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and on behalf of all others similarly situated
and as a representative of aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

IGNACIO MENDEZ and ADRIANA
RODRIGUEZ, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

WTMG, INC., a California corporation, et al,

Defendants.

Case No.: STK-CV-UOE-2021-0009144
*Assigned to Hon. George J. Abdallah,
Dept. 10A*

**DECLARATION OF AARON C.
GUNDZIK IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

**Date: November 1, 2024
Time: 9:00 a.m.
Place: Department 10A**

Complaint Filed: September 29, 2021

I, Aaron C. Gundzik, declare as follows:

1. I am a partner at Gundzik Gundzik Heeger LLP, co-counsel for Plaintiffs Ignacio Mendez and Adriana Rodriguez. This Declaration is submitted in support of Plaintiffs' Motion for Final Approval of Class Action Settlement ("Motion").

2. I am admitted to practice law in the state of California. I have personal knowledge of the matters set forth herein, and, if called as a witness, could competently testify thereto.

3. I am familiar with California law governing wages owed to employees, including but not limited to California Labor Code Sections 201, 202, 204, 226, 226.7, 510, 512, 1194-1198, 2802, 2698 *et seq.*, California Business and Profession Codes 17200 *et seq.*, and the Wage Orders of the Industrial Welfare Commission.

4. There are no conflicts that would prevent me from serving as Class Counsel in this matter.

Procedural Information

5. The settlement that is the subject to Plaintiffs’ Motion resolves class and PAGA claims filed in two separate cases pending in this Court: *Mendez v. WTMG, Inc.*, STK-CV-UOE-2021-9144 (“*Mendez*”) and *Rodriguez v. WTMG, Inc.*, STK-CV-UOE-2020-1355 (“*Rodriguez*”). *Mendez* was filed on September 29, 2021, and *Rodriguez* was filed on January 28, 2020. Those wage and hour claims are now combined in Plaintiffs’ Second Amended Complaint, filed on March 12, 2024. The Second Amended Complaint asserts causes of action against Defendants WTMG, Inc. and its owner Blain J. Bibb. It alleges the following causes of action: (1) failure to pay wages for all work performed; (2) failure to pay overtime; (3) failure to provide compliant meal and rest breaks; (4) inaccurate wage statements; (5) failure to reimburse necessary expenses; (6) failure to pay unpaid wages at separation; (7) unfair business practices; and (8) recovery of civil penalties pursuant to the Private Attorneys General Act, Cal. Lab. Code §§2698-2699.5 (“PAGA”).

6. The *Rodriguez* action included Adriana Rodriguez's individual claims for discrimination as well as individual and PAGA claims for Labor Code violations. Ms. Rodriguez's individual discrimination claims are the subject of a separately-negotiated settlement with Defendant, while her wage and hour claims have been added to the *Mendez* case as part of the Second Amended Complaint.

7. Soon after this case was filed, Defendant WTMG, Inc. moved to compel arbitration. The Motion to Compel Arbitration was denied by this Court in February 2022. Defendant WTMG appealed that ruling to the Court of Appeal, Third Appellate District. The Court of Appeal affirmed this Court in February 2023. The Court of Appeal also denied

1 Defendant's petition for rehearing and in May 2023, the California Supreme Court declined
2 to grant review.

3 **Investigation and Discovery Prior to Settlement**

4 8. Rebecca Gundzik and I, and our co-counsel Galen Shimoda, have been
5 directly involved in all aspects of this case. In that regard, we have extensively investigated
6 Plaintiffs' claims against Defendant. We have engaged in informal discovery and reviewed
7 and analyzed numerous pay documents, including records and information produced by
8 Defendant, and worked to develop information on potential damages. In connection with the
9 mediation, Defendant produced a large sample of time records and pay records which
10 represented slightly less than 50% of the class's total pay periods. Defendant also provided
11 personnel records, handbooks and policies. In addition, our offices interviewed about 40
12 class members about their experiences working for Defendant. We have also investigated
13 and compiled publicly available information about Defendant and its related businesses.

14 9. I also met and conferred extensively with Defendant's counsel regarding the
15 scope and type of additional documents and information we were seeking in advance of the
16 mediation. As a result of these negotiations, Defendant provided additional information
17 including, the number of Class Members and PAGA Aggrieved Employees, total Class
18 Member pay periods, total PAGA Aggrieved Employee pay periods, number of separated
19 Class Members and the number of separated PAGA Aggrieved Employees.

20 10. I and my litigation team have reviewed and analyzed the records and
21 information produced by Defendant together with the information provided by our client.
22 We worked with a consultant to prepare an extensive damages model including an estimate
23 of the damages incurred by the Class and the PAGA Aggrieved Employees.

24 11. I and my co-counsel consulted with Plaintiff Mendez extensively in order to
25 investigate the facts before filing the Complaint and subsequent pleadings. We continued to
26 consult with him and Plaintiff Rodriguez prior and subsequent to the mediation regarding
27 the forgoing issues. Plaintiffs provided us with numerous details about their experiences
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1 working for Defendant and provided us with information about other employees that we
2 interviewed. Both Plaintiffs traveled to Walnut Creek, CA to attend the mediation in person.

3 12. Based upon our investigation, we made the following contentions: Defendant
4 WTMG Inc., which is owned by Defendant Blain J. Bibb, provides cleaning and janitorial
5 services for commercial buildings and other facilities in California. Plaintiff Mendez worked
6 as a janitor and in the company's warehouse. Ms. Rodriguez worked as a janitor and
7 supervisor.

8 13. While working, Plaintiffs and Class Members contended that due to their
9 work obligations, they did not have sufficient time to take compliant meal and rest breaks.

10 14. Plaintiffs and the Class Members also contended that Defendant altered time
11 records so as to limit the amount of overtime paid to an employee or to create a record that
12 compliant meal periods were provided.

13 15. Also, Plaintiffs and class members contended that they had to use their
14 personal cell phones to clock in and out for shifts and meals. But Defendant did not
15 generally reimburse employees for these expenses.

16 16. Finally, Plaintiffs contended that they and class members were not paid for
17 time spent traveling between assignments or for use of their personal vehicles on these trips.

18 **Summary of Settlement Negotiations**

19 17. On January 11, 2024, I, Rebecca Gundzik, Plaintiffs, and our co-counsel
20 Galen Shimoda and Rodrigo Guevara, as well as Defendant and Defendant's mediation
21 counsel, attended a mediation session with Hon. Ronald Sabraw (Ret.). Judge Sabraw has
22 substantial experience presiding over and mediating wage and hour class actions and PAGA
23 representative actions like this one. The case settled after a full day of negotiation pursuant
24 to a mediator's proposal. The settlement was negotiated at arms' length and was in no sense
25 collusive.

26 18. I, Ms. Gundzik, our co-counsel and Plaintiffs concluded, after taking into
27 account the sharply disputed factual and legal issues involved in the lawsuit, the risks
28 attending further prosecution, and the substantial benefits to be received pursuant to the

1 compromise and settlement of the action, that the settlement is in the best interests of the
2 Class and is fair and reasonable. We also considered the possibility that the Class would not
3 be certified and factored in the additional delay in recovery for Class Members if the
4 settlement were rejected and the case went to trial. We also considered Defendant's
5 contention that it did not have sufficient assets to satisfy a larger judgment.

6 19. A true and correct copy of the Stipulation of Class Action and PAGA
7 Agreement is attached hereto in **Exhibit 1**. Pursuant to the terms of the proposed settlement,
8 Defendant will pay a Gross Settlement Amount (GSA) of \$1,500,000. After proposed
9 deductions, as approved by the Court, the Net Settlement Amount will be approximately
10 \$858,500, all of which will be available to distribute to settlement Class members. The
11 parties propose making the following payments from the GSA:

- 12 (a) Settlement Administration costs of \$16,500;
- 13 (b) a Service and Release Award to Representative Plaintiff Ignacio Mendez
14 in the amount of \$10,000;
- 15 (c) a Service and Release Award to Representative Plaintiff Adriana
16 Rodriguez in the amount of \$5,000;
- 17 (d) Class Counsel's Attorneys' Fees in the amount of \$525,000, which is
18 35% of the GSA;
- 19 (e) Class Counsel's actual litigation costs and expenses in the amount of
20 \$35,000; and
- 21 (f) An allocation of \$50,000 to Plaintiffs' PAGA claims (the "PAGA
22 Amount"), seventy-five percent (75%) (\$37,500) of which will be paid to
23 the California Labor and Workforce Development Agency (the "LWDA
24 Payment"), and the remaining twenty-five percent (25%) (\$12,500) of
25 which will be distributed to the Aggrieved Employees. See Ex. 1, ¶ I.
26 The remaining Net Settlement Amount of \$858,500 will be distributed to the settlement
27 Class Members according to the formula in the Settlement Agreement, not including the
28 amounts owed to them as Aggrieved Employees. See Ex. 1, ¶ I.F.

1 20. Paragraph IV.I of the Settlement Agreement includes an Escalator Clause
2 which was to be triggered if Class Member Qualifying Pay Periods exceeded 33,325. Upon
3 receipt of the Class Data, the administrator advised us that the data did not trigger the
4 Escalation Clause.

5 21. As compensation for their efforts, the Settlement Agreement provides that a
6 Class Representative Service and Release Awards in the amount of \$10,000 will be
7 requested for the Representative Plaintiff, Ignacio Mendez, and in the amount of \$5,000 for
8 Representative Plaintiff Adriana Rodriguez. This award is in recognition of the significant
9 time Plaintiffs expended pursuing this action and assisting our efforts with the case, and in
10 recognition of the expanded general releases that they are required to provide, as part of the
11 Settlement. Plaintiffs spent a great deal of time consulting with us in order to investigate the
12 facts before the Complaints and amended pleadings were filed, monitoring the status of the
13 litigation, consulting with us extensively prior to, during and subsequent to the mediation
14 and reviewing, discussing and signing the Memorandum of Understanding and Settlement
15 Agreement. Both Plaintiffs provided us with numerous details about their experience and the
16 experience of others working for Defendant and both missed a full day of work to attend the
17 mediation in person. Mr. Mendez was also actively involved in providing evidence and
18 declarations to support the opposition to Defendant's motion to compel arbitration,
19 Defendant's appeal of the trial court's decision to deny its motion to compel arbitration and
20 Defendant's petition for review to the California Supreme Court. Plaintiffs' presence at the
21 mediation was invaluable, as they were able to provide us a great deal of additional
22 information that was extremely helpful for our negotiations. As an additional requirement to
23 receiving the proposed Class Representative Service and Release Awards, Plaintiffs are
24 required to sign a broad general release which includes a waiver of Section 1542 of the
25 California Civil Code. However, Plaintiff Rodriguez will not be releasing the individual
26 claims included in her individual complaint.

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Analysis of Value of Claims

22. The First Cause of Action is for failure to pay for work performed. This claim was based on the contention that Defendant failed to pay employees who worked off the clock. Class members we interviewed stated that they were often asked to work after their shifts were completed, to work after they had clocked out, or to clock out and then complete their work. Based on these interviews, I determined that the maximum value of this claim is about \$1.15 million, based upon two unpaid hours per pay period, an average hourly rate of \$17.31 and 33,325 pay periods. However, certifying this claim would be very difficult because there is no data to support these instances of unpaid time and it is based solely on class member statements. Moreover, Defendant could successfully contend that there are manageability issues and individualized issues as to whether and to what extent Class Members worked off the clock. I therefore determined that the minimum value of this claim is \$0.

23. The Second Cause of Action is for failure to pay for overtime work at overtime rates of pay. This claim was based on Defendant's failure to pay Plaintiffs and the other Class Members at overtime rates of pay for unrecorded hours that would have qualified as overtime. After analyzing class member records, we determined that this claim had minimal value because the average shift length was only about 5.3 hours. Therefore, it is unlikely that the unrecorded time would have resulted in the employer's obligation to pay overtime. Consequently, we did not allocate any separate damages amount to this claim.

24. The Third Cause of Action is for failure to provide compliant meal and rest periods. This claim was based on Defendant's failure to provide compliant meal and rest breaks as well as its failure to pay Class Members meal and rest break premiums. Defendant's records revealed that Class Members were often denied compliant breaks. Based on the records we reviewed, I determined that the maximum value of the meal break portion of this claim is \$1.67 million. After extrapolating from the sample, we estimated a total of about 96,500 violations during the class period. (96,500 violations x \$17.31 average hourly rate = \$1,670,000.) Based on the Class Member interviews we conducted, we

1 estimated that the maximum value of the rest break portion of this claim is about \$2.9
2 million. This is based on an assumed violation rate of 60%. (280,000 shifts greater than 3.5
3 hours x 60% x \$17.31 average hourly rate = \$2,908,080.) However, because of the lack of
4 documentary evidence regarding rest break violations, the fact that many meal period
5 violations were only one or two minutes short or late, and the possibility that Defendant
6 could successfully contend that the meal and rest break violations were individualized
7 incidents which did not support a class award, we concluded that the minimum value of this
8 claim is \$0.

9 25. The Fourth Cause of Action is for failure to provide compliant wage
10 statements. The statute of limitations on such a claim is one year. This claim is based on the
11 fact that the wage statements issued to Plaintiffs and the Class are incorrect in that they did
12 not include all of the unpaid hours worked and do not reflect meal and rest break wage
13 premiums that should have been paid. The penalties for inaccurate wage statements are \$50
14 per employee for the first violation and \$100 per employee per violation for all subsequent
15 violations. Penalties per employee are limited to \$4,000. We determined that Defendant
16 issued about 6,700 wage statements to employees during the one-year limitations period.
17 Based upon the number of wage statements, I estimated that the maximum value of this
18 claim is approximately \$650,000. At the same time, I estimated that this claim has a
19 minimum value of \$0.

20 26. The Fifth Cause of Action is for failure to reimburse employees for all
21 necessary expenditures. This claim was based upon Plaintiffs' contention that Class
22 Members were required to use their personal cell phones to communicate with their
23 supervisors and to clock in and out of their shifts. Additionally, janitors who worked at more
24 than one location during a shift were required to use their own vehicles to drive between job
25 sites. And administrative employees who were required to work from home during the
26 pandemic were required to have internet access and a home computer. I determined that the
27 maximum value of this claim is approximately \$667,000, which assumes a reimbursement
28 rate of \$20 per pay period, and that the minimum value is \$0.

1 27. The Sixth Cause of Action is for failure to pay separated employees all wages
2 due at the time of separation. This claim is based on Defendant's alleged failure to pay
3 Class Members all wages due when they separated, as their final pay did not include
4 amounts due for meal or rest period premiums, non-productive time or for all of their
5 overtime work. There are 805 putative Class Members who were separated during the
6 relevant statutory period. At an average hourly rate of \$17.31 and average shift length of 5.4
7 hours, I determined that the maximum value of this claims is approximately \$2.2 million and
8 that the minimum value is \$0.

9 28. The Seventh Cause of Action is for violation of Business & Professions Code
10 section 17200, *et. seq.* The forgoing analysis assumes the longer four-year statute of
11 limitations that is available under the UCL for the meal period violations. This cause of
12 action is derivative of the other claims that have already been analyzed. Accordingly, the
13 damages available under this cause of action have already been analyzed or are duplicative
14 of the damages discussed.

15 29. The Eighth Cause of Action is for violations of the Private Attorneys General
16 Act (PAGA). The PAGA claim is limited in time to one year. The strength of the PAGA
17 claim would be impacted by the factors discussed above for the non-PAGA claims. Based
18 on recent PAGA decisions, I concluded that even if Plaintiffs were successful on this claim
19 through trial, the Court may well have exercised its discretion under PAGA and significantly
20 reduced the penalties. Cal. Labor Code §2699(e)(2). In addition, the settlement was
21 primarily directed at recovering wages and unpaid premiums owed to Class Members and
22 the bulk of the settlement funds were intended to compensate for these wages. Based on
23 these factors, I believe that the maximum reasonable value of the PAGA claim is
24 approximately \$1.5 million, and the minimum value is nothing. I therefore concluded that
25 the \$50,000 that the parties allocated to PAGA, 75% of which will be paid to the LWDA, is
26 a reasonable settlement of that claim.

27 30. Based upon the forgoing, I determined that the class claims in this case had a
28 minimum value of \$0 and a maximum estimated value of about \$9.2 million, not including

1 the PAGA penalties. Based on a Class size of approximately 1,326, the reasonable estimate
2 of the average net amount that Class Members could have obtained if Plaintiffs prevailed at
3 trial on behalf of the entire Class, if the Class was certified, would be a minimum of \$0 and
4 a maximum of about \$7,000. However, the maximum amount is almost never recovered at
5 trial and never in a settlement. Settlements, by their nature, must account for the weaknesses
6 in a plaintiff's case, which are discussed above. Indeed, because Defendant raised a
7 colorable legal or factual defense to each of the claims Plaintiffs alleged, it is possible that,
8 after trial, the Class would recover nothing. Defendant also is a relatively small company
9 with limited finances, and we were concerned that it would not be able to satisfy a judgment
10 in excess of the settlement amount and that if the litigation continued, it may not have
11 been able to remain a viable business (which would have meant that the Class Members
12 would not receive any amounts whatsoever).

13 31. The PAGA settlement satisfies the criteria in *Moniz v. Adecco USA, Inc.* 72
14 Cal. App. 5th 56, 77 (2021), because "it is fair, reasonable, and adequate in view of PAGA's
15 purposes to remediate present labor law violations, deter future ones, and to maximize
16 enforcement of state labor laws." In our settlement, \$50,000 is allocated to Plaintiffs' PAGA
17 claim, which is approximately 3% of the Gross Settlement Amount. In conjunction with the
18 class settlement, pursuant to which Class Members will receive a total of approximately
19 \$858,500, not including the PAGA payment, this settlement will serve to remediate
20 Defendant's labor law violations. Given that Defendant will be paying \$1,500,000 as a
21 result of the alleged violations, the Class and PAGA settlement is a large disincentive for
22 Defendant to engage in similar Labor Code violations in the future. And, because all Class
23 Members will receive a notice of settlement with our contact information, those employees
24 will know to contact us in the future if Defendant attempts to engage in similar practices.
25 These factors—the payment of a large sum and employee notice of violations and potential
26 violations—serve to maximize enforcement of state labor laws. Also, unlike in *Moniz*, here
27 there is no unsubstantiated and disproportionate allocation of civil penalties between
28 different groups of employees. All aggrieved employees will receive an allocation of PAGA

1 civil penalties based on the number of qualifying pay periods that they worked for
2 Defendant.

3 32. If the settlement is not approved, Plaintiffs would need to move forward with
4 discovery and then move for class certification. Defendant will oppose certification on the
5 grounds that numerous individualized fact issues allegedly exist. Defendant will argue and
6 could succeed in claiming that these individualized issues overwhelm common issues,
7 and/or that the action is not manageable on a class wide basis. The result could be that the
8 case would not be certifiable as a class action.

9 33. Even if we proceeded and the Class is certified, significant risks would
10 remain. At trial Defendant could interpose a successful defense which could either cause the
11 Court to decertify the Class or cause the jury to reject Plaintiffs' claims or award the Class
12 only a small amount of the unpaid wages and other damages sought. And, even if the Class
13 ultimately prevailed, most of the Class Members would have to wait years before they
14 received any payment from the lawsuit.

15 34. After analyzing and weighing the evidence discussed above as well as the
16 legal issues, we concluded that the settlement of \$1,500,000, \$50,000 of which will be
17 allocated to Plaintiffs' PAGA claim, for a class of approximately 1,200, represents a fair and
18 reasonable discount from the realistic recovery. We firmly believe that amount is the most
19 that Defendant was willing and able to pay at this stage of the case and that if we had
20 rejected that amount, we would have been forced to seek class certification, and subject the
21 Class to the risk of losing at any stage of the process. The settlement will allow the parties to
22 avoid the expense and time commitments of continued litigation and provides a significant
23 benefit for the Class, the LWDA and the PAGA Aggrieved Employees which would not
24 otherwise have been available unless a settlement was reached. Based on my experience, I
25 believe a gross settlement of \$1,500,000 is within the "ballpark" of a fair, reasonable and
26 adequate settlement.

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Preliminary Approval of Settlement

35. On May 13, 2024, Plaintiffs filed their Motion for Preliminary Approval of Class Action Settlement with supporting declarations.

36. On June 6, 2024, the Court granted preliminary approval of the settlement and approved the notice of settlement prepared by the parties. A copy of the Court’s preliminary approval order is attached hereto as **Exhibit 2**.

Settlement Administration

37. The settlement is being administered by Phoenix Settlement Administrators (“Phoenix” or “Settlement Administrator”). Until distribution, the Gross Settlement Amount will be held in a Qualified Settlement Fund established by the Settlement Administrator. Phoenix’s fee for the costs of administration of the settlement is \$16,500.

38. The notification process was fairly administered. As set forth in the Declaration of Jarrod Salinas, Phoenix Case Manager, on July 18, 2024, Phoenix sent the Notice of Settlement to the Class Members’ last-known address as specified in the Court’s Order granting preliminary approval of class action settlement. Of those, fourteen were re-mailed and none were or determined to be undeliverable.

39. As set forth in the TPA’s declaration, as of the date of this Declaration, Phoenix has received one opt-out and no objections. Class Counsel have not received any objections or opt out notices from any Class Members. Because this is an opt-out Class, 1,269 of 1,270 Class Members will receive a settlement payment, which is a 99.9 % participation rate.¹ That participation rate, together with the absence of any objectors, provides a strong indication that the settlement is fair and adequate, and that Class Members believe it to be so.

Request for Attorneys’ Fees and Costs

40. The preliminarily approved settlement provides for the payment of up to one thirty-five percent of the gross settlement amount (\$525,000) to Class Counsel for attorneys’

¹ Upon receipt of the Class Data, the size of the Class was determined to be 1,270, not the 1,370 number provided by Defendant in connection with the mediation.

1 fees and up to \$25,000 for Class Counsel’s reasonable costs and expenses. Class Counsel
2 has expended \$38,884.65 in connection with this lawsuit but are only requesting
3 reimbursement of the \$35,000 amount set forth in the Settlement Agreement. This request is
4 fair, reasonable and adequate to compensate Class Counsel for the substantial work we have
5 put into this case and the risk we assumed by taking it. The attorneys’ fees award is intended
6 to reimburse Class Counsel for all the uncompensated work that we have already done and
7 for all the work we will continue to do in carrying out and overseeing the administration of
8 the settlement. We are requesting that the Court compensate Class Counsel on a contingency
9 basis in light of the benefit provided to the Class and because a lodestar analysis confirms
10 the reasonableness of the contingency fee.

11 **Summary of Class Counsel’s Experience**

12 41. I graduated from the University of Southern California Law School in 1987
13 and have been a member of the California bar since 1987. For my first 14 years of practice, I
14 worked in the Los Angeles office of a large international law firm, then known as LeBoeuf,
15 Lamb, Greene & MacRae, first as an associate and then as an equity partner. I left that firm
16 in 2001 and formed Cotton & Gundzik LLP. In 2012, I joined Gartenberg Gelfand Hayton
17 LLP, and in January of 2020, I formed Gundzik Gundzik Heeger LLP (“GGH”). Throughout
18 my career, I have been involved in the litigation of complex cases, including securities,
19 consumer and wage and hour class actions. Presently, I and my partner, Rebecca Gundzik,
20 are Plaintiff’s counsel in approximately ten class actions in various stages of litigation. I
21 have served as class counsel in numerous wage and hour class actions that have already
22 settled and successfully represented a class of service technicians at trial and through appeal
23 in *Gonzalez v. Downtown LA Motors, LP*, 215 Cal. App. 4th 36 (2013). The *Gonzalez* case
24 helped develop the law regarding an employee’s right to be separately paid for their
25 nonproductive time and is one of the bases for California Labor Code section 226.2.

26 42. Rebecca Gundzik, who is also a partner at my law firm, has worked with me
27 extensively on this case. Ms. Gundzik graduated from the University of Southern California
28 Law School in 1988 and has been a member of the California bar since 1988. In her 35-year

1 legal career, Ms. Gundzik worked at Loeb & Loeb and worked at Allen Matkins Leck
2 Gamble Mallory & Natsis LLP for fifteen years. Ms. Gundzik has also had significant
3 experience with complex cases, including real estate, business, and consumer and wage and
4 hour class actions. Ms. Gundzik works with me on all of my class action matters and was
5 my co-counsel at the trial of *Gonzalez v. Downtown LA Motors, LP*, 215 Cal. App. 4th 36
6 (2013).

