm is called "Class Counsel" in the context of this case. The law firm's attorneys are experienced in handling similar cases against other employers. More information about this law firm, their practice, and their lawyers' experience is available at www.aegislawfirm.com.

14. How will the lawyers be paid?

As part of the Settlement with Homeside Financial, LLC, Class Counsel has requested one-third of the Gross Settlement Amount (currently, that is equal to \$125,333.33 in attorneys' fees), plus costs not to exceed \$25,000, to be paid from the Gross Settlement Amount to compensate Class Counsel for their work on this matter. You will not have to pay Class Counsel's fees and costs from your Individual Settlement Payment.

15. How will the Plaintiff be paid?

As part of the Settlement with Homeside Financial, LLC, Class Counsel has requested an enhancement of up to \$5,000.00 to be paid to Plaintiff Ryan Gentile for his efforts in this matter during initial investigation, mediation, and the like while serving as Class Representative, and taking on the burden and risks of litigation.

THE SETTLEMENT, APPROVAL, AND PAYMENT PROCESS

16. Who is handling the Settlement Administration process?

The Settlement Administrator, Phoenix Settlement Administrators, will handle the payment process.

17. When is the Final Fairness and Approval Hearing and do I have to attend?

The Final Fairness and Approval Hearing has been set for [DATE] at [TIME] p.m. in Department CX101 of the Superior Court of the State of California, County of Orange, located at 751 West Santa Ana Boulevard, Santa Ana, CA 92701. You do not need to attend the hearing to be a part of the Settlement. However, if you wish to object to the Settlement as discussed above, you may appear at the hearing to object. You can also appear remotely at the hearing. For more information on appearing remotely, please visit <https://www.occourts.org/media-relations/aci.html>.

GETTING MORE INFORMATION

18. Are more details available?

A copy of the Settlement Agreement, titled Joint Stipulation of Settlement, was filed in Case Number 30-2021-01217575-CU-OE-CXC as Exhibit 1 to the Declaration of Daniel E. Ishu in Support of

Plaintiff's Motion for Preliminary Approval filed on January 19, 2023 (Register of Actions # 97). A copy of the Amendment to the Settlement Agreement was filed in Case Number 30-2021-01217575-CU-OE-CXC on [DATE] (Register of Actions # ____). A copy of the Revised Settlement Agreement was filed in Case Number 30-2021-01217575-CU-OE-CXC on [DATE] (Register of Actions # ____). You can view the Lawsuit's records online by visiting the Court's website (<https://ocapps.occourts.org/civilwebShoppingNS/Login.do>), accepting the website's terms, entering the Case Number 30-2021-01217575-CU-OE-CXC in the search box, and clicking search.

The Settlement Administrator will also maintain a website that includes the following key documents in this matter: (1) Plaintiff's Operative Complaint, (2) The Joint Stipulation of Settlement attached as Exhibit 1 to the Declaration of Daniel E. Ishu in Support of Plaintiff's Motion for Preliminary Approval, (3) The Addendum to the Joint Stipulation of Settlement, attached as Exhibit 1 to the Supplemental Declaration of Daniel E. Ishu in support of Plaintiff's Motion for Preliminary Approval, (3) The Signed Preliminary Approval Order from the Court, (4) the signed Final Approval Order from the Court, and the (5) Final Judgement from the Court. The Final Judgement will remain on the Settlement Administrator's website for 180 days after it is posted. A link to the website is below:

[INCLUDE WEBSITE LINK].

You may contact the "Settlement Administrator," which is:

Phoenix Settlement Administrators

[ADDRESS]

[FAX NUMBER]

You may contact Class Counsel:

Kashif Haque Samuel A. Wong Jessica L. Campbell Fawn F. Bekam Daniel E. Ishu AEGIS LAW FIRM, PC 9811 Irvine Center Drive, Suite 100 Irvine, California 92618 Telephone: (949) 379-6250 Facsimile: (949) 379-6251

Please note that Homeside Financial, LLC will NOT retaliate against any employee or Class Member for participating or not participating in this Lawsuit. Homeside Financial, LLC prohibits retaliation and will not tolerate retaliation against any employee who participates in this Settlement or who chooses not to participate. Homeside Financial, LLC supervisors and managers of Class Members will not be provided or have access to information pertaining to the identity of Class Members or their choices related to this Settlement.

PLEASE DO NOT CALL OR WRITE TO THE JUDGE OR TO THE COURT, OR TO ANY HOMESIDE FINANCIAL, LLC MANAGER OR SUPERVISOR REGARDING THIS NOTICE OR THE LAWSUIT.

EXHIBIT 4

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

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

RYAN GENTILE, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

HOMESIDE FINANCIAL, LLC; and DOES 1
through 20, inclusive,

Defendants.

