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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

SARA ACEVEDO, and JESUS SOTO,
individually, and on behalf of all others similarly
situated,

Plaintiffs,

v.

DEANCO HEALTHCARE, LLC, a limited
liability company, and DOES 1 through 10,
inclusive,

Defendants.

Case No. 21STCV34724

*[Assigned for all purposes to Judge William
F. Highberger, Dept. 10]*

**DECLARATION OF JUSTIN F.
MARQUEZ IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

*[Filed concurrently with: Plaintiffs' Notice
and Motion for Preliminary Approval of Class
Action Settlement; Declaration of David S.
Winston in Support of Plaintiffs' Motion for
Preliminary Approval of Class Action
Settlement; Declaration of Sara Acevedo;
Declaration of Ronald Flores Nunfio;
Declaration of Sean Hartranft; and
[Proposed] Order Granting Plaintiffs' Motion
for Preliminary Approval of Class Action
Settlement]*

PRELIMINARY APPROVAL HEARING

Date: November 1, 2022

Time: 1:30 p.m.

Dept: 10

WINSTON LAW GROUP, P.C.

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1. I am admitted, in good standing, to practice as an attorney in the State of California, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. I am a Senior Partner at Wilshire Law Firm, PLC, counsel of record for Plaintiff Sara Azevedo. Plaintiff Ronald Flores Nunfio (collectively with Plaintiff Sara Acevedo known as, “Plaintiffs”) is represented by David S. Winston of Winston Law Group, P.C. I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness. This Declaration is submitted in support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement.

2. This is a wage and hour class action and PAGA representative action. Plaintiffs and putative class members worked in California as hourly-paid, non-exempt employees for Defendant during the class period. Defendant Deanco Healthcare, LLC (“Defendant”) provides healthcare services to residents of the San Fernando Valley and is headquartered in Panorama City, California.

4. On January 20, 2021, Plaintiff Ronald Flores Nunfio filed a wage and hour Private Attorneys General Act (“PAGA”) (Cal. Lab. Code §§ 2699, *et seq.*) action, entitled *Ronald Flores*

1 *Nunfio v. Deanco Healthcare, LLC*, case no. 21STCV02209, in Los Angeles County Superior
2 Court.

3 5. On September 21, 2021, Plaintiffs Sara Acevedo and Jesus Soto filed a wage and
4 hour class action, entitled *Sara Acevedo, et al. v. Deanco Healthcare, LLC*, case no.
5 21STCV43506, against Defendant in Los Angeles County Superior Court for (1) failure to pay
6 minimum and straight time wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) failure to
7 pay overtime wages (Cal. Lab. Code §§ 1194 and 1198); (3) failure to provide meal periods (Cal.
8 Lab. Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (Cal. Lab. Code §§
9 226.7); (5) failure to timely pay final wages at termination (Cal. Lab. Code §§ 201-203); (6) failure
10 to provide accurate itemized wage statements (Cal. Lab. Code § 226); (7) failure to indemnify
11 employees for expenditures (Cal. Lab. Code § 2802); and (8) unfair business practices (Cal. Bus.
12 & Prof. Code §§ 17200, *et seq.*) On November 21, 2021, Plaintiffs Sara Acevedo and Jesus Soto
13 filed a wage and hour PAGA representative action, entitled *Sara Acevedo, et al. v. Deanco*
14 *Healthcare, LLC*, case number 21STCV34724, against Defendant in Los Angeles County Superior
15 for the same underlying Labor Code violations.

16 DISCOVERY AND INVESTIGATION

17 6. Following the filing of the complaints, the Parties exchanged documents and
18 information before mediating this action. Defendant produced a sample of time and pay records
19 for 1,171 class members and aggrieved employees. Defendant also provided documents of their
20 wage and hour policies and practices during the class period, and information regarding the total
21 number of current and former employees in its informal discovery responses.

22 7. After reviewing documents regarding Defendant's wage and hour policies and
23 practices, analyzing Defendant's timekeeping and payroll records, Class Counsel was able to
24 evaluate the probability of class certification, success on the merits, and Defendant's maximum
25 monetary exposure for all claims. Class Counsel also investigated the applicable law regarding
26 the claims and defenses asserted in the litigation. Class Counsel reviewed these records and
27 utilized an expert to prepare a damages analysis prior to mediation

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9. After extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiff's claims and Defendant's defenses, the Parties were able to reach a resolution via a mediator's proposal for a gross settlement amount of \$2,250,000.00, the material terms of which are encompassed within the Settlement, Settlement Agreement, including requiring Defendant to cooperate with Plaintiff to seek modifications to the Settlement unless the Court denies the Proposed Settlement with Prejudice.

11. Subsequent to the Parties' agreement, the Parties sought approval of the proposed settlement on June 8, 2022 in Department 50 of the Los Angeles County Superior Court in the matter *Flores v. Deanco Healthcare, LLC*, case number 21STCV02209 as it was the lower numbered case. However, Judge Baudet directed the Parties to seek approval in this Court and to ask this Court to consolidate the cases for settlement purposes only.

12. Although Defendant previously agreed to the minor modifications of the Settlement Agreement, including the changing of the caption page and case number to that of this Court per

1 Judge Beaudet's instructions, Defendant refused to return the signature pages for the revised
2 settlement agreement. Defendant advised Plaintiffs that its secured lender had issued a notice of
3 default and that Defendant would not cooperate in the execution of the revised settlement
4 agreement.

5 13. However, after having worked cooperatively through the issues, the Parties reached
6 an agreement on an Amended Settlement Agreement.

7 14. The Amended Settlement Agreement requires Defendants to pay an additional
8 \$100,000.00 to resolve the claims than they were obligated to pay under the prior settlement
9 agreement for a total of \$2,350,000.00, requires Defendants to make regular \$100,000.00 payments
10 starting in September 2022, and allows Defendants to pay the outstanding balance independent of
11 the monthly \$100,000.00 payments in November 2023. Should the Settlement not be approved, the
12 Parties will return to the status quo under the prior existing agreement. Attached as **Exhibit 1** is a
13 true and correct copy of the Amended Joint Stipulation of Class Action and Representative PAGA
14 Settlement.

15 15. The settlement includes \$100,000.00 allocated to Plaintiffs' claims under PAGA,
16 with 75% of which (\$75,000.00) being paid to the LWDA and 25% (\$25,000.00) being paid to the
17 participating Class Members (Settlement, § XVII.) Class Counsel submitted the proposed
18 settlement to the LWDA before filing this Motion for Preliminary Approval.

19 16. The Settlement provides that Defendant will not oppose a fee application of up to
20 33 1/3% (\$783,333.33) of the Gross Settlement Amount, plus out-of-pocket costs not to exceed
21 \$20,000.00. (Settlement, § XIII.) The proposed attorneys' fees shall be divided 80% to Winston
22 Law Group, P.C. and 20% to Wilshire Law Firm, P.L.C.

23 17. The Parties accepted the bid of ILYM Group, Inc. ("ILYM") after requesting a bid.
24 In its bid, ILYM agreed to cap its costs at \$30,000.00. (Settlement, § I(B).) The bid also provides
25 that class notice will be provided in English and Spanish. A true and correct copy of the bid is
26 attached hereto as **Exhibit 2**.

27 18. Plaintiff does not have any interest, financial or otherwise, in the proposed *cy pres*
28 recipient, CASA of Los Angeles ("CASA"), or the third-party administrator, ILYM.

1 19. No one at Wilshire Law Firm, PLC (meaning the law firm itself and anyone
2 employed at the law firm) has any interest, financial or otherwise, in the proposed *cy pres* recipient,
3 CASA, or the third-party administrator, ILYM.

4 20. Wilshire Law Firm, PLC entered into a fee-splitting agreement with Winston Law
5 Group, P.C.

6 THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE

7 21. Class Counsel has conducted a thorough investigation into the facts of this case.
8 Based on the foregoing discovery and their own independent investigation and evaluation, Class
9 Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best
10 interests of the Settlement Class Members in light of all known facts and circumstances, the risk
11 of significant delay, the defenses that could be asserted by Defendant both to certification and on
12 the merits, trial risk, and appellate risk.

13 22. Based on an analysis of the facts and legal contentions in this case, documents and
14 information from Defendant, I evaluated Defendant's maximum exposure. I took into account the
15 risk of not having the claims certified and the risk of not prevailing at trial, even if the claims are
16 certified. After using the data Defendant provided, including a random sampling of timekeeping
17 and payroll records, as well as class member demographics (i.e., the number of class members,
18 workweeks, and average total compensation of the class), with the assistance of a statistics expert,
19 I created a damages model to evaluate the realistic range of potential recovery for the class. The
20 damages model is based on the following benchmarks:

21 Total Class Members: 1,813

22 Terminated Class Members during 3-year statute: 998

23 Total Workweeks: 177,505

24 PAGA Pay Periods: 42,051

25 Avg. Hourly Rate: \$29.67

26 Class period: September 21, 2017 through June 8, 2022

27 23. Discovery and investigation revealed that Defendant failed to pay class members
28 for all hours worked, including overtime wages, failed to have a legally compliant written policy

1 providing meal periods and authorizing and permitting rest periods.

2 24. Plaintiffs allege that Defendant failed to pay for all hours worked, including
3 minimum, straight time, and overtime wages. Plaintiffs' expert analyzed Defendant's timekeeping
4 and payroll records and found many instances where Defendant failed to pay employees for all
5 hours worked at the employees' regular rate of pay, particularly the time employees spent engaging
6 in work-related duties pre-shift, during meal periods, and post-shift. Plaintiffs' expert investigated
7 the issue regarding Defendant's failure to include non-discretionary remuneration in the
8 employees' overtime rate and found that Defendant's exposure for this theory of liability to be at
9 \$2,298,826.94. A more conservative estimate was appropriate given the difficulty of proving an
10 off-the-clock work violation and determining the whether non-discretionary remuneration was not
11 included in calculating the overtime rate on a class-wide basis. Because individualized issues can
12 be a significant obstacle to certifying and proving off-the-clock claims, I discounted this figure by
13 80% to account for the difficulty of prevailing on a motion for class certification and a trial on the
14 merits, yielding a realistic damage estimate of **\$459,765.39**.¹

15 25. Additionally, Plaintiffs' expert analyzed Defendant's timekeeping and payroll
16 records and found that Defendant's rounding practices resulted in 19.3% of employees shifts
17 underpaid due to rounding. In analyzing the records, Plaintiffs' expert estimated that Defendant's
18 rounding practice resulted in a net underpayment of approximately 7,995.3 hours to the class
19 members, which is equivalent to a maximum liability of \$237,220.55. I discounted this figure by
20 80% to account for the difficulty of prevailing on a motion for class certification and a trial on the
21 merits, yielding a realistic damage estimate of **\$47,444.11**.

22 26. With respect to the meal period claim, Plaintiffs allege that Defendant required them
23 and similarly situated class members to work in lieu of taking meal periods, and Defendant lacked
24 legally compliant policies and practices providing meal periods for the entirety of the class period.

25
26 ¹ This discount for risk at certification and trial is reasonable because the Judicial Council
27 of California found that only 21.4% of all class actions were certified either as part of a
28 settlement *or* as part of a contested certification motion. See Findings of the Study of California
Class Action Litigation, 2000-2006, available at [http:// www.courts.ca.gov/documents/class-
action-lit-study.pdf](http://www.courts.ca.gov/documents/class-action-lit-study.pdf).

1 Plaintiffs' expert analyzed Defendant's timekeeping records and found that approximately 63.0%
2 of all meal breaks had violations of short, missed, or no meal periods. Additionally, the expert
3 found that the amount of damages associated with the meal period premium underpayment claim
4 was less than \$10,000 because Defendant only paid 3,488 meal period premiums during the entire
5 class period and the average value of the underpayment was less than a \$1.00 per meal period
6 premium. Potential liability for the meal period claim, factoring in the premiums issued to off-set
7 the remaining premiums owed, which includes shifts 5-6 hours long, shifts over six hours long,
8 shifts over ten hours long, and shifts over 12 hours long is \$10,913,571.00, including interest.
9 However, I discounted this figure by 80% to account for the difficulty of certifying and proving
10 meal period claims, and to account for the possibility of class members voluntarily choosing to
11 forego a meal period, yielding a realistic damage estimate of **\$2,182,714.21**.

12 27. With respect to the rest period claim, Plaintiffs allege that Defendant required them
13 and similarly situated class members to work in lieu of taking rest periods, and Defendant lacked
14 legally compliant policies and practices authorizing and permitting employees to take rest periods
15 for the entirety of the class period. For purposes of calculating Defendants' liability based on a
16 best case scenario for Plaintiff and the Class and assuming a 20% violation rate, I estimated a
17 maximum potential exposure of \$4,846,861.53 (1 rest period violation per week * 29.67 average
18 rate of pay * 163,359), however, I discounted this figure by 80% to account for the difficulty of
19 certifying and proving rest period claims, particularly because rest periods do not have to be
20 recorded, and to account for the possibility of class members voluntarily choosing to forego a rest
21 period, yielding a realistic damage estimate of **\$969,372.31**.

22 28. With respect to the claim for unreimbursed business expenses, Plaintiffs allege that
23 Defendant required them and similarly situated class members to incur business-related expenses,
24 including but not limited to, the use of personal cell phones during working hours in order to
25 respond to work-related text messages and other communications. For purposes of calculating
26 Defendants' liability based on a best case scenario for Plaintiffs and the Class, I estimated a
27 maximum potential exposure of \$725,200.00 (\$100 per year * 4 years * 1,813 class members),
28 however, I discounted this figure by 80% to account for the difficulty of certifying and proving

1 this claim, yielding a realistic damage estimate of **\$145,040.00**.

2 29. In sum, Plaintiffs' maximum recovery for the unpaid wages based on the failure to
3 pay for all hours worked (minimum, straight time, and overtime wages) and the meal and rest
4 period violations is approximately **\$19,021,680**, but, **after factoring in the risk and uncertainty**
5 **of prevailing at certification and trial, Plaintiffs' realistic estimated recovery for the non-**
6 **penalty claims is \$3,904,336.02.**

7 30. With respect to Plaintiffs' derivative claims for statutory and civil penalties,
8 Plaintiffs estimated that Defendant's realistic potential liability is **\$100,000.00**. While Defendant's
9 maximum potential liability for waiting time penalties is \$9,683,742.00 based on approximately
10 998 terminated class members during the 3-year statute, \$4,144,550.00 for inaccurate wage
11 statements based on approximately 1,211 class members who worked 42,051 pay periods within
12 the 1-year statute, and \$10,905,650.00 for PAGA violations based on the Court assessing a \$100
13 penalty for initial violations for all 42,051 pay periods within the 1-year statute, I believe that it
14 would be unrealistic to expect the Court to award the full \$24,733,942.00 in penalties given
15 Defendant's defenses, the contested nature of Plaintiffs' claims, and the discretionary nature of
16 penalties. Considering that the underlying claims are realistically estimated to be **\$3,904,336.02**,
17 such a disproportionate award would also raise due process concerns. Weighing these factors, and
18 applying a discount to account for the risk and uncertainty of prevailing at trial, I arrived at
19 \$100,000.00 for statutory and civil penalties.

20 31. **Using these estimated figures, Plaintiffs predicted that the realistic maximum**
21 **recovery for all claims, including penalties, would be \$3,904,336.02. This means that the**
22 **\$2,350,000.00 settlement figure represents approximately 60.19% of the realistic maximum**
23 **recovery (\$2,350,000.00 / \$3,904,336.02. = 60.19%).** Considering the risk and uncertainty of
24 prevailing at class certification and at trial, this is an excellent result for the Class. Indeed, because
25 of the proposed Settlement, class members will receive timely, guaranteed relief and will avoid the
26 risk of an unfavorable judgment.

27 32. While Plaintiffs are confident in the merits of his claims, a legitimate controversy
28 exists as to each cause of action. Plaintiffs also recognize that proving the amount of wages due

1 to each Class Member would be an expensive, time-consuming, and uncertain proposition.

2 33. This settlement avoids the risks and the accompanying expense of further litigation.
3 Although the Parties had engaged in a significant amount of investigation, informal discovery and
4 class-wide data analysis, the Parties had not yet completed formal written discovery. Plaintiffs
5 intended to depose corporate officers and managers of Defendant. Moreover, preparation for class
6 certification and a trial remained for the Parties as well as the prospect of appeals in the wake of a
7 disputed class certification ruling for Plaintiffs and/or adverse summary judgment ruling. Had the
8 Court certified any claims, Defendant could move to decertify the claims. As a result, the Parties
9 would incur considerably more attorneys' fees and costs through trial.

10 34. The Net Settlement Amount available for Class Member settlement payments is
11 estimated to be \$1,426,666.67, for a class of 1,813 persons.² **As a result, each Settlement Class**
12 **Member is eligible to receive an average net benefit of approximately \$786.91.**

13 35. The proposed settlement of \$2,350,000.00 therefore represents a substantial
14 recovery when compared to Plaintiffs' reasonably forecasted recovery. When considering the risks
15 of litigation, the uncertainties involved in achieving class certification, the burdens of proof
16 necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that the
17 settlement amount of \$2,350,000.00 is within the "ballpark" of reasonableness, and preliminary
18 settlement approval is appropriate.

19 ENHANCEMENT AWARDS FOR PLAINTIFFS ARE REASONABLE

20 36. Class Counsel represent that Plaintiffs devoted a great deal of time and work
21 assisting counsel in the case, communicated with counsel very frequently for litigation and to
22 prepare for mediation, and was frequently in contact with Class Counsel during the mediation.
23 Plaintiffs' requested enhancement award is reasonable particularly in light of the substantial
24 benefits Plaintiff generated for all class members.

25 _____
26 ² The Net Settlement Amount is: \$2,350,000.00 minus \$783,333.33 for Class Counsel's
27 attorneys' fees, minus \$20,000.00 for Class Counsel's litigation expenses, minus \$30,000.00 in
28 administration costs, minus \$75,000.00 for the PAGA portion sent to the LWDA, and minus
\$15,000.00 for the Class and PAGA representatives service award (plus an additional \$25,000,
for payments to the Aggrieved Employees on a *pro rata basis*).
9

1 37. Throughout this litigation, Plaintiffs, who are former employees of Defendant, have
2 cooperated immensely with my office and have taken many actions to protect the interests of the
3 class. Plaintiffs provided valuable information regarding unpaid overtime, meal period, and rest
4 period claims. Plaintiffs also informed Class Counsel of developments and information relevant
5 to this action, participated in decisions concerning this action, made himself available to answer
6 questions during the mediation, and provided my office with the names and contact information of
7 potential witnesses in this action. Before we filed this case, Plaintiffs provided Class Counsel with
8 several documents, including policy documents, and communications from Defendant regarding
9 the claims alleged in this action. The information and documentation provided by Plaintiffs was
10 instrumental in establishing the wage and hour violations alleged in this action, and the recovery
11 provided for in the Settlement Agreement would have been impossible to obtain without Plaintiffs'
12 participation.

13 38. At the same time, Plaintiffs faced many risks in adding themselves as the class and
14 PAGA representatives in this matter. Plaintiffs faced actual risks with their future employment, as
15 putting themselves on public record in an employment lawsuit could also very well affect their
16 likelihood for future employment. Furthermore, as part of this settlement, Plaintiffs are executing
17 a general release of all claims against Defendant.

18 39. In turn, class members will now have the opportunity to participate in a settlement,
19 reimbursing them for alleged wage violations they may have never known about on their own or
20 been willing to pursue on their own. If these class members would have each tried to pursue their
21 legal remedies on their own, that would have resulted in each having to expend a significant amount
22 of their own monetary resources and time, which were obviated by Plaintiffs putting themselves
23 on the line on behalf of these other class members.

24 40. In the final analysis, this class action would not have been possible without the aid
25 of Plaintiffs, who put their own time and effort into this litigation, sacrificed the value of their own
26 individual claims, and placed themselves at risk for the sake of the class members. The requested
27 enhancement award for Plaintiffs for their service as the class representatives and for his general
28 release of all individual claims is a relatively small amount of money when the time and effort put

1 into the litigation are considered and in comparison to enhancements granted in other class actions.
2 The requested incentive award is therefore reasonable to compensate Plaintiffs for their active
3 participation in this lawsuit. Indeed, in *Karl Adams, III, et al. v. MarketStar Corporation*, et al.,
4 No. 2:14-cv-02509-TLN-DB, a wage and hour class action alleging that class members were
5 misclassified as exempt outside salespersons, I was co-lead Class Counsel and helped negotiate a
6 \$2.5 million class action settlement for 339 class members, and the court approved a \$25,000.00
7 class representative incentive award for each named plaintiff.

8 THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

9 41. The Settlement provides for attorney's fees payable to Class Counsel in an amount
10 up to one-third (33 1/3%) of the Settlement Amount, for a maximum fees award of \$783,333.33,
11 plus actual costs and expenses not to exceed \$20,000.00. The proposed award of attorneys' fees
12 to Class Counsel in this case can be justified under either method – lodestar or percentage recovery.
13 Class Counsel, however, intend to base the proposed award of fees, costs and expenses on the
14 percentage method as many of the entries in the time records will have to be redacted to preserve
15 attorney-client and attorney work product privileges.

16 42. The Parties have agreed to the Funding Schedule detailed in Section V(B) of the
17 Settlement Agreement.

18 43. I am informed and believe that the fee and costs provision is reasonable. The fee
19 percentage requested is less than that charged by my office for most employment cases. My office
20 invested significant time and resources into the case, with payment deferred to the end of the case,
21 and then, of course, contingent on the outcome.

22 44. It is further estimated that my office will need to expend at least another 50 to 100
23 hours to monitor the process leading up to the final approval and payments made to the class. My
24 office also bears the risk of taking whatever actions are necessary if Defendant fails to pay.

25 45. The risk to my office has been very significant, particularly if we would not be
26 successful in pursuing this class action. In that case, we would have been left with no compensation
27 for all the time taken in litigating this case. Indeed, I have taken on a number of class action cases
28 that have resulted in thousands of attorney hours being expended and ultimately having

1 certification denied or the defendant company going bankrupt. The contingent risk in these types
2 of cases is very real and they do occur regularly. Furthermore, we were precluded from focusing
3 on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

4 46. Because most individuals cannot afford to pay for representation in litigation on an
5 hourly basis, Wilshire Law Firm, PLC represents virtually all of its employment law clients on a
6 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless
7 we prevail at trial or successfully settle our clients' cases. Because Wilshire Law Firm, PLC is
8 taking the risk that we will not be reimbursed for our time unless our client settles or wins his or
9 her case, we cannot afford to represent an individual employee on a contingency basis if, at the
10 end of our representation, all we are to receive is our regular hourly rate for services. It is essential
11 that we recover more than our regular hourly rate when we win if we are to remain in practice so
12 as to be able to continue representing other individuals in civil rights employment disputes.

13 47. As of the drafting of Plaintiffs' Motion for Preliminary Approval of Class Action
14 Settlement, my office has incurred around \$3,186.35 in expenses litigating this action, and we
15 anticipate accruing additional costs up to Final Approval of the Settlement. These expenses were
16 reasonably necessary to the litigation and were actually incurred by my office. They should be
17 reimbursed in full, up to the maximum amount allowed in the Settlement Agreement.

18 MY EXPERIENCE AND QUALIFICATIONS

19 48. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World
20 Report as one of the nation's Best Law Firms in 2022 and is comprised of over 50 attorneys and
21 over 250 employees. Wilshire Law Firm, PLC is actively and continuously practicing in
22 employment litigation, representing employees in both individual and class actions in both state
23 and federal courts throughout California.

24 49. Wilshire Law Firm, PLC is qualified to handle this litigation because its attorneys
25 are experienced in litigating Labor Code violations in both individual, class action, and
26 representative action cases. Wilshire Law Firm, PLC has handled, and is currently handling,
27 numerous wage and hour class action lawsuits, as well as class actions involving consumer rights
28 and data privacy litigation.

1 50. I graduated from the University of California, Los Angeles’s College Honors
2 Program in 2004 with Bachelor of Arts degrees in History and Japanese, *magna cum laude* and *Phi*
3 *Beta Kappa*. As an undergraduate, I also received a scholarship to study abroad for one year at
4 Tokyo University in Tokyo, Japan. I received my Juris Doctor from Notre Dame Law School in
5 2008.

6 51. My practice is focused on advocating for the rights of consumers and employees in
7 class action litigation and appellate litigation. I am currently the primary attorney in charge of
8 litigating several class action cases in state and federal courts across the United States.

9 52. I have received numerous awards for my legal work. From 2017 to 2020, Super
10 Lawyers selected me as a “Southern California Rising Star,” and in 2022 I was selected as a
11 “Southern California Super Lawyer.” In 2023, I was selected as one of the “Best Lawyers in
12 America.” In 2016 and 2017, the National Trial Lawyers selected me as a “Top 40 Under 40”
13 attorney. I am also rated 10.0 (“Superb”) by Avvo.com.

14 53. I am on the California Employment Lawyers Association (CELA)’s Wage and Hour
15 Committee and Mentor Committee, and I was selected to speak at CELA’s 2019 Advanced Wage
16 & Hour Seminar on the topic of manageability of class actions. Since 2013, I have actively
17 mentored young attorneys through CELA’s mentorship program.

18 54. I was also a member of the Consumer Attorneys of California (CAOC). In 2020, I
19 was selected for a position on CAOC’s Board of Directors. I am also a past member of CAOC’s
20 Diversity Committee, where I help assist the CAOC in defeating bills that harm employees.
21 Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC, in defeating
22 AB 443, which proposed legislation that sought to limit the enforceability of California Labor Code
23 § 226.

24 55. As the attorney responsible for day-to-day management of this matter at the
25 Wilshire Law Firm, PLC, I have over thirteen years of experience with litigating wage and hour
26 class actions. Over the last ten years, I have managed and assisted with the litigation and settlement
27 of several wage and hour class actions. In those class actions, I performed similar tasks as those
28 performed in the course of prosecuting this action. My litigation experience includes:

- 1 a. I served as lead or co-lead in negotiating class action settlements worth over \$10
2 million in gross recovery to class members for each year since 2020, including over
3 \$27.5 million in 2022.
- 4 b. I was part of the team of attorneys that prevailed in *Moore v. Centrelake* (Cal. Ct.
5 App. Sept. 16, 2022) 2022 WL 4285804, --- Cal.Rptr.3d ----, the first California
6 appellate decision in a data breach class action holding that consumer plaintiffs
7 adequately alleged injury in fact under the benefit of the bargain theory and
8 monitoring-costs theory.
- 9 c. In 2022, Top Verdict recognized Wilshire Law Firm and myself for having one
10 case in the Top 20 Labor & Employment Settlements (including number 15 for the
11 \$1.6 million settlement in *Moreno v. Pretium Packaging, L.L.C.*) and three
12 additional cases in the Top 50 Labor & Employment Settlements (numbers 25, 28,
13 and 31).
- 14 d. To my knowledge, I am the only attorney to appear on each of the following *Top*
15 *Verdict* lists for 2018 in California: Top 20 Civil Rights Violation Verdicts, Top 20
16 Labor & Employment Settlements, and Top 50 Class Action Settlements.
- 17 e. As lead counsel, on April 29, 2021, I prevailed against CVS Pharmacy, Inc. by
18 winning class certification on behalf of hundreds of thousands of consumers for
19 misleading advertising claims in *Joseph Mier v. CVS Pharmacy, Inc.*, U.S. Dist. Ct.
20 C.D. Cal. no. SA CV 20-1979-DOC-(ADSx).
- 21 f. As lead counsel, I prevailed against Bank of America by: winning class certification
22 on behalf of thousands of employees for California Labor Code violations; defeating
23 appellate review of the court's order certifying the class; defeating summary
24 judgment; and defeating a motion to dismiss. (*Frausto v. Bank of America, N.A.*
25 (N.D. Cal. 2019) 334 F.R.D. 192, 2020 WL 1290302 (9th Cir. Feb. 27, 2020), 2019
26 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug. 2,
27 2018).). The decision certifying the class in *Frausto* is also discussed in *Class*
28 *Certification Under Fed. R. Civ. P. 23 in Action by Information Technology or Call*

Center Employees for Violation of State Law Wage and Hour Rules, 35 A.L.R. Fed. 3d Art. 8.