7 43. I and and/or Rebecca Gundzik and I have been appointed as class counsel in
8 the following wage and hour class actions:

- 9 a. *Gonzalez v. Downtown LA Motors*, 215 Cal. App. 4th 35 (2013)
- 10 b. *Aboyte v. Sunrise Ford, Inc.*, Los Angeles County Superior Court Case No.
11 BC521274
- 12 c. *Alshamri v. Ford of Santa Monica, Inc.*, Los Angeles County Superior Court
13 Case No. BC529007
- 14 d. *Altschuler v. Sedgwick Claims Management Services, Inc.*, Los Angeles
15 Superior Court Case No. 21STCV06933
- 16 e. *Bromberg v. Fidelity National Information Services*, C.D. Cal. No. 2:15-CV-
17 7930
- 18 f. *Burciaga v. Superior Thread Rolling Company*, Los Angeles County
19 Superior Court Case No. BC585143
- 20 g. *Centino v. Arrowhead Products Corporation*, Orange County Superior Court
21 Case No. 30-2018-00988493
- 22 h. *Caesar-Roden v Yoga Works, Inc.*, Los Angeles County Superior Court Case
23 No. BC711991
- 24 i. *Claim Jumper Restaurants Wage and Hour Cases*, JCCP No. 4916
- 25 j. *ClubCorp Wage and Hour Cases*, Orange County Superior Court Case No.
26 30-2-2—01137085 (JCCP No. 5138)
- 27 k. *Cypress Security Wage and Hour Cases*, Los Angeles County Superior Court
28 Case No. BC672405 (JCCP No. 4963)

- 1 l. *Dittmar v. Costco*, S.D. Cal. No. 3-14-CV-1156
- 2 m. *Franco v. Gentry Brothers, Inc.*, Los Angeles County Superior Court Case
- 3 No. BC586571
- 4 n. *Gallegos v. EC Holdings Inc.*, Los Angeles County Superior Court Case No.
- 5 BC616867
- 6 o. *Gonzales v. Manrika, Inc.*, Los Angeles County Superior Court Case No.
- 7 BC570534
- 8 p. *Grieg v. Food on Time, Inc.*, at al., Los Angeles County Superior Court Case
- 9 No. BC684566
- 10 q. *Guillen v. Grasshopper House, LLC*, Los Angeles County Superior Court
- 11 Case No. BC685116
- 12 r. *Hall v. Culpepper & Associates Security Services, Inc.*, Los Angeles County
- 13 Superior Court Case No. 20STCV15317
- 14 s. *Haskins v. Walmart, et al.*, San Diego County Superior Court Case No. 37-
- 15 2019-00020149-CU-OE-NC
- 16 t. *Hamilton v. BlueMercury, Inc.*, Los Angeles County Superior Court Case No.
- 17 BC625829
- 18 u. *Henriquez v. NGU Transport LLC*, Los Angeles County Superior Court No.
- 19 BC714165
- 20 v. *Hernandez v. The Bicycle Casino LP*, Los Angeles County Superior Court
- 21 Case No. BC628414
- 22 w. *Hughes v. JeffreyLee Galitz, MD, et al.*, Los Angeles County Superior Court
- 23 Case No. 21STCV30732
- 24 x. *Honeine v. PMB Motorcars, LLC*, Los Angeles County Superior Court Case
- 25 No. BC530827
- 26 y. *Jimenez v. El Proyecto Del Barrio, Inc.*, Los Angeles County Superior Court
- 27 No. 19STCV18696
- 28

- 1 z. *Jimenez v. PPG Industries, Inc.*, Los Angeles County Superior Court Case
2 No. BC613324
- 3 aa. *Kaelberer v. Long Beach Eurocars LLC*, Los Angeles County Superior Court
4 Case No. BC521275
- 5 bb. *Kuenstle v. Childrens Hospital Los Angeles Medical Group, Inc.*, Los
6 Angeles County Superior Court Case No. BC653858
- 7 cc. *Kussner v. MV Public Transportation, Inc., et al.*, Los Angeles Superior
8 Court Case No. 21STCV12259
- 9 dd. *Maravilla v. Motion Picture Television Fund*, Los Angeles County Superior
10 Court Case No. BC690494
- 11 ee. *Medina v. Kaweah Pump, Inc.*, Tulare County Superior Court No. 265579
- 12 ff. *Mendoza v. Quanta Computer, USA, Inc.*, Alameda County Superior Court
13 No. RG11589781
- 14 gg. *Mitchiner v. Cox Target Media, Inc.*, Los Angeles County Superior Court
15 Case No. 19STCV00319
- 16 hh. *Munoz v. Dependable Highway Express, Inc.*, Los Angeles County Superior
17 Court Case No. BC535931
- 18 ii. *Nava v. Pacific Coast Sightseeing Tours and Charters, Inc.*, Los Angeles
19 County Superior Court Case No. BC685681
- 20 jj. *Ortiz v. Roberts Tool Co., Inc.*, Los Angeles County Superior Court Case No.
21 BC626244
- 22 kk. *Otis v. Ray Stone Incorporated*, Sacramento County Superior Court Case No.
23 34-2019-00269952
- 24 ll. *Parrilla v. Monster Energy Company*, Los Angeles County Superior Court
25 Case No. 21STCV25855
- 26 mm. *Perez v. The Parsons Group, Inc.*, Santa Barbara County Superior Court
27 Case No. 19CV01203
- 28

- 1 nn. *Poland v. Glen Ivy Hot Springs, Inc.*, Riverside County Superior Court No.
2 RIC1312130
3 oo. *Saavedra v. Cliff View Terrace, Inc.*, Santa Barbara County Superior Court
4 Case No. 17CV02531
5 pp. *Santiago v. Univar Solutions Inc., et. al*, Los Angeles County Superior Court
6 Case No. 21STCV25600
7 qq. *Schneider v. Inner City Education Foundation*, Los Angeles County Superior
8 Court Case No. BC617827
9 rr. *Stadnik v. Leon's Transmission Service, Inc.*, Los Angeles County Superior
10 Court Case No. 19STCV44253
11 ss. *Surveillance Security Wage and Hour Cases*, JCCP 4969
12 tt. *T.J. Maxx Wage & Hour Cases*, JCCP No. 5097
13 uu. *Vatralova v. Sears, Roebuck and Co.*, Los Angeles County Superior Court
14 Case No. BC515650
15 vv. *Villalobos v. Pedego, Inc.*, Orange County Superior Court Case No. 30-
16 2019-01102461
17 ww. *Watson v. Aegis Security & Investigations Inc.*, Los Angeles County
18 Superior Court Case No. BC695411
19 xx. *Wysocki v. Color Spot Nurseries, Inc.*, San Luis Obispo County Superior
20 Court No. 14CVPO138
21 yy. *Yoo v NGL Transportation LLC*, Los Angeles County Superior Court Case
22 No. BC682160
23 zz. *Yoo v. South Coast Transportation & Distribution, Inc.*, Los Angeles County
24 Superior Court Case No. BC682120

25 44. Many of the cases listed in Paragraph 43 and the cases still active involve
26 wage and hour issues similar to the legal and procedural issues involved in this case.

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B. Summary of Work Performed

45. Ms. Gundzik and I have performed significant legal work in this case on behalf of Plaintiff, as summarized in Paragraphs 46-52 below.

46. The legal work performed by my firm on the case consumed a great deal of our time and resources. GGH, Shimoda Law and Abogato, APC are small firms with few attorneys. Our work on this case included preparing pleadings and other documents filed with the Court, filing numerous briefs related to Defendant's motion to compel arbitration of Plaintiff Mendez's claims, which we were successful in defeating, numerous briefs and papers related Defendant's appeal of the trial court's denial of its motion to compel arbitration, and additional briefs related to Defendant's petition for review to the California Supreme Court of the appellate court's decision to affirm the trial court's decision denying Defendant's petition to compel arbitration. After the appellate proceedings terminated in Plaintiff Mendez's favor, we met and conferred extensively with opposing counsel regarding the documents and information to be exchanged in conjunction with the mediation, spent numerous hours reviewing and analyzing the documents produced by Defendant, reviewed and analyzed numerous time and pay records, policies and other documents in advance of the mediation, and drafted the mediation brief. We prepared for and engaged in a successful mediation, and then negotiated and drafted the settlement documents, the motion for preliminary approval of the settlement and related documents and drafted the motion for final approval and related documents. Additionally, in preparation for the mediation, I worked extensively to develop information on potential damages. Mr. Mendez and Ms. Rodriguez also worked with us to provide information about the Class's working conditions and Defendant's payment practices. This information was also invaluable to us in determining what claims to bring and the information that Defendant had to support those claims.

47. I and Ms. Gundzik drafted the initial complaint on behalf of Mr. Mendez, which was filed in September of 2021. We filed an extensive opposition to Defendant's motion to compel arbitration, together with supporting declarations and evidence. Because

1 Defendant was unwilling to stipulate to the filing of a First Amended Complaint to add
2 Plaintiff's PAGA claim, we were required to file a Motion for Leave to Amend. In January
3 of 2022, we attended the hearing on both motions, after which the Court denied Defendant's
4 motion to compel arbitration and granted Plaintiff's motion to file a First Amended
5 Complaint. We drafted and filed the First Amended Complaint in February of 2022, after
6 which Defendant filed its notice of appeal. We drafted and filed the initial documents
7 relating to the appeal and in March of 2022 we drafted a motion for calendar preference with
8 the appellate court. We drafted an extensive opening brief on appeal, which we filed in
9 August of 2022. I prepared extensively for and participated in oral argument in front of the
10 Third Appellate District Court of Appeal in January of 2023. In March of 2023, the Court of
11 Appeal affirmed the trial court's decision and should after the Appellate Opinion was issued,
12 Defendant filed a petition for review to the California Supreme Court. We drafted an
13 extensive Answer to Defendant's petition in April of 2023, and in May of 2023 the
14 California Supreme Court denied Defendant's petition for review. The remittitur to the trial
15 court was issued in May of 2023, after which we continued to file reports and appear for
16 status conferences in this Court. While the case was pending in this Court we drafted written
17 discovery. We reviewed thousands of pages of documents produced by Defendant, drafted
18 Plaintiff's mediation brief, analyzed the sample documents and wage information provided
19 by Defendant, and prepared a detailed damages assessment in connection with the
20 mediation. We prepared extensively for mediation and attended the January 11, 2024
21 mediation with our co-counsel, Galen Shimoda and Rodrigo Guevara as well as our clients,
22 Ignacio Mendez and Adriana Rodriguez. After the parties reached the terms of a settlement
23 in principle, we drafted a lengthy settlement stipulation and participated in numerous
24 conversations and other communications about those documents with opposing counsel and
25 our client. And, we drafted a stipulation and Second Amended Complaint to include Plaintiff
26 Adriana Rodriguez as a Representative Plaintiff as well as her class claims to the action.

27 48. After the parties reached agreement on the details of the settlement
28 stipulation, we prepared the motion for preliminary approval and the supporting declarations

1 and proposed order. After the Court preliminarily-approved the settlement, we worked with
2 the settlement administrator to effectuate the notice to Class Members. Finally, we worked
3 on this Motion and the supporting declarations and other documents.

4 49. When the case settled, my office agreed to prepare all of the settlement
5 documents and motions. To that end, we prepared the Class Action and PAGA Settlement
6 Agreement and Class Notice, all of which we negotiated extensively with defense counsel.
7 We also prepared the Motion for Preliminary Approval and the supplemental papers
8 required by the Court. We then oversaw the process of mailing settlement notices.

9 50. Our work on the case will not end with the filing of this motion. We will need
10 to address any belated objections, appear for the hearing and then, if the motion is granted,
11 oversee the receipt and disbursement of settlement funds. As part of that process, we will
12 likely receive and respond to communications from Class Members about the settlement.

13 51. The actual time Rebecca Gundzik, I, and our paralegal Nicole Salazar
14 expended litigating this matter is itemized in detail in our billing records through September
15 27, 2024, a true and correct copy of which are attached hereto in **Exhibit 3**. As shown on
16 **Exhibit 3**, my firm has incurred attorneys' fees through September 27, 2024 on this case in
17 the amount of \$339,287.5. These time entries include the following amounts of time spent
18 on the following activities:

<u>ATTORNEY ACTIVITY</u>	<u>TIME EXPENDED:</u>
Communications with client and other class members: initial client meetings and review of claims, ongoing communications and meetings with client; interview class members and prepare interview summaries; pre-filing investigation	26.1 hours
Strategy, research and analysis regarding claims and other legal issues	18.4 hours

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<u>ATTORNEY ACTIVITY</u>	<u>TIME EXPENDED:</u>
Communications with defense counsel; meet and confer regarding joint reports, discovery and stipulations	8.0 hours
Formal written discovery (includes preparation of meet and confer correspondence)	8.9 hours
Work related to motion to compel arbitration and Defendant's appeal of the denial of its motion to compel arbitrations, including extensive analysis and research relating to Appellant's Opening Brief, preparation of Respondents' brief, motion for preference, preparation of documents relating to the appellate court proceedings (stipulations, record on appeal, appellate court mandatory forms, etc.), preparation for oral argument on appeal, analysis of Defendant's petition for review to the California Supreme Court, preparation of answer to Defendant's petition for review	170.5 hours
Settlement matters: negotiation with opposing counsel and mediator after mediation, communications with co-counsel, preparing and reviewing the settlement agreement and the class notice; communications with the settlement administrator	29.3 hours
prepare for/attend Court hearings in trial court, including papers and hearings related to Defendant's motion to compel arbitration	12.0 hours
performing review and analysis of class members' and plaintiff's records, sample payroll records, policy handbooks, other policies and create damages model	19.7 hours
prepare for and attend mediation (includes working to prepare mediation	58.7 hours

<u>ATTORNEY ACTIVITY</u>	<u>TIME EXPENDED:</u>
strategy, drafting mediation brief and post-mediation analysis)	
Drafting and reviewing pleadings and Court documents and related communications (includes complaints, stipulations regarding litigation, motion for preliminary approval and supporting declarations, and motion for final approval and supporting declarations)	104.6 hours
<u>Total Hours:</u>	466.8 hours

52. This chart and our billing records do not include approximately 20 additional hours to finalize this Motion, prepare for and attend the hearing on this Motion, and time that I or Ms. Gundzik will spend working with Phoenix and Defendant to implement the settlement and communicate with Class Members regarding the disbursement of the settlement funds. At our hourly rate of \$750, this additional time adds \$15,000 to our lodestar. Additionally, as set forth in his declaration, our co-counsel Rodrigo Guevara will spend, in all, 455.1 hours working on the case at his hourly rate of \$500, and he accordingly will incur total fees in the amount of \$227,550. As set forth in the declaration of our co-counsel Galen Shimoda, he expended 91 hours on the case at an hourly rate of \$725, which equates to \$65,975 in fees. Including the fees we have already billed, the additional \$15,000 we anticipate incurring in the future, the \$227,500 amount incurred by Mr. Guevara and the \$65,975 in fees incurred by Mr. Shimoda (not including the amounts Mr. Guevara and Mr. Shimoda will spend after the Motion is filed), our total lodestar is **1,032.9 hours** for a total lodestar in the amount of **\$647,812.50**.

53. My firm also incurred costs in this case that we have paid which include but are not limited to fees and expenses for filing, copies, service of process, the mediator's fees, consultant fees and postage and delivery. My firm incurred costs and expenses of \$29,315 and will incur additional filing fees in connection with this Motion in the approximate amount of \$60 for total expenses in the amount of \$29,715. As set forth in Mr. Guevara's

1 declaration, his firm incurred costs and expenses in the amount of \$5,385. And, as set forth
2 in the Declaration of Galen Shimoda, his firm incurred expenses in the amount of \$4,183.73.
3 In total, our expenses are **\$38,944.50**. The largest of these expenses are the mediator's cost,
4 which was \$6,390 and the cost of our damages analysis consultant, which was \$9,177.45.
5 Because our expenses exceed the amount agreed to in the Settlement Agreement, we are
6 only seeking reimbursement of \$35,000 for our costs.

7 54. Despite the risks presented by Defendant's various arguments and defenses,
8 we invested our time and litigation costs and expenses, with no guarantee of compensation
9 or reimbursement. In addition, we were precluded from spending time on other matters so
10 that we could devote our attention to this case. My firm took this case on a contingent-fee
11 basis against a corporation represented by a reputable defense firm. We are a small firm with
12 only two litigation attorneys and one paralegal. As such, when we take contingent-fee cases,
13 we must pay careful attention to the economics involved, because there are some cases we
14 expend a great deal of time on, but which produce little or no fees.

15 55. Contingent-fee cases present the very real risk of working hundreds if not
16 thousands of hours that may never be entirely compensated. Moreover, while the case is
17 being litigated, counsel must pay overhead (salaries, rent, etc.), pay their expenses and pay
18 out-of-pocket expenses on the plaintiff's behalf. The prospect of a court-awarded fee does
19 not greatly reduce the risk posed by these cases. One must prevail to receive a court-
20 awarded fee, and even the best cases can be lost at trial. There are also often unseen
21 obstacles that arise during a case, such as a change in the law, documents which do not
22 comport with a client's recollection of the facts, or a client's acceptance of a settlement offer
23 that does not compensate us for our reasonable fees.

24 56. Defendant does not oppose the fees and costs being requested in this case.
25 Moreover, the Notice of Settlement mailed to Class Members stated the amount of fees
26 being requested by Class counsel. Not a single Class Member has objected to our requested
27 fee award.

1 57. The lodestar cross-check against the percentage of the benefit analysis (or
2 common fund approach) supports the requested contingency-fee percentage. A loadstar
3 cross-check analysis typically happens in three steps. First, a trial court must determine a
4 baseline guide or “loadstar” figure based on the time spent and reasonable hourly
5 compensation for each attorney involved in the case. *Serrano v. Priest*, 20 Cal.3d 25, 48
6 (1975). Second, a court sets an hourly fee to apply to the time expended, with reference to
7 the prevailing rates in the geographic area in which the action is pending. *Bihun v. AT&T*
8 *Information Systems*, 13 Cal.App.4th 976, 997 (1993). Third, a multiplier is selected with
9 reference to factors substantially similar to the common-fund analysis: (1) the novelty and
10 difficulty of the issues involved, (2) the skill displayed in presenting them, (3) the extent to
11 which the nature of the litigation precluded other employment by the attorneys, and (4) the
12 contingent nature of the award, based on the uncertainty of prevailing on the merits and of
13 establishing eligibility for the award, (5) the amount involved and the results obtained on
14 behalf of the class by plaintiffs’ counsel, and (6) the reaction of the class members. *Serrano*
15 *v. Priest*, 20 Cal.3d at 49. Here, because our actual fees exceed the amount we are
16 requesting, no multiplier analysis is required.

17 58. I am familiar with the hourly rates charged by attorneys with similar
18 experience and expertise. My and Ms. Gundzik’s hourly rates of \$750 are well within the
19 range of rates charged by attorneys with similar expertise and experience. Likewise, Ms.
20 Salazar’s hourly rate of \$125 is well within the rates for paralegals in California. These rates
21 are comparable to those judicially-approved for other plaintiffs’ firms in California. *See*,
22 *e.g.*, *In re Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prods. Liab. Litig.*, MDL
23 No. 2672, 2017 WL 1047834, at *5 (N.D. Cal. Mar. 17, 2017) (finding a lodestar cross-
24 check supports the reasonableness of Class Counsel’s requested fees and approving partner
25 billing rates ranging from \$275 to \$1,600); *Dickey v. Advanced Micro Devices, Inc.*, No. 15-
26 cv-04922-HSG, 2020 WL 870928, at *8 (N.D. Cal. Feb. 21, 2020) (finding rates
27 between \$275 and \$1,000 for attorneys reasonable); *In re Yahoo! Inc. Customer Data Sec.*
28 *Breach Litig.*, No. 16-MD-02752-LHK, 2020 WL 4212811, at *26 (N.D. Cal. July 22, 2020)

(approving rates of \$450 to \$900 for partners, \$160 to \$850 for non-partner attorneys, and \$50 to \$380 for staff members); *Luquetta v. Regents of Cal.*, CGC-05-443007 (San Francisco Super. Ct.) (approving partner rates between \$550 and \$850 per hour); and *Holloway v. Best Buy Co.*, C-05-5056-PJH (MEJ) (N.D. Cal.) (approving 2011 partner rates of \$700 to \$825 an hour).

59. The 2020 Class Action Hourly Rate Survey, conducted by the National Association of Legal Fee Analysis (NALFA), asked class action litigators from the nation's 16 largest legal markets if their current regular hourly rate falls within a given range. The NALFA survey shows that the average hourly rate for partners like me and Ms. Gundzik, who have more than 20 years of experience, ranges between \$801-\$900. See **Exhibit 4**.

60. Defense-side hourly rates are also relevant. In a survey of more than 250 U.S. law firms conducted by the international accounting and consulting firm PricewaterhouseCoopers ("PwC"), the median average 2020 billing rate for litigation equity partners at AmLaw 25 firms was \$1,327/hour and for AmLaw 50 firms was \$1,206/hour.

61. Likewise, the following is a table of hourly rates which was prepared by a Federal Court in *Xu v. Yamanaka*, No. 13-CV-3240 YGR, 2014 WL 3840105, at *4 (N.D. Cal. Aug. 1, 2014):

Firm	Partner Range	Partner Average	Associate Range	Associate Avg.
Weil Gotshall		\$927	\$450–790	\$581
Latham & Watkins	\$895–1110	\$990	\$465–725	\$605
Paul Weiss	\$760–1120	\$1040	\$250–760	\$600
Skadden Arps	\$845–1150	\$1035	\$340–845	\$620
Willkie Farr	\$790–1090	\$950	\$350–790	\$580

These rates for partners include many who have less years of legal experience than Class Counsel, as partnership positions usually begin after eight or nine years of work. I became a partner at the national firm formerly known as LeBoeuf Lamb Greene & MacRae in 1995 but have been working in the legal field for twenty-seven years since that time and have been working as an attorney for thirty-five years. It is therefore reasonable to assume that these average rates certainly apply to partners at these firms with thirty plus years of

1 experience, like Rebecca Gundzik and me. Most of my former partners charge hourly rates
2 in excess of the hourly rate I am seeking.

3 62. The fees we are requesting comport with the attorneys' fee agreements in the
4 lawsuit. Pursuant to the Settlement Agreement, the parties agreed that Class Counsel could
5 seek their attorneys' fees in an amount of up to one-third of the Gross Settlement Amount.
6 The engagement agreement that GGH and Plaintiffs entered into provides for a fee award in
7 this amount. It was agreed that attorney's fees would be the greater of (1) one-third of all
8 amounts obtained or received in the lawsuit, or (2) the hours worked multiplied by the
9 hourly rates of the attorneys working on the case, plus any additional multiplier awarded by
10 the Court.

11 63. Because we incurred fees in excess of \$525,000, we are not requesting that
12 the Court apply a multiplier.

13 **The Proposed Service and Release Award to the Class Representatives**

14 64. As compensation for his efforts, the Settlement Agreement provides that
15 Representative Plaintiff Ignacio Mendez will receive a service and release award in the
16 amount of \$10,000 as payment for his time and efforts in pursuing this action, for the risks
17 he took in agreeing to serve as a class representative and as additional compensation for the
18 expanded release that he is providing. In addition to the time that he spent on this matter and
19 the risks he undertook, as an additional requirement to receiving his service and release
20 payment, Plaintiff is being required to sign a broad general release which includes a waiver
21 of Section 1542 of the California Civil Code.

22 65. The Settlement Agreement provides that Representative Plaintiff Adriana
23 Rodriguez will receive a service and release award in the amount of \$5,000 as payment for
24 her time and efforts in pursuing this action, for the risks she took in agreeing to serve as a
25 class representative and as additional compensation for the expanded release that she is
26 providing. Plaintiff Rodriguez is requesting a small service and release award than is
27 Plaintiff Mendez because she was not involved in the proceedings related to Defendant's
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1 motion to compel arbitration and related appeals and because unlike Mr. Mendez, he has
2 retained the individual claims included in her initial lawsuit against Defendant.

3 66. It is important that the named Plaintiffs be paid a fair amount for their
4 services. By agreeing to become named representatives they subjected themselves to
5 substantial risks. They both also spent a significant amount of time on the lawsuit, meeting
6 with us and Mr. Guevara many times by Zoom and by telephone and missing a full day of
7 work to attend the mediation in person. See *Golba v. Dick's Sporting Goods, Inc.* (2015) 238
8 Cal. App. 4th 1251, 1272. They provided us with documents and connected us with other
9 class members who we interviewed. By agreeing to serve as the class representatives,
10 Plaintiffs have taken significant actions to protect the interests of the Class, and the Class
11 has significantly benefitted from those actions. *Clark v. American Residential Services LLC*
12 (2009) 175 Cal. App. 4th 785, 804.

13 67. If it wasn't for the named Plaintiffs, the settlement, pursuant to which
14 approximately \$858,500 will be paid to the Class Members, would not have been obtained
15 for the Class. It is not likely that many Class Members would have expended the time or
16 effort to take the necessary steps to attempt to recover their unpaid reimbursements.
17 Although we contended that Defendant had not been compensating employees for the
18 amounts at issue in this case for many years, only the named Plaintiffs were willing to come
19 forward and seek compensation for all of Defendant's employees.

20 68. If Plaintiffs had gone to the Department of Labor, they may have received
21 some compensation, but the Class, LWDA and Aggrieved Employees would have received
22 nothing.

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

25 DATED: October 7, 2024

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27 

28 _____
Aaron C. Gundzik

Exhibit 1
(Settlement Agreement)

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Attorneys for Plaintiff Ignacio Mendez, individually
and on behalf of all others similarly situated
and as a representative of aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

IGNACIO MENDEZ and ADRIANNA
RODRIGUEZ, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

WTMG, INC., et al,

Defendants.