Case No. 30-2021-01217575-CU-OE-CXC

[Related to Case No. 30-2021-01230333-CU-
OE-CXC]

Assigned for all purposes to
Hon. Peter Wilson
Dept. CX-101

**AMENDED [PROPOSED] ORDER
GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

~~Date: June 8, 2023~~
~~Time: 2:00 PM~~
~~Dept: CX-101~~

1 WHEREAS, the above-entitled action and related action entitled *Ryan Gentile, et al., v.*
2 *Homeside Financial LLC, et al.*, Case No. 30-2021-01230333-CU-OE-CXC are pending before
3 this Court as putative class and PAGA actions (collectively the “Action”);

4 WHEREAS, Plaintiff Ryan Gentile (“Plaintiff”), individually and on behalf of all others
5 similarly situated and on behalf of the general public have applied to this Court for an order
6 preliminarily approving the settlement of the Action in accordance with the Joint Stipulation for
7 Settlement (the “Settlement” or “Agreement”) entered into by Plaintiff and Defendant Homside
8 Financial, LLC (“Defendant”) which sets forth the terms and conditions for a proposed settlement
9 upon the terms and conditions set forth therein (Plaintiff and Defendant shall be collectively
10 referred to herein as the “Parties”);

11 WHEREAS, the Court has read and considered Plaintiff’s Motion for Preliminary
12 Approval of Class Action Settlement, [and the Declaration of Daniel E. Ishu in Support of the](#)
13 [Amended \[Proposed\] Order.](#)

14 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED
15 THAT:

16 1. This Order incorporates by reference the definitions in the Revised Settlement
17 attached as Exhibit 1 to the Declaration of Daniel E. Ishu in Support of the Amended [Proposed]
18 Order in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, the
19 Addendum to Joint Stipulation of Class Action Settlement attached as Exhibit 1 to the Supplemental
20 Declaration of Daniel E Ishu (collectively the “Settlement”), and all terms defined therein shall have
21 the same meaning in this Order.

22 2. It appears to the Court on a preliminary basis that (a) the Settlement is fair,
23 adequate and reasonable; (b) the Gross Settlement Amount and Net Settlement Amount are fair,
24 adequate and reasonable when balanced against the probable outcome of further litigation relating
25 to liability and damages issues; (c) sufficient investigation and research have been conducted such
26 that counsel for the Parties at this time are able to reasonably evaluate their respective positions;
27 (d) settlement at this time will avoid additional costs by all Parties, as well as avoid the delay and
28

1 risks that would be presented by the further prosecution of the Action; and (e) the Settlement has
2 been reached as the result of non-collusive, arms-length negotiations.

3 3. With respect to the Class and for purposes of proceeding pursuant to California
4 Code of Civil Procedure § 382 for approval of the settlement only, the Court finds on a
5 preliminary basis that (a) Class Members are ascertainable and so numerous that joinder of all
6 Class Members is impracticable; (b) there are questions of law and fact common to the Class that
7 predominate over any questions affecting only individual Class Members; (c) Plaintiff's claims
8 are typical of the Class' claims; (d) class certification is a superior method for implementing the
9 Settlement and adjudicating this Action in a fair and efficient manner; (e) the Class
10 Representatives can fairly and adequately protect the Class' interests; and (f) Class Counsel are
11 qualified to serve as counsel for the Class.

12 4. Accordingly, solely for purposes of effectuating this Settlement, this Court hereby
13 conditionally certifies the class for settlement purposes only. The Class is defined as ~~all-current and~~
14 ~~former non-exempt employees~~ all current and former non-exempt employees of Defendant and all
15 current and former Senior Loan Officers – Outside Sales and Loan Officers – Outside Sales who
16 worked in California during the Covered Period of February 27, 2017 through October 14, 2022
17 (or if any such person is incompetent, deceased, or unavailable due to military service, the person's
18 legal representative or successor in interest evidenced by reasonable verification). ~~who are or were~~
19 ~~employed by Defendant in California at any time from February 27, 2017 through October 14,~~
20 ~~2022.~~

21 5. Under the settlement PAGA Group Members are all ~~current and former non-exempt~~
22 ~~employees who were~~ Class Members employed by Defendant in California at any time from August
23 24, 2020 through October 14, 2022.

24 6. Plaintiff Ryan Gentile is hereby preliminarily appointed and designated, for all
25 purposes, as the Class Representative and the attorneys of Aegis Law Firm, PC are hereby
26 preliminarily appointed and designated as counsel for the Class ("Class Counsel"). Class Counsel
27 is authorized to act on behalf of the Class Members with respect to all acts or consents required by,
28

1 or which may be given pursuant to, the Settlement, and such other acts reasonably necessary to
2 consummate the Settlement. Any Class Member may enter an appearance either personally or
3 through counsel of such individual's own choosing and at such individual's own expense. Any
4 Class Member who does not enter an appearance or appear on his or her own will be represented
5 by Class Counsel.