- g. I was the primary author of the class certification and expert briefs in *ABM Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class action for over 40,000 class members for off-the-clock, meal period, split shift, and reimbursement claims. *ABM Industries Overtime Cases* is the first published California appellate authority to hold that an employer’s “auto-deduct policy for meal breaks in light of the recordkeeping requirements for California employers is also an issue amenable to classwide resolution.” (*Id.* at p. 310.)³ Notably, the Court of Appeal also held that expert analysis of timekeeping records can also support the predominance requirement for class certification. (*Id.* at p. 310-311.) In 2021, the case settled for \$140 million, making it one of the largest ever wage and hour class action settlements for hourly-paid employees in California.
- h. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d 1057. The Ninth Circuit ruled in my client’s favor and held that non-class claims under California’s Private Attorney Generals Act (“PAGA”) cannot be used to calculate the amount in controversy under the Class Action Fairness Act (“CAFA”). This case is cited in several leading treatises such as *Wright & Miller’s Federal Practice & Procedure*, and *Newberg on Class Actions*. In October 2016, the U.S. Supreme Court denied review of a case that primarily concerned *Yocupicio*. That effort was led by Theodore J. Boutrous, who brought the cert petition, with amicus support from a brief authored by Andrew J. Pincus.⁴ Considering that leading Supreme Court practitioners from the class action defense bar were very motivated in undermining *Yocupicio* case, but failed, this demonstrates the national importance of the *Yocupicio* decision.

³ As a California district court observed before the *ABM Industries Overtime* decision, “[t]he case law regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE Connectivity Networks, Inc.* (N.D. Cal. Feb. 9, 2017) No. 14-CV-04872-EDL, 2017 WL 1758048, *7.)

⁴ <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

- 1 i. On December 13, 2018, the United States District Court granted final approval of
2 the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services,*
3 *LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 in
4 which I served as lead counsel. In doing so, the Court found: “Class Counsel’s
5 declarations show that the attorneys are experienced and successful litigators.” (*Id.*
6 at p. *10.)
- 7 j. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS 129852, a
8 reported decision permitting class-wide discovery even though the employer has a
9 lawful policy because “[t]he fact that a company has a policy of not violating the
10 law does not mean that the employees follow it, which is the issue here.” The court
11 also ordered defendant to pay for the cost of *Belaire-West* notice.
- 12 k. In 2013, I represented a whistleblower that reported that his former employer was
13 defrauding the State of California with the help of bribes to public employees. The
14 case, a false claims (*qui tam*) action, resulted in the arrest and criminal prosecution
15 of State of California employees by the California Attorney General’s Office.
- 16 l. In 2013, I was part of a team of attorneys that obtained conditional certification for
17 over 2,000,000 class members in a federal labor law case for misclassification of
18 independent contractors that did crowdsourced work on the Internet, *Otey v.*
19 *CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the
20 following pro-plaintiff reported decisions:
- 21 1) 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding
22 that an unaccepted Rule 68 offer doesn’t moot plaintiff’s claims, and
23 granting plaintiff’s motion to strike defendant’s affirmative defenses
24 based on *Twombly/Iqbal*).
- 25 2) 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order
26 granting conditional collective certification).
- 27 3) 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming the
28 magistrate judge’s discovery ruling which held that “evidence of

1 other sources of income is irrelevant to the question of whether a
2 plaintiff is an employee within the meaning of the FLSA”).

3 4) 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting
4 broad discovery because “an FLSA plaintiff is entitled to discovery
5 from locations where he never worked if he can provide some
6 evidence to indicate company-wide violations”).

7 j. From 2012 to 2013, I was part of a team of attorneys that obtained class certification
8 for over 60,000 class members for off-the-clock claims, *Linares v. Securitas*
9 *Security Services USA, Inc.*, Los Angeles Superior Court No. BC416555. We also
10 successfully opposed subsequent appeals to the California Court of Appeal and
11 California Supreme Court.

12 56. Benjamin H. Haber is a fifth-year Associate Attorney at Wilshire Law Firm, PLC.
13 He was admitted to practice law in the State of California and the Central, Southern, Eastern, and
14 Northern Districts of California. He graduated from the University of California, Los Angeles,
15 with a Bachelor of Arts in Political Science, and received his Juris Doctor from the University of
16 California, Hastings College of the Law in 2016. During law school, he was a member of the
17 executive board for the Hastings Law Journal and a student mediator at the San Francisco Superior
18 Court, Small Claims Division. Since graduating law school, he has focused his legal work
19 primarily on wage and hour class action litigation. His current contingent billing rate for this case
20 is \$650 per hour, which is consistent with his level of experience in the wage and hour arena.

21 57. Daniel J. Kramer is a fifth-year Associate Attorney at Wilshire Law Firm, PLC. He
22 was admitted to practice law in the State of California and the Central, Eastern, and Northern
23 Districts of California. He graduated from Stanford University with a Bachelor of Arts in History
24 and Political Science, and received his Juris Doctor from Loyola Law School, Los Angeles in 2016.
25 During law school, he was a research editor for the Loyola of Los Angeles International and
26 Comparative Law Review. Before joining Wilshire Law Firm, he practiced briefly at a firm that
27 focused on municipal law and code enforcement and then moved to a respected plaintiff-side firm
28 to practice wage and hour class action litigation. He has several years of work experience litigating

1 wage and hour class actions. His current contingent billing rate for this case is \$550 per hour,
2 which is consistent with his level of experience.

3 58. My current contingent billing rate of \$850 per hour is consistent with my practice
4 area, lead appellate experience in the Ninth Circuit Court of Appeals, numerous awards received,
5 legal market and accepted hourly rates:

6 a. In the December 8, 2008 article “Billable Hours Aren’t the Only Game in Town
7 Anymore,” *NATIONAL LAW JOURNAL*, the following hourly billing rates were
8 reported by Sheppard, Mullin, Richter & Hampton, a leading firm in the defense of
9 wage-and-hour class actions that I opposed when litigating wage-and-hour class
10 actions: Partners: \$475-\$795; Associates: 1st Year - \$275, 2nd Year - \$310, 3rd
11 Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year - \$415, 7th Year - \$435,
12 8th Year - \$455. I am an 14th year attorney and Senior Partner, with most of my
13 experience in class action litigation as a primary practice area. Having successfully
14 briefed and argued a published appeal in the Ninth Circuit Court of Appeals
15 involving CAFA and PAGA, having experience certifying large class actions
16 (including *ABM Industries Overtime Cases*, which was decided on appeal), and
17 having received numerous awards for my legal work, my hourly rate should be
18 adjusted upward.

19 b. On May 6, 2022, the Hon. Jay A. Garcia-Gregory of the United States District Court
20 in Puerto Rico approved my \$850 hourly rate when he granted final approval of the
21 class action settlement in *Serrano v. Inmediata Corp.*, No. 3:19-cv-01811-JAG, Dkt.
22 57 (U.S. Dist. Ct. P.R. May 6, 2022).

23 c. On September 9, 2021, the Hon. Peter Wilson of the Orange County Superior Court
24 approved my \$800 hourly rate when he granted final approval of the class action
25 settlement in *Ricardo Campos Hernandez v. Adams Iron Co., Inc.*, No. 30-2019-
26 01066522-CU-OE-CXC.

27 d. On August 6, 2021, the Hon. Stanley Blumenfeld, Jr. of the United States District
28 Court granted final approval of the \$1,600,000 class action settlement in *Carlos*

1 *Moreno v. Pretium Packaging, Inc.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-
2 SB-DFM, 2021 WL 3673845 in which I served as lead counsel. In doing so, the
3 Court approved my then \$750 hourly rate after finding it was “reasonable, given the
4 qualifications of the attorneys who worked on this matter.” (*Id.* at p. *3.)

5 e. On January 19, 2021, the Hon. Elihu M. Berle of the Los Angeles County Superior
6 Court approved my \$750 hourly rate when he granted final approval of the class
7 action settlement in *Faye Zhang v. Richemont North America, Inc.*, No.
8 19STCV32396.

9 f. On December 13, 2018, the United States District Court granted final approval of
10 the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services,*
11 *LLC, supra*, 2018 WL 6616659 in which I served as lead counsel. In doing so, the
12 Court approved my then \$600 hourly rate and found: “Class Counsel’s declarations
13 show that the attorneys are experienced and successful litigators.” (*Id.* at p. *10.)

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

16 Executed on October 7, 2022, at Los Angeles, California.

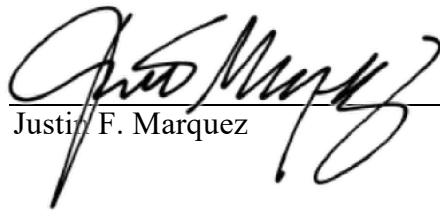
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19 Justin F. Marquez
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EXHIBIT 1

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Attorneys for Defendant
DEANCO HEALTHCARE, LLC

[further counsel on next page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

SARA ACEVEDO, and JESUS SOTO,
individually, and on behalf of all others similarly
situated,

Plaintiffs,

v.

DEANCO HEALTHCARE, LLC, a limited
liability company, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO.: 21STCV34724

*[Assigned for all purposes to Judge William F.
Highberger, Dept. 10]*

**JOINT STIPULATION OF CLASS
ACTION AND REPRESENTATIVE PAGA
SETTLEMENT**

WINSTON LAW GROUP, P.C.

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Los Angeles, California 90067

Phone: (424) 288-4568

Fax: (424) 532-4062

Attorneys for Plaintiff Ronald Flores Nunfio

1 This Joint Stipulation of Class and Representative Action Settlement is made and entered into
2 between Plaintiffs Ronald Flores Nunfio and Sara Acevedo (“Plaintiffs”) on behalf of themselves, as a
3 representative of the Settlement Class or as a Private Attorney General on behalf of the State of California
4 under PAGA (as defined below) and Defendant Deanco Healthcare, LLC (“Defendant”), (Plaintiffs and
5 Defendant hereinafter are collectively referred to as the “Parties”). This is a non-reversionary checks-
6 mailed settlement and Defendant (as defined below) shall pay 100% of the Gross Settlement Amount (as
7 defined below). This Stipulation is subject to the approval of the Court, pursuant to California Rules of
8 Court, Rule 3.769(c), (d) and (e), and is made for the sole purpose of attempting to consummate
9 settlement of the Action on a class-wide basis subject to the following terms and conditions. As detailed
10 below, in the event the Court does not enter an order granting final approval of the Class Settlement, as
11 defined below, or the conditions precedent are not met for any reason, this Stipulation is void and of no
12 force or effect whatsoever.

13 **I. DEFINITIONS**

14 As used in this Stipulation, the following terms shall have the meanings specified below. To the
15 extent terms or phrases used in this Stipulation are not specifically defined below, but are defined
16 elsewhere in this Stipulation, they are incorporated by reference into this definition section.

17 **A. Action.** “Action” or “Actions” shall mean the above captioned action titled *SARA*
18 *ACEVEDO, and JESUS SOTO, individually, and on behalf of all others similarly situated, Plaintiffs, v.*
19 *DEANCO HEALTHCARE, LLC, a limited liability company, and DOES 1 through 10, inclusive,*
20 *Defendants, Los Angeles County Superior Court Case No. 21STCV34724, SARA ACEVEDO, and*
21 *JESUS SOTO, on behalf of the State of California and other aggrieved persons, Plaintiffs vs. DEANCO*
22 *HEALTHCARE, LLC, a limited liability company, and DOES 1 through 10, inclusive, Defendants, Los*
23 *Angeles County Superior Court Case No. 21STCV43506 (Case Nos. 21STCV43506 and 21STCV34724*
24 *shall collectively be referred to as “Acevedo”), and RONALD FLORES NUNFIO, an individual, on behalf*
25 *of herself and others similarly situated, PLAINTIFF v. DEANCO HEALTHCARE, LLC, A CALIFORNIA*
26 *LIMITED LIABILITY COMPANY, and DOES 1 thru 50, inclusive, Defendants, Los Angeles County*
27 *Superior Court, Case No. 21STCV02209 (“Flores”).*

28 **B. Administrative Expenses.** “Administrative Expenses” shall include all costs and

1 expenses associated with and paid to the third-party Settlement Administrator, which are anticipated not
2 to exceed \$30,000.00.

3 **C. Aggrieved Employee.** “Aggrieved Employee” shall mean all individuals who were
4 employed by Deanco Healthcare, LLC in California as a non-exempt employee at any point from January
5 20, 2020 to June 8, 2022. There are approximately 1,461 Aggrieved Employees.

6 **D. Class Attorney Fees and Expenses.** “Class Attorney Fees and Expenses” shall mean
7 Class Counsel’s attorney fees and expenses as set forth in Section IV.G.

8 **E. Class Counsel.** “Class Counsel” shall mean David S. Winston of Winston Law Group,
9 P.C. and Justin F. Marquez of Wilshire Law Firm.

10 **F. Class, Settlement Class, Class Member or Settlement Class Member.** “Class,”
11 “Settlement Class,” “Class Member,” or “Settlement Class Member” shall mean all individuals who were
12 employed by Deanco Healthcare, LLC as a non-exempt hourly employee in California at any point
13 between September 21, 2017 to June 8, 2022. There are approximately 1,813 Class Members.

14 **G. Class Notice.** “Class Notice” shall mean the Notice of Proposed Class Action Settlement
15 and Hearing Date for Court Approval, as set forth in the form of **Exhibit A** attached hereto, or as
16 otherwise approved by the Court, which is to be mailed to Class Members.

17 **H. Class Participants.** “Class Participants” shall mean any and all Class Members who do
18 not timely Opt-Out of the Class Settlement.

19 **I. Class Period or Covered Period.** “Class Period” or “Covered Period” shall mean the
20 period from September 21, 2017 to the date of Preliminary Approval of this Settlement.

21 **J. Class Representatives.** “Class Representative” shall mean Plaintiff Sara Acevedo.

22 **K. Class Settlement.** “Class Settlement” shall mean the settlement embodied in this
23 Stipulation, which is subject to Court approval.

24 **L. Court.** “Court” shall mean the Los Angeles County Superior Court.

25 **M. Defendant, Releasees, or Released Parties.** “Defendant,” “Releasees,” or “Released
26 Parties” shall mean and refer to Deanco Healthcare, LLC and all of its current and former parents,
27 subsidiaries, joint ventures, and affiliated entities, and each of their respective current and former owners,
28 officers, directors, shareholders, executives, partners, employees, insurers, managers agents and

attorneys.

N. **Defense Counsel.** “Defense Counsel,” Defendant’s Counsel” or “Releasees’ Counsel” shall mean Bradley Schwan and Jannine Kranz of Littler Mendelson P.C.

O. **Effective Date.** “Effective Date” shall mean the first business day following the last of the following occurrences: (i) if no Class Member timely and properly intervenes, files a timely motion to vacate the Judgment under, or objects to the Settlement, then the date the Court enters an order granting Final Approval of the Settlement; (ii) if a Class Member timely intervenes or files a timely motion to vacate the judgment or objects to the Settlement, then sixty-one (61) days following the date the Court enters an order granting final approval, assuming no appeal is filed; or (iii) if a Class Member timely intervenes or files a motion to vacate the Judgment, or objects to the Settlement, and files a timely appeal, then the date of final resolution of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final and complete judicial approval of the Settlement in its entirety, with no further challenge to the Settlement being possible.

P. **Employee’s Taxes and Required Withholding.** “Employee’s Taxes and Required Withholding” shall mean the employee’s share of any and all applicable federal, state or local payroll taxes, including those collected under authority of the Federal Insurance Contributions Act (“FICA”), FUTA and/or SUTA on the portion of any Class Participant’s Individual Settlement Amount, **as** defined below, that constitutes wages. The Employee’s Taxes and Required Withholdings will be withheld from and paid out of the Net Settlement Amount.

Q. **Employer’s Taxes.** “Employer’s Taxes” shall mean and refer to Defendant’s share of payroll taxes (*e.g.*, UI, ETT, Social Security and Medicare taxes) that is owed on the portion of any Class Participant’s Individual Settlement Amount that constitutes wages. The Employer’s Taxes shall be paid separately to the Settlement Administrator by Defendant and Releasees in addition to the Gross Settlement Amount and shall **not** be paid from the Gross Settlement Amount or Net Settlement Amount.

R. **Final Approval and Fairness Hearing.** “Final Approval and Fairness Hearing” shall mean the final hearing held to ascertain the fairness, reasonableness, and adequacy of the Class Settlement.

S. **Gross Settlement Amount.** “Gross Settlement Amount” or “GSA” is the agreed upon

1 non-reversionary settlement amount totaling \$2,350,000.00, which represents the non-reversionary
2 amount payable in this Settlement by Defendant Deanco Healthcare Company, LLC and includes
3 attorneys' fees and costs, costs of settlement administration by the Settlement Administrator, the Service
4 Payments to the Class Representatives of up to \$15,000.00, payments in the total amount of \$100,000 for
5 Private Attorneys General Act ("PAGA") penalties 75% or \$75,000.00 of which will be paid to the Labor
6 & Workforce Development Agency ("LWDA"), and 25% or \$25,000.00 will be included in the amount
7 allocated to the Settlement Class and in the Net Settlement Amount, and the amounts payable to the
8 Settlement Class.

9 **T. Hearing on Preliminary Approval.** "Hearing on Preliminary Approval" shall mean the
10 hearing held on the motion for preliminary approval of the Class Settlement.

11 **U. Individual Settlement Amount.** "Individual Settlement Amount" shall mean the amount
12 which is ultimately distributed to each Class Participant.

13 **V. Net Settlement Amount.** "Net Settlement Amount" shall mean the Gross Settlement
14 Amount minus Settlement Administration Expenses, Class Attorney Fees and Expenses, 75% of the
15 PAGA Payment payable to the California Labor and Workforce Development Agency ("LWDA"), and
16 the Service Awards.

17 **W. Opt-Out(s).** "Opt-Out(s)" shall mean any and all persons who timely and validly request
18 exclusion from the Class Settlement in accordance with the terms of the Class Notice and no later than
19 the Response Deadline.

20 **X. Plaintiffs.** "Plaintiffs" shall mean the named Plaintiffs Ronald Flores Nunfio and Sara
21 Acevedo..

22 **Y. PAGA Period or PAGA Covered Period.** "PAGA Period" or "PAGA Covered Period"
23 shall mean the period from January 19, 2020 to the date of Final Approval of this Settlement.

24 **Z. PAGA Representatives.** "PAGA Representative" shall mean Plaintiffs Ronald Flores
25 Nunfio and Sara Acevedo.

26 **AA. PAGA Payment.** "PAGA Payment" means the penalties pursuant to California Labor
27 Code sections 2698, et seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA"), that the
28 Parties have agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the

1 Action, which is \$100,000.00 for Private Attorneys General Act (“PAGA”) penalties 75% or \$75,000.00
2 of which will be paid to the Labor & Workforce Development Agency (“LWDA”), and 25% or
3 \$25,000.00 will be included in the amount allocated to the Settlement Class. Class Counsel shall give
4 timely notice of the Class Settlement to the LWDA under Labor Code section 2699(1)(2). Since PAGA
5 does not permit employees to opt-out, any Class Member who opts out shall still receive their pro-rata
6 share of the PAGA penalties. *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1122 (9th Cir. 2014)
7 (explaining that PAGA “has no notice requirement for unnamed aggrieved employees, nor may such
8 employees opt out of a PAGA action.”); *accord Arias v. Sup. Ct.* 46 Cal.4th 969, 986-987 (2009);
9 *Williams v. Sup. Ct.*, 3 Cal.5th 531, 547, fn. 4 (2017) (explaining that aggrieved employees “do not own
10 a personal claim for PAGA civil penalties...and whatever personal claims the absent employees might
11 have for relief are not at stake”).

12 **BB. Parties.** “Parties” shall mean Plaintiffs and Defendant.

13 **CC. Preliminary Approval Date.** “Preliminary Approval Date” shall mean the date upon
14 which the Court enters an order preliminarily approving this Stipulation.

15 **DD. Released Claims.** “Claims” or “Released Claims” shall mean any and all causes of action
16 or claims that were asserted or could have been asserted based upon the facts alleged in the Actions, in
17 the January 19 , 2021 PAGA Notice in *Flores*, the January 19, 2021 Complaint in *Flores*, the September
18 21, 2021 Complaint in *Acevedo*, the September 22, 2021 PAGA Notice in *Acevedo*, or the November 29,
19 2021 Complaint in *Acevedo* including Defendant’s alleged failure to pay minimum wages, overtime
20 wages, provide lawful meal periods, provide lawful rest periods, provide accurate itemized wage
21 statements, timely pay wages during and after employment, as well as timely produce personnel and pay
22 records. This includes alleged violations of Labor Code §§ 201 202, 203, 204, 210, 226(a), (c), and (e),
23 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 2802, as well as IWC Wage
24 Order No. 5-2001 and related claims under PAGA based upon the facts alleged in the Actions. The
25 Released claims do not include any claims for workers compensation, unemployment, or disability
26 benefits or any other claims other than those specified herein.

1 **EE. Release Effective Date.** “Release Effective Date” means the date upon which the
2 Defendant and Releasees shall be released of the Released Claims. The Release is not effective until the
3 settlement funds are paid by the Defendant and/or Releasees to the Settlement Administrator.

4 **FF. Response Deadline.** “Response Deadline” shall mean the date sixty (60) days following
5 the date on which the Settlement Administrator first mails Class Notice to the Settlement Class Members.

6 **GG. Service Award.** “Service Award” shall mean the amount approved by the Court, not to
7 exceed \$10,000.00 for Sara Acevedo and \$5,000.00 for Ronald Flores Nunfio to be paid to the Class
8 Representative and/or PAGA Representatives in recognition of their efforts and time on behalf of the
9 Class and as consideration for a full, general, and comprehensive release and Civil Code section 1542
10 waiver of the Class Representative’s Released Claims.

11 **HH. Settlement.** “Settlement” shall mean the settlement between the Parties, which is
12 memorialized in this Stipulation and subject to approval by the Court.

13 **II. Settlement Administrator.** “Settlement Administrator” shall mean ILYM Group, Inc.
14 (or another administrator to be agreed by the parties) who will be responsible for administration of the
15 Settlement and related matters.

16 **JJ. Stipulation.** “Stipulation” shall mean this Joint Stipulation of Settlement and Release of
17 Class and Representative Action, including any attached exhibits.

18 **II. FACTUAL AND PROCEDURAL BACKGROUND OF ACTION**

19 **A. Plaintiffs’ Claims.** Plaintiffs alleged that Defendant violated Labor Code §§ 201, 202,
20 203, 204, 210, 226(a), (c), and (e), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198
21 and 1198.5 as well as IWC Wage Order No. 5-2001. Specifically, Plaintiffs alleged that Defendant: 1)
22 failed to include hazard pay when calculating and paying overtime wages; 2) failed to pay minimum
23 wages for all hours worked including for the time spent responding to off-the-clock text messages sent
24 to his personal cell phone; 3) failed to reimburse expenses associated with the use of personal electronic
25 devices used to respond to after hours text messages and other communications; 4) failed to provide
26 lawful meal periods and/or pay meal period premiums or at the proper rate; 5) failed to provide lawful
27 rest periods and/or pay rest period premiums or at the proper rate; 6) failed to maintain accurate time
28 records; 7) failed to timely pay wages during employment; 8) failed to provide accurate itemized wage

statements; (9) failed to timely pay wages during and after employment; and (10) engaged in unfair competition in violation of Bus. & Prof. Code § 17200.

The Parties mediated the matter with well-respected mediator David Phillips, Esq. of Signature Resolution. Although the Parties were not able to resolve the matter at the Mediation, the Parties were able to reach the Proposed Settlement following a Mediator's Proposal and with significant assistance from the Mediator. At all times, the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length.

B. Discovery, Investigation, and Research. In advance of the Mediation and the submission of the Preliminary Approval Papers, Class Counsel conducted a detailed investigation of the Settlement Class' putative claims. This discovery and investigation among other things, information about: (a) the number of Class Members (1,813), (b) the number of Aggrieved Employees; (c) the number of Class Members who worked overtime; (d) the number of PAGA Aggrieved Employees who worked overtime during the PAGA Period; (e) the number of Class Members who received Hazard Pay and worked overtime in the same pay period; (f) the number PAGA Aggrieved Employees who received Hazard Pay and worked overtime in the same pay period during the PAGA period; (g) the number of Class Members who worked a graveyard shift; (f) the number of Aggrieved Employees who worked a graveyard shift; (g) the number of Class Members whose employment ended; (h) the number of Aggrieved Employees whose employment ended; (i) the number of pay periods worked during the PAGA period; (j) the total number of pay periods at issue during the class period; (k) relevant policy documents; (l) time and pay records for 1,171 of the Class Members.

The Parties agree that the above-described investigation and evaluation, as well as discovery and the information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the Parties' respective positions and to compromise the issues on a fair and equitable basis. The Parties have engaged in sufficient investigation and discovery to assess the relative merits of the claims of the Class Representatives and PAGA Representative and of Defendant's defenses to them.

C. Benefits of Class Settlement. The extensive informal discovery conducted in this matter have been adequate to give the Class Representatives, PAGA Representatives, and Class Counsel a sound understanding of the merits of their positions and to evaluate the worth of the claims of the Settlement

1 Class. The informal discovery conducted in this Action and the information exchanged by the Parties
2 through discovery and settlement discussions are sufficient to reliably assess the merits of the Parties'
3 respective positions and to compromise the issues on a fair and equitable basis.

4 Plaintiffs and Class Counsel believe that the claims, causes of action, allegations and contentions
5 asserted in the Action have merit. Class Counsel has diligently pursued an investigation of Plaintiffs and
6 the Class' claims against Defendant and Releasees. Based on their own independent investigation and
7 evaluation, Class Counsel is of the opinion that settlement with Defendant and Releasees for the
8 consideration and on the terms set forth in this Settlement is fair, reasonable, and adequate, and is in the
9 best interest of the Settlement Class in light of all known facts and circumstances and the various factual
10 and legal defenses asserted by Defendant.

11 Plaintiffs and Class Counsel also recognize and acknowledge the expense and delay of continued
12 lengthy proceedings necessary to prosecute the Action against Defendant through trial and through
13 appeals. Class Counsel has taken into account the uncertain outcome of the litigation, the risk of
14 continued litigation in complex actions such as this, as well as the difficulties and delays inherent in such
15 litigation. Plaintiff is mindful of the potential challenges and possible defenses to the claims alleged in
16 the Action.

17 Plaintiffs and Class Counsel believe that the Settlement set forth in this Stipulation confers
18 substantial benefits upon Plaintiff sand the Settlement Class Members and that an independent review of
19 this Stipulation by the Court in the approval process will confirm this conclusion. Based on their own
20 independent investigation and evaluation, Class Counsel has determined that the Settlement set forth in
21 the Stipulation is in the best interests of Plaintiff and the Settlement Class Members.