Case No.: STK-CV-UOE-2021-0009144
Assigned to Hon. George J. Abdallah
Dept. 10A

**STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT**

Complaint Filed: September 29, 2021

I. INTRODUCTION AND SUMMARY OF SETTLEMENT TERMS

This stipulation sets forth the terms of the settlement of a class and representative action filed on behalf of current and former non-exempt employees who worked for Defendant WTMG, Inc. in California during the Class Period, as defined below. The First Amended Complaint alleges causes of action against Defendant for (1) failure to pay for all time worked; (2) failure to pay overtime; (3) failure to provide meal and rest breaks; (4) failure to provide accurate wage statements; (5) failure to reimburse necessary expenditures; (6) failure to pay all wages owed at termination; (7) violation of the Unfair Practices Act; and (8) recovery of civil penalties under PAGA.

1 Under the terms of the parties' Settlement and after final approval and entry of
2 judgment pursuant to California Rule of Court 3.769, Defendant will pay a gross settlement
3 amount of one million five hundred fifty thousand dollars (\$1,500,000) (the "Gross Settlement
4 Amount"), plus the employer's share of payroll taxes. The Settlement will be administered by
5 a third-party settlement administrator with experience administering class action settlements
6 of this type. Until distribution, the Gross Settlement Amount will be held in a Qualified
7 Settlement Fund established by the Settlement Administrator. This is an opt-out settlement,
8 and Class Members (as defined in Section II) will receive a settlement payment unless they
9 timely submit a Request for Exclusion. Settlement Class Members shall not be required to
10 submit a claim form.

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

14 A. Settlement Administration Costs, estimated to be \$16,500.

15 B. Class Counsel's Attorneys' Fees, to be approved by the Court, in an amount
16 not to exceed five hundred twenty-five thousand dollars (\$525,000), which is 35% of the
17 Gross Settlement Amount;

18 C. Class Counsel's Costs, as approved by the Court, in an amount not to exceed
19 \$35,000;

20 D. Service and Release Awards to Plaintiffs Ignacio Mendez and Adriana
21 Rodriguez totaling \$15,000 as payment for their time and efforts in pursuing this Action, and
22 for the broader release and other covenants that they will be providing to Defendant;

23 E. An allocation of \$50,000 to Plaintiffs' PAGA claims (the "PAGA Amount"),
24 to be distributed as follows: Payment of \$37,500 to the California Labor and Workforce
25 Development Agency (the "LWDA Payment"), which represents the Labor and Workforce
26 Development Agency's ("LWDA") 75% share of \$50,000. The other 25% of the PAGA
27 Amount (\$12,500) will be distributed to those Class members who worked for Defendant at
28 any time during the PAGA Period (defined below).

1 F. The remainder of the Gross Settlement Amount (the “Net Settlement Amount”)
2 will be distributed to Settlement Class Members based on the methodology discussed in
3 section IV.L.1, below. It is estimated that the Net Settlement Amount will be approximately
4 \$858,500 after deductions for Class Counsel’s Attorneys’ Fees, Class Counsel’s Costs,
5 Settlement Administration Costs, the Service and Release Awards, and the PAGA Amount.

6 Defendants represent that the Class consisted of approximately 1,321 members.

7 **II. DEFINITIONS**

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

10 A. “Action” means this putative class and representative action pending in San
11 Joaquin County Superior Court titled *Mendez v. WTMG, Inc.*, et al., Case No. STK-CV-UOE-
12 2021-0009144.

13 B. “Agreement” or “Stipulation” means this Stipulation of Class Action and
14 PAGA Settlement.

15 C. “Class” means all individuals who were employed by Defendant in California
16 as non-exempt employees during the Class Period (as defined below). Defendant represents
17 that the Class consists of approximately 1,321 members.

18 D. “Class Counsel” means:

19 a. Aaron C. Gundzik and Rebecca G. Gundzik of Gundzik Gundzik
20 Heeger LLP, 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA
21 91423, (818) 290-7461;

22 b. Galen Shimoda of Shimoda & Rodriguez Law, P.C., 9401 E. Stockton
23 Blvd., Suite 120, Elk Grove, CA 95624, (916) 525-0716; and

24 c. Rodrigo E. Guevara of Abogado, APC, 1350 Columbia Street, Suite
25 303, San Diego, CA 92101, (619) 736-4824.

26 E. “Class Counsel’s Attorneys’ Fees” means the amount to be awarded to Class
27 Counsel from the Gross Settlement Amount for their attorneys’ fees for their work in this
28

1 Action, subject to Court approval at the Final Fairness and Approval Hearing. Class Counsel's
2 Attorneys' Fees will not exceed \$525,000, which is 35% of the Gross Settlement Amount.

3 F. "Class Counsel's Costs" means the amount to be awarded to Class Counsel
4 from the Gross Settlement Amount to reimburse Class Counsel for their reasonable costs and
5 expenses incurred in the Action, subject to Court approval at the Final Fairness and Approval
6 Hearing. Class Counsel's Costs will not exceed \$35,000.

7 G. "Class Data" means each Class Member's and PAGA Employee's full name,
8 social security number, last known address, email address and telephone number(s), along
9 with the Class Member's number of Qualifying Pay Periods and the number of PAGA Pay
10 Periods worked by each PAGA Employee during the PAGA Period.

11 H. "Class Member" is a person who is a member of the Class.

12 I. "Class Period" means the period from September 29, 2017, through January
13 11, 2024.

14 J. "Complaint" means the Second Amended Complaint on file in the Action. The
15 Parties will enter into a stipulation to permit Plaintiff Ignacio Mendez to amend his operative
16 complaint, which will be the Second Amended Complaint. The Second Amended Complaint
17 will be identical to the First Amended Complaint except that the Second Amended Complaint
18 will include Adriana Rodriguez as a Representative Plaintiff. Upon the filing of the Second
19 Amended Complaint, Adriana Rodriguez will dismiss, without prejudice, her First through
20 Eighth and Twelfth Causes of Action from her separate action titled *Rodriguez v. WTMG,*
21 *Inc.*, STK-CV-UOE-2021-0009144.

22 K. "Court" means the Superior Court of the State of California, in and for the
23 County of San Joaquin, where the Action is pending.

24 L. "Defendant" means WTMG, Inc.

25 M. "Defendant's Counsel" means Michael A. Farbstein and H. Ann Liroff of
26 Farbstein & Blackman, A Professional Corporation, 411 Borel Avenue, Suite 425, San Mateo,
27 California 94402-3518, Telephone: (650) 554-6200.

28

1 N. "Effective Date" means the date of entry of the "Final Approval Order" if no
2 objection is filed. If a timely objection to the settlement is filed, the "Effective Date" will be
3 the later of (1) 65 days after entry of judgment, provided that no appeal has been filed or (2)
4 7 days after any appeal opposing the Final Approval Order has finally and conclusively been
5 dismissed with no right to pursue further remedies or relief.

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

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

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

15 R. "Gross Settlement Amount" means the one million five hundred thousand
16 dollars (\$1,500,000) which Defendants will pay under this Settlement.

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

19 T. "Net Settlement Amount" means the amount remaining from the Gross
20 Settlement Amount after payments of Court-approved Class Counsel's Attorney's Fees and
21 Class Counsel's Costs, the Service and Release Awards to the Representative Plaintiffs and
22 Settlement Administration Costs, and the PAGA Amount. It is estimated that the Net
23 Settlement Amount will be at least \$858,500.

24 U. "Notice of Settlement" means the "Notice of Proposed Class Action Settlement
25 and Hearing Date for Approval," substantially in the form attached hereto as Exhibit A, or
26 any subsequent version of Exhibit A, as approved by the Court.

27 V. "Notice of Objection" means a written objection to this Settlement sent by a
28 Settlement Class Member to the Settlement Administrator that complies with the criteria

1 specified herein and in the Notice of Settlement.

2 W. "PAGA Amount" means \$50,000, which is the portion of the Gross Settlement
3 Amount that the Parties allocated to settlement of Plaintiffs' PAGA claims.

4 X. "PAGA Employee" means a member of the Class who was employed by
5 Defendant and worked at any time during the PAGA Period.

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

8 Z. "PAGA Pay Period" means a bi-monthly pay period within the PAGA Period
9 during which a PAGA employee performed work for Defendants in California. A pay period
10 during which a PAGA Employee was entirely absent from work, such as a week during which
11 a PAGA Employee was on leave or vacation, is not a PAGA Pay Period.

12 AA. "PAGA Period" means the time period from September 29, 2020, through
13 January 11, 2022.

14 BB. "PAGA Released Claims" means any and all PAGA claims, causes of action
15 and legal theories for recovery of civil penalties asserted in the Complaint as well as PAGA
16 claims, causes of action and legal theories that could have been asserted in the Complaint
17 that are based upon the same or similar facts, allegations and/or claims, including, without
18 limitation, PAGA claims for violations of the following California Labor Code sections:
19 201, 202, 203, 204, 226(a), 226(b), 226.7, 510, 512, 1197 and 2802. PAGA Employees shall
20 not waive section 1542 of the California Civil Code.

21 CC. "Parties" means the Representative Plaintiffs, on behalf of themselves and all
22 Settlement Class Members, and Defendant.

23 DD. "Preliminary Approval Date" is the date that the Court grants preliminary
24 approval of this Settlement pursuant to California Rule of Court 3.769(c).

25 EE. "Qualified Settlement Fund" or "QSF" means a federally insured bank account
26 to be established by the Settlement Administrator into which all payments from Defendant
27 related to this Settlement will be deposited and from which all payments authorized by the
28 Court will be made. The QSF will be established prior to Defendant's deposit of the Gross

1 Settlement Amount.

2 FF. “Qualifying Pay Period” means a bi-monthly pay period in the Class Period
3 during which a Class Member actually worked for Defendants in a Class position during the
4 Class Period. A week during which a Class Member was entirely absent from work, such as a
5 week during which a Class Member was on leave or vacation, is not a Qualifying Pay Period.

6 GG. “Released Claims,” means all causes of action and factual or legal theories
7 arising during the Class Period that were alleged in the Complaint or arise from facts alleged
8 in the Complaint, including all damages, penalties, interest and other amounts recoverable
9 under said claims, causes of action or legal theories of relief. Class Members shall not waive
10 section 1542 of the California Civil Code.

11 HH. “Released Parties” means Defendant and its past, present and/or future officers,
12 directors, members, managers, employees, agents, representatives, attorneys, insurers,
13 partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates,
14 divisions, predecessors, successors, assigns, and joint venturers, but only as to the Released
15 Claims.

16 II. “Representative Plaintiff(s)” means Plaintiff Ignacio Mendez and/or Plaintiff
17 Adriana Rodriguez.

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

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

26 LL. “Service and Release Award” means the payment to be made to the
27 Representative Plaintiffs for their service to the Class and for the broader general release that
28 they are providing to Defendant, which is in addition to whatever payment they otherwise will

1 be entitled to receive as a Settlement Class Member. The Service and Release Award for
2 Ignacio Mendez will not exceed \$10,000. Ther Service and Release Award for Adriana
3 Rodriguez will not exceed \$5,000.

4 MM. Settlement” means the disposition of the Action and all related claims
5 effectuated by this Agreement.

6 NN. “Settlement Administration Costs” means the fees and costs incurred or
7 charged by the Settlement Administrator in connection with the execution of its duties under
8 this Agreement including, but not limited to fees and costs associated with: (1) establishing
9 and maintaining the QSF; (2) preparing, issuing and/or monitoring reports, filings, and notices
10 (including the cost of printing and mailing all notices and other documents to the Class
11 Members) required to be prepared in the course of administering the Settlement; (3)
12 computing the amount of the settlement payments, taxes, and any other payments to be made
13 under this Agreement; (4) calculating and handling inquiries about the calculation of
14 individual settlement payments; (5) establishing and operating a settlement payment center
15 website, address, and phone number to receive Class Members’ inquiries about the Settlement;
16 (6) providing a due diligence declaration for submission to the Court prior to the final approval
17 hearing; (7) printing and providing Settlement Class Members and Plaintiffs with W-2 and
18 1099 forms as required under this Agreement and applicable law; (8) preparing, issuing, and
19 filing any tax returns and information returns and any other filings required by any
20 governmental taxing authority or other governmental agency; and (9) for such other tasks as
21 the Parties mutually agree or the Court orders the Settlement Administrator to perform. The
22 Settlement Administration Costs will not exceed \$16,500. Settlement Administration Costs
23 will be paid out of the Gross Settlement Amount.

24 OO. “Settlement Administrator” refers to Phoenix Settlement Administrators.

25 PP. “Settlement Class” means all Class Members who have not submitted a timely
26 and complete Request for Exclusion.

27 QQ. “Settlement Class Member” is a person who is a member of the Settlement
28 Class.

1 **III. BACKGROUND**

2 During the Class Period, Defendant operated a janitorial service in California.
3 Plaintiffs contend that during the Class Period, they and other non-exempt employees of
4 Defendant were not paid for all of their work, were not provided with compliant meal and rest
5 breaks, were not paid for all of their overtime work at overtime rates of pay, were not provided
6 compliant wage statements, were not paid all amounts due at separation and were not
7 reimbursed for all of their necessary expenses.

8 The Parties have undertaken significant investigation and informal discovery during
9 the prosecution of this Action. Such discovery and investigation includes extensively
10 interviewing the Representative Plaintiffs and other Class Members, Defendant's production
11 and Class Counsel's review of personnel records, policies, and time and pay records for about
12 20% of Class Period and other detailed information relevant to the Class Members' claims.
13 Counsel for the Parties have investigated the law as applied to the facts discovered regarding
14 the alleged claims of the Class and potential defenses thereto, and the potential damages
15 claimed by the Class.

16 On January 11, 2024, the Parties attended a mediation before an experienced and well-
17 regarded mediator, Hon. Ronald Sabraw (ret.), at the end of which the Parties reached an
18 agreement regarding the resolution of this Action which is embodied in the terms of this
19 Agreement.

20 Plaintiffs and Class Counsel have concluded, after considering the sharply disputed
21 factual and legal issues involved in this Action, the risks attending further prosecution, and
22 the substantial benefits to be received pursuant to the compromise and settlement of the Action
23 as set forth in this Agreement, that this Settlement is in the best interests of the Representative
24 Plaintiffs and the Settlement Class and is fair and reasonable.

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

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

2 **A. Preliminary Approval of Settlement**

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

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

1 **B. Cooperation**

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

7 **C. Notice of Settlement**

8 Within ten (10) calendar days following the Court's order granting preliminary
9 approval of the Settlement, Defendant will provide the Settlement Administrator with the
10 Class Data in an electronic format acceptable to the Settlement Administrator. At the same
11 time, Defendant will provide the Class Data, without Class Member names, contact
12 information and social security numbers, to Class Counsel. This information will remain
13 confidential and will not be disclosed to anyone, except as required to applicable taxing
14 authorities, pursuant to Defendant's express written authorization, by order of the Court, or as
15 otherwise provided for in this Agreement.

16 Using the Class Data, the Settlement Administrator will: (1) confirm the number of
17 Class Members and Qualifying Pay Periods, (2) finalize and print the Notice of Settlement;
18 (3) check all addresses against the National Change of Address database; and (4) within ten
19 (10) calendar days of receiving the Class Data, send to each Class Member via First-Class
20 United States mail an English and Spanish version of the Notice of Settlement to the most
21 recent address known for each Class Member.

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

23 If Defendant, Defendant's Counsel or Class Counsel become aware of new addresses
24 for any Class Member, prior to the filing of the motion for final approval, such information
25 must immediately be communicated to the Settlement Administrator. The Settlement
26 Administrator will then re-send a Notice of Settlement to the Class Member(s) at the new
27 address.

28 For any Notice of Settlement that is returned as undeliverable, the Settlement

1 Administrator will perform a utility database search or other skip trace. The returned Notices
2 of Settlement will be re-mailed to the new addresses obtained for such Class Members. Such
3 searching and re-mailing will be completed within ten (10) calendar days of the date that
4 Notices of Settlement were originally returned as undeliverable.

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

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

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

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

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

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

3 **F. Declaration of Compliance**

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

10 **G. Sufficient Notice**

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

17 **H. Objections to Settlement**

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

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

1 If a Class Member submits both an objection and an opt-out request, the Settlement
2 Administrator shall make reasonable attempts to clarify the intentions of the Class Member.
3 If the Class Member fails to clarify their position, the opt-out request shall be disregarded, the
4 Settlement Administrator shall send the objection to Defendant's Counsel and Class Counsel
5 the claim will be paid, and the Class Member will become a Settlement Class Member and be
6 bound by the judgment.

7 **2. Responses to Objections**

8 Class Counsel and Defendant's counsel shall file any written objections from Class
9 Members submitted to the Settlement Administrator, and Class Counsel's and Defendant's
10 Counsel's responses to such objections, at least five (5) court days before the Final Fairness
11 and Approval Hearing.

12 **I. Pro-Rata Increase in Settlement Fund**

13 If, as reflected in the Class Data delivered to the Settlement Administrator, the total
14 number of Class Member Qualifying Pay Periods exceeds 33,325, at its option, Defendant
15 shall either increase the portion of the Gross Settlement Amount allocated to the Class pro
16 rata, (e.g., if the pay periods are 5% more than 33,325, the Gross Settlement Amount shall
17 increase by 5%), **or** elect to limit the date for determining class membership and released
18 claims so as to limit the class size to a maximum of no more than 33,325 Class Member
19 Qualifying Pay Periods (e.g., if the pay periods total more than 33,325 one month before
20 preliminary approval, then the membership in the class shall cut-off as of that date).

21 **J. Defendant's Production of Financial Records**

22 Defendant contends that it has does not have the financial resources to pay any more
23 in settlement than the agreed upon Gross Settlement Amount. To this point, Class Counsel
24 has accepted Defendant's contention concerning its financial condition. However, the Parties
25 agree that Class Counsel will be provided with certain financial records in order to
26 independently assess Defendant's financial condition. Within five calendar days of
27 Defendant's execution of this Agreement, Defendant will produce the following financial
28 records to Class Counsel (collectively, "Financial Records").

- 1 1. Federal tax returns for 2020, 2021 and 2022.
- 2 2. Balance sheet for year 2023.
- 3 3. Cash flow statement for 2023.
- 4 4. Final 2023 bank account statements.

5 Class Counsel will not disclose the Financial Records or their contents to any third party,
6 except as necessary for evaluation.

7 Class Counsel will evaluate the Financial Records, after which, Plaintiffs and Class
8 Counsel will have the right, in their sole discretion, to terminate the settlement. Within 30
9 days of receiving the Financial Records, Class Counsel will notify Defendant's Counsel as to
10 whether it intends to exercise such right to terminate.

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

12 On or before the date set by the Court, Class Counsel will file a motion for final
13 approval of this Settlement pursuant to California Rule of Court 3.769. Class Counsel will
14 provide Defendant's counsel with the opportunity to review and comment on drafts of all
15 papers to be filed in connection with the motion for final approval (notice of motion,
16 memorandum of points and authorities and declarations) at least three court days before filing
17 such motion with the Court. Plaintiffs' motion for final approval will also include a proposed
18 order that is mutually agreed-upon by the Parties. Defendant shall not oppose Class Counsel's
19 motion for final approval of the settlement to the extent it is consistent with the terms and
20 conditions of this Agreement. Defendant may, however, provide a written response to any
21 characterization of the law or facts contained in the motion for final approval.

22 On the date set by the Court, the Final Fairness and Approval Hearing shall be held
23 before the Court in order to: (1) determine whether the Court should give this Settlement final
24 approval; (2) determine whether Class Counsel's application for attorneys' fees and costs, and
25 request for the Service and Release Award to the Representative Plaintiff, should be granted;
26 (3) determine whether the Court should approve the payment of fees to the Settlement
27 Administrator and the PAGA Settlement Amount and (4) consider any timely Objections to
28 Settlement, including Class Counsel's and Defendant's counsel's responses thereto. Upon

1 final approval, the Court shall enter a Final Approval Order (in a form submitted by Class
2 Counsel and approved by Defendant's counsel) which has the effect of adjudicating all claims
3 set forth in the Complaint and implementing the release of Released Claims and PAGA
4 Released Claims, as set forth in this Agreement. The Final Approval Order will be posted on
5 the Settlement Administrator's website. The posting of the Final Approval Order on the
6 Settlement Administrator's website will constitute notice of entry of the judgment, as required
7 by California Rule of Court 3.771(b).

8 **L. Settlement Payments to Settlement Class Members and PAGA Employees**

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

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

12 **(Individual Settlement Class Member's Qualifying Pay Periods ÷ All**
13 **Settlement Class Members' Qualifying Pay Periods) x (Net Settlement**
14 **Amount)**

15 The Settlement Administrator shall have the authority and obligation to make
16 payments, credits, and disbursements, including payments and credits in the manner set forth
17 herein, to Settlement Class Members calculated in accordance with the methodology set out
18 in this Agreement and orders of the Court.

19 The Parties acknowledge and agree that the formula used to calculate individual
20 settlement payments does not imply that all the elements of damages alleged in the Action are
21 not being considered. The above formula was devised as a practical and logistical tool to
22 simplify the settlement process.

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

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

27 **(Individual PAGA Employee's PAGA Pay Periods ÷ All PAGA Employees'**
28 **PAGA Pay Periods) x \$12,500**

1 Settlement Class Members who are also PAGA Employees will receive their shares of the
2 PAGA Employee Portion included in the same checks that include their individual Settlement
3 Class Member payments. Class Members who exclude themselves from the Class Settlement
4 will still receive their shares of the PAGA Employee Portion and such Class Members will
5 still be bound by the PAGA Release, notwithstanding their exclusion from the Settlement
6 Class.

7 **3. Inclusion of Qualifying Pay Periods and Estimated Settlement** 8 **Payment Information in Notice of Settlement**

9 The Notice of Settlement sent to each Class Member shall state the amount of the Class
10 Member's Qualifying Pay Periods and PAGA Pay Periods, as reflected in the Class Data. The
11 Notice of Settlement shall provide an estimate of each Class Member's share of the Class
12 settlement and each PAGA Employee's share of the PAGA Employee Portion, as calculated
13 by the Settlement Administrator. The estimated settlement payment included in the Notice of
14 Settlement will be calculated by assuming that no Class Members will be excluded from the
15 Settlement.

16 **4. Eligibility**

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

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

27 **5. Disputes about Qualifying Pay Periods**

28 If a Class Member disagrees with the number of Qualifying Pay Periods or PAGA Pay

Periods, as stated in their Notice of Settlement, they may dispute that figure by informing the Settlement Administrator of the number of Qualifying Pay Periods and/or PAGA Pay Periods that they claim to have worked during the Class Period or PAGA Period and provide any supporting documentation (such as, without limitation, payroll or time keeping records, and paycheck stubs) on or before the Response Deadline. If there is a dispute, the Settlement Administrator will consult with Class Counsel and Defendant's counsel to determine whether an adjustment is warranted. The Settlement Administrator shall determine any such disputes, subject to Court approval. The Settlement Administrator shall be obligated to resolve any such disputes within ten (10) calendar days, but by no later than the date of the Final Approval Hearing.

6. Allocation of Settlement Payments

Payment to each Settlement Class Member shall be allocated as follows: one-quarter shall be attributed to wages, to be reported on a W-2 form; one-quarter shall be reported as penalties; one-quarter shall be reported as interest and one-quarter shall be deemed reimbursement of expenses incurred. The amount of penalties and interest will be reported on an IRS Form 1099. All payments of the PAGA Employee Portion will be considered penalties and reported on an IRS Form 1099.

7. Payment of Payroll Taxes

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

For each Settlement Class Member, the Settlement Administrator shall determine the Employer's Withholding Share. Information related to the Employer's Withholding Share for each Settlement Class Member shall be provided to Defendant by the Settlement Administrator. If Defendant disagrees with the Settlement Administrator's determination of

the Employer's Withholding Share, it will communicate with and share information reasonably necessary to reach a good faith determination of the correct Employer's Withholding Share.

8. Payments to Settlement Class Members

Within ten (10) calendar days of Defendants' deposit of the full Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will make the settlement payments to Settlement Class Members and PAGA Employees based on the payment formulae set forth herein.

M. The Settlement Administrator

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

The Settlement Administrator shall establish a settlement payment center address,

1 telephone number and email address to receive Class Members' inquiries about the Notice of
2 Settlement, requests to be excluded from the Settlement and settlement payments.

3 In addition, the Settlement Administrator shall establish a static website and, on the
4 website, post this stipulation, any preliminary approval order and the Final Approval Order
5 and Judgment. Posting of the Final Approval Order and Judgment on such website shall
6 constitute notice of judgment to the Settlement Class, as required by California Rule of Court
7 3.771(b).

8 The Parties confirm, and Class Counsel and Defendant's Counsel confirm that they do
9 not have any financial interest in the Settlement Administrator or otherwise have a relationship
10 with the Settlement Administrator that could create a conflict of interest.