6 7. Should, for whatever reason, the Settlement not become final, the fact that the
7 Parties were willing to stipulate to certification of the Class as part of the Settlement shall have no
8 bearing on, nor be admissible in connection with, the issue of whether a class should be certified in
9 a non-settlement context.

10 8. The Court hereby preliminarily approves the definition and disposition of the Gross
11 Settlement Amount and Net Settlement Amount and related matters provided for in the Settlement,
12 subject to modification at final approval.

13 9. The Court hereby preliminarily approves Class Counsel attorneys' fees of
14 \$125,333.33, Class Counsel litigation expenses not to exceed \$25,000.00, an Incentive Award up
15 to \$5,000.00 to Plaintiff, payment to the LWDA in the amount of \$18,750.00, and costs of
16 administration not to exceed \$6,250.00, subject to final approval.

17 10. The Court hereby approves, as to form and content, the Class Notice, to be
18 distributed to Class Members. The Court finds that distribution of the Class Notice, substantially in
19 the manner and form set forth in the Settlement and this Order, meets the requirements of due
20 process, is the best notice practicable under the circumstances, and shall constitute due and
21 sufficient notice to all persons entitled thereto.

22 11. The Court hereby appoints Phoenix Settlement Administrators as Settlement
23 Administrator and hereby directs the Settlement Administrator to mail or cause to be mailed to
24 Class Members the Class Notice using the procedures set forth in the Settlement Agreement. Class
25 Members who wish to participate in the settlement provided for by the Settlement Agreement do
26 not need to respond to the Class Notice.

12. All costs of mailing of the Class Notice, whether foreseen or not, shall be paid from the Gross Settlement Amount, including the cost of searching for Class Members' addresses as provided in the Settlement, and all other reasonable costs of the Settlement Administrator up to \$6,250.00 as provided in the Settlement.

13. Any Class Member may choose to opt-out of and be excluded from the Class, or dispute, or object to the Settlement as provided in the Class Notice. Any such person who chooses to opt-out of and be excluded from the Class will not be entitled to any recovery under the Settlement and will not be bound by the Settlement or have any right to object, appeal or comment thereon. Class Members who have not requested exclusion shall be Participating Class Members and bound by all determinations of the Court, the Settlement, and the Final Judgment. Class Members who elect to opt-out and be excluded, object, or dispute the Settlement must submit their written elections to the Settlement Administrator no later than 60 days from the date of the mailing of the Class Notice ("Response Deadline"), as provided for in the Class Notice. In the event of a re-mailing, the Response Deadline shall be extended 15 days from the date of the re-mailing, as provided for in the Settlement. Class Members who are also PAGA Members may not opt-out of the PAGA Settlement, and will be bound by the PAGA Release. PAGA Members will receive their individual PAGA payments.

14. A Final Fairness and Approval Hearing shall be held before this Court on **November December 16~~14~~, 2023 at 2:00 PM** in Department CX-101 of the Superior Court for the State of California, County of Orange, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701. All papers in support of final approval and related awards for fees, costs, and Plaintiff's incentive award must be filed and served at least 16 court days before the final approval hearing.

15. Any Participating Class Member may object to the Settlement by following the instructions for submitting written objections, via mail or fax, that are set forth in the Settlement Agreement and Class Notice, or may appear at the Final Fairness and Approval Hearing. The Court shall retain final authority with respect to the consideration and admissibility of any objections. Any Participating Class Member who objects to the Settlement shall be bound by the order of the Court.

Alternatively, any Participating Class Member may appear in person or through counsel to orally object to the Settlement at the Final Approval Hearing.

16. The Settlement is not a concession or admission, and shall not be used against the Released Parties, as an admission or indication with respect to any claim of any fault or omission by the Released Parties. Whether or not the Settlement is finally approved, neither the Settlement, nor any document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received as or deemed to be evidence of a presumption, concession, indication or admission by Defendant of any liability, fault, wrongdoing, omission, concession or damage in the Action, or in any other action or proceeding, except for purposes of enforcing the Settlement once it receives final approval.

17. Pending the Final Approval and Fairness Hearing, all proceedings in this Action, other than proceedings necessary to carry out or enforce the terms of the Settlement and this Order, are hereby stayed.

18. Jurisdiction is hereby retained over this Action, the Parties to the Action, and each of the Class Members for all matters relating to this Action, and this Settlement, including (without limitation) all matters relating to the administration, interpretation, effectuation, and/or enforcement of this Settlement and this Order.

19. The Court reserves the right to adjourn or continue the date of any hearing and all dates provided for in the Settlement without further notice to Class Members, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

20. The Revised Joint Stipulation of Class Action Settlement is attached hereto as Exhibit 1, the Addendum to Joint Stipulation to Class Action Settlement is attached hereto as Exhibit 2, and the Revised Class Notice is attached hereto as Exhibit 3.

IT IS SO ORDERED

DATED: _____

Honorable Peter Wilson
JUDGE OF THE SUPERIOR COURT

EXHIBIT 5