22 **D. Defendant's Denials of Wrongdoing and Liability.** Defendant has denied and continues
23 to deny each and all of the allegations, claims, and contentions alleged by Plaintiff in the Action.
24 Defendant has expressly denied and continues to deny all charges of intentional or knowing wrongdoing
25 or liability against it arising out of any of the conduct, statements, acts, or omissions alleged in the Action.
26 Defendant contends that there is a good faith dispute as to whether it intentionally or knowingly failed to
27 comply in good faith with California's Labor Code, that no Class Member or Aggrieved Employee was
28 injured, and it has dealt legally and fairly with Plaintiff and Settlement Class Members. Defendant further

denies that, for any purpose other than settling this Action, these claims are appropriate for class or representative treatment. Nonetheless, Defendant has concluded that further proceedings in the Action would be protracted and expensive and that it is desirable that the Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Stipulation in order to dispose of burdensome and protracted litigation, to permit the operation of Defendant's business without further expensive litigation and the distraction and diversion of its personnel with respect to matters at issue in the Action. Defendant has also taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as the Action. Defendant has, therefore, determined that it is desirable and beneficial to it that the Action be settled in the manner and upon the terms and conditions set forth in this Stipulation.

E. Intent of the Class Settlement. The Class Settlement set forth herein intends to achieve the following: (1) entry of an order approving the Class Settlement; (2) entry of judgment of the Action; (3) discharge of Defendant and Released Parties from liability for any and all of the Released Claims and any and all claims arising out of the Action.

III. CONDITIONAL CLASS CERTIFICATION AND APPOINTMENT OF CLASS COUNSEL

A. The Settlement Class. For the purposes of this Stipulation and the Class Settlement of this Action only, the Parties stipulate to conditional class certification of the Settlement Class. Defendant's counsel believes this conditional certification is appropriate because the Released Claims are being compromised without need to establish the elements of those claims on which liability turns.

B. Appointment of Class Counsel. For purposes of this Stipulation and subject to the Court's approval, the Parties hereby stipulate to the appointment of Class Counsel as counsel for the Class and the effectuation of the Class Settlement pursuant to this Stipulation.

IV. CLASS SETTLEMENT CONSIDERATION

A. Settlement Amount. The Parties agree to settle this Action for the Gross Settlement Amount of \$ 2,350,000.00. Upon Final Approval, funds deposited into the QSF are not subject to reversion to Defendant or Releasees. The Gross Settlement Amount and other actions and forbearances taken by Defendant and Releasees shall constitute adequate consideration for the Class Settlement and

will be made in full and final settlement of: (a) the Released Claims, (b) Class Attorneys' Fees and Expenses, (c) Settlement Administrative Expenses, (d) the Service Awards, (e) PAGA Payment to the LWDA, and (f) any other obligation of Defendant and Releasees under this Stipulation. After the Court issues an order preliminarily approving this Class Settlement, the Settlement Administrator will distribute the Class Notice to the Settlement Class Members, which shall describe the terms of the Class Settlement and procedures to opt out, object or participate in the Class Settlement.

B. Service Award for Class Representatives. The Class Representative (Sara Acevedo) may petition the Court to approve a Service Award in an amount up to \$10,000.00 for her efforts on behalf of the Settlement Class in this Action, including assisting in the investigation and consulting with Class Counsel and providing crucial documents to Class Counsel. Defendant and Releasees shall not oppose any request by Class Representatives for a Service Award in such an amount. Any Service Award approved by the Court shall be paid to the Class Representatives from the Gross Settlement Amount and shall be in addition to any distribution to which he or she may otherwise be entitled as a Settlement Class Member and Aggrieved Employee. The Service Award shall not be considered wages, and the Settlement Administrator shall issue the Class Representative an IRS Form 1099 reflecting such payment. The Class Representatives shall be responsible for the payment of any and all taxes with respect to his Service Award and shall hold Defendant and Releasees harmless and indemnify Defendant and Releasees from any and all liability with regard thereto.

C. Service Award for PAGA Representatives. The PAGA Representative (Ronald Flores Nunfio) may petition the Court to approve a Service Award in an amount up to \$5,000.00 for his efforts on behalf of the State of California and contributions to the Class Settlement on behalf of the Settlement Class in this Action, including assisting in the investigation and consulting with Class/PAGA Counsel and providing crucial documents to Class/PAGA Counsel. Defendant and Releasees shall not oppose any request by Ronald Flores Nunfio for a Service Award in such an amount. Any Service Award approved by the Court shall be paid to the Class Representative from the Gross Settlement Amount and shall be in addition to any distribution to which he may otherwise be entitled as a Settlement Class Member and Aggrieved Employee. The Service Award shall not be considered wages, and the Settlement Administrator shall issue Ronald Flores Nunfio an IRS Form 1099 reflecting such payment. The Class

Representative shall be responsible for the payment of any and all taxes with respect to his Service Award and shall hold Defendant and Releasees harmless and indemnify Defendant and Releasees from any and all liability with regard thereto.

D. Payment to Class Participants. Each Class Participant shall be eligible to receive payment of the Individual Settlement Amount calculated as set forth in Section VII herein.

E. Payment to Aggrieved Employees. The portion of the PAGA penalty payment allocated to Class Members who worked during the PAGA Covered Period (January 19, 2020 to the date of Final Approval of this Settlement), shall be distributed to the Class members in the PAGA Covered Period regardless of whether or not they opt out of the Settlement.

F. Tax Treatment and Payment. For the purpose of calculating Employee's Taxes and Required Withholding for the Individual Settlement Amounts for Class Participants (including any payments to the Class Representatives but exclusive of their Service Awards), 20% of each Individual Settlement Amount paid to each Class Member shall constitute wages and reported on an IRS W-2 form on that basis and 80% shall be considered non-wage premiums, penalties and interest, to be reported on an IRS form 1099. Prior to final distribution, the Settlement Administrator shall calculate the total Employee's Taxes and Required Withholding due as a result of the wage portion of Class Participants' anticipated Individual Settlement Amounts and such actual amount will be deducted from the Net Settlement Amount. Additionally, prior to the final funding of the Gross Settlement Amount and final distribution, the Settlement Administrator shall calculate the total Employers' Taxes due on the wage portion of the Class Participants' Individual Settlement Amounts and issue instructions to Defendant and Releasees who shall pay the employer's share of payroll taxes. The Parties understand that Plaintiffs and the Class Participants who receive any payment pursuant to this Stipulation shall be solely responsible for any and all other individual tax obligations associated with this Class Settlement.

G. No Effect on Employee Benefit Plans. Neither the Class Settlement nor any amounts paid under the Class Settlement will modify any previously credited hours, days, or weeks of service under any employee benefit plan, policy or bonus program sponsored by Defendant or Releasees. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendant or Releasees' sponsored benefit plans, policies, or bonus programs. The

1 payments made under the terms of this Stipulation shall not be applied retroactively, currently, or on a
2 going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of
3 any of Defendant or Releasees' benefit plan, policy, or bonus program. Defendant and Releasees retain
4 the right to modify the language of its benefits plans, policies and bonus programs to effect this intent
5 and to make clear that any amounts paid pursuant to this Stipulation are not for "pay periods" or any
6 similar measuring term as defined by applicable plans, policies and bonus programs for purpose of
7 eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are
8 not required by this Stipulation. Defendant and Releasees do not consider the Class Settlement payments
9 "compensation" for purposes of determining eligibility for, or benefit accrual within, any benefit plans,
10 policies, or bonus programs, or any other plan sponsored by Defendant or Releasees.

11 **H. Class Counsels' Attorneys' Fees and Expenses.** As part of the motion for final approval
12 of the Class Settlement, Class Counsel may submit an application for an award of Class Attorney Fees
13 and Expenses with the fee portion not to exceed one third of the Gross Settlement Amount (*i.e.*,
14 \$783,333.33) and the award of costs and expenses of up to an additional \$20,000.00. The Proposed
15 Attorneys' Fees shall be divided 80% to Winston Law Group, P.C. and 20% to Wilshire Law Firm, P.L.C.
16 Plaintiffs retained the firms and have given written consent to this division of attorneys' fees, and it is
17 herein and will be disclosed to the Court as part of the approval process. Plaintiffs again acknowledge,
18 reaffirm, and consent to this division of fees and understand that this division of fees agreed to by no
19 means increases the amount of legal fees that Plaintiffs will pay or have agreed to pay for services
20 rendered on their and the Class' behalf. Plaintiffs also acknowledge, represent, and disclose, that they
21 have previously consented to this division of fees in writing. Defendant and Releasees agree not to object
22 to any such fee, cost, or expense application in those amounts. As a condition of this Class Settlement,
23 Class Counsel has agreed to pursue fees only in the manner reflected by this Section. Any Class
24 Attorneys' Fees and Expenses awarded by the Court shall be paid from the Gross Settlement Amount in
25 arriving at the Net Settlement Amount and shall not constitute payment to any Settlement Class Members.
26 If Class Counsel voluntarily reduces the request for Class Attorney Fees or Expenses or if the Court's
27 award of Class Attorney Fees or Expenses is less than set forth above, the Net Settlement Amount shall
28 be recalculated to reflect the actual Class Attorney Fees and Expenses awarded and such amounts shall

1 be distributed to the Class.

2 The Class Attorney Fees and Expenses approved by the Court shall encompass: (a) all work
3 performed and costs and expenses incurred by, or at the direction of, any attorney purporting to represent
4 the Settlement Class through the date of this Stipulation; (b) all work to be performed and costs to be
5 incurred in connection with approval by the Court of the Class Settlement; (c) all work to be performed
6 and costs and expenses, if any, incurred in connection with administering the Class Settlement through
7 the Effective Date and dismissal of the Action, with prejudice; and (d) may be based on the Catalyst
8 Theory, Common Fund Doctrine, and/or other basis.

9 **V. SETTLEMENT ADMINISTRATION COSTS AND EXPENSES**

10 **A. The Settlement Administrator's Costs and Expenses.** All costs and expenses due to
11 the Settlement Administrator in connection with its administration of the Class Settlement, including, but
12 not limited to, providing the Class Notice, locating Settlement Class Members, processing Opt-Out
13 requests and objections, and calculating, administering, and distributing Individual Settlement Amounts
14 to the Class Participants and related tax forms, shall be paid from the Gross Settlement Amount, and shall
15 not exceed \$30,000.00.

16 **B. Funding Schedule.** The Settlement Administrator will be responsible for establishing a
17 Qualified Settlement Fund ("QSF"). Defendant will deposit the Gross Settlement Amount into the QSF
18 to be established by the Settlement Administrator as follows:

19 1. From September 30, 2022¹ until October 31, 2023, Defendant will deposit a total
20 of \$1,300,000 of the Gross Settlement Amount into the QSF. This amount will be paid in
21 13 monthly deposits of \$100,000 which shall be paid by the last day of the month, with
22 the first \$100,000 deposit made by September 30, 2022, the second \$100,000 deposit
23 made by October 31, 2022, and so forth until the final thirteenth \$100,000 deposit on
24 October 31, 2023. In the event Defendant fails to make a monthly payment on time, then
25 the Settlement Administrator shall give notice of non-payment to the Parties. Defendant
26 shall have 90 days from the date of the notice of non-payment to cure the issue and deposit
27 the monthly payment that is owed. Any cure period for a particular payment, if necessary,
28

¹ The first payment will be made on September 30, 2022, or as soon thereafter as possible once the the Settlement Administrator is established and prepared to accept payment.

will run independent of any other cure period for an independent payment, and the parties agree to bear their own costs and/or fees associated with the notice and cure process, if applicable.

2. No later than November 30, 2023, Defendant will deposit the remaining \$1,050,000 of the Gross Settlement Amount, and any remaining amounts necessary (if any prior amounts are subject to the notice/cure process described in Section V.B.1), into the QSF.

3. In the event the Court fails to approve the Settlement under the terms agreed to by the Parties with prejudice, even after the best efforts of the parties under Section XI.A., or if the appropriate appellate court fails to uphold or affirm the Settlement or if the Settlement Agreement is otherwise terminated, then any money paid by Defendant to the QSF, including any interest accrued thereon, shall revert back to Defendant.

4. The Parties have expressly agreed to payments over time to settle this matter based on the representation by Defendant of its inability to pay sooner.

VI. NOTICE TO CLASS MEMBERS AND CLAIMS ADMINISTRATION PROCESS

A. The Settlement Administrator. The Settlement Administrator will be responsible for mailing the Class Notice (**Exhibit A**) to Settlement Class Members, handling inquiries from Settlement Class Members concerning the Class Notice, determination of Individual Settlement Amounts, maintaining the settlement funds in an appropriate account, preparing, administering and distributing Individual Settlement Amounts to Class Participants, issuing a final report and performing such other duties as the Parties may direct.

On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and Defense Counsel summarizing any relevant information and updating them as to the number of validated and timely objections and Opt-Out Requests. The Settlement Administrator will serve on Class Counsel and Defense Counsel, via e-mail, date-stamped copies of the original Opt-Outs and objections no later than five (5) days after their receipt. The Settlement Administrator will provide Class Counsel with proof of mailing of the Class Notice, without listing individual Class Member names which the Settlement Administrator will file with the Court at the time Class Counsel files its motion in support of the Court's

1 Final Approval and Fairness Hearing.

2 No later than fourteen (14) days prior to the Final Approval and Fairness Hearing, the Settlement
3 Administrator will compile and deliver to Class Counsel and Defense Counsel a report with summary
4 information regarding (a) the total amount of final Individual Settlement Amounts of each Class
5 Participant (b) the number of Class Participants to receive such payments, and (c) the final number of
6 Opt-Outs and objections.

7 Administrative Expenses shall not exceed \$30,000.00. Prior to the calculation and distribution of
8 the Individual Settlement Amounts, the Settlement Administrator shall calculate the total Administrative
9 Expenses through the conclusion of their services and such actual amount will be deducted from the
10 Gross Settlement Amount prior to the final calculation of the Individual Settlement Amounts. If the cost
11 of administration is more than \$30,000.00, the additional cost will come from the Gross Settlement
12 Amount.

13 **B. Notice to Settlement Class Members.** Notice shall be provided to Settlement Class
14 Members in the following manner: Within 14 days after the Preliminary Approval Date, Defendant shall
15 provide the Settlement Administrator with a list of Class Members containing names, social security
16 numbers, last-known addresses and phone numbers, and the total number of pay periods worked by each
17 Class Member during the Class Period (the “Database”). The Notice shall be distributed in English and
18 Spanish.

19 Within 21 days following the Preliminary Approval Date, the Settlement Administrator shall
20 determine the number of pay periods for each Settlement Class Member and will perform a national
21 change of address search for each Class Member, update the results based upon the search results,
22 populate the data for the estimated Individual Settlement Amount for each Settlement Class Member,
23 and send each Settlement Class Member the Class Notice via first-class, United States mail. The Class
24 Notice shall also contain an easily understood statement alerting the Class Members that, unless they
25 elect to Opt-Out of the Class Settlement, the Settlement Class Member is releasing and waiving all
26 Released Claims against the Released Parties.

27 The Class Notice will inform Settlement Class Members of his/her estimated Individual
28 Settlement Amount share. Class Members may dispute Defendant’s records of the number of pay periods

1 worked during the Class Period by submitting information to the Settlement Administrator no later than
2 60 days after being mailed the Class Notice by the Settlement Administrator, which is the defined
3 “Response Deadline.” The Settlement Administrator will jointly work with Plaintiff and Defendant to
4 resolve disputes in good faith. If Plaintiffs and Defendant cannot agree over the pay periods to be
5 credited, the Settlement Administrator shall make the final decision based on the information presented
6 by the Settlement Class Member and Defendant.

7 **C. Opt-Out Procedure.** Settlement Class Members who do not timely Opt-Out of the Class
8 Settlement will be deemed to participate in the Class Settlement and shall become a Class Participant
9 without having to submit a claim form or take any other action. In order to Opt-Out of the Class
10 Settlement, the Settlement Class Member must submit a letter or postcard to the Settlement Administrator
11 by the Response Deadline. The Opt-Out request must state the Settlement Class Member’s name and
12 address for correspondence and identity verification purposes and should either state words to the effect
13 of, “I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN ACEVEDO VS. DEANCO
14 HEALHCARE, LLC” or otherwise evidence a clear intent to be excluded from the Settlement. A request
15 for exclusion or Opt-Out shall not be deemed invalid if it does not include the exact phrase “I WISH TO
16 BE EXCLUDED FROM THE SETTLEMENT CLASS IN ACEVEDO VS. DEANCO HEALHCARE,
17 LLC” as long as the Class Members intent to exclude themselves is evident from the writing of the
18 agreement. Absent a good cause finding by the Court, any Opt-Out request that is not postmarked by the
19 Response Deadline will be invalid. In the event that, prior to the Response Deadline, any Class Notice
20 mailed to a Settlement Class Member is returned as having been undelivered by the U.S. Postal Service,
21 the Settlement Administrator shall perform a skip trace search and seek an address correction for such
22 Settlement Class Member(s), and a second Class Notice will be sent to any new or different address
23 obtained. Such Settlement Class Member(s) shall have an additional 14 days in which to Opt-Out.

24 If the Settlement Administrator determines that an Opt-Out request returned by a Settlement Class
25 Member before the Response Deadline is deficient, then the Settlement Administrator shall mail a
26 deficiency letter to that Settlement Class Member identifying the problem. If a Settlement Class Member
27 submits both a dispute and an Opt-Out request, the Settlement Administrator shall make reasonable
28 attempts to clarify as if the Opt-Out request were deficient. If the Class Member fails to cure the

1 deficiency, the Opt-Out request shall be disregarded and the claim will be paid, and the Class Member
2 will become bound by the judgment. Those Settlement Class Members who do not timely Opt-Out will
3 be bound by the Release of Released Claims set forth in this Stipulation.

4 **D. Objections.** The Class Notice shall inform the Settlement Class Members of their right
5 to object to the Class Settlement. Any Settlement Class Member who wishes to object to the Class
6 Settlement should submit a written objection to the Settlement Administrator no later than the Response
7 Deadline. All Class Member objections should include the Class Member's name, current address for
8 correspondence and identity verification purposes, provide each specific reason in support of the
9 objection, and be postmarked by the Response Deadline. Class Members also need not include legal
10 arguments for their written objections to be considered. Class Members who do not submit a timely
11 written objection may still appear at the final approval and fairness hearing and speak regarding any
12 objection at the hearing. If an objector wishes to appear at the Final Approval and Fairness Hearing, in
13 person or through an attorney, he or she need not file a notice of intention to appear at the same time as
14 the objection is filed. Filing the notice of intention to appear is not necessary to preserve the right to
15 appear at the Final Approval and Fairness Hearing. Absent Class Members need not file anything with
16 the Court. The Settlement Administrator will promptly serve copies of any objection or notice of intention
17 to appear on Class Counsel and Defense Counsel. Settlement Class Members may appear at the Final
18 Approval Hearing, either in person (to the extent permitted during the COVID-19 pandemic), through a
19 remote method authorized by the Court, or through a lawyer retained at their own expense. If a Class
20 Member submits both a Request for Exclusion and a written objection, the Settlement Administrator shall
21 attempt to contact and determine whether the Class Member would like to withdraw either the Request
22 for Exclusion or the objection. If the Class Member does not withdraw the Request for Exclusion or if
23 the Settlement Administrator cannot contact a Class Member who submits both a Request for Exclusion
24 and an objection, the Request for Exclusion shall be valid, and it shall be presumed that the Class Member
25 does not wish to participate in the Settlement.

26 **E. Settlement Administrator Declaration.** At least 30 days prior to the Final Approval and
27 Fairness Hearing, the Settlement Administrator shall provide Class Counsel and Defense Counsel with a
28 Declaration of Due Diligence and Proof of Mailing with regard to the mailing of the Class Notice and its

attempts to locate Class Members. The declaration shall specify the number of Settlement Class Members to whom Class Notices were sent and the number of Settlement Class Members to whom Class Notices were not delivered, as well as information relating to the number of Opt-Outs and objectors. Class Counsel shall file this declaration with the Court.

VII. CLASS SETTLEMENT DISTRIBUTION

A. Allocation of the Gross Settlement Amount. The claims of all Settlement Class Members are settled for the Gross Settlement Amount of \$2,350,000.00, which will be allocated as follows:

- a. The Administrative Expenses, estimated not to exceed \$30,000.00;
- b. The Class Attorney Fees and Expenses not to exceed \$783,333.33 in fees and expenses not to exceed \$20,000.00;
- c. PAGA Payment of \$100,000.00, of which \$75,000.00 shall be paid to the LWDA;
- d. Service Awards, not to exceed \$10,000.00 each to Sara Acevedo and \$5,000.00 to Ronald Flores Nunfio; and
- e. The Net Settlement Amount, estimated to be \$1,401,666.67.

For purposes of calculating the estimated Individual Settlement Amounts, the Settlement Administrator shall calculate the estimated Net Settlement Amount based on the estimated values in Section VII(A)(a-d) prior to sending Notice to the Settlement Class Members. Prior to final distribution, the Settlement Administrator shall calculate the final Net Settlement Amount based on the actual values in Section VII(A)(a-d).

B. Calculation of the Individual Settlement Amounts. Individual Settlement Amounts to be paid to Class Participants shall be paid from the Net Settlement Amount. The portion of the Net Settlement Amount payable to each Class Participant will be calculated as follows: the Settlement Administrator shall divide the Net Settlement Amount by the total number of pay periods worked by the Class Members during the Class Period in order to determine the amount each Class Member is entitled to for each pay period s/he was employed by Defendant during the Class Period (“Pay Period Amount”). The Settlement Administrator will multiply the Pay Period Amount by the total number of pay periods worked by each Class Member during the Class Period to arrive at the Individual Settlement Amount for

each Class Member. As to a Class Member who opts out of the Settlement by submitting a valid Request for Exclusion (as defined below) and/or whose Notice of Settlement is determined to be undeliverable after reasonable re-mailing efforts made by the Settlement Administrator, the Class Member's Individual Settlement Payment will not be paid to the Class Member and will be added to the Net Settlement Amount and re-distributed among eligible Participating Class Members on a pro-rata basis.

Defendant and Releasees shall have no responsibility for deciding the validity of the Individual Settlement Amounts or any other payments made pursuant to this Stipulation, shall have no involvement in or responsibility for the determination or payment of Employee's Taxes, and shall have no liability for any errors made with respect to such Employee's Taxes. Plaintiff and Class Participants shall be solely responsible for any and all tax obligation associated with their respective Individual Settlement Amounts.

C. Time for Payment of Attorney Fees and Expenses to Class Counsel. The Settlement Administrator shall distribute to Class Counsel the attorneys' fees and expenses approved by the Court to Class Counsel no later than 15 days after Defendant deposits the final installment payment of the Gross Settlement Amount with the Settlement Administrator, as set forth in Section V(B) of this Agreement..

D. Time for Payment of Service Award to Class and PAGA Representatives. The Settlement Administrator shall distribute to the Class Representatives and the PAGA Representative any Service Award approved by the Court no later than 15 days after Defendant deposits the final installment payment of the Gross Settlement Amount with the Settlement Administrator, as set forth in Section V(B) of this Agreement..

E. Time for Payment of PAGA Payment to the LWDA. The Settlement Administrator shall distribute to the LWDA the portion of the PAGA Payment due to it and approved by the Court no later than 15 days after Defendant deposits the final installment payment of the Gross Settlement Amount with the Settlement Administrator, as set forth in Section V(B) of this Agreement. .

F. Time for Payment of Individual Settlement Amounts. The Settlement Administrator shall mail the Individual Settlement Amount to each Class Participant, by first-class U.S. mail, to the last-known address no later than 15 days after the Defendant deposits the final installment payment of the Gross Settlement Amount with the Settlement Administrator, as set forth in Section V(B) of this Agreement. Under no circumstances shall the Settlement Administrator distribute checks to Class

Participants until all Individual Settlement Amounts have been considered, calculated, and accounted for, and all of the remaining monetary obligations have been calculated and accounted for. Within 140 days of the Effective Date, the Settlement Administrator shall provide to Class Counsel a declaration of payment. In the event that any Class Participant is deceased, payment shall be made payable to the estate of that Settlement Class Member and delivered to the executor or administrator of that estate, unless the Settlement Administrator has received an affidavit or declaration pursuant to Cal. Probate Code § 13101, in which case payment shall be made to the affiant(s) or declarant(s).

G. Time for Payment of Taxes and Required Withholding and Individual Settlement Amounts. The Settlement Administrator shall make every effort to pay the Employee's Taxes and Required Withholding associated with each Class Participant's Individual Settlement Amount and mail the Individual Settlement Amount to each Settlement Class Member by first-class U.S. mail, to the last-known address within fifteen (15) calendar days after the Defendant deposits the final installment payment of the Gross Settlement Amount with the Settlement Administrator. If the Settlement Administrator is not able to do so within the time period set forth above, it shall so inform Class Counsel and Defense Counsel and provide an approximate date by which the Employee's Taxes and Required Withholding shall be paid and the Individual Settlement Amounts will be mailed. Under no circumstances shall the Settlement Administrator distribute checks to Class Members until all Individual Settlement Amounts have been considered, calculated, and accounted for, and the all of the remaining monetary obligations have been calculated and accounted for. Within two-hundred (200) days of mailing each Class Participant's Individual Settlement Amount, the Settlement Administrator shall provide to Class Counsel a declaration of payment to file with the Court. In the event that any Class Member is deceased, payment shall be made payable to the estate of that Settlement Class Member and delivered to the executor or administrator of that estate, unless the Settlement Administrator has received an affidavit or declaration pursuant to Cal. Probate Code § 13101, in which case payment shall be made to the affiant(s) or declarant(s).

H. Non-Cashed Settlement Checks. Any funds associated with checks that have not been cashed within 180 days, will become void and the Individual Settlement Amount associated with the uncashed check shall be paid out in accordance with Civil Code section 384 to a *cy pres* agreed to by the

Parties as required by Code of Civil Procedure section 384 or any other method of distribution consistent with Code of Civil Procedure section 384. The *cy pres* recipient shall be CASA of Los Angeles or other mutually agreeable *cy pres* recipient should the Court not approve the Parties' proposed beneficiary and/or as otherwise consistent with Code of Civil Procedure section 384.

VIII. NULLIFICATION OF THIS STIPULATION

A. Non-Approval of the Stipulation. In the event that the Court fails to approve the Settlement under the terms agreed to by the Parties with prejudice, even after the best efforts of the parties under Section XI.A., or if the appropriate appellate court fails to uphold or affirm the Settlement, or if the Settlement is voided/terminated as set forth in Sections VIII(B)-(C) of this Agreement, or if the Settlement Agreement is otherwise terminated: (1) the Settlement Agreement shall have no force and effect and the parties shall be restored to their respective positions prior to entering into this Agreement, or any entered in prior to it with respect to a proposed class/PAGA settlement of this action, and no Party shall be bound by any of the terms of the Settlement Agreement (or prior versions of it); (2) the Settlement Administrator shall return any money deposited by Defendant to the Qualified Settlement Fund back to Defendant; (3) Defendant and Releasees shall have no obligation to make any payments to the Settlement Class Members, Plaintiff, or Plaintiff's counsel; (4) any preliminary approval order, final approval order or judgment, shall be vacated; and (5) the Settlement Agreement and all negotiations, statements, proceedings and data relating thereto shall be deemed confidential mediation settlement communications and not subject to disclosure for any purpose in any proceeding. However, the Parties shall first make good faith efforts to resolve any issues raised by the Court during the approval process.