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

12 Within five calendar days after the Court's Final Approval Order, Defendant shall
13 deliver 50% of the Gross Settlement Amount and Employer's Withholding Share to the QSF.
14 Defendant shall deliver the other 50% of the Gross Settlement Amount to the Settlement
15 Administrator within 180 days of the Effective Date.

16 If, after the Court enters a Final Approval Order, Defendant fails to timely pay the
17 amount required to satisfy its payment obligation under this Stipulation, the Representative
18 Plaintiffs, at their option, may either (1) declare the Settlement terminated, in which case, the
19 Parties agree that the Court will nullify the Final Approval Order and Judgment and Plaintiffs
20 may continue to prosecute his claims against Defendant, or (2) seek to collect all amounts
21 owed under the Final Approval Order and Judgment against Defendant.

22 **O. Payments to Class Counsel, the Representative Plaintiff, the LWDA and**
23 **the Settlement Administrator**

24 Subject to Court approval, within ten (10) calendar days of Defendant's deposit of the
25 full Gross Settlement Amount with the Settlement Administrator, the Settlement
26 Administrator shall make payment from the QSF to: (1) Class Counsel, for Class Counsel's
27 Attorneys' Fees and Class Counsel's Costs, as approved by the Court; (2) the Representative
28 Plaintiffs for the Service and Release Awards, as approved by the Court; (3) to the LWDA for

1 the LWDA Amount, as approved by the Court; and (4) to the Settlement Administrator for
2 the Settlement Administration Costs, as approved by the Court. These payments will be
3 reported on an IRS Form 1099.

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

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

13 If a Class Member's check is not cashed within 180 calendar days, the check will be
14 void and a stop payment order may be placed on the check. In such event, the Settlement
15 nevertheless will be binding upon the Settlement Class Member. The funds represented by all
16 uncashed settlement checks will be transmitted by the Settlement Administrator to the
17 California State Controller as unclaimed property in the name of the individual Settlement
18 Class Member.

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

20 Defendant will not oppose Class Counsel's application for an award of attorneys' fees
21 of up to five hundred and twenty-five thousand dollars (\$525,000), which is 35% of the Gross
22 Settlement Amount.

23 Defendant will not oppose Class Counsel's application for an award of their reasonable
24 litigation expenses and costs in an amount not to exceed \$35,000.

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

27 To the extent the Court does not approve any or the entire amount of Class Counsel's
28 Attorney's Fees or Class Counsel's Costs, it shall not affect the terms of the Parties' settlement

1 and any such unapproved amounts shall remain part of the Net Settlement Amount and shall
2 be distributed in accordance with the provisions of this Stipulation. Approval of the Settlement
3 by the Court shall not be contingent on approval of the amounts of Class Counsel's Attorney's
4 Fees or Class Counsel's Costs requested by Class Counsel.

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

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

13 The Representative Plaintiffs' Service and Release Award as approved by the Court,
14 shall be paid from the Gross Settlement Amount.

15 The Representative Plaintiffs shall be responsible for all portions of federal, state, and
16 local tax liabilities that may result from the payment of the Service and Release Award and
17 agrees that Defendant shall bear no responsibility for any such tax liabilities.

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

23 **S. Taxes**

24 **1. Withholding and Reporting Requirements**

25 The Settlement Administrator shall be responsible for ensuring that all taxes required
26 to be withheld from the wage portions of each Settlement Class Member's individual
27 settlement payment, along with the Employer's Withholding Share, are timely paid to the
28 appropriate tax authorities. The Settlement Administrator's responsibilities in this regard will

1 also include the following: (a) filing all Federal, state, and local employment tax returns, tax
2 withholding returns, and any other tax returns associated with the taxes, (b) timely and proper
3 filing of all required Federal, state, and local information returns (e.g., 1099s, W-2s, etc.) with
4 the appropriate taxing authorities, and (c) completion of any other steps necessary for
5 compliance with any tax obligations of the settlement fund under Federal, state and/or local
6 law. To verify the Settlement Administrator's compliance with the foregoing withholding and
7 reporting requirements, as soon as administratively practicable, the Settlement Administrator
8 shall, upon request, furnish Class Counsel and Defendants' Counsel with copies of all filed
9 tax returns and information returns (including all 1099 and W-2 information returns), and a
10 final accounting adequate to demonstrate full compliance with all tax withholding, payment
11 and reporting obligations.

12 **2. Circular 230 Disclaimer**

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

1 transaction contemplated by this Agreement.

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

3 **A. No Admission of Liability**

4 Neither the acceptance nor the performance by Defendant of the terms of this
5 Stipulation nor any of the related negotiations or proceedings is or shall be claimed to be,
6 construed as, or deemed a precedent or an admission by Defendant of the truth or merit of any
7 allegations in the original Complaint or First Amended Complaint, or that they have any
8 liability to the Representative Plaintiffs or the Class Members on their claims. Defendant
9 denies that they have engaged in any unlawful activity, have failed to comply with the law in
10 any respect, or have any liability to anyone under the claims asserted in the Action. This
11 Agreement is entered into solely for the purpose of compromising highly disputed claims.

12 **B. Nullification**

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

20 **VI. RELEASE**

21 **A. Settlement Class Member Release**

22 It is the desire of the Representative Plaintiff, Class Members (except those who
23 exclude themselves from the Settlement), and Defendant to fully, finally, and forever settle,
24 compromise, and discharge the Released Claims. Upon entry of the Final Approval Order and
25 Judgment and Defendants' payment of the Gross Settlement Amount and Employer's
26 Withholding Share, and except as to such rights or claims as may be created by this Settlement
27 Agreement, the Settlement Class Members, on behalf of themselves, and each of their heirs,
28 representatives, successors, assigns, and attorneys, shall be deemed to have, and by operation

1 of the final judgment shall have, fully released and discharged the Released Parties from any
2 and all Released Claims that accrued during the Class Period.

3 **B. PAGA Employee Release**

4 Regardless of whether they submitted a valid Request for Exclusion, all PAGA
5 Employees shall fully, finally, and forever settle, compromise, and discharge the PAGA
6 Released Claims. Upon entry of the Final Approval Order and Judgment and Defendants'
7 payment of the Gross Settlement Amount, and except as to such rights or claims as may be
8 created by this Settlement Agreement, all PAGA Employees, on behalf of themselves, and
9 each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to
10 have, and by operation of the final judgment shall have, fully released and discharged the
11 Released Parties from any and all PAGA Released Claims arising during the PAGA Period.

12 **VII. RELEASE BY THE REPRESENTATIVE PLAINTIFFS**

13 A. Upon entry of the Final Approval Order and Judgment and Defendant's
14 payment of the Gross Settlement Amount and Employer's Withholding Share, and except as
15 to such rights or claims as may be created by this Settlement Agreement, the Representative
16 Plaintiffs fully releases and forever discharges Defendant and the Released Parties, and
17 its/their respective present and former officers, directors, employees, shareholders, members,
18 agents, trustees, representatives, attorneys, insurers, parent companies, subsidiaries, divisions,
19 affiliates, predecessors, successors, assigns, and any individual or entity that could be jointly
20 liable with Defendant, from any and all claims, causes of action, damages, wages, benefits,
21 expenses, penalties, debts, liabilities, demands, obligations, attorney's fees, costs, and any
22 other form of relief or remedy in law, equity, or whatever kind or nature, whether known or
23 unknown, suspected or unsuspected that arise from or are related to Plaintiffs' employment
24 by Defendant or the Action, including but not limited to (1) all Released Claims, (2) the
25 Action and any claims arising out of or related to the Action, (3) any claims under federal,
26 state or local law for or relating to wages, benefits, compensation, vacation or other paid time
27 off, and claims for liquidated damages, penalties, or costs and fees associated therewith, (4)
28 wrongful termination, discrimination, harassment, and/or retaliation, (5) any act, omission, or

1 occurrence or claim arising out of or related to the Action or Plaintiffs' employment or
2 termination thereof with Defendant taking place on or before the Effective Date of the
3 Settlement, and (6) and any other form of relief or remedy of any kind, nature, or description
4 whatsoever, whether premised on statute, contract, tort, or other theory of liability under state,
5 federal, or local law. **Provided, however,** this release shall not include: (1) claims alleged by
6 Adriana Rodriguez in her Ninth, Tenth and Eleventh Causes of Action in her case titled
7 *Rodriguez v. WTMG, Inc.*, STK-CV-UOE-2021-0009144, which claims are the subject of a
8 separate and independent individual settlement; (2) claims for workers' compensation
9 benefits; or (3) other claims that cannot be released as a matter of law.

10 The Representative Plaintiffs hereby agree that, notwithstanding section 1542 of the
11 California Civil Code ("Section 1542"), and except for claims excluded from the release, all
12 claims that the Representative Plaintiffs may have, known or unknown, suspected or
13 unsuspected, are hereby released as of the Effective Date. Section 1542 provides:

14 **"A general release does not extend to claims that the creditor or releasing**
15 **party does not know or suspect to exist in his or her favor at the time of**
16 **executing the release and that, if known by him or her, would have**
materially affected his or her settlement with the debtor or released
party."

17 The Representative Plaintiffs expressly waive the provisions of Section 1542 with full
18 knowledge and with the specific intent to release all known or unknown, suspected or
19 unsuspected, claims arising on or before the Effective Date of the Settlement, and therefore
20 specifically waive the provisions of any statute, rule, decision, or other source of law of the
21 United States or of any state of the United States or any subdivision of a state which prevents
22 release of unknown claims.

23 **VIII. PUBLICITY**

24 Pending the filing of Plaintiffs' motion for preliminary approval of this Settlement, the
25 parties agree to keep the terms of this settlement confidential. Any communication about the
26 Settlement to Class Members prior to filing Plaintiffs' motion for preliminary approval will
27 be limited to a statement that a settlement has been reached and the details will be
28 communicated in a forthcoming Court approved notice. Additionally, Plaintiffs and Class

Counsel will not encourage class members to opt out and will not publicize the terms of this Agreement or the Settlement Agreement with the media, including but not limited to, newspapers, magazines, or websites.

IX. MISCELLANEOUS PROVISIONS

A. Amendments

This Settlement Agreement may only be modified or changed by a writing signed by the Parties hereto or by their counsel and approved by the Court.

B. Integrated Agreement

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

C. No Inducements

The Parties acknowledge that they are entering into this Agreement as a free and voluntary act without duress or undue pressure or influence of any kind or nature whatsoever and that neither Plaintiffs nor Defendant have relied on any promises, representations, or warranties regarding the subject matter hereof other than as set forth in this Stipulation.

D. No Prior Assignment

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

E. No Retaliation or Advice

Defendant agrees not to retaliate against any Class Member for participating in the Settlement or cooperating with Class Counsel, and Defendant will not induce or offer any advice to any current or former employee to opt out of, or object to, the Settlement.

1 **F. Attorney's Fees**

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

5 **G. Applicable Law**

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

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

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

14 **I. Notices**

15 All notices, requests, demands and other communications required or permitted to be
16 given pursuant to this Agreement shall be in writing, and shall be delivered personally or by
17 first class mail to Class Counsel or Defendant's Counsel at their respective addresses as set
18 forth at the beginning of this Agreement or at any new address as to which counsel have
19 advised the Court and the other Parties.

20 **J. Binding on Successors**

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

24 **K. Counterparts**

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

1 **L. Warranties and Representations**

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

6 **M. Representation by Counsel**

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

10 **N. Signatories**

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

16 BY SIGNING BELOW, THE PARTIES AGREE TO THIS STIPULATION AND ITS
17 TERMS:

18 Dated: Mar 13, 2024

ignacio mendez
ignacio mendez (Mar 13, 2024 08:53 PDT)
Plaintiff Ignacio Mendez

21 Dated: _____

Plaintiff Adriana Rodriguez

23 Dated: 3/11/24


WTMG, Inc.
By: Blain J. Bibb, President

1 **L. Warranties and Representations**

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

6 **M. Representation by Counsel**

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

10 **N. Signatories**

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

16 BY SIGNING BELOW, THE PARTIES AGREE TO THIS STIPULATION AND ITS
17 TERMS:

18
19 Dated: _____

Plaintiff Ignacio Mendez

20
21 Dated: Mar 12, 2024

Adriana Rodriguez (Mar 12, 2024 13:59 PDT)
Plaintiff Adriana Rodriguez

22
23 Dated: 3/11/24

WTMG, Inc.
By: Blain J. Bibb, President

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Approved as to form:

Dated: 03/21/2024

FARBSTEIN & BLACKMAN, A Professional Corporation

By: 

Michael Farbstein
Attorneys for Defendant WTMG, Inc.

Dated: 3/11/2024

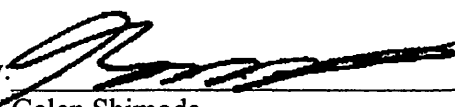
GUNDZIK GUNDZIK HEEGER LLP

By: 

Aaron Gundzik
Attorney for Plaintiff Ignacio Mendez,
individually and on behalf of all others situated
similarly

Dated: 03/11/2024

SHIMODA & RODRIGUEZ LAW, P.C.

By: 

Galen Shimoda
Attorney for Plaintiff Ignacio Mendez,
individually and on behalf of all others situated
similarly

Dated: 3/12/2024

ABOGATO, APC

By: 

Rodrigo Guevara
Attorney for Plaintiff Adriana Rodriguez,
individually and on behalf of all others situated
similarly

Exhibit A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING DATE FOR COURT APPROVAL

Mendez v. WTMG, Inc., San Joaquin Superior Court Case No. STK-CV-UOE-2021-0009144

If you have been employed in California by WTMG, Inc. dba JaniTek as a non-exempt employee, you may be entitled to receive money from a class action settlement.

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

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

You are receiving this Notice because the San Joaquin County Superior Court has preliminarily approved a proposed settlement in a class action filed on behalf of all non-exempt employees who worked for WTMG, Inc. dba JaniTek. (“Defendant” or “JaniTek”) in California during the Class Period (September 29, 2017, through January 11, 2024). A hearing to determine whether the settlement should receive the Court’s final approval will be held on _____ at _____.m. in Department 10A of the San Joaquin County Superior Court, which is located at 180 East Weber Avenue, Stockton, CA 95202.

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

1. PURPOSE OF THIS NOTICE

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

2. PERSON ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT

The people eligible to receive a settlement payment are all non-exempt employees who worked for JaniTek in California between September 29, 2017, and January 11, 2023. You are receiving this notice because, according to JaniTek’s records, you may eligible to participate in the settlement.

3. DESCRIPTION OF THE ACTION

Former employees of JaniTek filed a class action against JaniTek in the San Joaquin County Superior Court. The case is called *Mendez v. WTMG, Inc., San Joaquin Superior Court Case No. STK-CV-UOE-2021-0009144* (the “Action”). The Action alleges that Plaintiffs and other the non-exempt employees of JaniTek were not paid for all of their work, were not paid all overtime wages owed, were not provided with compliant meal and rest breaks, were not provided compliant wage statements, were not reimbursed for their necessary expenditures, and were not paid all amounts due at separation. Based on these facts and others, Plaintiffs’ Second Amended Complaint alleges causes of action for: (1) failure to pay for all time worked; (2) failure to pay overtime; (3) failure to provide meal and rest breaks; (4) failure to provide accurate wage statements; (5) failure to reimburse necessary expenditures; (6) failure to pay all wages owed at termination; (7) violation of the Unfair Practices Act; and (8) recovery of civil penalties under PAGA.

JaniTek denies all of Plaintiff’s allegations and denies any wrongdoing. Among other things, JaniTek contends that all employees have been properly compensated and that JaniTek complied with all applicable laws.

FOR MORE INFORMATION CALL 1-800-_____.

The Court has made no ruling on the merits of the alleged claims, or the defenses asserted by JaniTek. The Court has preliminarily approved the proposed settlement. The Court will decide whether to give final approval to the settlement at a hearing scheduled for _____, 2024 at _____.m. (the “Final Approval Hearing”).

4. WHO ARE THE ATTORNEYS REPRESENTING THE PARTIES?

Attorneys representing Plaintiffs and the class (“Class Counsel”) are:

Aaron C. Gundzik Rebecca Gundzik Gundzik Gundzik Heeger LLP 14011 Ventura Blvd., Suite 206E Sherman Oaks, CA 91423 Telephone: (818) 290-7461 Facsimile: (818) 918-2316	Galen Shimoda Shimoda Law Corp. 9401 E. Stockton Blvd., Suite 120 Elk Grove, CA 95624 Telephone: (916) 525-0716 Facsimile: (916) 760-3733
Rodrigo E. Guevara Abogado, APC 1350 Columbia Street, Suite 303 San Diego, CA 92101 (619) 736-4824	

Attorneys representing JaniTek are:

Michael A. Farbstein H. Ann Liroff Farbstein & Blackman, A Professional Corporation 411 Borel Avenue, Suite 425 San Mateo, California 94402-3518 Telephone: (650) 554-6200.
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5. THE TERMS OF THE PROPOSED SETTLEMENT

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

JaniTek has agreed to pay \$1,500,000 to settle any and all obligations for the claims alleged in the Action. This amount is called the Gross Settlement Amount. As discussed below, the Gross Settlement Amount will be used to cover all payments to the settlement class, settlement administration costs, attorneys’ fees and costs, service and release awards to the Plaintiffs, and funds owed to the state of California and the PAGA Employees in settlement of the PAGA claims for penalties. The remaining amount (called the Net Settlement Amount), approximately \$_____, will be distributed to class members who do not timely submit Requests for Exclusion, as discussed below.

(a) Attorneys’ Fees and Costs: Class Counsel has worked on this matter without compensation and has advanced funds to pay for expenses necessary to prosecute the Action. Accordingly, under the settlement, Class Counsel may request an amount not to exceed \$525,000 to compensate them for their work on the case, plus their reasonable and actual costs and expenses incurred in the litigation, not to exceed \$_____. Subject to court approval, the attorneys’ fees and costs will be deducted from the Gross Settlement Amount.

(b) Service and Release Award: The Plaintiffs are requesting service and release awards totaling \$15,000, in addition to the amounts they will receive as members of the class and/or as PAGA Employees, to compensate them for undergoing the burden and expense of prosecuting the action and for the broader release of claims they are required to provide to JaniTek. Subject to court approval, the service and release awards will be deducted from the Gross Settlement Amount.

FOR MORE INFORMATION CALL 1-800-_____.

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

(d) **Payments for PAGA Penalties:** Subject to the Court's approval, a total of \$50,000 will be deducted from the Gross Settlement Amount and allocated to settle allegations that Defendant owe penalties to the state for alleged violations of the California Labor Code. Of this amount, \$37,500 (75%) will be paid to the California Labor & Workforce Development Agency ("LWDA"). The other 25%, which is \$12,500, will be distributed to class members who worked for JaniTek at any time during the PAGA Period, which is from September 29, 2020, through January 11, 2024 ("PAGA Employees"). Each PAGA Employee's portion of the \$12,500 in penalties will be calculated by dividing the individual's number of pay periods during the PAGA Period by the total number of pay periods worked during the PAGA Period by all Class Members and multiplying the resulting fraction by \$12,500.

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

6. WHAT YOU WILL RECEIVE UNDER THE SETTLEMENT

According to JaniTek's records, you worked a total of ____ qualifying pay periods during the Class Period as a Class Member. JaniTek's records also show that you worked a total of ____ pay periods during the PAGA Period. Based upon this information, under the settlement, you will receive approximately \$ _____. This amount may increase or decrease based on various factors, including the number of class members who submit Requests for Exclusion, the amounts approved by the Court for attorneys' fees and costs, settlement administration costs, the service and release awards to Plaintiffs, payment to the LWDA, and disputes by other class members regarding their qualifying pay periods during the Class Period.

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

7. PAYMENT SCHEDULE

The Settlement Administrator will send out settlement checks to class members after the settlement is finally approved by the Court. You will have 180 days after the Settlement Administrator mails your settlement check to cash it; otherwise, it will be voided and the amount of your settlement payment will be sent to the California State Controller as unclaimed property in your name and you will need to contact that agency to obtain your funds.

For tax purposes, your Class settlement payment will be considered 25% as wages and reported on a W-2 form. Twenty-five percent of your settlement payment will be considered as interest, 25% as penalties and 25% as reimbursement of expenses, these amounts will be reported on an IRS Form 1099. If you are also a PAGA Employee, your share of the PAGA Amount will be reported on an IRS Form 1099. Nothing in this Notice should be construed as providing you with tax advice. You should consult with your tax advisor concerning the tax consequences of the payment you receive.

8. RELEASE OF CLAIMS

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

Unless you submit a valid Request for Exclusion (described below in Section 9), you will release JaniTek and its past, present and/or future officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors,

FOR MORE INFORMATION CALL 1-800-_____.

successors, assigns, and joint venturers from all causes of action and factual or legal theories arising during the Class Period that were alleged in the Complaint or could have been alleged from the factual or legal theories alleged in the Complaint, including all damages, penalties, interest and other amounts recoverable under said claims, causes of action or legal theories of relief. The Release Period for the Released Claims shall be the Class Period. Settlement Class Members shall not waive section 1542 of the California Civil Code.

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

If you worked for JaniTek at any time from September 29, 2020 through January 11, 2024, you will receive a payment that is your share of the PAGA Employee Portion and you will release JaniTek and all of its past, present and/or future officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers from any and all PAGA claims, causes of action and legal theories for recovery of civil penalties asserted in the Complaint, as well as PAGA claims, causes of action and legal theories that could have been asserted in the Complaint that are based upon the same or similar facts, allegations and/or claims, including, without limitation, PAGA claims for violations of or based on the following California Labor Code sections: 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1194.2, 1197, 1197.1, and 2802. PAGA Employees shall not waive section 1542 of the California Civil Code. You cannot exclude yourself from this release.

9. YOUR OPTIONS

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

(a) You Can Do Nothing.

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

(b) You Can Contest the Calculation of Your Settlement Payment as Stated in this Notice.

You can contest the number of qualifying pay periods attributed to you in Section 6 above. To do so, you must provide the Settlement Administrator with a written explanation of your position. The statement must also include your full name, current address and telephone number, and must identify this case (*Mendez v. WTMG, Inc., San Joaquin Superior Court Case No. STK-CV-UOE-2021-0009144*). You should provide written documentation supporting the number of workweeks you believe that you worked. You must postmark your written statement no later than **[45 days from mailing]**. The Settlement Administrator will consider your dispute and any documentation you submit and will communicate with you and the parties as necessary regarding the dispute to determine whether an adjustment is warranted before making a final determination regarding your settlement payment. The Settlement Administrator will notify you of its final determination.

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

If you do not want to remain a member of the settlement class, you can request exclusion (i.e., opt out) by sending the Settlement Administrator a written Request for Exclusion at the address specified in Section 11 below. The deadline to postmark a Request for Exclusion is **[45 days from mailing]**. A Request for Exclusion is a written statement that unambiguously requests exclusion from the settlement class. The Request for Exclusion must include the case name (*Mendez v. WTMG, Inc., San Joaquin Superior Court Case No. STK-CV-UOE-2021-0009144*), your name, current address and telephone number, and the last four digits of your social security number (for verification purposes). You must also sign the Request for Exclusion. You should keep a copy of your Request for Exclusion. Moreover, to demonstrate receipt by the Settlement Administrator, you may elect to send your Request for Exclusion via certified mail. Requests for Exclusion

FOR MORE INFORMATION CALL 1-800-_____.

that do not include all required information, or that are not postmarked on or before **[45 days from mailing]**, will not be valid.

If you submit a valid and timely Request for Exclusion, you will not be bound by the settlement or the release of claims in Section 8(A) above; however, you will not receive all of the money referenced in section 6 of this Notice. You will also be barred from objecting to this settlement. By opting out of the settlement class, you will retain whatever rights or claims you may have against JaniTek.

Please note, however, that the submission of a Request for Exclusion will not exclude you from the PAGA Settlement. Thus, if you worked for JaniTek at any time from September 29, 2020 through January 11, 2024, you will still receive your portion of the PAGA Settlement and you will be bound by the more limited release set forth in section 8(B).

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

(d) You Can Object to the Settlement.

If you do not submit a Request for Exclusion from the settlement, you may object to the settlement by sending your written objection to the Settlement Administrator at the address specified in Section 12 below. The deadline to postmark your objection is **[45 days from mailing]**. Only class members who have not requested exclusion may object to the settlement.

Your objection must state the basis of your objection and include any papers and briefs in support of your position. Your objection must be signed and must contain your current address and telephone number (or that of your attorney) and refer to this case (*Mendez v. WTMG, Inc., San Joaquin Superior Court Case No. STK-CV-UOE-2021-0009144*).

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

(e) You Can Attend the Final Approval Hearing

Regardless of which option you choose, you may attend the Final Approval Hearing. Information about the Final Approval Hearing is contained in section 10 of this Notice.

10. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT

The Final Approval Hearing on the fairness and adequacy of the proposed settlement, the plan of distribution, the service and release awards to the Plaintiffs, and Class Counsel's request for attorneys' fees and costs, and other issues will be held on _____, 2024 at _____.m., in Department 10A of the San Joaquin County Superior Court, 180 E. Weber Avenue, Stockton, CA 95202. The Final Approval Hearing may be continued to another date without further notice. If you plan to attend the Final Approval Hearing, it is recommended that you contact the Settlement Administrator to confirm the date and time. You have the option to attend the Final Approval Hearing by telephone.

