

Exhibit 1

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

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

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.

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

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

transaction contemplated by this Agreement.

V. LIMITATIONS ON USE OF THIS SETTLEMENT

A. No Admission of Liability

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

B. Nullification

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

VI. RELEASE

A. Settlement Class Member Release

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

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

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

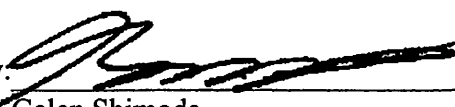
GUNDZIK GUNDZIK HEEGER LLP

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.
--

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-_____.