B. Approval By CIT Bank, N.A. The Parties understand and agree that this Settlement Agreement is conditioned on Defendant obtaining approval of this Settlement from CIT Bank, N.A. ("CIT"). In the event CIT does not approve the Settlement, then the Settlement Agreement shall have no force and effect and the Parties shall be restored to their respective positions prior to entering into this Settlement Agreement, and no Party shall be bound by any of the terms of this Settlement Agreement. The parties retain their positions and arguments with respect to any prior versions of the Settlement Agreement.

C. Parties' Rights to Void Class Settlement. In the event that more than 10% of the Class

Members submit elections to opt-out of the settlement, Defendant will have the right to rescind and terminate the Settlement without prejudice to its pre-settlement positions and defenses in the litigation. Should the threshold for opt-outs be exceeded, the Settlement Administrator shall notify lead counsel for all parties via email immediately. Should Defendant choose to void the Class Settlement under this paragraph, Defendant shall be responsible for all Settlement Administrator fees and costs actually incurred.

D. Invalidation. Invalidation of any material portion of the Class Settlement shall invalidate the Class Settlement in its entirety, unless the Parties shall subsequently agree in writing that the remaining provisions of the Class Settlement are to remain in full force and effect.

E. Stay Upon Appeal. In the event of a timely appeal from the approval of the Class Settlement and judgment, the judgment shall be stayed, and Defendant shall not be obligated to fund the Gross Settlement Amount or take any other actions required by this Stipulation until all appeal rights have been exhausted by operation of law.

IX. MOTION FOR COURT APPROVAL

A. Preliminary Approval. Class Counsel will submit this Stipulation to the Court along with a Motion for Preliminary Approval of the Class Settlement.

B. Final Approval. The Final Approval and Fairness Hearing shall be held before the Court unless the Court orders otherwise. At the Final Approval and Fairness Hearing, Plaintiff shall move the Court for the entry of the final order certifying the Class for settlement purposes only and approving the Class Settlement as being fair, reasonable, and adequate to the Class Participants within the meaning of California Rules of Court, Rule 3.769(c), (d) and (e) and for the entry of a final judgment of the Action consistent with the terms of the Class Settlement and California Rule of Court 3.769(h). Class Counsel and Defense Counsel shall submit to the Court such pleadings and/or evidence as may be required for the Court's determination. The Parties will comply with the Court's Procedural Guidelines for final Approval of Class Action Settlements and with Code of Civ. Proc. § 384 that the Parties participate in a compliance hearing regarding the distribution of funds unless the Court takes such a hearing off-calendar after reviewing the Settlement Administrator's declaration of compliance or pursuant to another Court order.

C. Judgment and Continued Jurisdiction. After entry of the Final Approval order and

judgment, pursuant to California Code of Civil Procedure section 664.6, the Court will retain continuing and exclusive jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement; (b) matters relating to the administration of the Settlement; and (c) such post-Judgment matters as may be appropriate under Court rules or as set forth in this Settlement Agreement.

X. RELEASES AND WAIVERS

A. Release of Claims by Settlement Class. Upon the Effective Date, each Settlement Class Member who has not submitted a timely Opt-Out request, and Plaintiff, each releases the Defendant and the Released Parties, and each of them, of and from any and all Released Claims during the Class Period.

It is the desire of the Parties and the Settlement Class Members to fully, finally, and forever settle, compromise, and discharge the Released Claims.

Each Settlement Class Member, except those who timely Opt-Out, will be bound to the release of Released Claims as a result of the Class Settlement and to the terms of the final judgment and the satisfaction of such judgment.

B. Release of Claims by Plaintiff Sara Acevedo. Plaintiff Sara Acevedo, on behalf of herself and her heirs, executors, administrators, and representatives, shall and does hereby forever releases, discharges and agrees to hold harmless the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorney fees and costs), known or unknown, at law or in equity, which they may **now** have or may have after the signing of this Stipulation, arising out of or in any way connected with her employment with Defendant and Releasees including, the Released Claims, claims that were asserted or could have been asserted in the Complaint, and any and all transactions, occurrences, or matters between the Parties occurring prior to the date this Stipulation is fully executed. Without limiting the generality of the foregoing, this release shall include, but not be limited to, any and all claims under the (a) Americans With Disabilities Act, as amended; (b) Title VII of the Civil Rights Act of 1964, as amended; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981, as amended; (e) the Age Discrimination in Employment Act, as amended; (f) the Fair Labor Standards Act, as amended; (g) the Equal Pay Act; (h) the Employee Retirement Income Security Act, as amended; (i) the Consolidated Omnibus Budget Reconciliation Act; (j) the Rehabilitation Act of 1973;

(k) the Family and Medical Leave Act; (l) the Civil Rights Act of 1966; (m) the California Fair Employment and Housing Act; (n) the California Constitution; (o) the California Labor Code; (p) the California Government Code; (q) the California Civil Code; (r) the California Wage Orders, and (s) any and all other federal, state and local statutes, ordinances, regulations, rules and other laws, and any and all claims based on constitutional, statutory, common law or regulatory grounds as well as any other claims based on theories of wrongful or constructive discharge, breach of contract or implied contract, fraud, misrepresentation, promissory estoppel or intentional and/or negligent infliction of emotional distress, or damages under any other federal, state or local statutes, ordinances, regulations, rules or laws. This release is for any and all relief, no matter how denominated, including, but not limited to, back pay, front pay, vacation pay, bonuses, compensatory damages, tortious damages, liquidated damages, punitive damages, damages for pain and suffering, and attorney fees and costs, and Plaintiff hereby forever releases, discharges and agrees to hold harmless Defendant and the Released Parties from any and all claims for attorney fees and costs arising out of the matters released in this Stipulation.

Plaintiff Sara Acevedo specifically acknowledges that she is aware of and familiar with the provisions of Section 1542, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of 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.

Plaintiff Sara Acevedo, being aware of Section 1542, hereby expressly waives and relinquishes all rights and benefits they may have under Section 1542 as well as any other statutes or common law principles of a similar effect. Plaintiff Sara Acevedo may hereafter discover facts in addition to or different from those which she now knows or believes to be true with respect to the subject matter of all the claims referenced herein, but stipulates and agrees that, upon the Effective Date, Plaintiff Sara Acevedo shall and hereby does fully, finally and forever settle and release any and all claims against the Defendant and the Released Parties, known or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or could have been asserted upon any theory of law or equity without regard to the subsequent discovery of existence of such different or additional facts.

The Parties also wish to disclose to the Court for transparency purposes that Plaintiff Ronald Flores Nunfio is receiving a settlement of \$15,000.00 in association with alleged retaliation claims as

well as for resolution of all of his individual claims including the failure to timely produce records not covered by this Settlement and for which Mr. Nunfio is entering into a general release with Defendants. The Parties represent and warrant that Class Counsel is not receiving any attorneys' fees nor cost reimbursement in association with the Plaintiff's individual settlement.

XI. DUTIES OF THE PARTIES

A. Mutual Full Cooperation. The Parties agree to cooperate fully with one another to accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not be limited to, execution of such other documents and the taking of such other actions as may reasonably be necessary to fulfill the terms of this Class Settlement unless the Court denies the Proposed Settlement with prejudice. The Parties shall use their best efforts, including all efforts contemplated by this Stipulation and any other efforts that may become necessary by court order or otherwise, to effectuate this Stipulation and the terms set forth herein. As soon as practicable after execution of this Stipulation, Class Counsel, with the cooperation of Defendant and Defense Counsel, shall take all necessary and reasonable steps to secure the Court's approval of this Stipulation. The Parties will work together to make any non-material modifications of the Settlement requested by the Court to obtain approval of the Parties' Proposed Settlement. If the Court requires this Stipulation to be modified to conform to the Los Angeles Superior Court Model Class Settlement Agreement, Defendants will make such revisions to the Stipulation.

B. Duty to Support and Defend the Class Settlement. The Parties agree to abide by all of the terms of the Class Settlement in good faith and to support the Class Settlement fully and to use their best efforts to defend this Class Settlement from any legal challenge, whether by appeal or collateral attack.

C. Duties Prior to Court Approval. Class Counsel shall promptly submit this Stipulation to the Court for preliminary approval and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this Stipulation, Class Counsel shall apply to the Court for the entry of a preliminary order, scheduling a hearing on the question of whether the proposed Class Settlement should be approved as fair, reasonable, and adequate as to the Settlement Class Members, approving as to form and content the proposed Class Notice attached hereto as **Exhibit A**, respectively,

1 and directing the mailing of the Class Notice to Settlement Class Members.

2 **XII. MISCELLANEOUS PROVISIONS**

3 **A. Different Facts.** The Parties hereto, and each of them, acknowledge that, except for
4 matters expressly represented herein, the facts in relation to the dispute and all claims released by the
5 terms of this Stipulation may turn out to be other than or different from the facts now known by each
6 party and/or its counsel, or believed by such Party or counsel to be true, and each Party therefore expressly
7 assumes the risk of the existence of different or presently unknown facts, and agrees that this Stipulation
8 shall be in all respects effective and binding despite such difference.

9 **B. No Prior Assignments.** The Parties represent, covenant, and warrant that they have not
10 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
11 any person or entity any portion of any liability, claim, demand, action, cause of action, or right herein
12 released and discharged except as set forth herein.

13 **C. Non-Admission.** Nothing in this Stipulation shall be construed as or deemed to be an
14 admission by any Party of any liability, culpability, negligence, or wrongdoing toward any other Party,
15 or any other person, and the Parties specifically disclaim any liability, culpability, negligence, or
16 wrongdoing toward each other or any other person. Each of the Parties has entered into this Stipulation
17 with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and
18 contingencies. Nothing herein shall constitute any admission by Defendant or Releasees of wrongdoing
19 or liability, or of the truth of any factual allegations in the Action. Nothing herein shall constitute any
20 admission by Defendant regarding the merits of the Claims in this Action. Nothing herein shall constitute
21 an admission by Defendant that the Action was properly brought as a class or representative action other
22 than for settlement purposes. To the contrary, Defendant has denied and continues to deny each and
23 every material factual allegation and all Claims. To this end, the Class Settlement of the Action, the
24 negotiation and execution of this Stipulation, and all acts performed or documents executed pursuant to
25 or in furtherance of this Stipulation or the Class Settlement are not, shall not be deemed to be, and may
26 not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendant or
27 Releasees or of the truth of any of the factual allegations in the Complaint in the Action; and are not,
28 shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omission on

the part of Defendant or Releasees in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal.

D. Confidentiality, Media, or Press Inquiries. Other than information necessary to secure Court approval of this settlement, the Parties agree to keep confidential all matters relative to this Settlement, including the terms of the Settlement and the facts and circumstances leading up to it. If asked about the disputes between the Parties, the Parties shall provide no other statement than “the matter has been resolved” or “the matter has settled.” The Parties may, however, discuss the terms of this Settlement with their spouses, attorneys, financial advisors, tax advisors, and accountants, or upon a valid court order, at which time the individual receiving information about the terms of this Settlement shall be informed that the terms of this Settlement are confidential, and the individual may not reveal or disclose to any third party the terms of the Settlement. Nothing in this Agreement shall prohibit Class Counsel from communicating with Class Members or prohibit Class Counsel from disclosing this Settlement in declarations and/or other evidence submitted to Courts concerning their qualifications to serve as Class Counsel.

E. Non-Retaliation. Defendant understands and acknowledges that it has a legal obligation not to retaliate against any Settlement Class Member who elects to participate in the Class Settlement or elects to Opt-Out of the Class Settlement. Defendant will refer any inquiries regarding this Class Settlement to the Settlement Administrator or Class Counsel and will not discourage Settlement Class Members who are employees, directly or indirectly, from participating in the Settlement or encourage or advise Settlement Class Members to opt out or object to the Class Settlement.

F. Construction. The Parties hereto agree that the terms and conditions of this Stipulation are the result of lengthy, intensive, arms-length non-collusive negotiations between the Parties and that this Stipulation is not to be construed in favor of or against any party by reason of the extent to which any party or its counsel participated in the drafting of this Stipulation. If any of the dates in the Stipulation fall on a weekend, bank or court holiday, the time to act shall be extended to the next business day.

G. Governing Law. This Stipulation is intended to and shall be governed by the laws of the State of California, without regard to conflict of law principles, in all respects, including execution, interpretation, performance, and enforcement.

1 **H. Notices.** Except for Settlement Class Member notices required to be made by the
2 Settlement Administrator, any and all notices or other communications required or permitted under this
3 Stipulation shall be in writing and shall be sufficiently given if delivered in person to the party or their
4 counsel by U.S. certified mail, postage prepaid, e-mail, facsimile, or overnight delivery addressed to the
5 address of the party appearing in this Stipulation.

6 **I. Captions and Interpretations.** Section titles or captions contained herein are inserted as
7 a matter of convenience and for reference only and in no way define, limit, extend, or describe the scope
8 of this Stipulation or any provision thereof.

9 **J. Modification.** This Stipulation may not be changed, altered, or modified, except in
10 writing signed by the Parties and approved by the Court. This Stipulation may not be discharged except
11 by performance in accordance with its terms or by a writing signed by the Parties.

12 **K. Integration Clause.** This Stipulation contains the entire agreement between the Parties
13 relating to the Class Settlement of the Action and the transactions contemplated thereby, and all prior or
14 contemporaneous agreements, understandings, representations, and statements, whether oral or written,
15 and whether by a party or such party's legal counsel, are hereby superseded. No rights under this
16 Stipulation may be waived except in writing as provided above.

17 **L. Successors and Assigns.** This Stipulation shall be binding upon and inure to the benefit
18 of the Parties and Settlement Class Members (excluding only persons who timely Opt-Out) and their
19 respective present and former heirs, trustees, executors, administrators, representatives, officers,
20 directors, shareholders, agents, employees, insurers, attorneys, accountants, auditors, advisors,
21 consultants, pension and welfare benefit plans, fiduciaries, parent companies, subsidiaries, affiliates,
22 related companies, joint ventures, predecessors, successors, and assigns.

23 **M. Corporate Signatories.** Any person executing this Stipulation or any such related
24 document on behalf of a corporate signatory or on behalf of a partnership hereby warrants and promises,
25 for the benefit of all Parties hereto, that such person has been duly authorized by such corporation or
26 partnership to execute this Stipulation or any such related document.

27 **N. Execution in Counterparts.** This Stipulation shall become effective upon its execution
28 by all of the undersigned and may be executed electronically (such as via DocuSign). The Parties may

execute this Stipulation in counterparts, and execution of counterparts shall have the same force and effect as if all Settling Parties had signed the same instrument.

O. Code of Civ. Proc. Section 664.6. This Settlement Agreement is enforceable pursuant to California Code of Civil Procedure § 664.6.

P. Action to Enforce Agreement. In any suit or court action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover his or her or its attorney fees and costs.

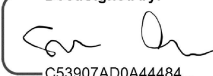
Q. Attorneys' Fees, Costs and Expenses. Except as otherwise specifically provided for herein, each party shall bear his or her or its own attorney fees, costs, and expenses, taxable or otherwise, incurred by them in or arising out of the Action and shall not seek reimbursement thereof from any other party to this Stipulation.

IN WITNESS WHEREOF, the Parties and their counsel have executed this Stipulation on the date below their signatures or the signature of their representatives. The date of the Stipulation shall be the date of the latest signature.

Dated: October __, 2022

Ronald Flores Nunfio as PAGA
Representative

Dated: October ⁶ __, 2022

DocuSigned by:

C53907AD0A44484...

Sara Acevedo as a Class and PAGA Representative

Dated: October ____, 2022

On behalf of Deanco Healthcare, LLC
By: _____
Its : _____

1 execute this Stipulation in counterparts, and execution of counterparts shall have the same force and
2 effect as if all Settling Parties had signed the same instrument.

3 **O. Code of Civ. Proc. Section 664.6.** This Settlement Agreement is enforceable pursuant to
4 California Code of Civil Procedure § 664.6.

5 **P. Action to Enforce Agreement.** In any suit or court action to enforce the terms of this
6 Agreement, the prevailing party shall be entitled to recover his or her or its attorney fees and costs.

7 **Q. Attorneys' Fees, Costs and Expenses.** Except as otherwise specifically provided for
8 herein, each party shall bear his or her or its own attorney fees, costs, and expenses, taxable or otherwise,
9 incurred by them in or arising out of the Action and shall not seek reimbursement thereof from any other
10 party to this Stipulation.

11 **IN WITNESS WHEREOF,** the Parties and their counsel have executed this Stipulation on the
12 date below their signatures or the signature of their representatives. The date of the Stipulation shall be
13 the date of the latest signature.

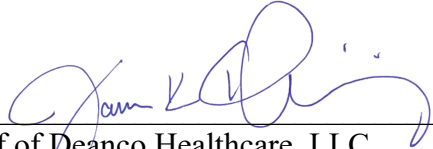
14
15 Dated: _____, 2022

16 _____
Ronald Flores Nunfio as PAGA
Representative

17 Dated: _____, 2022

18 _____
Sara Acevedo as a Class and PAGA Representative

19
20 Dated: October 6, 2022

21 
On behalf of Deanco Healthcare, LLC
22 By: James K. Theiring
23 Its : CEO
24
25
26
27
28

1 **APPROVED AS TO FORM AND CONTENT:**

2 10 / 05 / 2022

3 DATED: _____, 2022

WINSTON LAW GROUP, P.C.

4 *David Winston*

5 By: DAVID S. WINSTON
6 Attorneys for Plaintiffs, the Proposed
7 Settlement Class, and the Aggrieved
8 Employees

9 DATED: _____, 2022

WILSHIRE LAW FIRM PLC

10 By: JUSTIN F. MARQUEZ
11 Attorneys for Plaintiffs, the Proposed
12 Settlement Class, and the Aggrieved
13 Employees

14 DATED: September ___, 2022

LITTLER MENDELSON P.C.

15 By: Bradley E. Schwan
16 Jannine E. Kranz
17 Attorneys for Defendant Deanco Healthcare, LLC

18 4867-7233-0033.1 / 103608-1003
19 DRAFT

1 **APPROVED AS TO FORM AND CONTENT:**

2 DATED: October __, 2022

WINSTON LAW GROUP, P.C.

3
4
5 By: DAVID S. WINSTON
6 Attorneys for Plaintiffs, the Proposed
7 Settlement Class, and the Aggrieved
8 Employees

9 DATED: October 6, 2022

WILSHIRE LAW FIRM PLC

10 By: 
11 JUSTIN F. MARQUEZ
12 Attorneys for Plaintiffs, the Proposed
13 Settlement Class, and the Aggrieved
14 Employees

15 DATED: October __, 2022

LITTLER MENDELSON P.C.

16 By: Bradley E. Schwan
17 Jannine E. Kranz
18 Attorneys for Defendant Deanco Healthcare, LLC

19 4867-7233-0033.1 / 103608-1003
20 DRAFT

1
2
3
4 **APPROVED AS TO FORM AND CONTENT:**

5 DATED: _____, 2022

WINSTON LAW GROUP, P.C.

6
7
8 By: _____
9 Attorneys for Plaintiffs, the Proposed
10 Settlement Class, and the Aggrieved
11 Employees

12 DATED: _____, 2022

WILSHIRE LAW FIRM PLC

13 By: _____
14 JUSTIN F. MARQUEZ
15 Attorneys for Plaintiffs, the Proposed
16 Settlement Class, and the Aggrieved
17 Employees

18 October 7
19 DATED: September __, 2022

LITTLER MENDELSON P.C.

20
21
22
23
24
25
26
27
28 By: _____
Bradley E. Schwan
Jannine E. Kranz
Attorneys for Defendant Deanco Healthcare, LLC

Exhibit A

[CLASS MEMBER NAME and ADDRESS]

**[CLASS MEMBER NAME], PLEASE READ THIS NOTICE CAREFULLY.
IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.**

*This is **not** a solicitation from a lawyer. A court authorized this notice.*

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Sara Acevedo, et al. v. Deanco Healthcare, LLC

Superior Court of The State Of California, County of Los Angeles Case No. 21STCV34724

If you are or were employed by Deanco Healthcare, LLC as a non-exempt employee at any time between September 17, 2017 and June 8, 2022, a proposed class action settlement may affect your rights and you may be entitled to money under the proposed Settlement.

You are **not** being sued. A court authorized this notice. This is **not** a solicitation from a lawyer.

**PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION
ABOUT YOUR RIGHTS.**

- You are receiving this Notice because Defendant's records show that you are in the proposed Settlement Class. Your estimated Net Settlement Award is [INSERT ESTIMATED NET SETTLEMENT AWARD]. Defendant's records indicate that you worked [INSERT NUMBER OF PAY PERIODS WORKED DURING THE CLASS PERIOD PER DEFENDANT'S RECORDS].
- Plaintiffs allege that Defendant failed to pay minimum wages for all hours worked including for the time spent responding to off-the-clock text messages, failed to include hazard pay when calculating and paying overtime wages, failed to reimburse expenses associated with the use of personal electronic devices used to respond to after-hours text messages and other communications, failed to provide lawful meal periods and/or pay meal period premiums or at the proper rate, failed to provide lawful rest periods and/or pay rest period premiums or at the proper rate, failed to maintain accurate time records, failed to timely pay wages during and after employment, failed to provide accurate itemized wage statements, and engaged in unfair competition in violation of Bus. & Prof. Code section 17200. Plaintiffs also seek related penalties under the Private Attorneys' General Act of 2004 ("PAGA").
- Defendant denies Plaintiffs' claims and asserts that it has complied with all of their legal obligations under the California Labor Code. The Settlement is not an admission of any wrongdoing, and the Court has not made any findings of liability.
- The Parties in this action disagree as to the probable outcome of the lawsuit with respect to liability and damages if it were not settled. Although Plaintiffs believes their claims have merit, she recognizes that litigating is a risky proposition, and that they may not prevail on all or some of her claims. Likewise, while Defendant is confident that it has strong defenses to Plaintiffs' claims, it recognizes the risks, distractions, and costs involved with litigation. The Parties attended a mediation conference and, recognizing the risks and costs inherent in litigation, reached a proposed Settlement of the claims asserted in the lawsuit.

- On [INSERT PRELIMINARY APPROVAL DATE] the Court granted preliminary approval of the proposed Settlement. The Court has expressed no opinion on the merits of Plaintiffs' claims or Defendant's defenses.
- You have several options available to you:

PARTICIPATE IN THE SETTLEMENT AND RECEIVE A SETTLEMENT PAYMENT	<u>YOU DO NOT NEED TO DO ANYTHING TO PARTICIPATE IN THE SETTLEMENT AND RECEIVE A SETTLEMENT PAYMENT.</u> By doing nothing, you <u>WILL</u> receive a share of the Settlement proceeds if the proposed Settlement is finally approved, and you will give up any rights to sue Defendant separately regarding certain claims as described below in this Notice. Your estimated Settlement Award is [INSERT ESTIMATED NET SETTLEMENT AWARD].
ASK TO BE EXCLUDED (SUBMIT A VALID REQUEST FOR EXCLUSION/ OPT-OUT) FROM THE CLASS ACTION SETTLEMENT	If you timely request in writing to be excluded from the proposed Settlement, you <u>WILL NOT</u> receive a share of the Net Settlement Amount, except for any allocated portion of the PAGA penalty amounts, which are distributed regardless of whether or not you opt out, and the settlement will not affect any rights you may otherwise have to sue Defendant separately about the same legal claims in this lawsuit. Section 9 below explains how to request to be excluded from the Settlement. Your written Request for Exclusion/ Opt-Out letter should be postmarked by _____, 2022.
OBJECT	You may object to the Settlement if you did not ask to be excluded from the Settlement. If you timely submit in writing an objection to the Settlement and the Settlement is nonetheless granted final approval, you <u>WILL</u> (i) receive a share of the Settlement proceeds and (ii) release legal claims against Defendant. Section 10 below explains how to object to the Settlement. Your written notice of intent to object should be postmarked by _____, 2022.

1. Why did I get this notice?

The Court has granted preliminary approval of the Settlement of the class action brought on behalf of all individuals who were employed by Deanco Healthcare, LLC as a non-exempt hourly employee in California at any point between September 21, 2017 to June 8, 2022. You have received this notice because Defendant's records indicate that you are a member of the Settlement Class ("Class Member").

2. What is this lawsuit about?

This settlement covers three (3) lawsuits filed against Deanco Healthcare, LLC: *Acevedo et al. I vs. Deanco Healthcare, LLC* (Los Angeles County Superior Court Case No. 21STCV43506), and *Acevedo et al. II vs. Deanco Healthcare, LLC* (Los Angeles County Superior Court Case No. 21STCV34724, and

Flores vs. Deanco Healthcare, LLC (Los Angeles County Superior Court Case No. 21STCV02209. Plaintiffs allege that Defendant failed to pay minimum wages for all hours worked including for the time spent responding to off-the-clock text messages, failed to include hazard pay when calculating and paying overtime wages, failed to reimburse expenses associated with the use of personal electronic devices used to respond to after-hours text messages and other communications, failed to provide lawful meal periods and/or pay meal period premiums or at the proper rate, failed to provide lawful rest periods and/or pay rest period premiums or at the proper rate, failed to maintain accurate time records, failed to timely pay wages during and after employment, failed to provide accurate itemized wage statements, and engaged in unfair competition in violation of Bus. & Prof. Code section 17200. Plaintiffs also seek related penalties under the Private Attorneys' General Act of 2004 ("PAGA").

Defendant denies Plaintiffs' claims and allegations and asserts that they have complied with all of their legal obligations under the California Labor Code, PAGA, Cal. Bus. & Prof. Code section 17200, and other applicable laws.

This Notice is not an expression by the Court about the merits of the case. The Settlement is not an admission of any wrongdoing, and the Court has not made any findings of liability.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiffs' allegations or Defendant's defenses.

4. Why did this case settle?

The Parties in this action disagree as to the probable outcome of the action with respect to liability and damages if it were not settled. Although Plaintiffs believe their claims and that of the Class have merit, Plaintiffs recognize that litigating is a risky proposition, and that they may not have prevailed on all or some of their claims. Likewise, while Defendant is confident that it has strong defenses to Plaintiffs' and the Class' claims, they recognize the risks, distractions, and costs involved with litigation. The Parties attended a mediation conference with a third-party neutral and, recognizing the risks and costs inherent in litigation, thereafter reached the proposed Settlement of the claims asserted in the lawsuit.

On [INSERT PRELIMINARY APPROVAL DATE], the Court granted preliminary approval of the proposed Settlement, upon finding this proposed Settlement is the result of good faith, arm's-length negotiations between the parties through their respective attorneys. The Court has expressed no opinion on the merits of Plaintiffs' claims or Defendant's defenses.

5. What are the terms of the proposed Settlement and how much will I receive?

Defendant has agreed to pay a total of \$2,350,000.00 to create a non-reversionary settlement fund ("Gross Settlement Amount"). Under the proposed Settlement, the following amounts will be deducted before any payments are made to the Settlement Class, subject to final approval by the Court:

- Attorneys' Fees – up to \$783,333.33
- Attorneys' Cost Reimbursement– up to \$20,000.00
- Settlement Administration Expenses – up to \$30,000.00
- Service Awards of up to \$10,000 to Class Representative Sara Acevedo and \$5,000 to PAGA Representative Ronald Flores Nunfio (totaling \$15,000.00)

- Payments to the Labor & Workforce Development Agency for PAGA Penalties – \$100,000.00 (\$25,000 of the \$100,000.00 in PAGA Penalties will be distributed to the Settlement Class, as further explained below).