11. ADDITIONAL INFORMATION AND COURTHOUSE SOCIAL DISTANCING INFORMATION.

This Notice only summarizes the lawsuit and settlement. For more information, you may inspect the Court file at the San Joaquin County Superior Court, 180 E. Weber Avenue, Stockton, CA 95202, subject to the procedures in place at the Courthouse. You may also review the settlement agreement and other documents on-line at [www._____](http://www._____.) or you may contact the Settlement Administrator as follows:

Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
Telephone: 1-800-523-5773

FOR MORE INFORMATION CALL 1-800-_____.

Facsimile: 949-209-2503
Email: Notice@phoenixclassaction.com
Website: _____

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

**IT IS IMPORTANT THAT YOU NOTIFY THE SETTLEMENT ADMINISTRATOR IMMEDIATELY
IF YOU HAVE A CHANGE OF ADDRESS**

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE

FOR MORE INFORMATION CALL 1-800-_____.

Exhibit 2
(Preliminary Approval Order)

1 AARON C. GUNDZIK (State Bar No. 132137)
 2 REBECCA G. GUNDZIK (State Bar No. 138446)
 3 GUNDZIK GUNDZIK HEEGER LLP
 14011 Ventura Blvd., Suite 206E
 4 Sherman Oaks, CA 91423
 Telephone: (818) 290-7461
 Facsimile: (818) 918-2316

Filed 2 JUN 06 2024
 STEPHANIE BOHRER, CLERK
 By [Signature]
 DEPUTY

5 GALEN SHIMODA (State Bar No. 226752)
 6 SHIMODA & RODRIGUEZ LAW CORP.
 9401 E. Stockton Blvd., Suite 200
 Elk Grove, CA 95624
 7 Telephone: (916) 525-0716
 8 Facsimile: (916) 760-3733

9 Attorneys for Plaintiff Ignacio Mendez, individually
 and on behalf of all others similarly situated
 10 and as a representative of aggrieved employees

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **FOR THE COUNTY OF SAN JOAQUIN**

13 IGNACIO MENDEZ and ADRIANA
 RODRIGUEZ, individually and on behalf of
 14 all others similarly situated,

15 Plaintiff,

16 vs.

17 WTMG, INC., a California corporation, et al,
 18 Defendants.

Case No.: STK-CV-UOE-2021-0009144
 Assigned to Hon. George J. Abdallah,
 Dept. 10A

[PROPOSED] ORDER:

- (1) PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT;
- (2) CONDITIONALLY CERTIFYING A CLASS FOR SETTLEMENT PURPOSES ONLY;
- (3) APPROVING THE NOTICE OF SETTLEMENT; AND
- (4) SETTING A HEARING ON MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

Date: June 5th 2024
 Time: 9am
 Place: Department 10A

Complaint Filed: September 29, 2021

26 The Court, having considered the Motion for Preliminary Approval of Class Action
 27 Settlement of Plaintiffs Ignacio Mendez and Adriana Rodriguez ("Plaintiffs"), the
 28

MAY 13 2024

1 Declaration of Aaron Gundzik, the Declarations of Galen Shimoda and Rodrigo Guevara,
2 the Declaration of Phoenix Settlement Administrators, the Stipulation of Class Action and
3 PAGA Settlement ("Stipulation" or "Settlement Agreement") executed by Plaintiffs and
4 Defendant WTMG, Inc. ("Defendant"), as well as the Notice of Proposed Class Action
5 Settlement ("Notice of Settlement") attached as Exhibit A to Exhibit 1 to the Declaration of
6 Aaron Gundzik, makes the following findings:

7 1. The parties to this action are Plaintiffs Ignacio Mendez and Adriana
8 Rodriguez ("Plaintiffs") and Defendant WTMG, Inc. ("WTMG" or "Defendant"). Plaintiffs
9 seeks to represent a Class including all individuals who were employed by Defendant in
10 California as non-exempt employees during the Class Period (from September 29, 2017
11 through January 11, 2024).

12 2. After participating in an arms-length mediation, Plaintiffs and Defendant
13 have agreed to a proposed settlement of this action on behalf of the class that Plaintiffs seek
14 to represent. The terms of the proposed settlement are fully set forth in the Settlement
15 Agreement (included as Exhibit 1 to the Declaration of Aaron Gundzik in support of
16 Plaintiffs' Motion for Preliminary Approval).

17 3. The terms of the proposed settlement include the following:

18 a. The proposed Class consists of all individuals who were employed by
19 Defendant WTMG, Inc. in California as non-exempt employees during the Class Period.
20 Gundzik Decl.,.

21 b. The Class Period shall begin on September 29, 2017 and end on
22 January 11, 2024.

23 c. The "PAGA Period" means the period beginning September 20, 2020
24 and ending January 11, 2022.

25 d. In settlement, Defendant will pay the gross amount of \$1,500,000,
26 plus the employer's share of withholding taxes. From the gross settlement amount, the
27 parties propose to deduct fees for settlement administration costs in the amount of \$16,500,
28 a payment to the Labor and Workforce Development Agency ("LWDA") in the amount of

1 \$37,500 in settlement of claims under the California Labor Code Private Attorneys General
2 Act ("PAGA"), service and release payments in an amount totaling \$15,000 to the
3 Representative Plaintiffs, Class Counsel's reasonable and actual costs in an amount not to
4 exceed \$35,000, and Class counsel's attorneys' fees as approved by the Court, but not to
5 exceed \$525,000.

6 e. \$12,500 of the settlement amount will be distributed only to PAGA
7 Employees, based on the formula specified in the Settlement Agreement.

8 f. The amount remaining, after deductions approved by the Court, will
9 be distributed to individual Settlement Class Members in accord with the formula specified
10 in the Settlement Agreement.

11 4. The Parties propose that notice of this proposed settlement be sent to all Class
12 Members by regular mail and that Class Members shall have forty-five (45) days to opt out
13 of or object to the settlement.

14 5. The proposed Class counsel are experienced and in their view, the proposed
15 settlement is fair and reasonable.

16 6. The proposed settlement is fair and reasonable to Class Members.

17 7. The notice procedure set forth in the Settlement Agreement will adequately
18 notify the Class of the settlement and of their right to opt out or object.

19 8. The Settlement Agreement and Notice include a proposed release which will
20 bind those Class Members who do not opt out of the Class.

21
22 Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

23 1. The motion is granted.

24 2. The class action settlement, as set forth in the Settlement Agreement, is
25 preliminarily approved pursuant to Rules of Court 3.766 and 3.769.

26 3. The proposed class is provisionally certified as an opt-out class action under
27 Section 382 of the Code of Civil Procedure solely for the purpose of the settlement of this
28 matter, with the Class defined as specified above and in the Settlement Agreement.

1 4. Plaintiffs Ignacio Mendez and Adriana Rodriguez are appointed as the class
2 representative for the provisionally-certified Class.

3 5. Aaron C. Gundzik, Rebecca G. Gundzik, Galen Shimoda and Rodrigo
4 Guevara are appointed as Class counsel for the provisionally-certified Class.

5 6. Phoenix Settlement Administrators is approved as the Settlement
6 Administrator.

7 7. The Notice of Settlement in substantially the form attached hereto as Exhibit
8 1 is approved, and the Settlement Administrator is authorized to send the Notice of
9 Settlement to the provisionally-certified Class.

10 8. The Court directs the Settlement Administrator to mail the Notice of
11 Settlement to the Class Members in a manner consistent with the Settlement Agreement.

12 9. The Court preliminarily approves of the Class release in the Settlement
13 Agreement.

14 10. The Court directs that any and all objections to the Settlement be sent to the
15 Settlement Administrator and postmarked no later than forty-five (45) calendar days after
16 the Notice of Settlement is mailed or re-mailed.

17 11. The Court directs that all requests for exclusion must be sent to the
18 Settlement Administrator and postmarked no later than forty-five (45) calendar days after
19 the Notice of Settlement is mailed or re-mailed.

20 12. A Final Approval Hearing on the question of whether the proposed class
21 settlement should be finally approved as fair, reasonable, and adequate as to the members
22 of the proposed settlement class, for approval of Class Counsel's Attorneys' Fees and Class
23 Counsel's Costs, for approval of the service and release payments to the class
24 representatives, for approval of the fees of the settlement administrator and for approval of
25 the payment to the LWDA in settlement of all PAGA claims is set for
26 November 1, 2024 in Department 10A of the above-entitled Court.

1 13. The Court orders that the papers in support of the final approval of the
2 settlement and Plaintiffs' award of attorneys' fees and costs shall be filed by 16 court days
3 before the hearing.

4 14. Based on the terms of the Settlement Agreement, the following sets forth the
5 proposed schedule of events to occur with respect to the effectuation of the settlement:
6

Event	Date
Deadline for Defendant to provide Class data to settlement administrator	Within ten (10) calendar days of preliminary approval
Deadline to mail Notice of Settlement to Class Members	within ten (10) calendar days of receipt of class data from Defendants
Deadline to dispute workdays, opt out of or object to settlement	within forty-five (45) days of mailing or re-mailing of Notice of Settlement
Deadline for settlement administrator to provide counsel with Declaration of Compliance and report regarding notice and exclusion process	5 days prior to deadline for filing motion for final approval
Deadline to file motion for final approval of the settlement and award of attorneys' fees and costs	16 court days before final approval hearing
Hearing on motion for final approval of the settlement, granting of final approval, and entry of judgment	<u>November 1</u> , 2024

19
20
21 Dated: June 6, 2024

George Abdallah
Hon. George J. Abdallah

Exhibit 1

1 AARON C. GUNDZIK (State Bar No. 132137)
2 REBECCA G. GUNDZIK (State Bar No. 138446)
3 GUNDZIK GUNDZIK HEEGER LLP
4 14011 Ventura Blvd., Suite 206E
5 Sherman Oaks, CA 91423
6 Telephone: (818) 290-7461
7 Facsimile: (818) 918-2316

8 GALEN SHIMODA (State Bar No. 226752)
9 SHIMODA & RODRIGUEZ LAW, P.C.
10 9401 E. Stockton Blvd., Suite 120
11 Elk Grove, CA 95624
12 Telephone: (916) 525-0716
13 Facsimile: (916) 760-3733

14 Attorneys for Plaintiff Ignacio Mendez, individually
15 and on behalf of all others similarly situated
16 and as a representative of aggrieved employees

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **FOR THE COUNTY OF SAN JOAQUIN**

19 IGNACIO MENDEZ and ADRIANNA
20 RODRIGUEZ, individually and on behalf of
21 all others similarly situated,

22 Plaintiff,

23 vs.

24 WTMG, INC., et al,
25 Defendants.

Case No.: STK-CV-UOE-2021-0009144
Assigned to Hon. George J. Abdallah
Dept. 10A

**STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT**

Complaint Filed: September 29, 2021

26 **I. INTRODUCTION AND SUMMARY OF SETTLEMENT TERMS**

27 This stipulation sets forth the terms of the settlement of a class and representative
28 action filed on behalf of current and former non-exempt employees who worked for
Defendant WTMG, Inc. in California during the Class Period, as defined below. The First
Amended Complaint alleges causes of action against Defendant for (1) failure to pay for all
time worked; (2) failure to pay overtime; (3) failure to provide meal and rest breaks; (4)
failure to provide accurate wage statements; (5) failure to reimburse necessary expenditures;
(6) failure to pay all wages owed at termination; (7) violation of the Unfair Practices Act;
and (8) recovery of civil penalties under PAGA.

1 Under the terms of the parties' Settlement and after final approval and entry of
2 judgment pursuant to California Rule of Court 3.769, Defendant will pay a gross settlement
3 amount of one million five hundred fifty thousand dollars (\$1,500,000) (the "Gross Settlement
4 Amount"), plus the employer's share of payroll taxes. The Settlement will be administered by
5 a third-party settlement administrator with experience administering class action settlements
6 of this type. Until distribution, the Gross Settlement Amount will be held in a Qualified
7 Settlement Fund established by the Settlement Administrator. This is an opt-out settlement,
8 and Class Members (as defined in Section II) will receive a settlement payment unless they
9 timely submit a Request for Exclusion. Settlement Class Members shall not be required to
10 submit a claim form.

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

14 A. Settlement Administration Costs, estimated to be \$16,500.

15 B. Class Counsel's Attorneys' Fees, to be approved by the Court, in an amount
16 not to exceed five hundred twenty-five thousand dollars (\$525,000), which is 35% of the
17 Gross Settlement Amount;

18 C. Class Counsel's Costs, as approved by the Court, in an amount not to exceed
19 \$35,000;

20 D. Service and Release Awards to Plaintiffs Ignacio Mendez and Adriana
21 Rodriguez totaling \$15,000 as payment for their time and efforts in pursuing this Action, and
22 for the broader release and other covenants that they will be providing to Defendant;

23 E. An allocation of \$50,000 to Plaintiffs' PAGA claims (the "PAGA Amount"),
24 to be distributed as follows: Payment of \$37,500 to the California Labor and Workforce
25 Development Agency (the "LWDA Payment"), which represents the Labor and Workforce
26 Development Agency's ("LWDA") 75% share of \$50,000. The other 25% of the PAGA
27 Amount (\$12,500) will be distributed to those Class members who worked for Defendant at
28 any time during the PAGA Period (defined below).

1 F. The remainder of the Gross Settlement Amount (the "Net Settlement Amount")
2 will be distributed to Settlement Class Members based on the methodology discussed in
3 section IV.L.1, below. It is estimated that the Net Settlement Amount will be approximately
4 \$858,500 after deductions for Class Counsel's Attorneys' Fees, Class Counsel's Costs,
5 Settlement Administration Costs, the Service and Release Awards, and the PAGA Amount.

6 Defendants represent that the Class consisted of approximately 1,321 members.

7 **II. DEFINITIONS**

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

10 A. "Action" means this putative class and representative action pending in San
11 Joaquin County Superior Court titled *Mendez v. WTMG, Inc.*, et al., Case No. STK-CV-UOE-
12 2021-0009144.

13 B. "Agreement" or "Stipulation" means this Stipulation of Class Action and
14 PAGA Settlement.

15 C. "Class" means all individuals who were employed by Defendant in California
16 as non-exempt employees during the Class Period (as defined below). Defendant represents
17 that the Class consists of approximately 1,321 members.

18 D. "Class Counsel" means:

19 a. Aaron C. Gundzik and Rebecca G. Gundzik of Gundzik Gundzik
20 Heeger LLP, 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA
21 91423, (818) 290-7461;

22 b. Galen Shimoda of Shimoda & Rodriguez Law, P.C., 9401 E. Stockton
23 Blvd., Suite 120, Elk Grove, CA 95624, (916) 525-0716; and

24 c. Rodrigo E. Guevara of Abogado, APC, 1350 Columbia Street, Suite
25 303, San Diego, CA 92101, (619) 736-4824.

26 E. "Class Counsel's Attorneys' Fees" means the amount to be awarded to Class
27 Counsel from the Gross Settlement Amount for their attorneys' fees for their work in this
28

1 Action, subject to Court approval at the Final Fairness and Approval Hearing. Class Counsel's
2 Attorneys' Fees will not exceed \$525,000, which is 35% of the Gross Settlement Amount.

3 F. "Class Counsel's Costs" means the amount to be awarded to Class Counsel
4 from the Gross Settlement Amount to reimburse Class Counsel for their reasonable costs and
5 expenses incurred in the Action, subject to Court approval at the Final Fairness and Approval
6 Hearing. Class Counsel's Costs will not exceed \$35,000.

7 G. "Class Data" means each Class Member's and PAGA Employee's full name,
8 social security number, last known address, email address and telephone number(s), along
9 with the Class Member's number of Qualifying Pay Periods and the number of PAGA Pay
10 Periods worked by each PAGA Employee during the PAGA Period.

11 H. "Class Member" is a person who is a member of the Class.

12 I. "Class Period" means the period from September 29, 2017, through January
13 11, 2024.

14 J. "Complaint" means the Second Amended Complaint on file in the Action. The
15 Parties will enter into a stipulation to permit Plaintiff Ignacio Mendez to amend his operative
16 complaint, which will be the Second Amended Complaint. The Second Amended Complaint
17 will be identical to the First Amended Complaint except that the Second Amended Complaint
18 will include Adriana Rodriguez as a Representative Plaintiff. Upon the filing of the Second
19 Amended Complaint, Adriana Rodriguez will dismiss, without prejudice, her First through
20 Eighth and Twelfth Causes of Action from her separate action titled *Rodriguez v. WTMG,*
21 *Inc.*, STK-CV-UOE-2021-0009144.

22 K. "Court" means the Superior Court of the State of California, in and for the
23 County of San Joaquin, where the Action is pending.

24 L. "Defendant" means WTMG, Inc.

25 M. "Defendant's Counsel" means Michael A. Farbstein and H. Ann Liroff of
26 Farbstein & Blackman, A Professional Corporation, 411 Borel Avenue, Suite 425, San Mateo,
27 California 94402-3518, Telephone: (650) 554-6200.

1 N. "Effective Date" means the date of entry of the "Final Approval Order" if no
2 objection is filed. If a timely objection to the settlement is filed, the "Effective Date" will be
3 the later of (1) 65 days after entry of judgment, provided that no appeal has been filed or (2)
4 7 days after any appeal opposing the Final Approval Order has finally and conclusively been
5 dismissed with no right to pursue further remedies or relief.

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

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

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

15 R. "Gross Settlement Amount" means the one million five hundred thousand
16 dollars (\$1,500,000) which Defendants will pay under this Settlement.

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

19 T. "Net Settlement Amount" means the amount remaining from the Gross
20 Settlement Amount after payments of Court-approved Class Counsel's Attorney's Fees and
21 Class Counsel's Costs, the Service and Release Awards to the Representative Plaintiffs and
22 Settlement Administration Costs, and the PAGA Amount. It is estimated that the Net
23 Settlement Amount will be at least \$858,500.

24 U. "Notice of Settlement" means the "Notice of Proposed Class Action Settlement
25 and Hearing Date for Approval," substantially in the form attached hereto as Exhibit A, or
26 any subsequent version of Exhibit A, as approved by the Court.

27 V. "Notice of Objection" means a written objection to this Settlement sent by a
28 Settlement Class Member to the Settlement Administrator that complies with the criteria

1 specified herein and in the Notice of Settlement.

2 W. "PAGA Amount" means \$50,000, which is the portion of the Gross Settlement
3 Amount that the Parties allocated to settlement of Plaintiffs' PAGA claims.

4 X. "PAGA Employee" means a member of the Class who was employed by
5 Defendant and worked at any time during the PAGA Period.

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

8 Z. "PAGA Pay Period" means a bi-monthly pay period within the PAGA Period
9 during which a PAGA employee performed work for Defendants in California. A pay period
10 during which a PAGA Employee was entirely absent from work, such as a week during which
11 a PAGA Employee was on leave or vacation, is not a PAGA Pay Period.

12 AA. "PAGA Period" means the time period from September 29, 2020, through
13 January 11, 2022.

14 BB. "PAGA Released Claims" means any and all PAGA claims, causes of action
15 and legal theories for recovery of civil penalties asserted in the Complaint as well as PAGA
16 claims, causes of action and legal theories that could have been asserted in the Complaint
17 that are based upon the same or similar facts, allegations and/or claims, including, without
18 limitation, PAGA claims for violations of the following California Labor Code sections:
19 201, 202, 203, 204, 226(a), 226(b), 226.7, 510, 512, 1197 and 2802. PAGA Employees shall
20 not waive section 1542 of the California Civil Code.

21 CC. "Parties" means the Representative Plaintiffs, on behalf of themselves and all
22 Settlement Class Members, and Defendant.

23 DD. "Preliminary Approval Date" is the date that the Court grants preliminary
24 approval of this Settlement pursuant to California Rule of Court 3.769(c).

25 EE. "Qualified Settlement Fund" or "QSF" means a federally insured bank account
26 to be established by the Settlement Administrator into which all payments from Defendant
27 related to this Settlement will be deposited and from which all payments authorized by the
28 Court will be made. The QSF will be established prior to Defendant's deposit of the Gross

1 Settlement Amount.

2 FF. "Qualifying Pay Period" means a bi-monthly pay period in the Class Period
3 during which a Class Member actually worked for Defendants in a Class position during the
4 Class Period. A week during which a Class Member was entirely absent from work, such as a
5 week during which a Class Member was on leave or vacation, is not a Qualifying Pay Period.

6 GG. "Released Claims," means all causes of action and factual or legal theories
7 arising during the Class Period that were alleged in the Complaint or arise from facts alleged
8 in the Complaint, including all damages, penalties, interest and other amounts recoverable
9 under said claims, causes of action or legal theories of relief. Class Members shall not waive
10 section 1542 of the California Civil Code.

11 HH. "Released Parties" means Defendant and its past, present and/or future officers,
12 directors, members, managers, employees, agents, representatives, attorneys, insurers,
13 partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates,
14 divisions, predecessors, successors, assigns, and joint venturers, but only as to the Released
15 Claims.

16 II. "Representative Plaintiff(s)" means Plaintiff Ignacio Mendez and/or Plaintiff
17 Adriana Rodriguez.

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

21 KK. "Response Deadline" means the date that is forty-five (45) calendar days after
22 the mailing of the Notices of Settlement. Provided, for Notices of Settlement that are re-mailed
23 to a different address, the Response Deadline will be the earlier of: (1) forty-five (45) calendar
24 days after re-mailing, and (2) ten (10) days before the initial date set by the Court for the Final
25 Fairness and Approval Hearing.

26 LL. "Service and Release Award" means the payment to be made to the
27 Representative Plaintiffs for their service to the Class and for the broader general release that
28 they are providing to Defendant, which is in addition to whatever payment they otherwise will

1 be entitled to receive as a Settlement Class Member. The Service and Release Award for
2 Ignacio Mendez will not exceed \$10,000. Ther Service and Release Award for Adriana
3 Rodriguez will not exceed \$5,000.

4 MM. "Settlement" means the disposition of the Action and all related claims
5 effectuated by this Agreement.

6 NN. "Settlement Administration Costs" means the fees and costs incurred or
7 charged by the Settlement Administrator in connection with the execution of its duties under
8 this Agreement including, but not limited to fees and costs associated with: (1) establishing
9 and maintaining the QSF; (2) preparing, issuing and/or monitoring reports, filings, and notices
10 (including the cost of printing and mailing all notices and other documents to the Class
11 Members) required to be prepared in the course of administering the Settlement; (3)
12 computing the amount of the settlement payments, taxes, and any other payments to be made
13 under this Agreement; (4) calculating and handling inquiries about the calculation of
14 individual settlement payments; (5) establishing and operating a settlement payment center
15 website, address, and phone number to receive Class Members' inquiries about the Settlement;
16 (6) providing a due diligence declaration for submission to the Court prior to the final approval
17 hearing; (7) printing and providing Settlement Class Members and Plaintiffs with W-2 and
18 1099 forms as required under this Agreement and applicable law; (8) preparing, issuing, and
19 filing any tax returns and information returns and any other filings required by any
20 governmental taxing authority or other governmental agency; and (9) for such other tasks as
21 the Parties mutually agree or the Court orders the Settlement Administrator to perform. The
22 Settlement Administration Costs will not exceed \$16,500. Settlement Administration Costs
23 will be paid out of the Gross Settlement Amount.

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

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

27 QQ. "Settlement Class Member" is a person who is a member of the Settlement
28 Class.

1 **III. BACKGROUND**

2 During the Class Period, Defendant operated a janitorial service in California.
3 Plaintiffs contend that during the Class Period, they and other non-exempt employees of
4 Defendant were not paid for all of their work, were not provided with compliant meal and rest
5 breaks, were not paid for all of their overtime work at overtime rates of pay, were not provided
6 compliant wage statements, were not paid all amounts due at separation and were not
7 reimbursed for all of their necessary expenses.

8 The Parties have undertaken significant investigation and informal discovery during
9 the prosecution of this Action. Such discovery and investigation includes extensively
10 interviewing the Representative Plaintiffs and other Class Members, Defendant's production
11 and Class Counsel's review of personnel records, policies, and time and pay records for about
12 20% of Class Period and other detailed information relevant to the Class Members' claims.
13 Counsel for the Parties have investigated the law as applied to the facts discovered regarding
14 the alleged claims of the Class and potential defenses thereto, and the potential damages
15 claimed by the Class.

16 On January 11, 2024, the Parties attended a mediation before an experienced and well-
17 regarded mediator, Hon. Ronald Sabraw (ret.), at the end of which the Parties reached an
18 agreement regarding the resolution of this Action which is embodied in the terms of this
19 Agreement.

20 Plaintiffs and Class Counsel have concluded, after considering the sharply disputed
21 factual and legal issues involved in this Action, the risks attending further prosecution, and
22 the substantial benefits to be received pursuant to the compromise and settlement of the Action
23 as set forth in this Agreement, that this Settlement is in the best interests of the Representative
24 Plaintiffs and the Settlement Class and is fair and reasonable.