After these deductions, approximately \$1,401,666.67 will be available for payment to the Settlement Class receiving this notice as the Net Settlement Amount. Each Participating Class Member will share in the Net Settlement Amount on a pro rata basis based upon the number of pay periods worked relative to all Participating Class Members from September 21, 2017 to [INSERT PRELIMINARY APPROVAL DATE]. Class Counsel proposed this distribution to reflect the valuation of each of the potential claims at issue in this lawsuit.

Final approval and a determination of attorneys' fees, attorneys costs, PAGA penalties, settlement administration expenses, and a service award to the class representative are subject to a fairness hearing that will occur on [INSERT FINAL APPROVAL HEARING DATE] in Dept. 10 of the Los Angeles County Superior Court, 312 N. Spring Street, Los Angeles, California 90012 on _____, 2022, at XX:XX am.

6. What do I have to do to receive a share of the proposed Settlement?

Nothing. If you wish to receive a payment under the terms of this proposed Settlement, you do **NOT** have to do anything. However, it is important that if your address has changed, you give your current mailing address to the Settlement Administrator in order to ensure you receive your share of the Settlement proceeds if the proposed Settlement is finally approved. You will be covered by the release summarized in Section 7, below.

7. What rights am I giving up?

As part of the Settlement, Plaintiffs and each member of the Settlement Class (excluding those who elect to exclude themselves from the class settlement) will fully release and discharge Deanco Healthcare, LLC and all of its current and former parents, subsidiaries, joint ventures, and affiliated entities, and each of their respective current and former owners, officers, directors, shareholders, executives, partners, employees, insurers, managers agents and attorneys.

The Release covers any and all causes of action or claims that were asserted or could have been asserted based upon the facts alleged in the Actions, in the January 19, 2021 PAGA Notice in *Flores*, the January 19, 2021 Complaint in *Flores*, the September 21, 2021 Complaint in *Acevedo*, the September 22, 2021 PAGA Notice in *Acevedo*, or the November 29, 2021 Complaint in *Acevedo* including Defendant's alleged failure to pay minimum wages, overtime wages, provide lawful meal periods, provide lawful rest periods, provide accurate itemized wage statements, timely pay wages during and after employment, as well as timely produce personnel and pay records. This includes alleged violations of Labor Code §§ 201, 202, 203, 204, 210, 226(a), (c), and (e), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 2802, as well as IWC Wage Order No. 5-2001 and related claims under PAGA based upon the facts alleged in the Actions. The Released claims do not include any claims for workers compensation, unemployment, or disability benefits or any other claims other than those specified herein.

8. What are PAGA Penalties?

Under PAGA, the state of California deputizes private attorney generals, such as Plaintiffs, to prosecute employers for alleged violations of the Labor Code and all employees who worked for Defendant during the one year period preceding the submission of Plaintiff's PAGA letter to the LWDA through the date of preliminary approval are entitled to share in the 25% of the penalties that would otherwise be recoverable by the State if it directly prosecuted Defendant for the alleged Labor Code violations.

Under the terms of the Settlement, \$100,000.00 of the Gross Settlement Amount is allocated to alleged Private Attorneys General Act (PAGA) civil penalties ("PAGA Penalties"), subject to Court approval. By law, 75% of the PAGA Penalties (*i.e.*, \$75,000.00) will be paid to the California Labor & Workforce Development Agency and 25% of the PAGA Penalties (*i.e.*, \$25,000) will be distributed to the Class Participants.

9. What if I do not wish to be part of the proposed Settlement?

Anyone not wishing to participate in the proposed Settlement may exclude himself or herself ("opt out") by completing, signing and mailing a Request for Exclusion letter by **XXXX** to the Settlement Administrator as follows:

	<u>Settlement Administrator:</u>
INSERT	
INSERT	
INSERT	
INSERT	

If your Request for Exclusion is postmarked after **XXX**, it will be rejected, and you will be a Class Member and be bound by the Settlement terms.

To be valid, any Request for Exclusion should state that the Class Member wishes to be excluded from the Settlement and contain the following additional information: (1) the Class Member's name and current address; (2) the Class Member's signature; and (3) be postmarked no later than **[INSERT RESPONSE DEADLINE]**. The Request for Exclusion should state I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN ACEVEDO VS. DEANCO HEALTHCARE, LLC or otherwise evidence a clear intent to be excluded from the Settlement. The Request for Exclusion should be mailed to the Settlement Administrator at the address specified above.

Anyone who submits a timely and valid Request for Exclusion shall not be deemed a Participating Class Member and will not receive any payment as part of this proposed Settlement. Such persons will keep any rights to sue Defendant separately about the claims made in this lawsuit.

10. What if I have an objection?

Any objection to the proposed Settlement should be in writing and mailed to the Settlement Administrator (identified above) by _____. To be valid, any objection must: (1) contain the objecting Settlement Class member's full name and address; (2) set forth each specific reason in support of the objection; (3) be postmarked by the **[INSERT RESPONSE DEADLINE]** and mailed to

the Settlement Administrator at the address specified above. Class Members need not include legal arguments for their written objections to be considered. Class Members who do not submit a timely written objection may still appear at the final approval and fairness hearing and speak regarding any objection at the hearing.

11. What if the number of pay periods listed in Defendant's records are not accurate?

Defendant's records indicate that you worked [INSERT NUMBER OF PAY PERIODS WORKED DURING THE CLASS PERIOD PER DEFENDANT'S RECORDS]. If you believe that the number of pay periods that Defendant's records indicate that you worked from September 21, 2017 to [INSERT PRELIMINARY APPROVAL DATE] are inaccurate, you may file a dispute with the Settlement Administrator and provide any supporting information by [INSERT RESPONSE DEADLINE].

12. Who represents the Class?

The Court has appointed Plaintiff Sara Acevedo as the class representative and Ronald Flores Nunfio and Sara Acevedo as the PAGA representatives. The Court has appointed the following Plaintiffs' attorneys as Class Counsel:

WINSTON LAW GROUP, P.C.

David S. Winston
david@employmentlitigators.com
1880 Century Park East, Suite 511
Los Angeles, California 90067
Phone: (424) 288-4568
Fax: (424) 532-4062

WILSHIRE LAW FIRM

Justin F. Marquez
justin@wilshirelawfirm.com
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Phone: (213) 381-9988
Fax: (213) 381-9989

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, if you want your own lawyer, including to make any objections to the proposed Settlement, you are free to hire one at your own expense.

13. What happens next in the case?

The proposed Settlement has only been preliminarily approved. The Court will hold a hearing in Dept. 10 of the Los Angeles County Superior Court, 312 N. Spring Street, Los Angeles, California 90012 on [REDACTED], 2022, at XX, to consider any objections and determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve the settlement of the PAGA representative claim and also Class Counsel's request for attorneys' fees and costs, the costs of settlement administration, and the proposed service awards. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing.

14. How can I receive more information?

This Notice is a summary of the basic terms of the proposed Settlement. More details are in a Settlement Agreement and a website created by the Settlement Administrator accessible at: www.xxxxxxx.com. You may also call or email Class Counsel (listed above) or the Settlement Administrator (listed above). You may also ask Class Counsel to send you a copy of the Joint Stipulation of Settlement and Release of Class and Representative Action. The pleadings and other records in this litigation may, absent any COVID-19 related orders and/or procedures implemented by the Court, be examined during regular business hours at the Office of the Clerk of the Los Angeles County Superior Court, 312 N. Spring Street, Los Angeles, California 90012. Additional information is also available through the Court's online system at <http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil> by searching using the case number.

Please do not telephone the Court, the Office of the Clerk, or Defendant for information regarding this proposed Settlement.

Justin F. Marquez (SBN 262417)
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Abogados de la Demandante SARA ACEVEDO

Bradley E. Schwan, Bar No. 246457
bschwan@littler.com
Jannine E. Kranz, Bar No. 272389
jkranz@littler.com
LITTLER MENDELSON P.C.
2049 Century Park East, 5th Floor
Los Angeles, California 90067.3107
Teléfono: 310.553.0308
N.º de fax.: 800.715.1330

Abogados del Demandado
DEANCO HEALTHCARE, LLC

[Los abogados adicionales se encuentran en la siguiente página]

TRIBUNAL SUPERIOR DEL ESTADO DE CALIFORNIA

POR EL CONDADO DE LOS ÁNGELES

SARA ACEVEDO y JESUS SOTO,
individualmente y en representación de todas
las demás personas en situación similar,

Demandantes,

v.

DEANCO HEALTHCARE, LLC, una
compañía de responsabilidad limitada, y DOES
1 a 10, inclusive,

Demandados.

CASO N.º: 21STCV34724

*[Asignado a todos los efectos al Juez William
F. Highberger, Dpto. 10]*

**ESTIPULACIÓN CONJUNTA DE
DEMANDA COLECTIVA Y ACUERDO
DE PAGA REPRESENTANTE**

WINSTON LAW GROUP, P.C.

David S. Winston, Esq. CA Bar No. 301667

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Los Angeles, California 90067

Teléfono: (424) 288-4568

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Abogados del Demandante Ronald Flores Nunfio

Esta Estipulación conjunta de la Demanda colectiva y Acuerdo de acción representativa se realiza y celebra entre los Demandantes Ronald Flores Nunfio y Sara Acevedo ("Demandantes") en nombre de ellos mismos, como representante del Acuerdo colectivo o como Procurador General Privado en nombre del Estado de California bajo PAGA (como se define a continuación) y el Demandado Deanco Healthcare, LLC ("Demandado"), (en adelante, los Demandantes y el Demandado se denominarán colectivamente las "Partes"). Este es un acuerdo no revertido por cheques enviados por correo y el Demandado (como se define a continuación) deberá pagar el 100% del Monto bruto del Acuerdo (como se define a continuación). Esta Estipulación está sujeta a la aprobación del Tribunal, de conformidad con las Reglas Procesales de California, Regla 3.769(c), (d) y (e), y se realiza con el único propósito de intentar consumir la liquidación de la Acción en forma colectiva sujeta a los siguientes términos y condiciones. Como se detalla a continuación, en caso de que el Tribunal no dicte una orden que otorgue la aprobación final del Acuerdo colectivo, como se define a continuación, o si no se cumplen las condiciones precedentes por cualquier motivo, esta Estipulación será nula y no tendrá fuerza ni efecto alguno.

I. DEFINICIONES

Tal como se utilizan en esta Estipulación, los siguientes términos tendrán los significados que se especifican a continuación. En la medida en que los términos o frases utilizados en esta Estipulación no se definan específicamente a continuación, sino que se definan en otra parte de esta Estipulación, se incorporarán por referencia en esta sección de definiciones.

A. Acción. "Acción" o "Acciones" significará la acción mencionada anteriormente titulada *SARA ACEVEDO y JESUS SOTO, individualmente y en representación de todas las demás personas en situación similar, Demandantes, contra DEANCO HEALTHCARE, LLC, una compañía de responsabilidad limitada, y DOES 1 a 10, inclusive, Demandados*, Tribunal Superior del Condado de Los Ángeles, Caso No. 21STCV34724, *SARA ACEVEDO y JESUS SOTO, en representación del Estado de California y otras personas agraviadas, Demandantes, contra DEANCO HEALTHCARE, LLC, una compañía de responsabilidad limitada, y DOES 1 a 10, inclusive, Demandados*, Tribunal Superior del Condado de Los Ángeles, Caso No. 21STCV43506 (a los Casos No. 21STCV43506 y

21STCV34724 nos referiremos colectivamente como “*Acevedo*”), y *RONALD FLORES NUNFIO*, una persona, en su nombre y en representación de otras personas en situación similar, DEMANDANTE, contra DEANCO HEALTHCARE, LLC, UNA COMPAÑÍA DE RESPONSABILIDAD LIMITADA DE CALIFORNIA, y DOES 1 a 50, inclusive, Demandados, Tribunal Superior del Condado de Los Ángeles, Caso No. 21STCV02209 (“*Flores*”).

B. Gastos administrativos. Los “Gastos administrativos” incluirán todos los costos y gastos asociados y pagados al Administrador del Acuerdo de terceros, que se prevé que no excedan los \$30,000.00.

C. Empleado agraviado. “Empleado Agraviado” se refiere a todas las personas que fueron empleadas por Deanco Healthcare, LLC en California como empleados no exentos en cualquier momento desde el 20 de enero de 2020 hasta el 8 de junio de 2022. Hay aproximadamente 1,461 Empleados Agraviados.

D. Honorarios y gastos de abogados de la Demanda colectiva. “Honorarios y gastos de abogados de la Demanda colectiva” significará los honorarios y gastos de abogados de los abogados de la Demanda colectiva según se establece en la Sección IV.G.

E. Abogado de la Demanda colectiva. “Abogado de la Demanda colectiva” significará David S. Winston de Winston Law Group, P.C. y Justin F. Marquez de Wilshire Law Firm.

F. Demanda colectiva, Acuerdo colectivo, Miembro de la Demanda colectiva o Miembro del Acuerdo colectivo. “Demanda colectiva, Acuerdo colectivo, Miembro de la Demanda colectiva o Miembro del Acuerdo colectivo” se refiere a todas las personas que fueron empleadas por Deanco Healthcare, LLC como empleados por hora no exentos en California en cualquier momento entre el 21 de septiembre de 2017 y 8 de junio de 2022. Hay aproximadamente 1,813 miembros de la Demanda colectiva.

G. Notificación de la Demanda colectiva. “Notificación de la Demanda colectiva” significará el Aviso del Acuerdo colectivo de Acción Propuesta y Fecha de Audiencia para la Aprobación del Tribunal, como se establece en el formulario del **Anexo A** adjunto al presente, o según lo aprobado por el Tribunal, que se enviará por correo a los Miembros de la Demanda colectiva.

H. Participantes de la Demanda colectiva. “Participantes de la Demanda colectiva” se

refiere a todos y cada uno de los Miembros de la Demanda colectiva que no optan por no participar en el Acuerdo colectivo.

I. Período de la Demanda colectiva o Período cubierto. “Período de la Demanda colectiva” o “Período Cubierto” significará el período desde el 21 de septiembre de 2017 hasta la fecha de Aprobación Preliminar de este Acuerdo.

J. Representantes de la Demanda colectiva. “Representante de la Demanda colectiva” significará la Demandante Sara Acevedo.

K. Acuerdo colectivo. “Acuerdo colectivo” significará el acuerdo incorporado en esta Estipulación, que está sujeto a la aprobación del Tribunal.

L. Tribunal. “Tribunal” significará el Tribunal Superior del Condado de Los Ángeles.

M. Demandado, Exonerados o Partes exoneradas. “Demandado”, “Exonerados” o “Partes exoneradas” significarán y se referirán a Deanco Healthcare, LLC y todas sus matrices, subsidiarias, empresas conjuntas y entidades afiliadas actuales y anteriores, y cada uno de sus respectivos propietarios actuales y anteriores, funcionarios, directores, accionistas, ejecutivos, socios, empleados, aseguradores, gerentes, agentes y abogados.

N. Abogado de la defensa. “Abogado de la defensa”, “Abogado del acusado” o “Abogado de los exonerados” significará Bradley Schwan y Jannine Kranz de Littler Mendelson P.C.

O. Fecha de vigencia. “Fecha de vigencia” significará el primer día hábil posterior a la última de las siguientes ocurrencias: (i) si ningún Miembro de la Demanda colectiva interviene de manera oportuna y adecuada, presenta una moción oportuna para anular el Fallo u objeta el Acuerdo, entonces la fecha en que el Tribunal emite una orden otorgando la Aprobación Definitiva del Acuerdo; (ii) si un Miembro de la Demanda colectiva interviene oportunamente o presenta una moción oportuna para anular el fallo u objeta el Acuerdo, entonces sesenta y un (61) días después de la fecha en que el Tribunal emite una orden otorgando la aprobación final, suponiendo que no se presente ninguna apelación; o (iii) si un Miembro de la Demanda colectiva interviene oportunamente o presenta una moción para anular el Fallo, u objeta el Acuerdo, y presenta una apelación oportuna, entonces la fecha de resolución final de esa apelación (incluidas las solicitudes de nueva audiencia y/o peticiones *for*

1 *certiorari*), lo que resulta en la aprobación judicial definitiva y completa del Acuerdo en su totalidad,
2 sin que sea posible impugnar más el Acuerdo.

3 **P. Impuestos de los empleados y retención requerida.** "Impuestos del empleado y
4 retención requerida" significará la parte del empleado de todos y cada uno de los impuestos sobre la
5 nómina federales, estatales o locales aplicables, incluidos los recaudados bajo la autoridad de la Ley
6 Federal de Contribuciones al Seguro ("FICA"), FUTA y/o SUTA en la porción del Monto Individual
7 del Acuerdo de cualquier Participante de la Demanda colectiva, **como** se define a continuación, que
8 constituye salarios. Los Impuestos del Empleado y las Retenciones Obligatorias se retendrán y se
9 pagarán del Monto Neto del Acuerdo.

10 **Q. Impuestos del empleador.** "Impuestos del empleador" significará y se referirá a la parte
11 del Demandado de los impuestos sobre la nómina (por ejemplo, UI, ETT, impuestos del Seguro Social
12 y Medicare) que se adeuda en la parte del Monto del Acuerdo Individual de cualquier Participante de la
13 Demanda colectiva que constituye salarios. Los Impuestos del Empleador se pagarán por separado al
14 Administrador del Acuerdo por parte del Demandado y los Exonerados además del Monto Bruto del
15 Acuerdo y **no** se pagarán del Monto Bruto del Acuerdo ni del Monto Neto del Acuerdo.

16 **R. Aprobación final y audiencia de imparcialidad.** "Aprobación final y audiencia de
17 imparcialidad" se refiere a la audiencia final celebrada para determinar la imparcialidad, razonabilidad
18 y adecuación del Acuerdo colectivo.

19 **S. Monto bruto del Acuerdo.** "Monto bruto del Acuerdo" o "GSA" es el monto del
20 acuerdo no revertido acordado por un total de \$2,350,000.00, que representa el monto no revertido
21 pagadero en este Acuerdo por el Demandado Deanco Healthcare Company, LLC e incluye honorarios y
22 costos de abogados, costos de la administración del acuerdo por parte del Administrador del Acuerdo,
23 los Pagos de servicios a los Representantes de la Demanda colectiva de hasta \$15,000.00, pagos por un
24 monto total de \$100,000 por multas de la Ley de Abogados Generales Privados ("PAGA"), el 75% o
25 \$75,000.00 de los cuales se pagarán a Labor & Workforce Development Agency ("LWDA"), y el 25%
26 o \$25,000.00 se incluirán en el monto asignado al Acuerdo colectivo y en el Monto Neto del Acuerdo,
27 y los montos pagaderos del Acuerdo colectivo.

28 **T. Audiencia sobre Aprobación preliminar.** "Audiencia sobre Aprobación preliminar"

significará la audiencia celebrada sobre la moción para aprobación preliminar del Acuerdo colectivo.

U. Monto del Acuerdo individual. “Monto del Acuerdo individual” significará el monto que finalmente se distribuye a cada Participante colectivo.

V. Monto neto del Acuerdo. “Monto neto del Acuerdo” significará el Monto bruto del Acuerdo menos los Gastos de administración del Acuerdo, los Honorarios y Gastos de los Abogados de la Demanda colectiva, el 75% del Pago PAGA pagadero a la Agencia de Desarrollo Laboral y de la Fuerza Laboral de California (“LWDA”), y las Adjudicaciones de Servicio.

W. Exclusión(es). “Exclusión(es)” se refiere a todas y cada una de las personas que solicitan de manera oportuna y válida la exclusión del Acuerdo colectivo de acuerdo con los términos del Aviso colectivo y a más tardar en la Fecha límite de respuesta.

X. Demandantes. “Demandantes” significará los Demandantes nombrados Ronald Flores Nunfio y Sara Acevedo.

Y. Periodo PAGA o Periodo Cubierto PAGA. “Período PAGA” o “Período cubierto PAGA” significará el período desde el 19 de enero de 2020 hasta la fecha de Aprobación final de este Acuerdo.

Z. Representantes de PAGA. “Representante de PAGA” significará los Demandantes Ronald Flores Nunfio y Sara Acevedo.

AA. Pago PAGA. “Pago PAGA” se refiere a las sanciones de conformidad con las Secciones 2698, et seq., del Código Laboral de California, la Ley de Abogados Generales Privados del Código Laboral de 2004 (“PAGA”), que las Partes han acordado que es una suma razonable a pagar en la liquidación de los reclamos de PAGA incluidos en la Acción, que son \$100,000.00 para las sanciones de la Ley de Abogados Generales Privados (“PAGA”), el 75% o \$75,000.00 de los cuales se pagarán a la Agencia de Desarrollo Laboral y de la Fuerza Laboral (“LWDA”), y el 25% o \$25,000.00 se pagarán incluidos en el monto asignado al Acuerdo colectivo. Los Abogados de la Demanda colectiva deberán notificar oportunamente el Acuerdo colectivo a la LWDA en virtud de la Sección 2699(1)(2) del Código Laboral. Dado que PAGA no permite que los empleados opten por no participar, cualquier miembro de la Demanda colectiva que opte por no participar seguirá recibiendo su parte prorrateada de las sanciones de PAGA. *Baumann vs. Chase Inv. Servs. Corp.*, 747 F.3d 1117,

1 1122 (9.º Cir. 2014) (donde se explica que PAGA “no tiene un requisito de notificación para los
2 empleados agraviados no identificados, ni dichos empleados pueden optar por no participar en una
3 acción de PAGA”); *acuerdo Arias c. Sup. Ct.* 46 Cal.4th 969, 986-987 (2009); *Williams vs. Sup. Ct.*, 3
4 Cal.5th 531, 547, fn. 4 (2017) (que explica que los empleados agraviados “no tienen un reclamo
5 personal por las sanciones civiles de PAGA... y cualquier reclamo personal que los empleados ausentes
6 puedan tener para recibir alivio no está en juego”).

7 **BB. Partes.** “Partes” significará Demandantes y Demandado.

8 **CC. Fecha de Aprobación Preliminar.** “Fecha de Aprobación Preliminar” significará la
9 fecha en la cual el Tribunal dicte una orden aprobando preliminarmente esta Estipulación.

10 **DD. Reclamos exonerados.** “Reclamos” o “Reclamos exonerados” significarán todas y cada
11 una de las causas de acción o reclamos que se afirmaron o podrían haberse afirmado en base a los
12 hechos alegados en las Acciones, en la Notificación de PAGA del 19 de enero de 2021 en *Flores*, el 19
13 de enero de 2021. Denuncia de 2021 en *Flores*, Denuncia del 21 de septiembre de 2021 en *Acevedo*,
14 Notificación de PAGA del 22 de septiembre de 2021 en *Acevedo*, o Denuncia del 29 de noviembre de
15 2021 en *Acevedo*, incluida la supuesta falta de pago del Demandado de salarios mínimos, salarios de
16 horas extras, proporcionar períodos de comida legales, proporcionar períodos de descanso legales,
17 proporcionar declaraciones de salarios detalladas y precisas, pagar salarios a tiempo durante y después
18 del empleo, así como producir registros de pago y de personal a tiempo. Esto incluye supuestas
19 violaciones de los artículos 201 202, 203, 204, 210, 226(a), (c) y (e), 226.3, 226.7, 510, 512, 558, 1174,
20 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 2802, del Código Laboral así como IWC Wage Order No. 5-
21 2001 y reclamos relacionados bajo PAGA basados en los hechos alegados en las Acciones. Los
22 reclamos exonerados no incluyen reclamos de compensación laboral, desempleo o beneficios por
23 discapacidad ni ningún otro reclamo que no sea el especificado en el presente documento.

24 **EE. Fecha efectiva de la exoneración.** “Fecha efectiva de exoneración” significa la fecha en
25 la cual el Demandado y los Exonerados serán liberados de los Reclamos exonerados. La Exoneración
26 no entra en vigencia hasta que el Demandado y/o los Exonerados paguen los fondos del acuerdo al
27 Administrador del Acuerdo.

28 **FF. Fecha límite de respuesta.** “Fecha límite de respuesta” se refiere a la fecha sesenta (60)

días después de la fecha en que el Administrador del Acuerdo envía por primera vez el Aviso de la Demanda colectiva a los Miembros del Acuerdo colectivo.

GG. Adjudicación de servicio. “Adjudicación de Servicio” significará la cantidad aprobada por el Tribunal, que no exceda \$10,000.00 para Sara Acevedo y \$5,000.00 para Ronald Flores Nunfio para ser pagados al Representante de la Demanda colectiva y/o Representante de PAGA en reconocimiento a sus esfuerzos y tiempo en nombre de la Demanda colectiva y como contraprestación por una exoneración total, general y completa y la exención de la Sección 1542 del Código Civil de los Reclamos exonerados del Representante de la Demanda colectiva.

HH. Acuerdo. “Acuerdo” significará la conciliación entre las Partes, que se conmemora en esta Estipulación y está sujeta a la aprobación del Tribunal.

II. Administrador del Acuerdo. “Administrador del Acuerdo” significará ILYM Group, Inc. (u otro administrador que acuerden las partes) que será responsable de la administración del Acuerdo y los asuntos relacionados.

JJ. Estipulación. “Estipulación” significará esta Estipulación Conjunta del Acuerdo y Liberación de Acción de la Demanda colectiva y Representativa, incluidos los anexos adjuntos.

II. ANTECEDENTES DE HECHO Y PROCESO DE LA ACCIÓN

A. Reclamos de los Demandantes. Los Demandantes alegaron que el Demandado violó los artículos 201, 202, 203, 204, 210, 226(a), (c) y (e), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198 y 1198.5 del Código Laboral, así como IWC Wage Order No. 5-2001. Específicamente, los Demandantes alegaron que el Demandado: 1) no incluyó el pago por riesgo cuando calculó y pagó los salarios de horas extras; 2) no pagó el salario mínimo por todas las horas trabajadas, incluido el tiempo dedicado a responder a los mensajes de texto fuera del reloj enviados a su teléfono celular personal; 3) no reembolsó los gastos asociados con el uso de dispositivos electrónicos personales utilizados para responder mensajes de texto y otras comunicaciones fuera del horario de atención; 4) no proporcionó períodos de comida legales y/o no pagó las primas de los períodos de comida o a la tarifa adecuada; 5) no proporcionó períodos de descanso legales y/o no pagó primas de período de descanso o a la tarifa adecuada; 6) no pudo mantener registros de tiempo precisos; 7) no pagó los salarios a tiempo durante el empleo; 8) no proporcionó declaraciones de salario precisas y

1 detalladas; (9) no pagó los salarios a tiempo durante y después del empleo; y (10) participó en
2 competencia desleal en violación de la sección 17200 del Código de Negocios y Profesiones de
3 California.

4 Las partes mediaron en el asunto con el respetado mediador David Phillips, Esq. de Resolución
5 de Firma. Si bien las Partes no pudieron resolver el asunto en la Mediación, las Partes pudieron llegar al
6 Acuerdo Propuesto luego de la Propuesta de un Mediador y con la asistencia significativa del
7 Mediador. En todo momento, las negociaciones de conciliación de las Partes han sido no colusorias,
8 antagónicas y en condiciones de plena competencia.

9 **B. Descubrimiento e Investigación.** Antes de la Mediación y la presentación de los
10 Documentos de Aprobación Preliminar, los Abogados colectivos llevaron a cabo una investigación
11 detallada de los supuestos reclamos del Acuerdo colectivo. Este descubrimiento e investigación, entre
12 otras cosas, contiene información sobre: (a) la cantidad de Miembros de la Demanda colectiva (XX),
13 (b) la cantidad de Empleados Agraviados; (c) el número de Miembros de la Demanda colectiva que
14 trabajaron horas extras; (d) el número de Empleados Agraviados por PAGA que trabajaron horas extras
15 durante el Período de PAGA; (e) el número de Miembros de la Demanda colectiva que recibieron
16 Complemento de peligrosidad y trabajaron horas extras en el mismo período de pago; (f) el número de
17 Empleados Agraviados de PAGA que recibieron Complemento de peligrosidad y trabajaron horas
18 extras en el mismo período de pago durante el período de PAGA; (g) el número de Miembros de la
19 Demanda colectiva que trabajaron en un turno de noche; (f) el número de Empleados Agraviados que
20 trabajaron en un turno de noche; (g) el número de Miembros de la Demanda colectiva cuyo empleo
21 terminó; (h) el número de Empleados Agraviados cuyo empleo terminó; (i) el número de períodos de
22 pago trabajados durante el período PAGA; (j) el número total de períodos de pago en cuestión durante
23 el período de la Demanda colectiva; (k) documentos de política pertinentes; (l) registros de tiempo y
24 pago para 1.171 de los Miembros de la Demanda colectiva.

25 Las Partes acuerdan que la investigación y evaluación descritas anteriormente, así como el
26 descubrimiento y la información intercambiada durante las negociaciones de conciliación, son más que
27 suficientes para evaluar los méritos de las posiciones respectivas de las Partes y para comprometer los
28 asuntos sobre una base justa y equitativa. Las Partes se han involucrado en suficiente investigación y

1 descubrimiento para evaluar los méritos relativos de los reclamos de los Representantes de la Demanda
2 colectiva y el Representante de PAGA y de las defensas del Demandado ante ellos.

3 **C. Beneficios del Acuerdo colectivo.** El extenso descubrimiento informal realizado en este
4 asunto ha sido adecuado para brindar a los Representantes colectivos, los Representantes de PAGA y
5 los Abogados de la Demanda colectiva una comprensión sólida de los méritos de sus posiciones y para
6 evaluar el valor de los reclamos del Acuerdo colectivo. El descubrimiento informal realizado en esta
7 Acción y la información intercambiada por las Partes a través de las discusiones de descubrimiento y
8 conciliación son suficientes para evaluar de manera confiable los méritos de las posiciones respectivas
9 de las Partes y para comprometer los problemas sobre una base justa y equitativa.

10 Los Demandantes y los Abogados de la Demanda colectiva creen que los reclamos, las causas
11 de acción, las alegaciones y las contenciones afirmadas en la Acción tienen mérito. Los Abogados
12 colectivos han llevado a cabo diligentemente una investigación de los Demandantes y los reclamos
13 colectivos contra el Demandado y los Exonerados. Con base en su propia investigación y evaluación
14 independientes, los Abogados de la Demanda colectiva opinan que el acuerdo con el Demandado y los
15 Exonerados por la consideración y en los términos establecidos en este Acuerdo es justo, razonable y
16 adecuado, y está en el mejor interés del Acuerdo colectivo a la luz de todos los hechos y circunstancias
17 conocidos y las diversas defensas fácticas y legales afirmadas por el Demandado.

18 Los Demandantes y los Abogados de la Demanda colectiva también reconocen y aceptan el gasto
19 y la demora de los prolongados procedimientos continuos necesarios para procesar la Acción contra el
20 Demandado a través del juicio y las apelaciones. Los Abogados de la Demanda colectiva han tenido en
21 cuenta el resultado incierto del litigio, el riesgo de litigio continuo en acciones complejas como esta, así
22 como las dificultades y demoras inherentes a dicho litigio. El Demandante es consciente de los posibles
23 desafíos y las posibles defensas a los reclamos alegados en la Acción.

24 Los Demandantes y los Abogados de la Demanda colectiva creen que el Acuerdo establecido en
25 esta Estipulación otorga beneficios sustanciales al Demandante y a los Miembros del Acuerdo colectivo
26 y que una revisión independiente de esta Estipulación por parte del Tribunal en el proceso de
27 aprobación confirmará esta conclusión. Con base en su propia investigación y evaluación
28 independiente, los Abogados de la Demanda colectiva han determinado que el Acuerdo establecido en

la Estipulación es lo mejor para el Demandante y los Miembros del Acuerdo colectivo.

D. Negaciones de irregularidades y responsabilidad del demandado. El Demandado ha negado y continúa negando todas y cada una de las alegaciones, reclamos y contenciones alegados por el Demandante en la Acción. El demandado ha negado expresamente y continúa negando todos los cargos de mala conducta intencional o consciente o responsabilidad en su contra que surja de cualquiera de las conductas, declaraciones, actos u omisiones alegados en la Acción. El Demandado sostiene que existe una disputa de buena fe en cuanto a si intencionalmente o con conocimiento no cumplió de buena fe con el Código Laboral de California, que ningún Miembro colectivo o Empleado Agraviado resultó lesionado, y ha tratado de manera legal y justa al Demandante y a los Miembros del Acuerdo colectivo. El Demandado niega además que, para cualquier otro propósito que no sea resolver esta Acción, estos reclamos sean apropiados para el tratamiento colectivo o representativo. No obstante, el Demandado ha llegado a la conclusión de que los procedimientos adicionales en la Acción serían prolongados y costosos y que es deseable que la Acción se resuelva total y definitivamente en la forma y en los términos y condiciones establecidos en esta Estipulación a fin de deshacerse de un litigio gravoso y prolongado, para permitir la operación del negocio del Demandado sin más litigios costosos y la distracción y desviación de su personal con respecto a los asuntos en cuestión en la Acción. El Demandado también ha tenido en cuenta la incertidumbre y los riesgos inherentes a cualquier litigio, especialmente en casos complejos como la Acción. Por lo tanto, el Demandado ha determinado que es deseable y beneficioso para él que la Acción se resuelva en la forma y en los términos y condiciones establecidos en esta Estipulación.

E. Intención del Acuerdo colectivo. El Acuerdo colectivo establecido en el presente tiene la intención de lograr lo siguiente: (1) el dictado de una orden que apruebe el Acuerdo colectivo; (2) el dictado de una sentencia de la Acción; (3) la exención de responsabilidad del Demandado y de las Partes exoneradas por todas y cada una de las Reclamaciones exoneradas y por todas y cada una de las reclamaciones derivadas de la Acción.

III. CERTIFICACIÓN CONDICIONAL Y NOMBRAMIENTO DEL ABOGADO DE LA DEMANDA COLECTIVA

A. El Acuerdo colectivo. A los efectos de esta Estipulación y del Acuerdo colectivo de

esta Acción únicamente, las Partes estipulan la certificación colectiva condicional del Acuerdo colectivo. El abogado del Demandado cree que esta certificación condicional es adecuada porque los Reclamos exonerados se ven comprometidos sin necesidad de establecer los elementos de esos reclamos sobre los que gira la responsabilidad.

B. Designación de los Abogados de la Demanda colectiva. A los fines de esta Estipulación y sujeto a la aprobación del Tribunal, las Partes estipulan por el presente el nombramiento de los Abogados de la Demanda colectiva como abogados de la Demanda colectiva y la realización del Acuerdo colectivo de conformidad con esta Estipulación.

IV. CONSIDERACIÓN DEL ACUERDO COLECTIVO

A. Monto del Acuerdo. Las Partes acuerdan liquidar esta Acción por el Monto Bruto del Acuerdo de \$2,350,000.00. Después de la Aprobación final, los fondos depositados en el QSF no están sujetos a reversión al Demandado o Exonerados. El Monto Bruto del Acuerdo y otras acciones e indulgencias tomadas por el Demandado y los Exonerados constituirán una consideración adecuada para el Acuerdo colectivo y se realizarán en el acuerdo completo y definitivo de: (a) los Reclamos exonerados, (b) los honorarios y gastos de los abogados de la Demanda colectiva, (c) los Gastos administrativos del Acuerdo, (d) las Adjudicaciones de servicios, (e) el Pago de PAGA a la LWDA y (f) cualquier otra obligación del Demandado y los Exonerados en virtud de esta Estipulación. Después de que el Tribunal emita una orden que apruebe preliminarmente este Acuerdo colectivo, el Administrador del Acuerdo distribuirá el Aviso colectivo a los Miembros del Acuerdo colectivo, que describirá los términos del Acuerdo colectivo y los procedimientos para optar por no participar, objetar o participar en el Acuerdo colectivo.

B. Adjudicación de Servicio para los Representantes de la Demanda colectiva. La Representante de la Demanda colectiva (Sara Acevedo) puede solicitar al Tribunal que apruebe una Adjudicación de Servicio por un monto de hasta \$10,000.00 por sus esfuerzos en nombre del Acuerdo colectivo en esta Acción, incluida la asistencia en la investigación y consultar con los Abogados de la Demanda colectiva y proporcionar documentos cruciales a los Abogados de la Demanda colectiva. El Demandado y los Exonerados no se opondrán a ninguna solicitud de los Representantes de la Demanda colectiva para una Adjudicación de Servicio por tal cantidad. Cualquier Adjudicación de Servicio

1 aprobada por el Tribunal se pagará a los Representantes de la Demanda colectiva del Monto bruto del
2 Acuerdo y se sumará a cualquier distribución a la que él o ella pueda tener derecho como Miembro del
3 Acuerdo colectivo y Empleado Agraviado. La Adjudicación de servicio no se considerará salario, y el
4 Administrador del Acuerdo deberá emitir al Representante de la Demanda colectiva un
5 Formulario 1099 del IRS que refleje dicho pago. Los Representantes de la Demanda colectiva serán
6 responsables del pago de todos y cada uno de los impuestos con respecto a su Adjudicación de Servicio
7 y eximirán de responsabilidad al Demandado y a los Exonerados e indemnizarán al Demandado y a los
8 Exonerados de cualquier y toda responsabilidad con respecto al mismo.

9 **C. Adjudicación de Servicio para Representantes de PAGA.** El Representante de PAGA
10 (Ronald Flores Nunfio) puede solicitar al Tribunal que apruebe una Adjudicación de servicios por un
11 monto de hasta \$5,000.00 por sus esfuerzos en nombre del Estado de California y contribuciones al
12 Acuerdo colectivo en nombre del Acuerdo colectivo en esta Acción, que incluye haber ayudado en la
13 investigación y consultado con el Abogado de la Demanda colectiva/PAGA y proporcionado
14 documentos cruciales a los Abogados de la Demanda colectiva/PAGA. El Demandado y los
15 Exonerados no se opondrán a ninguna solicitud de Ronald Flores Nunfio de una Adjudicación de
16 Servicios por tal monto. Cualquier Adjudicación de Servicio aprobada por el Tribunal se pagará al
17 Representante de la Demanda colectiva del Monto bruto del Acuerdo y se sumará a cualquier
18 distribución a la que de otro modo podría tener derecho como Miembro del Acuerdo colectivo y
19 Empleado Agraviado. La Adjudicación de Servicio no se considerará salario, y el Administrador del
20 Acuerdo deberá emitir a Ronald Flores Nunfio un Formulario 1099 del IRS que refleje dicho pago. El
21 Representante de la Demanda colectiva será responsable del pago de todos y cada uno de los impuestos
22 con respecto a su Adjudicación de Servicio y eximirá de responsabilidad al Demandado y a los
23 Exonerados e indemnizará al Demandado y a los Exonerados de toda responsabilidad con respecto al
24 mismo.

25 **D. Pago a los Participantes de la Demanda colectiva.** Cada Participante de la Demanda
26 colectiva será elegible para recibir el pago del Monto individual del Acuerdo calculado como se
27 establece en la Sección VII del presente.

28 **E. Pago a los Empleados Agraviados.** La parte del pago de multa de PAGA asignado a

1 los Miembros de la Demanda colectiva que trabajaron durante el Período Cubierto de PAGA (19 de
2 enero de 2020 hasta la fecha de Aprobación final de este Acuerdo), se distribuirá a los Miembros de la
3 Demanda colectiva en el Período Cubierto de PAGA independientemente de si optan o no por no
4 participar en el Acuerdo.

5 **F. Tratamiento y Pago de Impuestos.** Con el propósito de calcular los Impuestos de los
6 empleados y la Retención requerida para los Montos individuales del Acuerdo para los Participantes de
7 la Demanda colectiva (incluidos los pagos a los Representantes de la Demanda colectiva, pero
8 excluyendo sus Adjudicaciones de Servicio), el 20% de cada Monto individual del Acuerdo pagado a
9 cada Miembro de la Demanda colectiva constituirá salarios y se informará en un formulario W-2 del
10 IRS sobre esa base y el 80% se considerará primas no salariales, multas e intereses, que se informarán
11 en un formulario 1099 del IRS. Antes de la distribución final, el Administrador del Acuerdo calculará
12 el total de Impuestos del Empleado y Retención requerida adeudada como resultado de la parte del
13 salario de los Montos de liquidación individuales anticipados de los Participantes de la Clase y dicha
14 cantidad real se deducirá de la Cantidad de liquidación neta. Además, antes de la financiación final del
15 Monto bruto del Acuerdo y la distribución final, el Administrador del Acuerdo calculará los Impuestos
16 patronales totales adeudados sobre la parte salarial de los Montos individuales del Acuerdo de los
17 Participantes del grupo y dará instrucciones al Demandado y a los Exonerados, quienes deberán pagar
18 la parte del empleador de los impuestos sobre la nómina. Las Partes entienden que los Demandantes y
19 los Participantes de la Demanda colectiva que reciben cualquier pago de conformidad con esta
20 Estipulación serán los únicos responsables de todas y cada una de las demás obligaciones fiscales
21 individuales asociadas con este Acuerdo colectivo.

22 **G. Sin efecto en los planes de beneficios para empleados.** Ni el Acuerdo colectivo ni los
23 montos pagados en virtud del Acuerdo colectivo modificarán las horas, los días o las semanas de
24 servicio previamente acreditados en virtud de cualquier plan de beneficios para empleados, política o
25 programa de bonificación patrocinado por el Demandado o los Exonerados. Dichos montos no
26 formarán la base para contribuciones adicionales, beneficios o cualquier otro derecho monetario en
27 virtud de los planes de beneficios, políticas o programas de bonificación patrocinados por el
28 Demandado o los Exonerados. Los pagos hechos bajo los términos de esta Estipulación no se aplicarán

1 retroactivamente, en la actualidad o en el futuro, como salario, ganancias, sueldos o cualquier otra
2 forma de compensación para los propósitos de cualquiera de los planes de beneficios del Demandado o
3 Exonerados, política o programa de bonificación. El Demandado y los Exonerados se reservan el
4 derecho de modificar el lenguaje de sus planes de beneficios, políticas y programas de bonificación
5 para lograr esta intención y dejar en claro que los montos pagados de conformidad con esta
6 Estipulación no son para “períodos de pago” o cualquier término de medición similar según lo definido
7 por planes, políticas y programas de bonificación aplicables con fines de elegibilidad, adquisición de
8 derechos, acumulación de beneficios o cualquier otro propósito, y que esta Estipulación no requiere
9 contribuciones o beneficios adicionales. El Demandado y los Exonerados no consideran los pagos del
10 Acuerdo colectivo como una “compensación” a los efectos de determinar la elegibilidad o la
11 acumulación de beneficios dentro de cualquier plan de beneficios, políticas o programas de
12 bonificación, o cualquier otro plan patrocinado por el Demandado o los Exonerados.

13 **H. Honorarios y gastos de abogados de los Abogados de la Demanda colectiva.** Como
14 parte de la moción para la aprobación final del Acuerdo colectivo, los Abogados de la Demanda
15 colectiva pueden presentar una solicitud para la adjudicación de los Honorarios y Gastos de los
16 Abogados de la Demanda colectiva con la parte de la tarifa que no exceda un tercio del Monto bruto del
17 Acuerdo (es decir, \$783,333.33) y la adjudicación de costos y gastos de hasta \$20,000.00 adicionales.
18 Los honorarios de los abogados propuestos se dividirán en un 80% entre Winston Law Group, P.C. y
19 20% a Wilshire Law Firm, P.L.C. Los demandantes contrataron las firmas y dieron su consentimiento
20 por escrito a esta división de honorarios de abogados, y está aquí y se divulgará al Tribunal como parte
21 del proceso de aprobación. Los Demandantes nuevamente reconocen, reafirman y dan su
22 consentimiento a esta división de honorarios y entienden que esta división de honorarios acordada de
23 ninguna manera aumenta la cantidad de honorarios legales que los Demandantes pagarán o acordaron
24 pagar por los servicios prestados en su nombre y en el de la Demanda colectiva. Los demandantes
25 también reconocen, declaran y revelan que previamente han dado su consentimiento por escrito a esta
26 división de honorarios. El Demandado y los Exonerados acuerdan no oponerse a dicha aplicación de
27 honorarios, costos o gastos en esos montos. Como condición de este Acuerdo colectivo, los Abogados
28 de la Demanda colectiva han acordado reclamar honorarios únicamente de la manera reflejada en esta

Sección. Cualquier honorario y gasto de los Abogados de la Demanda colectiva adjudicado por el Tribunal se pagará del Monto bruto del Acuerdo para llegar al Monto neto del Acuerdo y no constituirá pago a ningún Miembro del Acuerdo colectivo. Si los Abogados de la Demanda colectiva reducen voluntariamente la solicitud de Honorarios o Gastos de los Abogados de la Demanda colectiva o si la adjudicación de los Honorarios o Gastos de los Abogados de la Demanda colectiva por parte del Tribunal es inferior a lo establecido anteriormente, el Monto Neto del Acuerdo se volverá a calcular para reflejar los Honorarios y Gastos reales de los Abogados de la Demanda colectiva otorgados y dichas cantidades se distribuirán a la Demanda colectiva.

Los honorarios y gastos de abogados de la Demanda colectiva aprobados por el Tribunal incluirán: (a) todo el trabajo realizado y los costos y gastos incurridos por, o bajo la dirección de, cualquier abogado que pretenda representar al Acuerdo colectivo hasta la fecha de esta Estipulación; (b) todo el trabajo a realizar y los costos a incurrir en relación con la aprobación por parte del Tribunal del Acuerdo colectivo; (c) todo el trabajo a realizar y los costos y gastos, si los hubiere, incurridos en relación con la administración del Acuerdo colectivo hasta la Fecha de vigencia y la desestimación de la Acción, con perjuicio; y (d) puede basarse en la Teoría del Catalizador, la Doctrina del Fondo Común y/u otra base.

V. COSTOS Y GASTOS DE ADMINISTRACIÓN DEL ACUERDO

A. Los Costos y Gastos del Administrador del Acuerdo. Todos los costos y gastos adeudados al Administrador del Acuerdo en relación con su administración del Acuerdo colectivo, incluidos, entre otros, proporcionar el Aviso colectivo, ubicar a los Miembros del Acuerdo colectivo, procesar las solicitudes de exclusión y las objeciones, y calcular, administrar y la distribución de los Montos Individuales del Acuerdo a los Participantes de la Demanda colectiva y los formularios de impuestos relacionados, se pagarán del Monto Bruto del Acuerdo y no excederán los \$30,000.00.

B. Programa de financiamiento. El Administrador del Acuerdo será responsable de establecer un Fondo Calificado del Acuerdo (“QSF”, por sus siglas en inglés). El Demandado depositará el Monto Bruto del Acuerdo en el QSF que establecerá el Administrador del Acuerdo de la siguiente manera:

1. Del 30 de septiembre de 2022¹ al 31 de octubre de 2023, el Demandado depositará un total de \$1,300,000 del Monto Bruto del Acuerdo en el QSF. Dicho monto se pagará en 13 depósitos mensuales de \$100,000 que serán pagados en el ultimo día del mes, y el primer depósito de \$100,000 se realizará el 30 de septiembre de 2022, el segundo depósito de \$100,000 se realizará el 31 de octubre de 2022 y así sucesivamente hasta llegar al decimotercero depósito final de \$100,000 el 31 de octubre de 2023. Si el Demandando no realiza un pago mensual dentro de los plazos previstos, el Administrador del Acuerdo dará aviso de no pago a las Partes. El Demandado tendrá 90 días desde la fecha del aviso de no pago para subsanar el tema y depositar el pago mensual que debe. Todo período para subsanar un pago en particular, si es necesario, correrá de forma independiente de todo otro período para subsanar un pago independiente, y las Partes acuerdan que se harán cargo de sus propios costos y/o cargos relacionados con el proceso de aviso y subsanación, si corresponde.

2. A más tardar el 30 de noviembre de 2023, el Demandado depositará los \$1,050,000 restantes del Monto Bruto del Acuerdo, y todo monto restante necesario (si todo monto anterior es el sujeto del proceso de aviso/subsanación que se describe en la Sección V.B.1) en el QSF.

3. Si el Tribunal no aprueba el Acuerdo conforme a los términos acordados por las Partes sin derecho a una nueva acción legal, aun después de que las Partes hagan todo lo posible conforme a la Sección XI.A., o si el tribunal de apelación pertinente no ratifica o confirma el Acuerdo o si se da por terminado de otra manera el Acuerdo conciliatorio, el dinero pagado por el Demandado al QSF, lo que incluye todo interés devengado por el mismo, será devuelto al Demandado.

C. 4. Las Partes acordaron expresamente los pagos a plazos para llegar a un arreglo de este tema en base a la declaración del Demandado de su incapacidad de pagar en un plazo más breve.

VI. NOTIFICACIÓN A LOS MIEMBROS DE LA DEMANDA COLECTIVA Y PROCESO

¹ El primer pago tendrá lugar el 30 de septiembre de 2022 o tan pronto como sea posible una vez que el Administrador del Acuerdo esté en condiciones de aceptar el pago.

DE ADMINISTRACIÓN DE RECLAMOS

A. El Administrador del Acuerdo. El Administrador del Acuerdo será responsable de enviar por correo la Notificación de la Demanda colectiva (**Anexo A**) a los Miembros del Acuerdo colectivo, manejar las consultas de los Miembros del Acuerdo colectivo sobre la Notificación de la Demanda colectiva, determinar los Montos individuales del Acuerdo, mantener los Fondos del Acuerdo en una cuenta apropiada, preparar, administrar y distribuir Montos individuales del Acuerdo a los Participantes de la Demanda colectiva, emitir un informe final y realizar cualquier otra tarea que las Partes puedan indicar.

Semanalmente, el Administrador del Acuerdo proporcionará informes a los Abogados de la Demanda colectiva y los Abogados de la Defensa resumiendo cualquier información relevante y actualizándolos en cuanto a la cantidad de objeciones validadas y oportunas y Solicitudes de Exclusión. El Administrador del Acuerdo notificará a los Abogados de la Demanda colectiva y a los Abogados de la Defensa, por correo electrónico, copias selladas con la fecha de las Exclusiones y objeciones originales a más tardar cinco (5) días después de su recepción. El Administrador del Acuerdo proporcionará a los Abogados de la Demanda colectiva una prueba del envío por correo de la Notificación de la Demanda colectiva, sin enumerar los nombres de los Miembros individuales de la Demanda colectiva que el Administrador del Acuerdo presentará ante el Tribunal en el momento en que los Abogados de la Demanda colectiva presenten su moción en apoyo de la Aprobación final y audiencia de imparcialidad.

A más tardar catorce (14) días antes de la Aprobación final y de la audiencia de imparcialidad, el Administrador del Acuerdo compilará y entregará a los Abogados de la Demanda colectiva y a los Abogados de la defensa un informe con información resumida sobre (a) el monto total de los Montos individuales del Acuerdo finales de cada Participante de la Demanda colectiva (b) la cantidad de Participantes de la Demanda colectiva que recibirán dichos pagos, y (c) la cantidad final de Exclusiones y objeciones.

Los Gastos Administrativos no excederán de \$30,000.00. Previo al cálculo y distribución de los Montos individuales del Acuerdo, el Administrador del Acuerdo calculará el total de Gastos administrativos hasta la conclusión de sus servicios y dicho monto real será deducido del Acuerdo antes

del cálculo final de los Montos individuales del Acuerdo. Si el costo de administración es superior a \$30,000.00, el costo adicional provendrá del Monto bruto del Acuerdo.

B. Notificación a los Miembros del Acuerdo colectivo. Se proporcionará un aviso a los Miembros del Acuerdo Colectivo de la siguiente manera: Dentro de los 14 días posteriores a la fecha de aprobación preliminar, el Demandado proporcionará al Administrador del Acuerdo una lista de los Miembros de la Demanda colectiva que contenga los nombres, números de seguro social, últimas direcciones y números de teléfono conocidos, y el número total de períodos de pago trabajados por cada miembro de la Demanda colectiva durante el período de la Demanda colectiva (la “base de datos”). La notificación se distribuirá en inglés y español.

Dentro de los 21 días siguientes a la fecha de aprobación preliminar, el Administrador del Acuerdo determinará la cantidad de períodos de pago de cada Miembro del Acuerdo colectivo y realizará una búsqueda de cambio de dirección a nivel nacional para cada Miembro de la Demanda colectiva, actualizará los resultados basándose en los resultados de la búsqueda, completará los datos del monto individual estimado del acuerdo para cada Miembro del Acuerdo colectivo y enviará a cada Miembro del Acuerdo colectivo la notificación de la Demanda colectiva por correo de primera clase de los Estados Unidos. La Notificación de la Demanda colectiva también contendrá una declaración fácilmente comprensible en la que se advierta a los Miembros de la Demanda colectiva que, a menos que opten por excluirse del Acuerdo colectivo, el Miembro del Acuerdo colectivo libera y renuncia a todos los Reclamos exonerados contra las Partes exoneradas.

En la Notificación de la Demanda colectiva se informará a los Miembros del Acuerdo colectivo de su parte del Monto individual estimado del Acuerdo. Los Miembros de la Demanda colectiva pueden disputar los registros del Demandado sobre la cantidad de períodos de pago trabajados durante el período de la Demanda colectiva presentando la información al Administrador del Acuerdo a más tardar 60 días después de que el Administrador del Acuerdo les envíe la Notificación de la Demanda colectiva, que es la “fecha límite de respuesta” definida. El Administrador del Acuerdo trabajará conjuntamente con el Demandante y el Demandado para resolver los litigios de buena fe. Si los Demandantes y el Demandado no pueden llegar a un acuerdo sobre los períodos de pago que deben acreditarse, el Administrador del Acuerdo tomará la decisión final basándose en la información

presentada por el Miembro del Acuerdo colectivo y el Demandado.