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

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

2 **A. Preliminary Approval of Settlement**

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

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

1 **B. Cooperation**

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

7 **C. Notice of Settlement**

8 Within ten (10) calendar days following the Court's order granting preliminary
9 approval of the Settlement, Defendant will provide the Settlement Administrator with the
10 Class Data in an electronic format acceptable to the Settlement Administrator. At the same
11 time, Defendant will provide the Class Data, without Class Member names, contact
12 information and social security numbers, to Class Counsel. This information will remain
13 confidential and will not be disclosed to anyone, except as required to applicable taxing
14 authorities, pursuant to Defendant's express written authorization, by order of the Court, or as
15 otherwise provided for in this Agreement.

16 Using the Class Data, the Settlement Administrator will: (1) confirm the number of
17 Class Members and Qualifying Pay Periods, (2) finalize and print the Notice of Settlement;
18 (3) check all addresses against the National Change of Address database; and (4) within ten
19 (10) calendar days of receiving the Class Data, send to each Class Member via First-Class
20 United States mail an English and Spanish version of the Notice of Settlement to the most
21 recent address known for each Class Member.

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

23 If Defendant, Defendant's Counsel or Class Counsel become aware of new addresses
24 for any Class Member, prior to the filing of the motion for final approval, such information
25 must immediately be communicated to the Settlement Administrator. The Settlement
26 Administrator will then re-send a Notice of Settlement to the Class Member(s) at the new
27 address.

28 For any Notice of Settlement that is returned as undeliverable, the Settlement

1 Administrator will perform a utility database search or other skip trace. The returned Notices
2 of Settlement will be re-mailed to the new addresses obtained for such Class Members. Such
3 searching and re-mailing will be completed within ten (10) calendar days of the date that
4 Notices of Settlement were originally returned as undeliverable.

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

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

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

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

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

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

3 **F. Declaration of Compliance**

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

10 **G. Sufficient Notice**

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

17 **H. Objections to Settlement**

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

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

1 If a Class Member submits both an objection and an opt-out request, the Settlement
2 Administrator shall make reasonable attempts to clarify the intentions of the Class Member.
3 If the Class Member fails to clarify their position, the opt-out request shall be disregarded, the
4 Settlement Administrator shall send the objection to Defendant's Counsel and Class Counsel
5 the claim will be paid, and the Class Member will become a Settlement Class Member and be
6 bound by the judgment.

7 **2. Responses to Objections**

8 Class Counsel and Defendant's counsel shall file any written objections from Class
9 Members submitted to the Settlement Administrator, and Class Counsel's and Defendant's
10 Counsel's responses to such objections, at least five (5) court days before the Final Fairness
11 and Approval Hearing.

12 **I. Pro-Rata Increase in Settlement Fund**

13 If, as reflected in the Class Data delivered to the Settlement Administrator, the total
14 number of Class Member Qualifying Pay Periods exceeds 33,325, at its option, Defendant
15 shall either increase the portion of the Gross Settlement Amount allocated to the Class pro
16 rata, (e.g., if the pay periods are 5% more than 33,325, the Gross Settlement Amount shall
17 increase by 5%), or elect to limit the date for determining class membership and released
18 claims so as to limit the class size to a maximum of no more than 33,325 Class Member
19 Qualifying Pay Periods (e.g., if the pay periods total more than 33,325 one month before
20 preliminary approval, then the membership in the class shall cut-off as of that date).

21 **J. Defendant's Production of Financial Records**

22 Defendant contends that it has does not have the financial resources to pay any more
23 in settlement than the agreed upon Gross Settlement Amount. To this point, Class Counsel
24 has accepted Defendant's contention concerning its financial condition. However, the Parties
25 agree that Class Counsel will be provided with certain financial records in order to
26 independently assess Defendant's financial condition. Within five calendar days of
27 Defendant's execution of this Agreement, Defendant will produce the following financial
28 records to Class Counsel (collectively, "Financial Records").

1. Federal tax returns for 2020, 2021 and 2022.
2. Balance sheet for year 2023.
3. Cash flow statement for 2023.
4. Final 2023 bank account statements.

Class Counsel will not disclose the Financial Records or their contents to any third party, except as necessary for evaluation.

Class Counsel will evaluate the Financial Records, after which, Plaintiffs and Class Counsel will have the right, in their sole discretion, to terminate the settlement. Within 30 days of receiving the Financial Records, Class Counsel will notify Defendant's Counsel as to whether it intends to exercise such right to terminate.

K. Final Fairness and Approval Hearing

On or before the date set by the Court, Class Counsel will file a motion for final approval of this Settlement pursuant to California Rule of Court 3.769. Class Counsel will provide Defendant's counsel with the opportunity to review and comment on drafts of all papers to be filed in connection with the motion for final approval (notice of motion, memorandum of points and authorities and declarations) at least three court days before filing such motion with the Court. Plaintiffs' motion for final approval will also include a proposed order that is mutually agreed-upon by the Parties. Defendant shall not oppose Class Counsel's motion for final approval of the settlement to the extent it is consistent with the terms and conditions of this Agreement. Defendant may, however, provide a written response to any characterization of the law or facts contained in the motion for final approval.

On the date set by the Court, the Final Fairness and Approval Hearing shall be held before the Court in order to: (1) determine whether the Court should give this Settlement final approval; (2) determine whether Class Counsel's application for attorneys' fees and costs, and request for the Service and Release Award to the Representative Plaintiff, should be granted; (3) determine whether the Court should approve the payment of fees to the Settlement Administrator and the PAGA Settlement Amount and (4) consider any timely Objections to Settlement, including Class Counsel's and Defendant's counsel's responses thereto. Upon

1 final approval, the Court shall enter a Final Approval Order (in a form submitted by Class
2 Counsel and approved by Defendant's counsel) which has the effect of adjudicating all claims
3 set forth in the Complaint and implementing the release of Released Claims and PAGA
4 Released Claims, as set forth in this Agreement. The Final Approval Order will be posted on
5 the Settlement Administrator's website. The posting of the Final Approval Order on the
6 Settlement Administrator's website will constitute notice of entry of the judgment, as required
7 by California Rule of Court 3.771(b).

8 **L. Settlement Payments to Settlement Class Members and PAGA Employees**

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

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

12 **(Individual Settlement Class Member's Qualifying Pay Periods ÷ All**
13 **Settlement Class Members' Qualifying Pay Periods) x (Net Settlement**
14 **Amount)**

15 The Settlement Administrator shall have the authority and obligation to make
16 payments, credits, and disbursements, including payments and credits in the manner set forth
17 herein, to Settlement Class Members calculated in accordance with the methodology set out
18 in this Agreement and orders of the Court.

19 The Parties acknowledge and agree that the formula used to calculate individual
20 settlement payments does not imply that all the elements of damages alleged in the Action are
21 not being considered. The above formula was devised as a practical and logistical tool to
22 simplify the settlement process.

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

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

27 **(Individual PAGA Employee's PAGA Pay Periods ÷ All PAGA Employees'**
28 **PAGA Pay Periods) x \$12,500**

1 Settlement Class Members who are also PAGA Employees will receive their shares of the
2 PAGA Employee Portion included in the same checks that include their individual Settlement
3 Class Member payments. Class Members who exclude themselves from the Class Settlement
4 will still receive their shares of the PAGA Employee Portion and such Class Members will
5 still be bound by the PAGA Release, notwithstanding their exclusion from the Settlement
6 Class.

7 **3. Inclusion of Qualifying Pay Periods and Estimated Settlement**
8 **Payment Information in Notice of Settlement**

9 The Notice of Settlement sent to each Class Member shall state the amount of the Class
10 Member's Qualifying Pay Periods and PAGA Pay Periods, as reflected in the Class Data. The
11 Notice of Settlement shall provide an estimate of each Class Member's share of the Class
12 settlement and each PAGA Employee's share of the PAGA Employee Portion, as calculated
13 by the Settlement Administrator. The estimated settlement payment included in the Notice of
14 Settlement will be calculated by assuming that no Class Members will be excluded from the
15 Settlement.

16 **4. Eligibility**

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

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

27 **5. Disputes about Qualifying Pay Periods**

28 If a Class Member disagrees with the number of Qualifying Pay Periods or PAGA Pay

1 Periods, as stated in their Notice of Settlement, they may dispute that figure by informing
2 the Settlement Administrator of the number of Qualifying Pay Periods and/or PAGA Pay
3 Periods that they claim to have worked during the Class Period or PAGA Period and provide
4 any supporting documentation (such as, without limitation, payroll or time keeping records,
5 and paycheck stubs) on or before the Response Deadline. If there is a dispute, the Settlement
6 Administrator will consult with Class Counsel and Defendant's counsel to determine whether
7 an adjustment is warranted. The Settlement Administrator shall determine any such disputes,
8 subject to Court approval. The Settlement Administrator shall be obligated to resolve any such
9 disputes within ten (10) calendar days, but by no later than the date of the Final Approval
10 Hearing.

11 **6. Allocation of Settlement Payments**

12 Payment to each Settlement Class Member shall be allocated as follows: one-quarter
13 shall be attributed to wages, to be reported on a W-2 form; one-quarter shall be reported as
14 penalties; one-quarter shall be reported as interest and one-quarter shall be deemed
15 reimbursement of expenses incurred. The amount of penalties and interest will be reported on
16 an IRS Form 1099. All payments of the PAGA Employee Portion will be considered penalties
17 and reported on an IRS Form 1099.

18 **7. Payment of Payroll Taxes**

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

25 For each Settlement Class Member, the Settlement Administrator shall determine the
26 Employer's Withholding Share. Information related to the Employer's Withholding Share for
27 each Settlement Class Member shall be provided to Defendant by the Settlement
28 Administrator. If Defendant disagrees with the Settlement Administrator's determination of

1 the Employer's Withholding Share, it will communicate with and share information
2 reasonably necessary to reach a good faith determination of the correct Employer's
3 Withholding Share.

4 **8. Payments to Settlement Class Members**

5 Within ten (10) calendar days of Defendants' deposit of the full Gross Settlement
6 Amount with the Settlement Administrator, the Settlement Administrator will make the
7 settlement payments to Settlement Class Members and PAGA Employees based on the
8 payment formulae set forth herein.

9 **M. The Settlement Administrator**

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

28 The Settlement Administrator shall establish a settlement payment center address,

1 telephone number and email address to receive Class Members' inquiries about the Notice of
2 Settlement, requests to be excluded from the Settlement and settlement payments.

3 In addition, the Settlement Administrator shall establish a static website and, on the
4 website, post this stipulation, any preliminary approval order and the Final Approval Order
5 and Judgment. Posting of the Final Approval Order and Judgment on such website shall
6 constitute notice of judgment to the Settlement Class, as required by California Rule of Court
7 3.771(b).

8 The Parties confirm, and Class Counsel and Defendant's Counsel confirm that they do
9 not have any financial interest in the Settlement Administrator or otherwise have a relationship
10 with the Settlement Administrator that could create a conflict of interest.

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

12 Within five calendar days after the Court's Final Approval Order, Defendant shall
13 deliver 50% of the Gross Settlement Amount and Employer's Withholding Share to the QSF.
14 Defendant shall deliver the other 50% of the Gross Settlement Amount to the Settlement
15 Administrator within 180 days of the Effective Date.

16 If, after the Court enters a Final Approval Order, Defendant fails to timely pay the
17 amount required to satisfy its payment obligation under this Stipulation, the Representative
18 Plaintiffs, at their option, may either (1) declare the Settlement terminated, in which case, the
19 Parties agree that the Court will nullify the Final Approval Order and Judgment and Plaintiffs
20 may continue to prosecute his claims against Defendant, or (2) seek to collect all amounts
21 owed under the Final Approval Order and Judgment against Defendant.

22 **O. Payments to Class Counsel, the Representative Plaintiff, the LWDA and**
23 **the Settlement Administrator**

24 Subject to Court approval, within ten (10) calendar days of Defendant's deposit of the
25 full Gross Settlement Amount with the Settlement Administrator, the Settlement
26 Administrator shall make payment from the QSF to: (1) Class Counsel, for Class Counsel's
27 Attorneys' Fees and Class Counsel's Costs, as approved by the Court; (2) the Representative
28 Plaintiffs for the Service and Release Awards, as approved by the Court; (3) to the LWDA for

1 the LWDA Amount, as approved by the Court; and (4) to the Settlement Administrator for
2 the Settlement Administration Costs, as approved by the Court. These payments will be
3 reported on an IRS Form 1099.

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

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

13 If a Class Member's check is not cashed within 180 calendar days, the check will be
14 void and a stop payment order may be placed on the check. In such event, the Settlement
15 nevertheless will be binding upon the Settlement Class Member. The funds represented by all
16 uncashed settlement checks will be transmitted by the Settlement Administrator to the
17 California State Controller as unclaimed property in the name of the individual Settlement
18 Class Member.

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

20 Defendant will not oppose Class Counsel's application for an award of attorneys' fees
21 of up to five hundred and twenty-five thousand dollars (\$525,000), which is 35% of the Gross
22 Settlement Amount.

23 Defendant will not oppose Class Counsel's application for an award of their reasonable
24 litigation expenses and costs in an amount not to exceed \$35,000.

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

27 To the extent the Court does not approve any or the entire amount of Class Counsel's
28 Attorney's Fees or Class Counsel's Costs, it shall not affect the terms of the Parties' settlement

1 and any such unapproved amounts shall remain part of the Net Settlement Amount and shall
2 be distributed in accordance with the provisions of this Stipulation. Approval of the Settlement
3 by the Court shall not be contingent on approval of the amounts of Class Counsel's Attorney's
4 Fees or Class Counsel's Costs requested by Class Counsel.

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

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

13 The Representative Plaintiffs' Service and Release Award as approved by the Court,
14 shall be paid from the Gross Settlement Amount.

15 The Representative Plaintiffs shall be responsible for all portions of federal, state, and
16 local tax liabilities that may result from the payment of the Service and Release Award and
17 agrees that Defendant shall bear no responsibility for any such tax liabilities.

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

23 **S. Taxes**

24 **1. Withholding and Reporting Requirements**

25 The Settlement Administrator shall be responsible for ensuring that all taxes required
26 to be withheld from the wage portions of each Settlement Class Member's individual
27 settlement payment, along with the Employer's Withholding Share, are timely paid to the
28 appropriate tax authorities. The Settlement Administrator's responsibilities in this regard will

1 also include the following: (a) filing all Federal, state, and local employment tax returns, tax
2 withholding returns, and any other tax returns associated with the taxes, (b) timely and proper
3 filing of all required Federal, state, and local information returns (e.g., 1099s, W-2s, etc.) with
4 the appropriate taxing authorities, and (c) completion of any other steps necessary for
5 compliance with any tax obligations of the settlement fund under Federal, state and/or local
6 law. To verify the Settlement Administrator's compliance with the foregoing withholding and
7 reporting requirements, as soon as administratively practicable, the Settlement Administrator
8 shall, upon request, furnish Class Counsel and Defendants' Counsel with copies of all filed
9 tax returns and information returns (including all 1099 and W-2 information returns), and a
10 final accounting adequate to demonstrate full compliance with all tax withholding, payment
11 and reporting obligations.

12 2. Circular 230 Disclaimer

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

1 transaction contemplated by this Agreement.

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

3 **A. No Admission of Liability**

4 Neither the acceptance nor the performance by Defendant of the terms of this
5 Stipulation nor any of the related negotiations or proceedings is or shall be claimed to be,
6 construed as, or deemed a precedent or an admission by Defendant of the truth or merit of any
7 allegations in the original Complaint or First Amended Complaint, or that they have any
8 liability to the Representative Plaintiffs or the Class Members on their claims. Defendant
9 denies that they have engaged in any unlawful activity, have failed to comply with the law in
10 any respect, or have any liability to anyone under the claims asserted in the Action. This
11 Agreement is entered into solely for the purpose of compromising highly disputed claims.

12 **B. Nullification**

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

20 **VI. RELEASE**

21 **A. Settlement Class Member Release**

22 It is the desire of the Representative Plaintiff, Class Members (except those who
23 exclude themselves from the Settlement), and Defendant to fully, finally, and forever settle,
24 compromise, and discharge the Released Claims. Upon entry of the Final Approval Order and
25 Judgment and Defendants' payment of the Gross Settlement Amount and Employer's
26 Withholding Share, and except as to such rights or claims as may be created by this Settlement
27 Agreement, the Settlement Class Members, on behalf of themselves, and each of their heirs,
28 representatives, successors, assigns, and attorneys, shall be deemed to have, and by operation

1 of the final judgment shall have, fully released and discharged the Released Parties from any
2 and all Released Claims that accrued during the Class Period.

3 **B. PAGA Employee Release**

4 Regardless of whether they submitted a valid Request for Exclusion, all PAGA
5 Employees shall fully, finally, and forever settle, compromise, and discharge the PAGA
6 Released Claims. Upon entry of the Final Approval Order and Judgment and Defendants'
7 payment of the Gross Settlement Amount, and except as to such rights or claims as may be
8 created by this Settlement Agreement, all PAGA Employees, on behalf of themselves, and
9 each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to
10 have, and by operation of the final judgment shall have, fully released and discharged the
11 Released Parties from any and all PAGA Released Claims arising during the PAGA Period.

12 **VII. RELEASE BY THE REPRESENTATIVE PLAINTIFFS**

13 A. Upon entry of the Final Approval Order and Judgment and Defendant's
14 payment of the Gross Settlement Amount and Employer's Withholding Share, and except as
15 to such rights or claims as may be created by this Settlement Agreement, the Representative
16 Plaintiffs fully releases and forever discharges Defendant and the Released Parties, and
17 its/their respective present and former officers, directors, employees, shareholders, members,
18 agents, trustees, representatives, attorneys, insurers, parent companies, subsidiaries, divisions,
19 affiliates, predecessors, successors, assigns, and any individual or entity that could be jointly
20 liable with Defendant, from any and all claims, causes of action, damages, wages, benefits,
21 expenses, penalties, debts, liabilities, demands, obligations, attorney's fees, costs, and any
22 other form of relief or remedy in law, equity, or whatever kind or nature, whether known or
23 unknown, suspected or unsuspected that arise from or are related to Plaintiffs' employment
24 by Defendant or the Action, including but not limited to (1) all Released Claims, (2) the
25 Action and any claims arising out of or related to the Action, (3) any claims under federal,
26 state or local law for or relating to wages, benefits, compensation, vacation or other paid time
27 off, and claims for liquidated damages, penalties, or costs and fees associated therewith, (4)
28 wrongful termination, discrimination, harassment, and/or retaliation, (5) any act, omission, or

1 occurrence or claim arising out of or related to the Action or Plaintiffs' employment or
2 termination thereof with Defendant taking place on or before the Effective Date of the
3 Settlement, and (6) and any other form of relief or remedy of any kind, nature, or description
4 whatsoever, whether premised on statute, contract, tort, or other theory of liability under state,
5 federal, or local law. **Provided, however,** this release shall not include: (1) claims alleged by
6 Adriana Rodriguez in her Ninth, Tenth and Eleventh Causes of Action in her case titled
7 *Rodriguez v. WTMG, Inc.*, STK-CV-UOE-2021-0009144, which claims are the subject of a
8 separate and independent individual settlement; (2) claims for workers' compensation
9 benefits; or (3) other claims that cannot be released as a matter of law.

10 The Representative Plaintiffs hereby agree that, notwithstanding section 1542 of the
11 California Civil Code ("Section 1542"), and except for claims excluded from the release, all
12 claims that the Representative Plaintiffs may have, known or unknown, suspected or
13 unsuspected, are hereby released as of the Effective Date. Section 1542 provides:

14 "A general release does not extend to claims that the creditor or releasing
15 party does not know or suspect to exist in his or her favor at the time of
16 executing the release and that, if known by him or her, would have
materially affected his or her settlement with the debtor or released
party."

17 The Representative Plaintiffs expressly waive the provisions of Section 1542 with full
18 knowledge and with the specific intent to release all known or unknown, suspected or
19 unsuspected, claims arising on or before the Effective Date of the Settlement, and therefore
20 specifically waive the provisions of any statute, rule, decision, or other source of law of the
21 United States or of any state of the United States or any subdivision of a state which prevents
22 release of unknown claims.

23 **VIII. PUBLICITY**

24 Pending the filing of Plaintiffs' motion for preliminary approval of this Settlement, the
25 parties agree to keep the terms of this settlement confidential. Any communication about the
26 Settlement to Class Members prior to filing Plaintiffs' motion for preliminary approval will
27 be limited to a statement that a settlement has been reached and the details will be
28 communicated in a forthcoming Court approved notice. Additionally, Plaintiffs and Class

1 Counsel will not encourage class members to opt out and will not publicize the terms of this
2 Agreement or the Settlement Agreement with the media, including but not limited to,
3 newspapers, magazines, or websites.

4 **IX. MISCELLANEOUS PROVISIONS**

5 **A. Amendments**

6 This Settlement Agreement may only be modified or changed by a writing signed by
7 the Parties hereto or by their counsel and approved by the Court.

8 **B. Integrated Agreement**

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

15 **C. No Inducements**

16 The Parties acknowledge that they are entering into this Agreement as a free and
17 voluntary act without duress or undue pressure or influence of any kind or nature whatsoever
18 and that neither Plaintiffs nor Defendant have relied on any promises, representations, or
19 warranties regarding the subject matter hereof other than as set forth in this Stipulation.

20 **D. No Prior Assignment**

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

25 **E. No Retaliation or Advice**

26 Defendant agrees not to retaliate against any Class Member for participating in the
27 Settlement or cooperating with Class Counsel, and Defendant will not induce or offer any
28 advice to any current or former employee to opt out of, or object to, the Settlement.

1 **F. Attorney's Fees**

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

5 **G. Applicable Law**

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

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

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

14 **I. Notices**

15 All notices, requests, demands and other communications required or permitted to be
16 given pursuant to this Agreement shall be in writing, and shall be delivered personally or by
17 first class mail to Class Counsel or Defendant's Counsel at their respective addresses as set
18 forth at the beginning of this Agreement or at any new address as to which counsel have
19 advised the Court and the other Parties.

20 **J. Binding on Successors**

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

24 **K. Counterparts**

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

1 **L. Warranties and Representations**

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

6 **M. Representation by Counsel**

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

10 **N. Signatories**

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

16 **BY SIGNING BELOW, THE PARTIES AGREE TO THIS STIPULATION AND ITS**
17 **TERMS:**

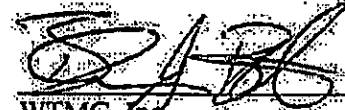
18 Dated: Mar 13, 2024

ignacio mendez
ignacio.mendez (Mar 13, 2024 08:53 PDT)
Plaintiff Ignacio Mendez

20
21 Dated: _____

Plaintiff Adriana Rodriguez

22
23 Dated: 3/11/24


WTMG, Inc.
By: Blain J. Bibb, President

1 **L. Warranties and Representations**

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

6 **M. Representation by Counsel**

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

10 **N. Signatories**

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

16 **BY SIGNING BELOW, THE PARTIES AGREE TO THIS STIPULATION AND ITS**
17 **TERMS:**

18
19 Dated: _____

Plaintiff Ignacio Mendez

20
21 Dated: Mar 12, 2024

Adriana Rodriguez (Mar 12, 2024 13:59 PDT)

Plaintiff Adriana Rodriguez

22
23 Dated: 3/11/24

WTMG, Inc.
By: Blain J. Bibb, President

1 Approved as to form:

2 Dated: 03/21/2024

FARBSTEIN & BLACKMAN, A Professional
Corporation

3
4 By: 

5 Michael Farbstein
6 Attorneys for Defendant WTMG, Inc.

7 Dated: 3/11/2024

GUNDZIK GUNDZIK HEEGER LLP

8
9 By: 

10 Aaron Gundzik
11 Attorney for Plaintiff Ignacio Mendez,
12 individually and on behalf of all others situated
13 similarly

12 Dated: 03/11/2024

SHIMODA & RODRIGUEZ LAW, P.C.

14
15 By: 

16 Galen Shimoda
17 Attorney for Plaintiff Ignacio Mendez,
18 individually and on behalf of all others situated
19 similalry

18 Dated: 3/12/2024

ABOGATO, APC

20
21 By: 

22 Rodrigo Guevara
23 Attorney for Plaintiff Adriana Rodriguez,
24 individually and on behalf of all others situated
25 similalry
26
27
28

Exhibit A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING DATE FOR COURT APPROVAL

Mendez v. WTMG, Inc., San Joaquin Superior Court Case No. STK-CV-UOE-2021-0009144

If you have been employed in California by WTMG, Inc. dba JaniTek as a non-exempt employee, you may be entitled to receive money from a class action settlement.

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

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

You are receiving this Notice because the San Joaquin County Superior Court has preliminarily approved a proposed settlement in a class action filed on behalf of all non-exempt employees who worked for WTMG, Inc. dba JaniTek. ("Defendant" or "JaniTek") in California during the Class Period (September 29, 2017, through January 11, 2024). A hearing to determine whether the settlement should receive the Court's final approval will be held on _____ at _____.m. in Department 10A of the San Joaquin County Superior Court, which is located at 180 East Weber Avenue, Stockton, CA 95202.