C. Procedimiento de exclusión. Se considerará que los Miembros del Acuerdo colectivo que no se excluyan oportunamente de dicho acuerdo colectivo participan en el Acuerdo colectivo y se convertirán en Participantes de la Demanda colectiva sin tener que presentar un formulario de reclamo ni realizar ninguna otra acción. Para excluirse del Acuerdo colectivo, el Miembro del Acuerdo colectivo debe presentar una carta o tarjeta postal al Administrador del Acuerdo antes de la fecha límite de respuesta. La solicitud de exclusión debe indicar el nombre y la dirección del Miembro del Acuerdo colectivo para fines de correspondencia y verificación de identidad, y debe incluir las siguientes palabras: “DESEO SER EXCLUIDO DEL ACUERDO COLECTIVO EN ACEVEDO CONTRA DEANCO HEALTHCARE, LLC” o bien demostrar una clara intención de ser excluido del Acuerdo. Una solicitud de exclusión o no participación no se considerará inválida si no incluye la frase exacta “DESEO SER EXCLUIDO DEL ACUERDO COLECTIVO EN ACEVEDO CONTRA DEANCO HEALTHCARE, LLC”, siempre que la intención de los Miembros de la Demanda colectiva de excluirse sea evidente en la redacción del acuerdo. Si el Tribunal no encuentra una causa justificada, cualquier solicitud de exclusión que no esté sellada por el correo antes de la fecha límite de respuesta no será válida. En caso de que, antes de la fecha límite de respuesta, el Servicio Postal de los EE. UU. devuelva como no entregada la Notificación de la Demanda colectiva enviada por correo a un Miembro del Acuerdo colectivo, el Administrador del Acuerdo realizará una búsqueda de rastreo y buscará una corrección de las direcciones de dichos Miembros del Acuerdo colectivo, y se enviará una segunda Notificación de Demanda colectiva a la nueva dirección u a otra diferente obtenida. Dichos Miembros del Acuerdo colectivo tendrán 14 días más para optar por la exclusión.

Si el Administrador del Acuerdo determina que una solicitud de exclusión devuelta por un Miembro del Acuerdo colectivo antes de la fecha límite de respuesta es deficiente, entonces el Administrador del acuerdo enviará una carta de deficiencia a ese Miembro del Acuerdo colectivo identificando el problema. Si un Miembro del Acuerdo colectivo presenta tanto una disputa como una solicitud de exclusión, el Administrador del Acuerdo hará intentos razonables para aclarar si la solicitud de exclusión fue deficiente. Si el Miembro de la Demanda colectiva no subsana la deficiencia, no se tendrá en cuenta la solicitud de exclusión y se pagará el reclamo, y el Miembro de la Demanda

colectiva quedará obligado por la sentencia. Aquellos Miembros del Acuerdo colectivo que no opten por la exclusión en el momento oportuno estarán obligados por la exención de reclamos exonerados establecida en esta Estipulación.

D. Objeciones. La Notificación de la demanda colectiva informará a los Miembros del Acuerdo colectivo de su derecho a objetar el Acuerdo colectivo. El Miembro del Acuerdo colectivo que desee objetar el acuerdo de Demanda colectiva debe presentar una objeción por escrito al Administrador del Acuerdo a más tardar en la Fecha límite de respuesta. Todas las objeciones de los Miembros de la Demanda colectiva deben incluir el nombre del Miembro de la Demanda colectiva, su dirección actual a efectos de correspondencia y verificación de identidad, proporcionar cada razón específica que respalde la objeción y tener el sello postal antes de la Fecha límite de respuesta. Tampoco es necesario que los Miembros de la Demanda colectiva incluyan argumentos legales para que se consideren sus objeciones por escrito. Los miembros de la Demanda colectiva que no presenten una objeción escrita a tiempo podrán comparecer en la audiencia de aprobación final e imparcialidad y hablar sobre la objeción en la audiencia. Si la persona que objeta quiere comparecer en la Audiencia de aprobación final e imparcialidad, en persona o a través de un abogado, no es necesario que presente una notificación de intención de comparecer al mismo tiempo que se presenta la objeción. La presentación de la notificación de intención de comparecer no es necesaria para preservar el derecho a comparecer en la Audiencia de aprobación final e imparcialidad. Los Miembros de la Demanda colectiva ausentes no necesitan presentar nada ante el Tribunal. El Administrador del Acuerdo entregará rápidamente copias de la objeción o la notificación de intención de comparecer al Abogado de la Demanda colectiva y al Abogado de la Defensa. Los Miembros del Acuerdo colectivo pueden comparecer en la Audiencia de aprobación final, ya sea en persona (en la medida en que se permita durante la pandemia de COVID-19), a través de un método remoto autorizado por el Tribunal, o mediante un abogado contratado por su propia cuenta. Si un Miembro de la Demanda colectiva presenta tanto una solicitud de exclusión como una objeción por escrito, el Administrador del Acuerdo intentará ponerse en contacto y determinar si el Miembro de la Demanda colectiva desea retirar la solicitud de exclusión o la objeción. Si el Miembro de la Demanda colectiva no retira la solicitud de exclusión o si el Administrador del Acuerdo no puede ponerse en contacto con un Miembro de la Demanda colectiva que presenta tanto una solicitud de

exclusión como una objeción, la solicitud de exclusión será válida, y se presumirá que el Miembro de la Demanda colectiva no desea participar en el acuerdo.

E. Declaración del Administrador del Acuerdo. Al menos 30 días antes de la Audiencia de aprobación final e imparcialidad, el Administrador del Acuerdo proporcionará al Abogado de la Demanda colectiva y al Abogado de la Defensa una Declaración de diligencia debida y prueba de envío con respecto al envío de la Notificación de la Demanda colectiva y a sus intentos de localizar a los Miembros de la Demanda colectiva. La declaración especificará la cantidad de Miembros del Acuerdo colectivo a las personas que recibieron las Notificaciones de la Demanda colectiva y la cantidad de Miembros del Acuerdo colectivo a los que no se entregaron las Notificaciones de la Demanda colectiva, así como la información relacionada con la cantidad de exclusiones y objeciones. Los Abogados de la Demanda colectiva presentarán esta declaración ante el Tribunal.

VII. DISTRIBUCIÓN DEL ACUERDO COLECTIVO

A. Asignación del Monto bruto del Acuerdo. Los reclamos de todos los Miembros del Acuerdo colectivo se resuelven por el monto bruto del acuerdo de \$2,350,000.00, que se asignará de la siguiente manera:

- a. Los gastos administrativos, que se estima que no superarán los \$30,000.00.
- b. Los honorarios y costas legales del Abogado de la Demanda colectiva, que no excederán de 783,333.33 y en honorarios y gastos que no excederán de \$20,000.00.
- c. El pago de PAGA de \$100,000.00, de los cuales \$75,000.00 se pagarán a la LWDA.
- d. Adjudicación de servicios, que no excederán de \$10,000.00 cada uno para Sara Acevedo, y \$5,000.00 para Ronald Flores Nunfio; y
- e. El Monto neto del Acuerdo, estimado en \$1,401,666.67.

A los efectos de calcular los montos individuales estimados del acuerdo, el Administrador del acuerdo calculará el monto neto estimado del acuerdo basándose en los valores estimados de la Sección VII(A)(a-d) antes de enviar la notificación a los miembros del acuerdo colectivo. Antes de la distribución final, el administrador del acuerdo calculará el monto neto final del Acuerdo basándose en los valores reales de la Sección VII(A)(a-d).

B. Cálculo de los Montos individuales del Acuerdo. Los Montos individuales del

Acuerdo que se pagarán a los Participantes de la Demanda colectiva se pagarán con el Monto neto del Acuerdo. La parte del Monto neto del Acuerdo pagadero a cada Participante de la Demanda colectiva se calculará de la siguiente manera: el Administrador del Acuerdo dividirá el Monto neto del Acuerdo por la cantidad total de períodos de pago trabajados por los Miembros de la Demanda colectiva durante el período de la Demanda colectiva, con el fin de determinar el monto al que tiene derecho cada Miembro de la Demanda colectiva por cada período de pago que haya sido empleado por el Demandado durante el período de la Demanda colectiva (“monto del período de pago”). El Administrador del Acuerdo multiplicará el monto del período de pago por la cantidad total de períodos de pago trabajados por cada Miembro de la Demanda colectiva durante el período de la Demanda colectiva para llegar al Monto individual del Acuerdo para cada Miembro de la Demanda colectiva. En el caso de un Miembro de la Demanda colectiva que opte por no participar en el acuerdo mediante la presentación de una solicitud de exclusión válida (según se define más adelante) o cuya notificación del acuerdo se determine como imposible de entregar tras los esfuerzos razonables de reenvío realizados por el Administrador del Acuerdo, el pago individual del acuerdo del Miembro de la Demanda colectiva no se pagará al Miembro de la Demanda colectiva y se añadirá al monto neto del acuerdo y se redistribuirá de forma prorrateada entre los miembros elegibles que participen de la Demanda colectiva.

El Demandado y los Exonerados no tendrán ninguna responsabilidad de decidir la validez de los Montos individuales del Acuerdo ni de ningún otro pago realizado en virtud de esta estipulación, no tendrán ninguna participación ni responsabilidad en la determinación o el pago de los impuestos del Empleado, y no tendrán ninguna responsabilidad por los errores cometidos con respecto a dichos impuestos del Empleado. El Demandante y los Participantes de la Demanda colectiva serán los únicos responsables de todas las obligaciones fiscales asociadas a sus respectivos Montos individuales del Acuerdo.

C. Plazo para el pago de los honorarios y costas legales del abogado al Abogado de la Demanda colectiva. El Administrador del Acuerdo distribuirá al Abogado de la Demanda colectiva los honorarios y costas legales del abogado aprobados por el tribunal para el Abogado de la Demanda colectiva a más tardar 15 días después de que el Demandado deposite el pago final del Monto Bruto del Acuerdo al Administrador del Acuerdo, tal como se establece en la Sección V(B) de este Acuerdo.

1 **D. Plazo para el pago de la adjudicación de servicios a los representantes de la**
2 **Demanda colectiva y de la ley PAGA.** El Administrador del Acuerdo distribuirá a los representantes
3 de la Demanda colectiva y al representante de la PAGA la adjudicación de servicios aprobada por el
4 tribunal a más tardar 15 días después de que el Demandado deposite el pago final del Monto Bruto del
5 Acuerdo al Administrador del Acuerdo, tal como se establece en la Sección V(B) de este Acuerdo.

6 **E. Plazo para el pago de la PAGA a la LWDA.** El Administrador del Acuerdo distribuirá
7 a la LWDA la parte del pago de la PAGA que le corresponde y que ha sido aprobada por el tribunal a
8 más tardar 15 días después de que el Demandado deposite el pago final del Monto Bruto del Acuerdo al
9 Administrador del Acuerdo, tal como se establece en la Sección V(B) de este Acuerdo.

10 **F. Plazo para el pago de los Montos individuales del Acuerdo.** El Administrador del
11 Acuerdo enviará el Monto individual del Acuerdo a cada Participante de la Demanda colectiva, por
12 correo de primera clase de los Estados Unidos, a la última dirección conocida, a más tardar 15 días
13 después de que el Demandado deposite el pago final del Monto Bruto del Acuerdo al Administrador del
14 Acuerdo, tal como se establece en la Sección V(B) de este Acuerdo. En ningún caso el Administrador
15 del Acuerdo distribuirá cheques a los Participantes de la Demanda colectiva hasta que se hayan
16 considerado, calculado y contabilizado todos los Montos individuales del Acuerdo, y se hayan
17 calculado y contabilizado todas las obligaciones monetarias restantes. En un plazo de 140 días a partir
18 de la fecha de entrada en vigencia, el Administrador del Acuerdo proporcionará al Abogado de la
19 Demanda colectiva una declaración de pago. En el caso de que algún Participante de la Demanda
20 colectiva haya fallecido, el pago se hará pagadero a la sucesión de ese Miembro del Acuerdo colectivo
21 y se entregará al albacea o administrador de esa sucesión, a menos que el Administrador del Acuerdo
22 haya recibido una declaración jurada o una declaración de conformidad con la Sección 13101 del
23 Código de Sucesiones de California, en cuyo caso el pago se hará a los deponentes o declarantes.

24 **G. Plazo para el pago de los impuestos, las retenciones obligatorias y de los Montos**
25 **individuales del Acuerdo.** El Administrador del Acuerdo hará todo lo posible para pagar los impuestos
26 y las retenciones obligatorias del empleado asociados con el Monto individual del Acuerdo de cada
27 Participante de la Demanda colectiva y enviará el Monto individual del Acuerdo a cada Miembro del
28 Acuerdo colectivo por correo de primera clase de los Estados Unidos, a la última dirección conocida

dentro de los quince (15) días calendario después de que el Demandado deposite el pago de la cuota final del Monto bruto del Acuerdo al Administrador del Acuerdo. Si el Administrador del Acuerdo no puede hacerlo dentro del plazo establecido anteriormente, deberá informar de ello al Abogado de la Demanda colectiva y al Abogado de la Defensa, y deberá proporcionar una fecha aproximada en la que se pagarán los impuestos y las retenciones obligatorias del empleado y se enviarán los Montos individuales del Acuerdo. En ningún caso el Administrador del Acuerdo distribuirá cheques a los Miembros de la Demanda colectiva hasta que se hayan considerado, calculado y contabilizado todos los Montos individuales del Acuerdo, y se hayan calculado y contabilizado todas las obligaciones monetarias restantes. En un plazo de doscientos (200) días a partir del envío por correo del Monto individual del Acuerdo de cada Participante de la Demanda colectiva, el Administrador del Acuerdo proporcionará al Abogado de la Demanda colectiva una declaración de pago para que la presente ante el tribunal. En el caso de que algún Miembro de la Demanda colectiva haya fallecido, el pago se hará pagadero a la sucesión de ese Miembro del Acuerdo colectivo y se entregará al albacea o administrador de esa sucesión, a menos que el Administrador del Acuerdo haya recibido una declaración jurada o una declaración de conformidad con la Sección 13101 del Código de Sucesiones de California, en cuyo caso el pago se hará a los deponentes o declarantes.

H. Cheques no cobrados del Acuerdo. Todos los fondos asociados con los cheques que no se hayan cobrado en un plazo de 180 días, se anularán y el Monto individual del Acuerdo asociado al cheque no cobrado se pagará de acuerdo con la Sección 384 del Código Civil a un *beneficiario de cy pres* acordado por las Partes, tal como lo exige la Sección 384 del Código de Procedimiento Civil, o cualquier otro método de distribución coherente con la Sección 384 del Código de Procedimiento Civil. El *beneficiario de cy pres* será CASA of Los Angeles u otro *beneficiario de cy pres* acordado mutuamente por las Partes, en caso de que el tribunal no apruebe al beneficiario propuesto por las Partes o de acuerdo con la Sección 384 del Código de Procedimiento Civil.

VIII. ANULACIÓN DE ESTA ESTIPULACIÓN

A. No aprobación de la estipulación. En el caso de que el tribunal no apruebe el Acuerdo en los términos establecidos por las Partes sin derecho a una nueva acción legal, aun después de que las Partes hagan todo lo posible conforme a la Sección XI.A., o si el tribunal de apelación correspondiente

no mantiene ni afirma el Acuerdo, o si el Acuerdo es anulado/terminado tal como se establece en la Sección VIII(B)-(C) de este Acuerdo, o si el Acuerdo conciliatorio se da por terminado de alguna manera: (1) el Acuerdo conciliatorio no tendrá vigencia ni validez y las Partes volverán a sus respectivas posiciones anteriores a la celebración de este Acuerdo, o todo otro celebrado antes del mismo en lo que se refiere al acuerdo colectivo/de PAGA propuesto de esta acción legal, y ninguna de las Partes estará obligada por ninguno de los términos del Acuerdo conciliatorio (o versiones anteriores del mismo); (2) el Administrador del Acuerdo devolverá al Demandado todo el dinero que el mismo haya depositado en el Fondo Calificado del Acuerdo; (3) el Demandado y los Exonerados no tendrán ninguna obligación de realizar ningún pago a los Miembros del Acuerdo colectivo, al Demandante ni al Abogado del Demandante; (4) se anulará toda orden de aprobación preliminar, orden de aprobación final o sentencia; y (5) el Acuerdo conciliatorio y todas las negociaciones, declaraciones, procedimientos y datos relacionados con el mismo se considerarán comunicaciones confidenciales del acuerdo de mediación y no estarán sujetas a divulgación para ningún propósito en ningún procedimiento. No obstante, las Partes se esforzarán primero de buena fe por resolver las cuestiones planteadas por el tribunal durante el proceso de aprobación.

B. Aprobación por parte de CIT Bank, N.A. Las Partes comprenden y aceptan que este Acuerdo conciliatorio está sujeto a que el Demandado obtenga la aprobación de este Acuerdo de CIT Bank, N.A. ("CIT"). Si CIT no aprueba el Acuerdo, el Acuerdo conciliatorio no tendrá vigencia ni efecto y las Partes volverán a sus respectivas posiciones anteriores a la celebración de este Acuerdo conciliatorio, y ninguna de las Partes estará obligada por ninguno de los términos de este Acuerdo conciliatorio. Las Partes conservan sus posiciones y argumentos en lo que se refiere a toda versión anterior del Acuerdo conciliatorio.

C. Derechos de las Partes a anular el Acuerdo colectivo. En caso de que más del 10% de los Miembros de la Demanda colectiva presenten elecciones para optar por no participar en el Acuerdo, el Demandado tendrá derecho a rescindir y finalizar el Acuerdo sin perjuicio de sus posiciones y defensas previas al acuerdo en el litigio. En caso de que se supere el umbral de exclusiones, el Administrador del Acuerdo notificará inmediatamente por correo electrónico al abogado principal de todas las Partes. Si el Demandado decide anular el Acuerdo colectivo en virtud de este párrafo, el

Demandado será responsable de todos los honorarios y costas legales del Administrador del Acuerdo en los que se haya incurrido.

D. Invalidación. La invalidación de una parte sustancial del Acuerdo colectivo invalidará el Acuerdo colectivo en su totalidad, a menos que las Partes acuerden posteriormente por escrito que las disposiciones restantes del Acuerdo colectivo permanecerán en pleno vigor y efecto.

E. Suspensión en caso de Apelación. En el caso de una apelación oportuna de la aprobación del Acuerdo colectivo y la sentencia, la sentencia se suspenderá, y el Demandado no estará obligado a financiar el Monto bruto del Acuerdo ni a tomar ninguna otra medida requerida por esta estipulación hasta que se hayan agotado todos los derechos de apelación por efecto de la ley.

IX. MOCIÓN PARA LA APROBACIÓN DEL TRIBUNAL

A. Aprobación preliminar. El Abogado de la Demanda colectiva presentará esta estipulación al tribunal junto con una moción para la aprobación preliminar del Acuerdo colectivo.

B. Aprobación final. La audiencia de Aprobación final e imparcialidad se celebrará ante el tribunal, a menos que el tribunal ordene lo contrario. En la audiencia de Aprobación final e imparcialidad, el Demandante solicitará al tribunal que dicte la orden final que certifique la Demanda colectiva solo a efectos del acuerdo y que apruebe el Acuerdo colectivo como justo, razonable y adecuado para los Participantes de la Demanda colectiva según la regla 3.769(c), (d) y (e) de las Reglas del Tribunal de California, y que dicte una sentencia final de la acción coherente con los términos del Acuerdo colectivo y con la regla 3.769(h) de las Reglas del Tribunal de California. El Abogado de la Demanda colectiva y el Abogado de la Defensa presentarán ante el tribunal los alegatos y/o pruebas que puedan ser necesarios para el dictamen definitivo del tribunal. Las Partes cumplirán con las pautas procesales del tribunal para la Aprobación final de los Acuerdos de la Demanda colectiva y con la Sección 384 del Código de Procedimiento Civil, según la cual las Partes participarán en una audiencia de cumplimiento en relación con la distribución de los fondos, a menos que el tribunal retire dicha audiencia del calendario tras revisar la declaración de cumplimiento del Administrador del Acuerdo o en virtud de otra orden judicial.

C. Sentencia y jurisdicción continua. Después del dictado de la orden de Aprobación Final y Sentencia, de conformidad con la sección 664.6 del Código de Procedimientos Civiles de

California, el Tribunal retendrá la jurisdicción sostenida y exclusiva solo para decidir lo siguiente: (a) la interpretación y aplicación de los términos del Acuerdo, (b) temas relacionados con la administración del Acuerdo, y (c) todo tema posterior a la Sentencia que pueda resultar adecuado conforme a las normas del Tribunal o tal como se establece en el presente Acuerdo conciliatorio.

X. EXENCIÓN DE RESPONSABILIDAD

A. Exención de responsabilidad en los reclamos por parte del Acuerdo colectivo. A partir de la fecha de entrada en vigencia, cada Miembro del Acuerdo colectivo que no haya presentado una solicitud oportuna de exclusión y el Demandante eximen al Demandado y a las Partes exoneradas, y a cada uno de ellos, de todos y cada uno de los reclamos exonerados durante el período de la Demanda colectiva.

Es el deseo de las Partes y de los Miembros del Acuerdo colectivo llegar a un acuerdo total, definitivo y para siempre, conciliar y eximir de los reclamos exonerados.

Cada Miembro del Acuerdo colectivo, excepto aquellos que opten por excluirse oportunamente, estará obligado a la eximición de los reclamos exonerados como resultado del Acuerdo colectivo y a los términos de la sentencia final y la satisfacción de dicha sentencia.

B. Exención de responsabilidad en los reclamos por parte de la demandante Sara Acevedo. La Demandante Sara Acevedo, en su nombre y de sus herederos, albaceas, administradores y representantes, por el presente libera, exonera y acuerda eximir para siempre a las Partes exoneradas de todos y cada uno de los cargos, quejas, reclamos, responsabilidades, obligaciones, promesas, acuerdos, controversias, daños y perjuicios, acciones, causas de acción, pleitos, derechos, demandas, costas, pérdidas, deudas y gastos (incluidos los honorarios y las costas legales de los abogados) conocidos o desconocidos, en derecho o en equidad, que puedan tener ahora o puedan tener después de la firma de esta estipulación, que surjan o estén de alguna manera relacionados con su empleo con el Demandado y los Exonerados, incluyendo, los reclamos exonerados, los reclamos que fueron afirmados o podrían haber sido afirmados en la demanda, y todas y cada una de las transacciones, sucesos o asuntos entre las Partes que ocurran antes de la fecha en que esta estipulación se ejecute completamente. Sin limitar la generalidad de lo anterior, esta exención incluirá, pero no se limitará a, todos y cada uno de los reclamos en virtud de: (a) la Ley de Estadounidenses con Discapacidades, en su versión modificada; (b)

1 el Título VII de la Ley de Derechos Civiles de 1964, en su versión modificada; (c) la Ley de Derechos
2 Civiles de 1991; (d) la Sección 1981 del Título 42 del Código de los Estados Unidos (USC), en su
3 versión modificada; (e) la Ley de Discriminación por Edad en el Empleo, en su versión modificada; (f)
4 la Ley de Normas Laborales Justas, en su versión modificada; (g) la Ley de Igualdad Salarial; (h) la
5 Ley de Seguridad de los Ingresos de Jubilación de los Empleados, en su versión modificada; (i) la Ley
6 Ómnibus Consolidada de Reconciliación Presupuestaria; (j) la Ley de Rehabilitación de 1973; (k) la
7 Ley de Licencia Familiar y Médica; (l) la Ley de Derechos Civiles de 1966; (m) la Ley de Empleo y
8 Vivienda Justos de California; (n) la Constitución de California; (o) el Código Laboral de California;
9 (p) el Código de Gobierno de California; (q) el Código Civil de California; (r) las Órdenes Salariales de
10 California, y (s) todos y cada uno de los demás estatutos, ordenanzas, reglamentos, normas y otras leyes
11 federales, estatales y locales, y todos y cada uno de los reclamos basados en motivos constitucionales,
12 estatutarios, de derecho común o reglamentarios, así como cualquier otro reclamo basado en teorías de
13 despido improcedente o constructivo, incumplimiento de contrato o contrato implícito, fraude,
14 tergiversación, impedimento promisorio o imposición intencional y/o negligente de angustia emocional,
15 o daños y perjuicios en virtud de cualquier otro estatuto, ordenanza, reglamento, norma o ley federal,
16 estatal o local. Esta exoneración es para todos y cada uno de los desagravios, sin importar cómo se
17 denominen, incluidos, entre otros, el pago retroactivo, el pago por adelantado, el pago por vacaciones,
18 los bonos, la indemnización compensatoria, los daños torticeros, los daños liquidados, las
19 indemnizaciones punitivas, los daños por dolor y sufrimiento, y los honorarios y costas legales del
20 abogado; y el Demandante por este medio libera, exonera y acuerda eximir para siempre de
21 responsabilidad al Demandado y a las Partes exoneradas de todo reclamo por honorarios y costas
22 legales del abogado que surjan de los asuntos exonerados en esta estipulación.

23 La Demandante Sara Acevedo reconoce específicamente que conoce y está familiarizada con
24 las disposiciones de la Sección 1542, que establece lo siguiente:

25 **Una exención general no se extiende a los reclamos que el acreedor o la parte**
26 **exonerada no sabe o no sospecha que existen a su favor en el momento de**
27 **firmar la exención y que, de haberlo sabido, habrían afectado sustancialmente**
28 **su acuerdo con el deudor o la parte exonerada.**

La Demandante, Sara Acevedo, teniendo conocimiento de la Sección 1542, por la presente cede
y renuncia expresamente a todos los derechos y beneficios que pueda tener en virtud de la

Sección 1542, así como de cualquier otro estatuto o principio de derecho común de efecto similar. La Demandante, Sara Acevedo, puede descubrir en lo sucesivo hechos adicionales o diferentes a los que ahora conoce o cree que son verdaderos con respecto al objeto de todos los reclamos a los que se hace referencia en el presente documento, pero estipula y acuerda que, a partir de la fecha de entrada en vigencia, la Demandante Sara Acevedo deberá, y por la presente lo hace, de manera total, definitiva y para siempre, resolver y eximir de todos y cada uno de los reclamos contra el Demandado y las Partes exoneradas, conocidos o desconocidos, sospechosos o insospechados, contingentes o no contingentes, que se hicieron valer o podrían haberse hecho valer sobre la base de una teoría de derecho o equidad, sin tener en cuenta el descubrimiento posterior de la existencia de tales hechos diferentes o adicionales.

Las Partes también desean informarle al tribunal con fines de transparencia que el Demandante Ronald Flores Nunfio recibe un acuerdo de \$15,000.00 en relación con los supuestos reclamos por represalias, así como para la resolución de todos sus reclamos individuales, incluyendo la falta de presentación oportuna de registros no cubiertos por este acuerdo y para los cuales el Sr. Nunfio está accediendo a una exención general con los Demandados. Las Partes declaran y garantizan que el abogado de la demanda colectiva no está recibiendo ningún honorario legal ni reembolso de costas en relación con el acuerdo individual del Demandante.

XI. DEBERES DE LAS PARTES

A. Plena cooperación mutua. Las Partes acuerdan cooperar plenamente entre sí para cumplir e implementar los términos de esta estipulación. Dicha cooperación incluirá, entre otros, la ejecución de otros documentos y la realización de otras acciones que puedan ser razonablemente necesarias para cumplir con los términos de este Acuerdo colectivo, a menos que el tribunal deniegue el Acuerdo colectivo con perjuicio. Las Partes harán todo lo posible, incluidos todos los esfuerzos contemplados en esta estipulación y cualquier otro esfuerzo que pueda ser necesario por orden judicial o por otro modo, para llevar a cabo esta estipulación y los términos establecidos en ella. Tan pronto como sea posible después de la firma de esta estipulación, el Abogado de la Demanda colectiva, con la cooperación de los Abogados del Demandado y de la Defensa, tomarán todas las medidas necesarias y razonables para asegurar que el tribunal apruebe esta estipulación. Las Partes trabajarán juntas para realizar cualquier modificación no sustancial del Acuerdo solicitada por el tribunal para obtener la

1 aprobación del acuerdo propuesto por las Partes. Si el Tribunal exige la modificación de esta
2 Estipulación para que resulte conforme al modelo de Acuerdo conciliatorio colectivo del Tribunal
3 Superior de Los Ángeles, el Demandado realizará dichos cambios a la Estipulación.