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

1. PURPOSE OF THIS NOTICE

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

2. PERSON ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT

The people eligible to receive a settlement payment are all non-exempt employees who worked for JaniTek in California between September 29, 2017, and January 11, 2023. You are receiving this notice because, according to JaniTek's records, you may be eligible to participate in the settlement.

3. DESCRIPTION OF THE ACTION

Former employees of JaniTek filed a class action against JaniTek in the San Joaquin County Superior Court. The case is called *Mendez v. WTMG, Inc., San Joaquin Superior Court Case No. STK-CV-UOE-2021-0009144* (the "Action"). The Action alleges that Plaintiffs and other non-exempt employees of JaniTek were not paid for all of their work, were not paid all overtime wages owed, were not provided with compliant meal and rest breaks, were not provided compliant wage statements, were not reimbursed for their necessary expenditures, and were not paid all amounts due at separation. Based on these facts and others, Plaintiffs' Second Amended Complaint alleges causes of action for: (1) failure to pay for all time worked; (2) failure to pay overtime; (3) failure to provide meal and rest breaks; (4) failure to provide accurate wage statements; (5) failure to reimburse necessary expenditures; (6) failure to pay all wages owed at termination; (7) violation of the Unfair Practices Act; and (8) recovery of civil penalties under PAGA.

JaniTek denies all of Plaintiff's allegations and denies any wrongdoing. Among other things, JaniTek contends that all employees have been properly compensated and that JaniTek complied with all applicable laws.

FOR MORE INFORMATION CALL 1-800-_____.

The Court has made no ruling on the merits of the alleged claims, or the defenses asserted by JaniTek. The Court has preliminarily approved the proposed settlement. The Court will decide whether to give final approval to the settlement at a hearing scheduled for _____, 2024 at _____.m. (the "Final Approval Hearing").

4. WHO ARE THE ATTORNEYS REPRESENTING THE PARTIES?

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

Aaron C. Gundzik Rebecca Gundzik Gundzik Gundzik Heeger LLP 14011 Ventura Blvd., Suite 206E Sherman Oaks, CA 91423 Telephone: (818) 290-7461 Facsimile: (818) 918-2316	Galen Shimoda Shimoda Law Corp. 9401 E. Stockton Blvd., Suite 120 Elk Grove, CA 95624 Telephone: (916) 525-0716 Facsimile: (916) 760-3733
Rodrigo E. Guevara Abogado, APC 1350 Columbia Street, Suite 303 San Diego, CA 92101 (619) 736-4824	

Attorneys representing JaniTek are:

Michael A. Farbstein H. Ann Liroff Farbstein & Blackman, A Professional Corporation 411 Borel Avenue, Suite 425 San Mateo, California 94402-3518 Telephone: (650) 554-6200.
--

5. THE TERMS OF THE PROPOSED SETTLEMENT

The following is a summary of the settlement. The specific and complete terms of the proposed Settlement are stated in the Stipulation of Class Action And PAGA Settlement ("Settlement Agreement"), a copy of which is filed with the Court. You can obtain a copy of the Settlement Agreement from the Settlement Administrator or review it on the following website: www._____.

JaniTek has agreed to pay \$1,500,000 to settle any and all obligations for the claims alleged in the Action. This amount is called the Gross Settlement Amount. As discussed below, the Gross Settlement Amount will be used to cover all payments to the settlement class, settlement administration costs, attorneys' fees and costs, service and release awards to the Plaintiffs, and funds owed to the state of California and the PAGA Employees in settlement of the PAGA claims for penalties. The remaining amount (called the Net Settlement Amount), approximately \$_____, will be distributed to class members who do not timely submit Requests for Exclusion, as discussed below.

(a) Attorneys' Fees and Costs: Class Counsel has worked on this matter without compensation and has advanced funds to pay for expenses necessary to prosecute the Action. Accordingly, under the settlement, Class Counsel may request an amount not to exceed \$525,000 to compensate them for their work on the case, plus their reasonable and actual costs and expenses incurred in the litigation, not to exceed \$_____. Subject to court approval, the attorneys' fees and costs will be deducted from the Gross Settlement Amount.

(b) Service and Release Award: The Plaintiffs are requesting service and release awards totaling \$15,000, in addition to the amounts they will receive as members of the class and/or as PAGA Employees, to compensate them for undergoing the burden and expense of prosecuting the action and for the broader release of claims they are required to provide to JaniTek. Subject to court approval, the service and release awards will be deducted from the Gross Settlement Amount.

FOR MORE INFORMATION CALL 1-800-_____.

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

(d) **Payments for PAGA Penalties:** Subject to the Court's approval, a total of \$50,000 will be deducted from the Gross Settlement Amount and allocated to settle allegations that Defendant owe penalties to the state for alleged violations of the California Labor Code. Of this amount, \$37,500 (75%) will be paid to the California Labor & Workforce Development Agency ("LWDA"). The other 25%, which is \$12,500, will be distributed to class members who worked for JaniTek at any time during the PAGA Period, which is from September 29, 2020, through January 11, 2024 ("PAGA Employees"). Each PAGA Employee's portion of the \$12,500 in penalties will be calculated by dividing the individual's number of pay periods during the PAGA Period by the total number of pay periods worked during the PAGA Period by all Class Members and multiplying the resulting fraction by \$12,500.

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

6. WHAT YOU WILL RECEIVE UNDER THE SETTLEMENT

According to JaniTek's records, you worked a total of ___ qualifying pay periods during the Class Period as a Class Member. JaniTek's records also show that you worked a total of ___ pay periods during the PAGA Period. Based upon this information, under the settlement, you will receive approximately \$_____. This amount may increase or decrease based on various factors, including the number of class members who submit Requests for Exclusion, the amounts approved by the Court for attorneys' fees and costs, settlement administration costs, the service and release awards to Plaintiffs, payment to the LWDA, and disputes by other class members regarding their qualifying pay periods during the Class Period.

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

7. PAYMENT SCHEDULE

The Settlement Administrator will send out settlement checks to class members after the settlement is finally approved by the Court. You will have 180 days after the Settlement Administrator mails your settlement check to cash it; otherwise, it will be voided and the amount of your settlement payment will be sent to the California State Controller as unclaimed property in your name and you will need to contact that agency to obtain your funds.

For tax purposes, your Class settlement payment will be considered 25% as wages and reported on a W-2 form. Twenty-five percent of your settlement payment will be considered as interest, 25% as penalties and 25% as reimbursement of expenses, these amounts will be reported on an IRS Form 1099. If you are also a PAGA Employee, your share of the PAGA Amount will be reported on an IRS Form 1099. Nothing in this Notice should be construed as providing you with tax advice. You should consult with your tax advisor concerning the tax consequences of the payment you receive.

8. RELEASE OF CLAIMS

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

Unless you submit a valid Request for Exclusion (described below in Section 9), you will release JaniTek and its past, present and/or future officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors,

FOR MORE INFORMATION CALL 1-800-_____.

successors, assigns, and joint venturers from all causes of action and factual or legal theories arising during the Class Period that were alleged in the Complaint or could have been alleged from the factual or legal theories alleged in the Complaint, including all damages, penalties, interest and other amounts recoverable under said claims, causes of action or legal theories of relief. The Release Period for the Released Claims shall be the Class Period. Settlement Class Members shall not waive section 1542 of the California Civil Code.

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

If you worked for JaniTek at any time from September 29, 2020 through January 11, 2024, you will receive a payment that is your share of the PAGA Employee Portion and you will release JaniTek and all of its past, present and/or future officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers from any and all PAGA claims, causes of action and legal theories for recovery of civil penalties asserted in the Complaint, as well as PAGA claims, causes of action and legal theories that could have been asserted in the Complaint that are based upon the same or similar facts, allegations and/or claims, including, without limitation, PAGA claims for violations of or based on the following California Labor Code sections: 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1194.2, 1197, 1197.1, and 2802. PAGA Employees shall not waive section 1542 of the California Civil Code. You cannot exclude yourself from this release.

9. YOUR OPTIONS

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

(a) You Can Do Nothing.

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

(b) You Can Contest the Calculation of Your Settlement Payment as Stated in this Notice.

You can contest the number of qualifying pay periods attributed to you in Section 6 above. To do so, you must provide the Settlement Administrator with a written explanation of your position. The statement must also include your full name, current address and telephone number, and must identify this case (*Mendez v. WTMG, Inc., San Joaquin Superior Court Case No. STK-CV-UOE-2021-0009144*). You should provide written documentation supporting the number of workweeks you believe that you worked. You must postmark your written statement no later than **[45 days from mailing]**. The Settlement Administrator will consider your dispute and any documentation you submit and will communicate with you and the parties as necessary regarding the dispute to determine whether an adjustment is warranted before making a final determination regarding your settlement payment. The Settlement Administrator will notify you of its final determination.

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

If you do not want to remain a member of the settlement class, you can request exclusion (i.e., opt out) by sending the Settlement Administrator a written Request for Exclusion at the address specified in Section 11 below. The deadline to postmark a Request for Exclusion is **[45 days from mailing]**. A Request for Exclusion is a written statement that unambiguously requests exclusion from the settlement class. The Request for Exclusion must include the case name (*Mendez v. WTMG, Inc., San Joaquin Superior Court Case No. STK-CV-UOE-2021-0009144*), your name, current address and telephone number, and the last four digits of your social security number (for verification purposes). You must also sign the Request for Exclusion. You should keep a copy of your Request for Exclusion. Moreover, to demonstrate receipt by the Settlement Administrator, you may elect to send your Request for Exclusion via certified mail. Requests for Exclusion

FOR MORE INFORMATION CALL 1-800-_____.

that do not include all required information, or that are not postmarked on or before **[45 days from mailing]**, will not be valid.

If you submit a valid and timely Request for Exclusion, you will not be bound by the settlement or the release of claims in Section 8(A) above; however, you will not receive all of the money referenced in section 6 of this Notice. You will also be barred from objecting to this settlement. By opting out of the settlement class, you will retain whatever rights or claims you may have against JaniTek.

Please note, however, that the submission of a Request for Exclusion will not exclude you from the PAGA Settlement. Thus, if you worked for JaniTek at any time from September 29, 2020 through January 11, 2024, you will still receive your portion of the PAGA Settlement and you will be bound by the more limited release set forth in section 8(B).

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

(d) You Can Object to the Settlement.

If you do not submit a Request for Exclusion from the settlement, you may object to the settlement by sending your written objection to the Settlement Administrator at the address specified in Section 12 below. The deadline to postmark your objection is **[45 days from mailing]**. Only class members who have not requested exclusion may object to the settlement.

Your objection must state the basis of your objection and include any papers and briefs in support of your position. Your objection must be signed and must contain your current address and telephone number (or that of your attorney) and refer to this case (*Mendez v. WTMG, Inc., San Joaquin Superior Court Case No. STK-CV-UOE-2021-0009144*).

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

(e) You Can Attend the Final Approval Hearing

Regardless of which option you choose, you may attend the Final Approval Hearing. Information about the Final Approval Hearing is contained in section 10 of this Notice.

10. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT

The Final Approval Hearing on the fairness and adequacy of the proposed settlement, the plan of distribution, the service and release awards to the Plaintiffs, and Class Counsel's request for attorneys' fees and costs, and other issues will be held on _____, 2024 at _____.m., in Department 10A of the San Joaquin County Superior Court, 180 E. Weber Avenue, Stockton, CA 95202. The Final Approval Hearing may be continued to another date without further notice. If you plan to attend the Final Approval Hearing, it is recommended that you contact the Settlement Administrator to confirm the date and time. You have the option to attend the Final Approval Hearing by telephone.

11. ADDITIONAL INFORMATION AND COURTHOUSE SOCIAL DISTANCING INFORMATION.

This Notice only summarizes the lawsuit and settlement. For more information, you may inspect the Court file at the San Joaquin County Superior Court, 180 E. Weber Avenue, Stockton, CA 95202, subject to the procedures in place at the Courthouse. You may also review the settlement agreement and other documents on-line at www.____ or you may contact the Settlement Administrator as follows:

Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
Telephone: 1-800-523-5773

FOR MORE INFORMATION CALL 1-800-_____.

Facsimile: 949-209-2503
Email: Notice@phoenixclassaction.com
Website: _____

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

**IT IS IMPORTANT THAT YOU NOTIFY THE SETTLEMENT ADMINISTRATOR IMMEDIATELY
IF YOU HAVE A CHANGE OF ADDRESS**

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE

FOR MORE INFORMATION CALL 1-800-_____.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and not a party to the within action. My business address is 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA 91423.

On May 10, 2024, I served the following document described as

- **[PROPOSED] ORDER**

on the interested parties in this action:

(X) by serving () the original (X) true copies thereof as follows:

Please see attached service list

() BY MAIL

I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

() BY FACSIMILE TRANSMISSION

I caused said document(s) to be transmitted by facsimile transmission to the name(s) and facsimile telephone number(s) of the person(s) named on the attached service list. The facsimile machine telephone number of the sending facsimile machine was (818) 918-2316. A transmission report was issued by the sending facsimile machine confirming that the transmission was completed without error. A true and correct copy of said transmission report is attached hereto.

() BY OVERNIGHT DELIVERY

Said document was placed in an envelope designated by the express service center and placed for collection in a box regularly maintained by said carrier with whom we have a direct billing account, to be delivered to the office of the addressee listed above on the next business day.

(XX) BY ELECTRONIC TRANSMISSION

I caused the above-described document to be electronically served to the names and email addresses listed on the Service List attached hereto.

(X) **STATE** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

() **FEDERAL** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

(X) **EXECUTED** on May 10, 2024, at Sherman Oaks, California.



Nicole Salazar

SERVICE LIST

Michael A. Farbstein, Esq.
FARBSTEIN & BLACKMAN
A Professional Corporation
411 Borel Avenue, Suite 425
San Mateo, California 94402-3518
Telephone: (650) 554-6200
Facsimile: (650) 554-6240
Email: maf@farbstein.com

*Attorneys for Defendants WTMG, Inc., dba
JaniTek Cleaning Solutions*

Galen Shimoda, Esq.
SHIMODA LAW CORP.
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Exhibit 3
(Time Records)



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September 30, 2024

Ignacio Mendez

Invoice Number: Draft
Invoice Period: 09-20-2021 - 09-30-2024

Payment Terms: Upon Receipt

RE: 6212- Ignacio Mendez v. JaniTek Cleaning Solutions

Time Details

Date	Professional	Description	Hours	Rate	Amount
09-20-2021	ACG	Review Mendez employment records.	1.50	750.00	1,125.00
09-21-2021	ACG	Draft Complaint; draft PAGA notice.	2.50	750.00	1,875.00
09-28-2021	ACG	Emails with G. Shimoda regarding status; revise and finalize PAGA Notice and Complaint.	0.70	750.00	525.00
11-03-2021	ACG	Email G. Shimoda regarding contact from defense counsel.	0.10	750.00	75.00
11-05-2021	ACG	Draft amended PAGA notification.	1.20	750.00	900.00
11-08-2021	ACG	Emails with G. Shimoda regarding amended PAGA notice.	0.20	750.00	150.00
11-17-2021	ACG	Contact defendant regarding failure to answer.	0.20	750.00	150.00
11-18-2021	ACG	Emails with defense counsel regarding service and response date.	0.30	750.00	225.00
11-29-2021	ACG	Email defense counsel regarding stipulation.	0.10	750.00	75.00
12-01-2021	ACG	Emails with defense counsel regarding response to Complaint.	0.20	750.00	150.00
12-07-2021	ACG	Emails with defense counsel regarding PAGA claim and stipulation; review Rodriguez Complaint.	0.50	750.00	375.00

We appreciate your business

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Date	Professional	Description	Hours	Rate	Amount
12-07-2021	RGG	Review correspondence regarding arbitration agreement; review Stipulation to Continue.	0.50	750.00	375.00
12-09-2021	ACG	Review Answer to Complaint; draft written discovery.	3.30	750.00	2,475.00
12-10-2021	ACG	Revise and finalize written discovery.	1.10	750.00	825.00
12-16-2021	ACG	Emails with defense counsel regarding Motion to Compel Arbitration.	0.20	750.00	150.00
12-20-2021	ACG	Draft First Amended Complaint; revise stipulation; email defense counsel regarding discovery and First Amended Complaint.	1.50	750.00	1,125.00
12-21-2021	ACG	Confer with I. Mendez regarding Motion to Compel Arbitration; emails with defense counsel regarding discovery; related legal research.	1.20	750.00	900.00
12-22-2021	ACG	Confer with defense counsel regarding discovery; draft Motion for Leave to Amend; review and revise cover letter to clerk.	3.40	750.00	2,550.00
12-22-2021	RGG	Review and analyze Motion to Compel Arbitration and support documents.	1.80	750.00	1,350.00
12-23-2021	RGG	Research regarding Opposition to Motion to Compel Arbitration.	3.50	750.00	2,625.00
12-23-2021	ACG	Review final draft of Motion for Leave to Amend.	0.20	750.00	150.00
12-24-2021	RGG	Research regarding Opposition to Motion to Compel Arbitration; draft A. Gundzik declaration regarding same.	6.20	750.00	4,650.00
12-27-2021	ACG	Review and revise I. Mendez declaration regarding Opposition to Motion to Compel Arbitration.	0.30	750.00	225.00
12-28-2021	ACG	Email I. Mendez regarding declaration; review and revise A. Gundzik declaration in support of Opposition to Motion to Compel Arbitration.	1.00	750.00	750.00
12-28-2021	RGG	Draft declarations and start Opposition to Motion to Compel Arbitration.	8.70	750.00	6,525.00
12-29-2021	RGG	Research regarding new arbitration cases.	3.20	750.00	2,400.00
12-30-2021	RGG	Draft Opposition to Motion to Compel Arbitration.	5.40	750.00	4,050.00
12-30-2021	ACG	Confer with I. Mendez regarding declaration; review and revise Opposition.	1.00	750.00	750.00
01-03-2022	ACG	Emails regarding Opposition.	0.20	750.00	150.00
01-06-2022	RGG	Review and finalize Opposition to Motion to Compel	2.20	750.00	1,650.00

Date	Professional	Description	Hours	Rate	Amount
		Arbitration and supporting declarations.			
01-11-2022	ACG	Review response to Motion for Leave to Amend; draft Reply.	0.60	750.00	450.00
01-13-2022	ACG	Review Reply in Support of Motion to Compel Arbitration.	0.50	750.00	375.00
01-24-2022	ACG	Review tentative ruling; prepare for hearing.	1.70	750.00	1,275.00
01-24-2022	RGG	Review tentative ruling on Motion for Compel Arbitration and confer with co-counsel regarding same.	0.50	750.00	375.00
01-25-2022	RGG	Confer with co-counsel regarding Motion to Compel Arbitration hearing.	0.30	750.00	225.00
01-25-2022	ACG	Prepare for and attend hearing on motions.	0.80	750.00	600.00
01-27-2022	ACG	Prepare for and attend hearing on Motion to Compel Arbitration; draft orders; emails with defense counsel regarding orders.	2.90	750.00	2,175.00
01-28-2022	ACG	Finalize orders.	0.30	750.00	225.00
01-31-2022	ACG	Emails with defense counsel regarding discovery responses.	0.30	750.00	225.00
01-31-2022	RGG	Confer with co-counsel regarding continued Motion to Compel Arbitration hearing and appeal.	0.20	750.00	150.00
02-03-2022	ACG	Review and finalize Notice of Ruling and First Amended Complaint; draft Opposition to Notice of Related Cases; review Rodriguez and Fernandez Complaints.	1.80	750.00	1,350.00
02-11-2022	RGG	Review Notice of Appeal; confer with co-counsel regarding strategy.	0.50	750.00	375.00
02-14-2022	RGG	Draft Motion for Preference.	0.70	750.00	525.00
02-14-2022	ACG	Review Notice of Appeal; revise Motion for Preference.	0.30	750.00	225.00
02-18-2022	ACG	Review rejection notice; draft Case Management Conference Statement; emails with defense counsel regarding Case Management Conference.	1.10	750.00	825.00
03-01-2022	ACG	Confer with defense counsel regarding Case Management Conference.	0.10	750.00	75.00
03-02-2022	ACG	Prepare for and participate in Case Management Conference.	1.10	750.00	825.00
03-14-2022	ACG	Review Appellant's Information Statement and Mediation Statement; revise and finalize Respondent's Mediation Statement.	0.90	750.00	675.00

Date	Professional	Description	Hours	Rate	Amount
03-14-2022	RGG	Review correspondence regarding appeal and related filings and Motion for Preference.	0.60	750.00	450.00
03-15-2022	RGG	Review appellate court order regarding Motion for Preference; email with opposing counsel regarding same.	0.40	750.00	300.00
03-21-2022	ACG	Email defense counsel regarding discovery.	0.20	750.00	150.00
03-29-2022	ACG	Review email from court mediation coordinator; email coordinator regarding mediation issues.	0.90	750.00	675.00
04-18-2022	ACG	Review Defendant's Motion to Stay; review and revise Respondent's Designation of Record on Appeal.	1.10	750.00	825.00
05-04-2022	RGG	Review and analyze Motion to Consolidate; begin preparation of Opposition to Motion to Consolidate.	2.10	750.00	1,575.00
05-05-2022	RGG	Research regarding Opposition to Motion to Stay; draft Opposition.	4.80	750.00	3,600.00
05-06-2022	RGG	Draft Opposition to Motion to Consolidate.	7.30	750.00	5,475.00
05-09-2022	RGG	Finalize Opposition to Motion to Consolidate/Stay.	0.80	750.00	600.00
05-09-2022	ACG	Revise and finalize Opposition to Motion to Solidate and/or Stay.	1.20	750.00	900.00
05-18-2022	ACG	Review Reply regarding Motion to Stay.	1.20	750.00	900.00
05-20-2022	ACG	Prepare for and attend hearing on Motion to Stay; review draft order.	0.70	750.00	525.00
06-29-2022	ACG	Prepare for and attend Case Management Conference.	0.80	750.00	600.00
07-08-2022	ACG	Emails with defense counsel regarding extension of briefing schedule; review related court rules.	0.70	750.00	525.00
07-11-2022	ACG	Review and revise stipulation for extension of briefing schedule; email defense counsel regarding same.	0.60	750.00	450.00
08-08-2022	RGG	Begin review and analysis of Appellant's Opening Brief on Appeal; begin review of record.	6.40	750.00	4,800.00
08-09-2022	RGG	Continue review and analysis of record; begin outline of Respondent's Opening Brief.	7.40	750.00	5,550.00
08-11-2022	RGG	Research regarding noncompete clause in Confidentiality Agreement; begin research regarding statement of decision.	4.20	750.00	3,150.00
08-12-2022	RGG	Research regarding statement of decision; research regarding LC 432.6-5.9.	5.90	750.00	4,425.00

Date	Professional	Description	Hours	Rate	Amount
08-15-2022	RGG	Draft statement of facts and procedure for appellate brief.	8.20	750.00	6,150.00
08-16-2022	RGG	Continue drafting statement of facts and procedural history.	7.30	750.00	5,475.00
08-17-2022	RGG	Continue drafting appellate brief facts and procedure.	5.70	750.00	4,275.00
08-18-2022	RGG	Draft appellate brief.	5.40	750.00	4,050.00
08-19-2022	RGG	Draft appellate brief.	6.20	750.00	4,650.00
08-20-2022	RGG	Draft appellate brief.	4.60	750.00	3,450.00
08-22-2022	RGG	Draft appellate brief.	7.60	750.00	5,700.00
08-23-2022	RGG	Draft appellate brief.	6.20	750.00	4,650.00
08-23-2022	ACG	Review Appellant's Opening Brief.	2.20	750.00	1,650.00
08-24-2022	ACG	Revise draft Respondent's Opening Brief.	3.20	750.00	2,400.00
08-24-2022	RGG	Draft appellate brief.	2.20	750.00	1,650.00
08-25-2022	RGG	Draft appellate brief.	2.60	750.00	1,950.00
08-26-2022	RGG	Revise and finalize appellate brief.	2.80	750.00	2,100.00
09-13-2022	ACG	Emails with defense counsel regarding Appellant's Reply Brief.	0.20	750.00	150.00
10-06-2022	RGG	Review Appellant's Reply Brief; email with opposing counsel regarding same.	1.60	750.00	1,200.00
11-22-2022	RGG	Review waiver of oral argument; confer with co-counsel re same.	0.50	750.00	375.00
11-22-2022	ACG	Review new unconscionability case; review letter from court regarding oral argument; confer with R. Gundzik regarding oral argument; emails with G. Shimoda regarding same.	1.10	750.00	825.00
01-11-2023	ACG	Prepare for and attend Case Management Conference.	0.60	750.00	450.00
01-17-2023	ACG	Review briefs and authorities in preparation of appellate argument.	4.90	750.00	3,675.00
01-18-2023	ACG	Review briefs and authorities in preparation for appellate argument.	5.10	750.00	3,825.00
01-19-2023	ACG	Prepare for oral argument; travel to Sacramento.	5.50	750.00	4,125.00

Date	Professional	Description	Hours	Rate	Amount
01-20-2023	ACG	Prepare for and argue appeal; travel to Los Angeles.	7.50	750.00	5,625.00
02-02-2023	ACG	Review decision on appeal; related emails with co-counsel.	0.70	750.00	525.00
02-02-2023	RGG	Review appellate opinion and confer with co-counsel regarding same.	1.10	750.00	825.00
02-03-2023	ACG	Revise memorandum of costs; review related rule.	0.40	750.00	300.00
02-20-2023	ACG	Review defendant's petition for rehearing.	1.20	750.00	900.00
02-23-2023	ACG	Review on petition for hearing and modification of opinion.	0.30	750.00	225.00
03-06-2023	ACG	Confer with class member regarding status.	0.30	750.00	225.00
03-09-2023	ACG	Confer with defense counsel regarding status and mediation.	0.20	750.00	150.00
03-15-2023	ACG	Emails with defense counsel regarding Petition for Review; preliminary review of Petition for Review.	1.00	750.00	750.00
03-22-2023	RGG	Review Defendant's Petition for Review; analysis regarding same; begin drafting Answer to Petition for Review.	8.20	750.00	6,150.00
03-23-2023	RGG	Work on Answer to Petition for Review.	9.60	750.00	7,200.00
03-30-2023	RGG	Draft Answer to Petition for Review.	1.20	750.00	900.00
04-18-2023	ACG	Prepare for and attend status conference.	0.60	750.00	450.00
04-27-2023	ACG	Confer with I. Mendez regarding status.	0.40	750.00	300.00
05-08-2023	ACG	Review remittitur and order on petition for review; email co-counsel regarding same.	0.40	750.00	300.00
05-16-2023	ACG	Prepare discovery and deposition notices; confer with defense counsel.	0.60	750.00	450.00
06-06-2023	ACG	Confer with defense counsel regarding mediation; related emails with G. Shimoda.	0.80	750.00	600.00
06-06-2023	RGG	Review emails regarding mediation and confer with co-counsel regarding same.	0.80	750.00	600.00
06-06-2023	RGG	Confer with co-counsel regarding mediation; review emails with G. Shimoda regarding same.	0.60	750.00	450.00
06-07-2023	RGG	Review and translate documents in client employment file.	0.50	750.00	375.00
06-07-2023	ACG	Prepare status report to trial court; email defense	3.20	750.00	2,400.00

Date	Professional	Description	Hours	Rate	Amount
		counsel regarding status report; confer with G. Shimoda regarding mediation; review file and prepare list of mediation documents and materials.			
06-12-2023	ACG	Emails regarding mediation.	0.30	750.00	225.00
06-12-2023	RGG	Review emails regarding mediation.	0.20	750.00	150.00
06-15-2023	RGG	Review mediation list and confer with co-counsel regarding same; review email from defense counsel regarding same.	0.90	750.00	675.00
06-15-2023	ACG	Prepare for and participate in status conference; revise mediation list; email defense counsel regarding same.	1.20	750.00	900.00
06-20-2023	ACG	Confer with G. Shimoda regarding mediation issues.	0.30	750.00	225.00
06-21-2023	ACG	Prepare interview template; emails with G. Shimoda regarding same; confer with R. Guevara regarding mediation; emails with defense counsel.	1.10	750.00	825.00
06-26-2023	ACG	Confer with R. Guevara regarding mediation issues.	0.80	750.00	600.00
06-28-2023	ACG	Emails with counsel regarding mediation.	0.20	750.00	150.00
06-29-2023	ACG	Emails with R. Guevara and defense counsel.	0.30	750.00	225.00
06-30-2023	ACG	Confer with G. Shimoda regarding mediation and case status.	0.40	750.00	300.00
07-07-2023	ACG	Emails with defense counsel regarding mediation.	0.30	750.00	225.00
07-18-2023	ACG	Emails with defense counsel regarding mediation.	0.20	750.00	150.00
07-19-2023	ACG	Emails with defense counsel and G. Shimoda regarding mediation issues.	0.40	750.00	300.00
07-19-2023	RGG	Email with opposing counsel regarding mediation; confer with law clerk regarding mediation details; confer with co-counsel regarding mediation.	1.80	750.00	1,350.00
07-21-2023	ACG	Confer with R. Guevara; email R. Bae.	0.30	750.00	225.00
09-05-2023	ACG	Emails with defense counsel regarding mediation materials.	0.20	750.00	150.00
09-08-2023	ACG	Emails with R. Guevara regarding mediation.	0.20	750.00	150.00
09-11-2023	ACG	Emails with defense counsel regarding mediation; confer with R. Guevara regarding mediation.	0.80	750.00	600.00
09-18-2023	ACG	Emails with defense counsel regarding mediation materials.	0.20	750.00	150.00

Date	Professional	Description	Hours	Rate	Amount
09-26-2023	ACG	Confer with R. Guevara regarding mediation issues.	0.30	750.00	225.00
09-29-2023	ACG	Emails with mediator.	0.10	750.00	75.00
10-04-2023	ACG	Email R. Guevara regarding JPA.	0.10	750.00	75.00
10-05-2023	ACG	Confer with R Guevara re mediation; revise JPA; related emails.	0.40	750.00	300.00
10-06-2023	ACG	Finalize JPA; related emails to counsel.	0.20	750.00	150.00
10-13-2023	ACG	Confer with R. Guevara regarding mediation issues; email defense counsel regarding mediation.	0.50	750.00	375.00
10-16-2023	ACG	Emails regarding mediation.	0.20	750.00	150.00
10-17-2023	ACG	Prepare for and participate in call with R. Guevara regarding mediation preparation; review documents from R. Guevara; review employee interviews.	1.30	750.00	975.00
10-20-2023	ACG	Prepare for and confer with defense counsel regarding mediation materials; related emails.	0.80	750.00	600.00
10-24-2023	ACG	Review draft stipulated protective order; emails with defense counsel regarding same; review Minute Order.	0.80	750.00	600.00
10-30-2023	ACG	Emails with mediator.	0.30	750.00	225.00
10-31-2023	ACG	Emails with defense counsel regarding mediation records.	0.20	750.00	150.00
11-07-2023	ACG	Emails with defense counsel regarding mediation; emails with co-counsel regarding class member interviews.	0.60	750.00	450.00
11-09-2023	ACG	Emails with defense counsel regarding mediation; confer with defense counsel regarding same.	0.60	750.00	450.00
11-09-2023	NS	Calls to class members; interview 1 class member and prepare notes regarding same	0.50	125.00	62.50
11-10-2023	NS	Calls to class members; interview 1 class member and prepare notes regarding same	0.70	125.00	87.50
11-10-2023	ACG	Review pay records produced by defendant; emails with defense counsel.	0.50	750.00	375.00
11-13-2023	RGG	Confer with co-counsel regarding mediation; review interview summaries; begin mediation brief.	5.60	750.00	4,200.00
11-13-2023	NS	Calls to class members; interview 4 class members and prepare notes regarding same	3.70	125.00	462.50

Date	Professional	Description	Hours	Rate	Amount
11-15-2023	ACG	Emails with defense counsel regarding mediation data; review data; emails with consultants.	1.20	750.00	900.00
11-16-2023	ACG	Emails with defense counsel regarding change of mediation date and mediation data; emails with co-counsel regarding same.	0.70	750.00	525.00
11-16-2023	NS	Interview class member and prepare notes regarding same	1.00	125.00	125.00
11-17-2023	NS	Calls to class members; interview 3 class members and prepare notes regarding same; confer with co-counsel regarding interviews	4.50	125.00	562.50
11-17-2023	ACG	Emails with defense counsel and co-counsel regarding mediation date and data.	0.60	750.00	450.00
11-21-2023	ACG	Emails with mediator and defense counsel regarding mediation date and document production; confer with consultant regarding data review.	0.70	750.00	525.00
11-27-2023	ACG	Emails with counsel regarding mediation; confer with I. Mendez regarding new mediation date.	0.50	750.00	375.00
11-30-2023	ACG	Emails regarding mediation.	0.40	750.00	300.00
12-01-2023	ACG	Confer with expert regarding data and analysis; email defense counsel regarding same.	1.10	750.00	825.00
12-06-2023	ACG	Review preliminary damages analysis; emails with defense counsel and consultant.	0.50	750.00	375.00
12-07-2023	ACG	Emails with defense counsel regarding mediation data.	0.20	750.00	150.00
12-13-2023	ACG	Review email information from defense counsel regarding mediation; related emails with defense counsel.	0.80	750.00	600.00
12-18-2023	ACG	Email defense counsel regarding mediation data; call with expert to discuss analysis.	0.80	750.00	600.00
12-19-2023	ACG	Review employee handbook produced by defense counsel; related emails with defense counsel.	1.20	750.00	900.00
12-20-2023	ACG	Work on damages analysis; confer at length with consultant.	4.20	750.00	3,150.00
12-21-2023	ACG	Emails with consultant regarding analysis; confer with consultant regarding same; review employee handbooks.	3.10	750.00	2,325.00
12-21-2023	NS	Calls to class members	0.50	125.00	62.50
12-26-2023	ACG	Emails with consultant.	0.50	750.00	375.00

Date	Professional	Description	Hours	Rate	Amount
12-26-2023	RGG	Review and summarize class member interviews.	4.20	750.00	3,150.00
12-27-2023	RGG	Draft section regarding interviews for mediation brief.	4.60	750.00	3,450.00
12-27-2023	NS	Calls to class members; interview 2 class members and prepare interview notes re same	2.10	125.00	262.50
12-27-2023	ACG	Emails with consultant.	0.80	750.00	600.00
12-28-2023	ACG	Review damages analysis; review and revise mediation brief; confer with consultant regarding analysis.	4.10	750.00	3,075.00
12-28-2023	NS	Calls to class members; interview 3 class members and prepare interview notes re same	2.70	125.00	337.50
12-29-2023	NS	Calls to class members; interview one class member and prepare notes regarding same; confer with co-counsel regarding interviews	1.10	125.00	137.50
12-29-2023	ACG	Work on mediation brief and damages summary; confer with consultant.	3.20	750.00	2,400.00
12-31-2023	ACG	Review revised damages analysis from consultant.	1.10	750.00	825.00
01-04-2024	RGG	Confer with mediator.	0.50	750.00	375.00
01-04-2024	ACG	Prepare for and confer with mediator.	1.20	750.00	900.00
01-08-2024	ACG	Prepare for mediation; confer with I. Mendez regarding mediation.	1.50	750.00	1,125.00
01-08-2024	RGG	Research regarding defendant; email mediator regarding same.	4.20	750.00	3,150.00
01-10-2024	RGG	Travel to Walnut Creek for mediation.	5.70	750.00	4,275.00
01-10-2024	ACG	Travel to Walnut Creek for mediation.	3.00	750.00	2,250.00
01-11-2024	ACG	Prepare for and attend mediation.	9.20	750.00	6,900.00
01-11-2024	RGG	Attend mediation.	8.40	750.00	6,300.00
01-12-2024	RGG	Travel from mediation.	5.40	750.00	4,050.00
01-16-2024	ACG	Review mediator's proposal; confer with I. Mendez; related emails with co-counsel.	1.20	750.00	900.00
01-22-2024	ACG	Prepare for and attend status conference.	0.80	750.00	600.00
01-23-2024	ACG	Emails regarding status conference and settlement; confer with I. Mendez regarding settlement and status; work on settlement agreement.	4.80	750.00	3,600.00

Date	Professional	Description	Hours	Rate	Amount
01-24-2024	ACG	Work on settlement stipulation; confer with co-counsel regarding same; emails with potential TPAs.	2.60	750.00	1,950.00
01-25-2024	ACG	Confer with R. Guevara regarding settlement issues; related emails; emails with defense counsel.	0.90	750.00	675.00
01-26-2024	ACG	Review and revise settlement stipulation.	2.50	750.00	1,875.00
01-29-2024	ACG	Confer with defense counsel regarding settlement issues; revise settlement stipulation; draft notice of settlement.	3.80	750.00	2,850.00
01-30-2024	ACG	Draft Second Amended Complaint and stipulation; email with R. Guevara and G. Shimoda.	3.10	750.00	2,325.00
02-01-2024	ACG	Revise settlement agreement, notice, draft Second Amended Complaint and Stipulation; emails with counsel regarding drafts.	3.10	750.00	2,325.00
02-09-2024	ACG	Emails with R. Guevara regarding settlement agreement.	0.40	750.00	300.00
02-12-2024	ACG	Review Rodriguez settlement agreement and release language; emails with R. Guevara regarding same.	1.10	750.00	825.00
02-14-2024	ACG	Emails with defense counsel regarding status of settlement.	0.20	750.00	150.00
02-16-2024	ACG	Confer with defense counsel regarding settlement stipulation and Second Amended Complaint.	0.90	750.00	675.00
02-20-2024	ACG	Emails with defense counsel regarding settlement agreement.	0.70	750.00	525.00
02-21-2024	ACG	Emails with defense counsel regarding settlement; review draft agreement.	0.80	750.00	600.00
02-26-2024	ACG	Review Rodriguez settlement agreement and email counsel with revisions.	1.10	750.00	825.00
02-27-2024	ACG	Emails with R. Guevara regarding settlement agreement.	0.50	750.00	375.00
02-29-2024	ACG	Emails with defense counsel regarding status of settlement review.	0.20	750.00	150.00
03-05-2024	ACG	Emails with defense counsel regarding settlement agreement.	0.20	750.00	150.00
03-07-2024	ACG	Emails with defense counsel regarding settlement agreement.	0.40	750.00	300.00
03-08-2024	ACG	Revise settlement agreement per defense comments; emails with defense counsel regarding same.	2.10	750.00	1,575.00

Date	Professional	Description	Hours	Rate	Amount
03-11-2024	ACG	Revise and finalize settlement agreement and notice; related emails; emails regarding Motion for Preliminary Approval; review and revise Notice of Entry of Order; review Order on Second Amended Complaint.	1.20	750.00	900.00
03-12-2024	ACG	Work on Motion for Preliminary Approval; confer with I. Mendez regarding settlement agreement.	4.10	750.00	3,075.00
03-19-2024	NS	Interview class member and prepare notes regarding same	0.50	125.00	62.50
03-29-2024	ACG	Emails with defense counsel regarding settlement issues.	0.30	750.00	225.00
04-01-2024	RGG	Declaration of A. Gundzik declaration regarding Motion for Preliminary Approval.	5.20	750.00	3,900.00
04-02-2024	RGG	Draft Motion for Preliminary Approval.	8.40	750.00	6,300.00
04-03-2024	RGG	Draft and revise Motion for Preliminary Approval, TPA declaration, Plaintiff's declaration, [Proposed] Order.	9.20	750.00	6,900.00
04-04-2024	ACG	Emails with defense counsel regarding settlement issues; emails with TPA regarding declaration.	0.80	750.00	600.00
04-10-2024	RGG	Email opposing counsel regarding financial documents.	0.20	750.00	150.00
04-11-2024	RGG	Draft NDA; emails with opposing counsel regarding same.	1.20	750.00	900.00
04-15-2024	ACG	Review and approve NDA for financial information; related emails with counsel.	0.50	750.00	375.00
04-18-2024	ACG	Emails with defense counsel regarding NDA and financial records.	0.20	750.00	150.00
04-22-2024	ACG	Review and revise declaration in support of Motion for Preliminary Approval.	3.20	750.00	2,400.00
04-23-2024	ACG	Work on Motion for Preliminary Approval declaration and Kullar analysis.	2.60	750.00	1,950.00
04-29-2024	ACG	Emails regarding financial records; review Shimoda declaration.	1.10	750.00	825.00
04-30-2024	ACG	Revise declarations for Motion for Preliminary Approval.	1.50	750.00	1,125.00
05-01-2024	ACG	Prepare for and attend status conference.	0.50	750.00	375.00
05-02-2024	ACG	Revise Motion for Preliminary Approval and supporting declaration.	2.30	750.00	1,725.00
05-06-2024	ACG	Review analysis of financial records; confer with G. Shimoda regarding same; revise Motion for	2.70	750.00	2,025.00

Date	Professional	Description	Hours	Rate	Amount
		Preliminary Approval documents; email to defense counsel regarding Motion for Preliminary Approval documents.			
06-05-2024	ACG	Prepare for MFA hearing; review tentative ruling; related emails with court and defense counsel	2.40	750.00	1,800.00
06-07-2024	ACG	Emails with defense counsel and TPA re class data	0.30	750.00	225.00
06-10-2024	ACG	Emails with TPA and defense counsel re deadlines	0.30	750.00	225.00
06-28-2024	ACG	Emails with TPA re status of notice mailing	0.20	750.00	150.00
07-01-2024	ACG	Emails with TPA re notice mailing	0.30	750.00	225.00
07-03-2024	ACG	Review TPA payment calculations; emails with TPA and G Shimoda re same; confer with G Shimoda re status	0.90	750.00	675.00
07-11-2024	ACG	Review and revise class notice; emails with TPA re mailing	1.20	750.00	900.00
07-18-2024	ACG	Emails with TPA re settlement notice; email I Mendez re same	0.30	750.00	225.00
07-29-2024	ACG	Review TPA report	0.20	750.00	150.00
07-30-2024	ACG	Emails with G Shimoda re class member communication	0.20	750.00	150.00
08-05-2024	ACG	Review TPA report	0.20	750.00	150.00
08-12-2024	ACG	Review TPA report	0.20	750.00	150.00
08-19-2024	ACG	Review TPA report	0.20	750.00	150.00
08-26-2024	ACG	Review TPA report; related emails; review opt-out request	0.40	750.00	300.00
09-03-2024	RGG	Review weekly TPA report; review opt out	0.40	750.00	300.00
09-09-2024	RGG	Review weekly report; analysis regarding MFA; email with TPA	0.70	750.00	525.00
09-10-2024	RGG	Email with co-counsel regarding MFA	0.30	750.00	225.00
09-21-2024	RGG	Email with both co-counsel regarding their declarations for MFA; draft A. Gundzik declaration for MFA; review and revise R. Guevara declaration	6.70	750.00	5,025.00
09-23-2024	RGG	Draft motion for final approval	8.40	750.00	6,300.00
09-24-2024	RGG	Draft order regarding final approval; draft TPA declaration; draft I Mendez declaration; draft A	9.60	750.00	7,200.00

Date	Professional	Description	Hours	Rate	Amount
		Rodriguez declaration; draft proposed judgment; itemize billing records for chart in A Gundzik declaration			
09-25-2024	RGG	Revise and final approval papers	5.70	750.00	4,275.00
			Total		339,287.50

Time Summary

Professional	Hours	Amount
Aaron C. Gundzik	195.50	146,625.00
Nicole Salazar	17.30	2,162.50
Rebecca G. Gundzik	254.00	190,500.00
Total		339,287.50

Expenses

Date	Expense	Description	Amount
09-29-2021	Filing fee	LWDA	75.00
09-29-2021	Express Network	Summons and Complaint	1,736.00
10-05-2021	Express Network	Summons and Complaint	199.50
10-07-2021	Express Network	POS	157.50
12-22-2021	Express Network	Letter; POS; Motion	212.25
12-29-2021	Express Network	POS; Motion	141.75
01-06-2022	Express Network	Memo; Declaration of Ignacio; Declaration of Aaron	190.00
01-12-2022	Express Network	Reply	190.00
01-28-2022	Express Network	Order Denying Motion; Order	214.75
02-03-2022	Express Network	Opposition	135.00
02-03-2022	Express Network	Opposition	135.00
02-03-2022	Express Network	Opposition	175.00
02-03-2022	Express Network	First Amended Complaint; Notice of Entry (x2)	147.75
02-18-2022	Express Network	Notice Designating Record on Appeal, CMS	135.00
02-21-2022	Transcript fee	Uccelli & Associates, Inc. - Transcript fee	40.41
03-01-2022	Filing fee	True Filing	10.50
03-03-2022	Filing fee	True Filing	409.20
03-15-2022	Filing fee	True Filing	10.50
04-18-2022	Express Network	Respondents Notice of Designating Record on Appeal	135.00

Date	Expense	Description	Amount
05-09-2022	Express Network	Memo of Points	257.50
05-16-2022	Express Network	Request for Additional Funds	181.58
05-23-2022	Express Network	Clerk Estimate of Cost	335.81
08-26-2022	Filing fees	Truefiling - Appeal Brief	10.50
01-19-2023	\$Travel	Hyatt	312.49
01-19-2023	Miscellaneous	CMT Sacramento	45.00
01-20-2023	Miscellaneous	CMT Sacramento	47.75
01-20-2023	\$Travel	Frank Fats Restaurant	26.87
04-03-2023	Filing fees	Supreme Court of CA	412.20
04-10-2023	Express Network	Plaintiff's Supplement to Status Report Filed	150.00
05-08-2023	Express Network	Memo of Costs	150.00
06-08-2023	Express Network	Status Conference Report	170.00
09-14-2023	Mediation Services	JAMS - Initial fee	475.00
10-31-2023	Mediation Services	JAMS	7,500.00
01-12-2024	Parking	Parking	9.00
01-12-2024	Miscellaneous	Renaissance Bay Club	614.66
01-17-2024	Express Network	Conference Report	150.00
01-29-2024	Mediation Services	JAMS	3,195.00
02-12-2024	Miscellaneous	TelSwitch Inc.	9,177.45
02-21-2024	Express Network	Stip and Proposed Order for Leave to file SEC amended complaint	204.00
03-11-2024	Express Network	Notice of Entry	194.25
03-12-2024	Express Network	SEC amended class action complaint	190.50
04-23-2024	Express Network	Joint Status Conference Report	158.00
05-01-2024	Express Network	Notice of Further Status Conference	158.00
05-10-2024	Express Network	Motion	224.00
05-22-2024	Express Network	Order; Declarations (x4); MPA; Notice; Cover Letter	170.25
05-23-2024	Express Network	Notice of Hearing	158.00
06-07-2024	Express Network	Notice of Entry of Order	188.00

Date	Expense	Description	Amount
Total Expenses			29,315.92
Total for this Invoice			368,603.42
Total Amount to Pay as of 09-30-2024			368,603.42

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Exhibit 4
(Class Action Hourly Rate Survey)



National Association of Legal Fee Analysis
Specializing in Attorney Fees & Legal Billing
— *The Nation's Top Attorney Fee Experts*

News Release

FOR IMMEDIATE RELEASE

March 4, 2020

Survey: Defense Rates Keep Pace with Plaintiffs' Rates in Class Action Litigation

Chicago, IL -- Defense rates keep pace with plaintiffs' rates in class action litigation at partner and associate levels in 2020. That's just one of the findings from a recent survey, The 2020 Class Action Hourly Rate Survey, conducted by the National Association of Legal Fee Analysis (NALFA). This billing rate survey, conducted via email over a two month period, asked class action litigators from the nation's 16 largest legal markets if their current regular hourly rate falls within a given range.

The NALFA survey shows that 95 percent of all class actions fall within the \$200-\$1,200 hourly rate range for both defense and plaintiffs' counsel at partner and associate levels. In short, only 5 percent of class action hourly rates are less than \$200 and over \$1,200. Thus, nearly all class action hourly rates fall within a \$1,000 hourly rate statistical variance.

This survey is the first in a series of hourly rate surveys that NALFA will be conducting in specific practice areas. NALFA also conducts custom hourly rate surveys for clients such as law firms, corporate legal departments, and government agencies. NALFA surveys provide the most accurate and current hourly rate ranges within a given geography and practice area.

"This survey data may be the nation's first and only quantitative class action hourly rate data of its kind," said Terry Jesse, NALFA Executive Director. With more class action hourly rate data to follow, here are some of the top level findings from NALFA's 2020 Class Action Hourly Rate Survey:

The 2020 Average Hourly Rate Range in Class Actions		
	Plaintiffs' Rate	Defense Rate
Senior Partner (20+ Years in Practice)	\$801-\$900	\$801-\$900
Partner (16-19 Years in Practice)	\$701-\$800	\$601-\$700
Junior Partner (12-15 Years in Practice)	\$501-\$600	\$401-\$500
Senior Associate (9-11 Years in Practice)	\$401-\$500	\$301-\$400
Associate (5-8 Years in Practice)	\$201-\$300	\$201-\$300
Junior Associate (2-4 Years in Practice)	\$201-\$300	\$201-\$300
Estimated Margin of Error: +/- \$25.00		

For more information on this survey, visit <http://www.thenalfa.org/blog/survey-class-action-defense-rates-keep-pace-with-plaintiffs-rates-in-2020/> or contact Terry Jesse, NALFA Executive Director at terry@thenalfa.org or call us at (312) 907-7275.



The National Association of Legal Fee Analysis (NALFA) is a 501(c)(6) non-profit professional association for the legal fee analysis field. Our members provide a range of services on attorney fee and legal billing matters.

Courts and clients turn to us for expertise when attorney fees and expenses are at issue in large, complex cases. NALFA members are fully qualified attorney fee experts, special fee masters, bankruptcy fee examiners, fee dispute neutrals, and legal bill auditors. Our members follow

Best Practices in Legal Fee Analysis. Our services include: Custom Hourly Rate Surveys and Fee Dispute Mediation. For more on NALFA, visit www.thenalfa.org. Follow us on Twitter at [@AttorneyFees](https://twitter.com/AttorneyFees).

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