4 **B. Obligación de respaldar y defender el Acuerdo colectivo.** Las Partes acuerdan
5 cumplir de buena fe con todos los términos del Acuerdo colectivo, respaldar plenamente este Acuerdo
6 colectivo y hacer todo lo posible para defenderlo de cualquier cuestionamiento legal, ya sea por
7 apelación o alegato de nulidad.

8 **C. Obligaciones antes de la aprobación del tribunal.** Los abogados de la Demanda
9 colectiva presentarán sin demora esta estipulación al tribunal para su aprobación preliminar y la
10 determinación por parte del tribunal en cuanto a su equidad, adecuación y razonabilidad.
11 Inmediatamente después de la firma de esta estipulación, el Abogado de la Demanda colectiva
12 solicitará al tribunal la emisión de una orden preliminar, programando una audiencia sobre la cuestión
13 de si el Acuerdo colectivo propuesto debe aprobarse como justo, razonable y adecuado para los
14 miembros del Acuerdo colectivo, aprobando, en cuanto a la forma y el contenido, la notificación
15 propuesta de la Demanda colectiva enmendada adjunta al presente documento como **Anexo A**,
16 respectivamente, y ordenando el envío de la notificación de la Demanda colectiva a los miembros del
17 Acuerdo colectivo.

18 **XII. OTRAS DISPOSICIONES**

19 **A. Hechos diferentes.** Las Partes del presente documento, y cada una de ellas, reconocen
20 que, salvo en lo que se refiere a los asuntos expresamente representados aquí, los hechos relacionados
21 con el litigio y todos los reclamos exonerados por los términos de esta estipulación pueden resultar
22 distintos o diferentes de los hechos conocidos actualmente por cada Parte y/o su abogado, o que dicha
23 Parte o su abogado consideren verdaderos, y, por lo tanto, cada Parte asume expresamente el riesgo de
24 la existencia de hechos distintos o actualmente desconocidos, y acuerda que esta estipulación será en
25 todos los aspectos efectiva y vinculante a pesar de dicha diferencia.

26 **B. Sin asignaciones previas.** Las Partes declaran, acuerdan y garantizan que no han
27 cedido, transferido, gravado, ni pretendido ceder, transferir o gravar, directa o indirectamente, a
28 ninguna persona o entidad ninguna parte de ninguna responsabilidad, reclamo, demanda, acción, causa

de acción o derecho aquí eximido o exonerado, salvo lo establecido en el presente documento.

C. Inadmisión. Nada de lo dispuesto en esta estipulación se interpretará ni se considerará como una admisión, en nombre de ninguna de las Partes, de ninguna responsabilidad, culpabilidad, negligencia o acto indebido hacia cualquier otra Parte o cualquier otra persona; y las Partes renuncian específicamente a cualquier responsabilidad, culpabilidad, negligencia o acto indebido entre sí o con cualquier otra persona. Cada una de las Partes ha suscrito esta estipulación con la intención de evitar más disputas y litigios con los consiguientes inconvenientes, gastos y contingencias. Nada de lo aquí expuesto constituirá una admisión por parte del Demandado o de los Exonerados de mala conducta o responsabilidad, o de la veracidad de cualquiera de las alegaciones de hecho en la demanda. Nada de lo aquí expuesto constituirá una admisión por parte del Demandado en cuanto a los méritos de los reclamos en esta demanda. Nada de lo aquí expuesto constituirá una admisión por parte del Demandado de que la demanda fue presentada adecuadamente como una acción colectiva o representativa, salvo para fines conciliatorios. Por el contrario, el Demandado ha negado y sigue negando todas y cada una de las alegaciones sustanciales en cuanto a los hechos y todos los reclamos. Con este fin, el Acuerdo colectivo en cuanto a la demanda, la negociación y ejecución de esta estipulación, y todos los actos realizados o documentos ejecutados de conformidad con o en cumplimiento de esta estipulación o del Acuerdo colectivo, no son, no se considerarán y no podrán utilizarse como admisión o prueba de ninguna falta o responsabilidad por parte del Demandado o de los Exonerados, ni de la veracidad de ninguna de las alegaciones de hecho del reclamo de la demanda; y no son, no se considerarán y no podrán utilizarse como admisión o prueba de ninguna falta u omisión por parte del Demandado o de los Exonerados en ningún procedimiento civil, penal o administrativo en ningún tribunal, agencia administrativa u otro juzgado.

D. Consultas sobre la confidencialidad, los medios de comunicación o la prensa. Aparte de la información necesaria para asegurar la aprobación de este Acuerdo por parte del tribunal, las Partes acuerdan mantener la confidencialidad de todos los asuntos relacionados con este acuerdo, incluyendo los términos del acuerdo y los hechos y circunstancias que condujeron a él. Si se les pregunta sobre las disputas entre las Partes, estas no proporcionarán otra declaración más que “el asunto se ha resuelto” o “el asunto se ha solucionado”. No obstante, las Partes podrán discutir los

términos de este Acuerdo con sus cónyuges, abogados, asesores financieros, asesores fiscales y contadores, o mediante una orden judicial válida, en cuyo momento se informará a la persona que reciba la información sobre los términos de este Acuerdo de que los términos de este Acuerdo son confidenciales, y la persona no podrá revelar ni divulgar a terceros los términos del Acuerdo. Nada de lo dispuesto en este Acuerdo prohibirá al abogado de la demanda colectiva comunicarse con los Miembros de la Demanda colectiva ni prohibirá al abogado de la Demanda colectiva revelar este Acuerdo en las declaraciones y/u otras pruebas presentadas a los tribunales en relación con sus calificaciones para desempeñarse como Abogado de la Demanda colectiva.

E. Sin represalias. El Demandado entiende y reconoce que tiene la obligación legal de no tomar represalias contra ningún Miembro del Acuerdo colectivo que decida participar en el Acuerdo colectivo o que opte por excluirse del Acuerdo colectivo. El Demandado remitirá las preguntas relacionadas con este Acuerdo colectivo al Administrador del acuerdo o al Abogado de la Demanda colectiva y no disuadirá a los Miembros del Acuerdo colectivo que sean empleados, directa o indirectamente, de participar en el Acuerdo ni incentivará o aconsejará a los Miembros del Acuerdo colectivo que opten por excluirse u objetar el Acuerdo colectivo.

F. Construcción. Las Partes acuerdan que los términos y condiciones de esta estipulación son el resultado de negociaciones prolongadas, intensas, independientes y no colusorias entre las Partes, y que esta estipulación no debe interpretarse a favor o en contra de ninguna de las Partes por el hecho de que alguna de ellas o sus abogados hayan participado en la redacción de esta estipulación. Si alguna de las fechas de la estipulación cae en un fin de semana, un feriado bancario o judicial, el plazo para actuar se prorrogará al siguiente día hábil.

G. Legislación vigente. La presente estipulación se rige por las leyes del estado de California, con independencia de los principios de conflicto entre leyes, en todos los aspectos, incluidas la ejecución, interpretación, cumplimiento y aplicación.

H. Avisos. A excepción de los avisos de los Miembros del Acuerdo colectivo que debe realizar el Administrador del Acuerdo, todos y cada uno de los avisos u otras comunicaciones obligatorios o permitidos en virtud de esta estipulación se realizarán por escrito y se considerarán debidamente entregados si se entregan en persona a la Parte o a su abogado por correo certificado de

los EE. UU., con franqueo prepago, por correo electrónico, por fax o con entrega al día siguiente, dirigidos a la dirección de la Parte que aparece en esta estipulación.

I. Epígrafes e interpretaciones. Los títulos de las secciones o los epígrafes que aparecen en el presente documento se insertan por conveniencia y solo como referencia, y no definen, limitan, amplían o describen en modo alguno el alcance de esta estipulación o de cualquier disposición de la misma.

J. Modificación. Esta estipulación no podrá cambiarse, alterarse ni modificarse, salvo por escrito firmado por las Partes y aprobado por el tribunal. La presente estipulación no podrá ser anulada, salvo por el cumplimiento de sus términos o por un escrito firmado por las Partes.

K. Cláusula de integración. Esta estipulación contiene la totalidad del acuerdo entre las Partes en relación con el Acuerdo colectivo en cuanto a la demanda y las transacciones contempladas allí; y todos los acuerdos, entendimientos, representaciones y declaraciones anteriores o contemporáneos, ya sean orales o escritos, y ya sea que provengan de una Parte o del abogado de dicha Parte, quedan por la presente anulados. No se podrá renunciar a ningún derecho en virtud de la presente estipulación, salvo por escrito, tal y como se ha indicado anteriormente.

L. Sucesores y cesionarios. Esta estipulación será vinculante y redundará en beneficio de las Partes y de los Miembros del Acuerdo colectivo (excluyendo solo a las personas que decidan oportunamente no participar) y de sus respectivos herederos, fideicomisarios, albaceas, administradores, representantes, oficiales, directores, accionistas, agentes, empleados, aseguradoras, abogados, contadores, auditores, asesores, consultores, planes de pensiones y asistencia social, fiduciarios, empresas matrices, subsidiarias, filiales, empresas relacionadas, empresas conjuntas, predecesores, sucesores y cesionarios.

M. Signatarios corporativos. La persona que firme esta estipulación o cualquier documento relacionado en nombre de un signatario corporativo o en nombre de una sociedad garantiza y promete, en beneficio de todas las Partes, que dicha persona ha sido debidamente autorizada por dicha corporación o sociedad a firmar esta estipulación o cualquier otro documento relacionado.

N. Formalización en varios ejemplares. La presente estipulación entrará en vigencia a partir de que sea firmada por todos los infrascritos. También podrá ser firmada de forma electrónica

(por ejemplo, a través de DocuSign). Las Partes pueden firmar varios ejemplares de esta estipulación, y la firma de los ejemplares tendrá el mismo vigor y efecto que si todas las Partes que aceptaron el acuerdo hubieran firmado el mismo instrumento.

O. Código de Procedimiento Civil: Sección 664.6. Este acuerdo colectivo es ejecutable de conformidad con la Sección 664.6. del Código de Procedimiento Civil de California.

P. Acción para hacer cumplir el acuerdo. En cualquier demanda o acción judicial para hacer cumplir los términos de este acuerdo, la Parte vencedora tendrá derecho a recuperar los honorarios y costas legales del abogado.

Q. Honorarios, costas legales y gastos del abogado. Salvo que se disponga específicamente lo contrario en el presente documento, cada una de las Partes asumirá sus propios honorarios, costas legales y gastos de los abogados, imponibles o de otro tipo, en los que haya incurrido en la demanda o que se deriven de ella, y no solicitará el reembolso a ninguna otra Parte de esta estipulación.

EN FE DE LO EXPUESTO, las Partes y sus abogados han ejecutado la presente estipulación en la fecha que figura debajo de sus firmas o de la firma de sus representantes. La fecha de la estipulación será la fecha de la última firma.

10 / 05 / 2022
Fecha: _____ de 2022



Ronald Flores Nunfio como
representante de PAGA

Fecha: _____ de 2022

Sara Acevedo como representante de la demanda colectiva y de PAGA

Fecha: _____ de 2022

En nombre de Deanco Healthcare, LLC
Por: _____
Sus: _____

APROBADO EN CUANTO A LA FORMA Y EL CONTENIDO:

FECHA: _____ de 2022

WINSTON LAW GROUP, P.C.

Por: _____
DAVID S. WINSTON
Abogados de los Demandantes, del Acuerdo
colectivo propuesto y de los empleados
perjudicados

FECHA: _____ de 2022

WILSHIRE LAW FIRM PLC

Por: _____
JUSTIN F. MARQUEZ
Abogados de los Demandantes, del Acuerdo
colectivo propuesto y de los empleados
perjudicados

FECHA: ____ de septiembre de 2022

LITTLER MENDELSON P.C.

Por: _____
Bradley E. Schwan
Jannine E. Kranz
Abogados del Demandado Deanco Healthcare, LLC

Exhibición A

[NOMBRE y DIRECCIÓN DEL MIEMBRO DE LA DEMANDA]

[NOMBRE DEL MIEMBRO DE LA DEMANDA], LEA ATENTAMENTE ESTE AVISO.

CONTIENE INFORMACIÓN IMPORTANTE SOBRE SUS DERECHOS.

*Esta **no** es una oferta de representación por parte de un abogado. Un tribunal ha autorizado este aviso.*

AVISO DE ACUERDO PROPUESTO DE DEMANDA COLECTIVA

Sara Acevedo, et al. v. Deanco Healthcare, LLC

Tribunal Superior del Estado de California, Condado de Los Ángeles Caso No. 21STCV34724

Si usted es o fue empleado de Deanco Healthcare, LLC como un empleado no exento en cualquier momento entre el 17 de septiembre de 2017 y el 8 de junio de 2022, un acuerdo de demanda colectiva propuesto puede afectar sus derechos y puede tener derecho a dinero bajo el Acuerdo propuesto.

No se le está demandando. Un tribunal ha autorizado este aviso. Esta **no** es una oferta de representación por parte de un abogado.

LEA ATENTAMENTE ESTE AVISO. CONTIENE INFORMACIÓN IMPORTANTE SOBRE SUS DERECHOS.

- Usted está recibiendo este Aviso porque los registros del Demandado muestran que se encuentra en el Acuerdo de Demanda Colectiva propuesta. Su Compensación neta estimada del Acuerdo es **[INSERTAR COMPENSACIÓN NETA ESTIMADA DEL ACUERDO]**. Los registros del demandado indican que trabajó **[INSERTAR EL NÚMERO DE PERÍODOS DE PAGO TRABAJADOS DURANTE EL PERÍODO DE LA DEMANDA SEGÚN LOS REGISTROS DEL DEMANDADO]**.
- Los Demandantes alegan que el Demandado no pagó los salarios mínimos por todas las horas trabajadas, incluido el tiempo dedicado a responder a mensajes de texto fuera del horario laboral, no incluyó el pago por peligrosidad al calcular y pagar los salarios de horas extraordinarias, no reembolsó los gastos asociados con el uso de dispositivos electrónicos personales utilizados para responder a mensajes de texto y otras comunicaciones fuera del horario laboral, no proporcionó períodos de comida legales y/o pagó primas de períodos de comida o a la tasa adecuada, no proporcionó períodos de descanso legales y/o pagó primas de períodos de descanso o a la tasa adecuada, no mantuvo registros de tiempo precisos, no pagó los salarios a tiempo durante y después del empleo, no proporcionó declaraciones de salario detalladas y precisas y participó en una competencia desleal en violación del Código Bus. & Prof. sección 17200. Los demandantes también buscan sanciones relacionadas bajo la Ley del Procurador General Privado de 2004 (*Private Attorneys' General Act "PAGA"*).
- El Demandado niega los reclamos de los Demandantes y afirma que ha cumplido con todas sus obligaciones legales bajo el Código Laboral de California. El Acuerdo no es una admisión de ninguna irregularidad, y el Tribunal no ha hecho ninguna determinación de responsabilidad.

- Las Partes en esta demanda no están de acuerdo en cuanto al resultado probable de la demanda con respecto a la responsabilidad y los daños si no se resolviera. Aunque los Demandantes creen que sus reclamos están probados, reconoce que litigar es una propuesta arriesgada y que es posible que no prevalezcan en todos o algunos de sus reclamos. Del mismo modo, si bien el Demandado confía en que tiene fuertes defensas a las reclamaciones de los Demandantes, reconoce los riesgos, distracciones y costos involucrados con el litigio. Las Partes asistieron a una conferencia de mediación y, reconociendo los riesgos y costos inherentes al litigio, llegaron a un Acuerdo propuesto de las reclamaciones presentadas en la demanda.
- El [INSERTAR FECHA DE APROBACIÓN PRELIMINAR], el Tribunal otorgó la aprobación preliminar del Acuerdo propuesto. El Tribunal no ha expresado ninguna opinión sobre las pruebas de las reclamaciones de los Demandantes o las defensas del Demandado.
- Tiene varias opciones disponibles:

PARTICIPAR EN EL ACUERDO Y RECIBIR UN PAGO DEL ACUERDO	<u>NO NECESITA HACER NADA PARA PARTICIPAR EN EL ACUERDO Y RECIBIR UN PAGO DEL ACUERDO.</u> Al no hacer nada, <u>RECIBIRÁ</u> una parte de los importes del Acuerdo si el Acuerdo propuesto es finalmente aprobado, y renunciará a cualquier derecho de demandar al Demandado por separado con respecto a ciertas reclamaciones tal y como se describe a continuación en el presente Aviso. Su Compensación del Acuerdo es [INSERTAR COMPENSACIÓN NETA ESTIMADA DEL ACUERDO].
SOLICITAR SER EXCLUIDO (PRESENTAR UNA SOLICITUD VÁLIDA DE EXCLUSIÓN/ EXCLUSIÓN VOLUNTARIA) DEL ACUERDO DE DEMANDA COLECTIVA	Si solicita oportunamente por escrito ser excluido del Acuerdo propuesto, <u>NO</u> recibirá una parte del Monto Neto del Acuerdo, excepto por cualquier parte asignada de los montos de sanción PAGA, que se distribuyen independientemente de si opta por participar o no, y el acuerdo no afectará ningún derecho que pueda tener para demandar al Demandado por separado en base a las mismas reclamaciones legales en esta demanda. La Sección 9 a continuación explica cómo solicitar ser excluido del Acuerdo. Su solicitud de exclusión/exclusión voluntaria por escrito debe tener un matasellos con anterioridad al _____ de 2022.
OBJECCIÓN	Puede oponerse al Acuerdo si no solicitó ser excluido del Acuerdo. Si presenta oportunamente por escrito una objeción al Acuerdo y, no obstante, se le otorga la aprobación final, usted <u>SÍ</u> (i) recibirá una parte de los ingresos del Acuerdo y (ii) liberará al Demandado de reclamaciones legales. La Sección 10 a continuación explica cómo objetar al Acuerdo. Su solicitud por escrito de intención de objeción debe tener un matasellos con anterioridad al _____, de 2022.

1. ¿Por qué he recibido este aviso?

El Tribunal ha otorgado la aprobación preliminar del Acuerdo de la demanda colectiva presentada en nombre de todas las personas que fueron empleadas por Deanco Healthcare, LLC como empleado por horas no exento en California en cualquier momento entre el 21 de septiembre de 2017 y el 8 de junio de 2022. Ha recibido este aviso porque los registros del Demandado indican que es miembro de la Demanda Colectiva ("Miembro de la Demanda").

2. ¿De qué trata esta demanda judicial?

Este acuerdo cubre tres (3) demandas presentadas contra Deanco Healthcare, LLC: *Acevedo et al. I vs. Deanco Healthcare, LLC* (Tribunal Superior del Condado de Los Ángeles Caso N° 21STCV43506), *Acevedo et al. II vs. Deanco Healthcare, LLC* (Tribunal Superior del Condado de Los Ángeles Caso N° 21STCV34724) y *Flores vs. Deanco Healthcare, LLC* (Tribunal Superior del Condado de Los Ángeles Caso N° 21STCV02209). Los Demandantes alegan que el Demandado no pagó los salarios mínimos por todas las horas trabajadas, incluido el tiempo dedicado a responder a mensajes de texto fuera del horario laboral, no incluyó el pago por peligrosidad al calcular y pagar los salarios de horas extraordinarias, no reembolsó los gastos asociados con el uso de dispositivos electrónicos personales utilizados para responder a mensajes de texto y otras comunicaciones fuera del horario laboral, no proporcionó períodos de comida legales y/o pagó primas de períodos de comida o a la tasa adecuada, no proporcionó períodos de descanso legales y/o pagó primas de períodos de descanso o a la tasa adecuada, no mantuvo registros de tiempo precisos, no pagó los salarios a tiempo durante y después del empleo, no proporcionó declaraciones de salario detalladas y precisas y participó en una competencia desleal en violación del Código Bus. & Prof. sección 17200. Los demandantes también buscan sanciones relacionadas bajo la Ley del Procurador General Privado de 2004 (*Private Attorneys' General Act* "PAGA").

El Demandado niega las reclamaciones y alegaciones de los Demandantes y afirma que ha cumplido con todas sus obligaciones legales bajo el Código Laboral de California, PAGA, Código Cal. Bus. & Prof. sección 17200, y otras leyes aplicables.

Esta Notificación no es una expresión del Tribunal sobre el fondo del caso. El Acuerdo no es una admisión de ninguna irregularidad, y el Tribunal no ha hecho ninguna determinación de responsabilidad.

3. ¿El Tribunal ya decidió quién tiene razón?

No. El Tribunal no ha tomado ninguna decisión sobre las pruebas de las alegaciones de los Demandantes o las defensas del Demandado.

4. ¿Por qué se llegó a un acuerdo en este caso?

Las Partes en esta demanda no están de acuerdo en cuanto al resultado probable de la demanda con respecto a la responsabilidad y los daños si no se resolviera. Aunque los Demandantes creen que sus reclamos están probados, reconocen que litigar es una propuesta arriesgada y que es posible que no hubieran prevalecido en todos o algunos de sus reclamos. Del mismo modo, si bien el Demandado confía en que tiene fuertes defensas a las reclamaciones de los Demandantes, reconoce los riesgos, distracciones y costos involucrados con el litigio. Las Partes asistieron a una conferencia de mediación con un tercer neutral y, reconociendo los riesgos y costos inherentes al litigio, llegaron a un Acuerdo propuesto de las reclamaciones presentadas en la demanda.

El [INSERTAR FECHA DE APROBACIÓN PRELIMINAR], el Tribunal otorgó la aprobación preliminar del Acuerdo propuesto, al encontrar que este Acuerdo propuesto es el resultado de negociaciones de buena fe y en condiciones de igualdad entre las partes a través de sus respectivos abogados. El Tribunal no ha expresado ninguna opinión sobre las pruebas de las reclamaciones de los Demandantes o las defensas del Demandado.

5. ¿Cuáles son los términos del acuerdo propuesto y cuánto recibiré?

El Demandado ha acordado pagar un total de \$2,350,000.00 para crear un fondo de acuerdo no reversible ("Monto Bruto del Acuerdo"). Bajo el acuerdo propuesto, se deducirán las siguientes cantidades antes de realizar los pagos a la Demanda Colectiva, sujeto a la aprobación definitiva del Tribunal:

- Honorarios de abogados: hasta \$ 783,333.33
- Reembolso de costos de abogados: hasta \$20,000.00
- Gastos de administración del acuerdo: hasta \$30,000.00
- Indemnización de Servicio de hasta \$10,000 a la Representante de la Demanda Sara Acevedo y \$5,000 al Representante de PAGA Ronald Flores Nunfio (total \$15,000.00)
- Pagos a la Agencia del Trabajo y Desarrollo de la Fuerza Laboral por sanciones PAGA: \$100,000.00 (\$25,000 de los \$100,000.00 en Sanciones PAGA se distribuirán a la Demanda Colectiva, tal y como se explica más adelante).

Después de estas deducciones, aproximadamente \$ 1,401,666.67 estarán disponibles para el pago a la Demanda Colectiva que reciba este aviso en concepto de Monto Neto del Acuerdo. Cada Miembro Participante de la Demanda Colectiva compartirá el Monto Neto del Acuerdo sobre una base prorrateada basada en el número de períodos de pago trabajados en relación con todos los Miembros de la Demanda Colectiva desde el 21 de septiembre de 2017 hasta [INSERTAR FECHA DE APROBACIÓN PRELIMINAR]. Los Abogados de la Demanda Colectiva propusieron esta distribución para reflejar la valoración de cada uno de los posibles reclamos en cuestión en esta demanda.

La aprobación final y la determinación de los honorarios de los abogados, los costos de los abogados, las sanciones PAGA, los gastos de administración del acuerdo y una indemnización de servicio al representante de la demanda colectiva están sujetas a una audiencia de justicia que se llevará a cabo el [INSERTAR LA FECHA DE LA AUDIENCIA DE APROBACIÓN FINAL] en el Dept. 10 del Tribunal Superior del Condado de Los Ángeles, 312 N. Spring Street, Los Ángeles, California 90012 el _____, 2022, a las XX:XX am.

6. ¿Qué debo hacer para recibir una parte del acuerdo propuesto?

Nada. Si desea recibir un pago bajo los términos de este acuerdo propuesto, **NO** tiene que hacer nada. Sin embargo, es importante que, si su dirección ha cambiado, proporcione su dirección postal actual al Administrador del Acuerdo para asegurarse de recibir su parte de los ingresos del Arreglo si el Arreglo propuesto se aprueba finalmente. Usted estará cubierto por el comunicado resumido en la Sección 8, a continuación.

7. ¿A qué derechos estoy renunciando?

Como parte del Acuerdo, los Demandantes y cada miembro de la Demanda Colectiva (excluyendo a aquellos que elijan excluirse de la demanda colectiva) liberarán y exonerarán completamente a Deanco Healthcare, LLC y a todas sus matrices actuales y anteriores, subsidiarias, empresas conjuntas y entidades afiliadas, y a cada uno de sus respectivos propietarios actuales y anteriores, directivos, directores, accionistas, ejecutivos, socios, empleados, aseguradoras, gerentes, agentes y abogados.

La Exoneración cubre todas y cada una de las causas de acción o reclamos que se afirmaron o podrían haberse afirmado en función de los hechos alegados en las Demandas, en el Aviso PAGA del 19 de enero de 2021 en *Flores*, el Reclamo del 19 de enero de 2021 en *Flores*, el Reclamo del 21 de septiembre de 2021 en *Acevedo*, el Aviso PAGA del 22 de septiembre de 2021 en *Acevedo*, o el Reclamo del 29 de noviembre de 2021 en *Acevedo*, incluida la supuesta falta de pago de salarios mínimos, salarios por horas extraordinarias, proporcionar períodos de comida legales, proporcionar períodos de descanso legales, proporcionar declaraciones salariales detalladas precisas, salarios de pago oportunos durante y después del empleo, así como producir registros de pago oportunos del personal. Esto incluye presuntas violaciones del Código Laboral §§ 201 202, 203, 204, 210, 226(a), (c) y (e), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 2802, así como la Orden de Salario de IWC N° 5-2001 y reclamos relacionados bajo PAGA basados en los hechos alegados en las Demandas. Los reclamos exonerados no incluyen ningún reclamo por indemnización por enfermedad o accidente laboral, desempleo o beneficios por discapacidad o cualquier otro reclamo que no sea los especificados en el presente documento.

8. ¿Qué son las sanciones PAGA?

Bajo PAGA, el estado de California sustituye a los fiscales generales privados, como los Demandantes, para procesar a los empleadores por presuntas violaciones del Código Laboral y todos los empleados que trabajaron para el Demandado durante el período de un año anterior a la presentación de la carta PAGA del Demandante a la LWDA hasta la fecha de aprobación preliminar tienen derecho a compartir el 25% de las sanciones que de otro modo serían recuperables por el Estado si enjuiciara directamente al Demandado por las presuntas violaciones del Código Laboral.

Bajo los términos del Acuerdo, \$100,000.00 del Monto Bruto del Acuerdo se asigna a supuestas sanciones civiles de la Ley del Procurador General Privado (PAGA) ("Sanciones PAGA"), sujeto a la aprobación del Tribunal. Por ley, el 75% de las Sanciones PAGA (*es decir*, \$75,000.00) se pagará a la Agencia del Trabajo y Desarrollo de la Fuerza Laboral y el 25% de las Sanciones PAGA (*es decir*, \$25,000) se distribuirán a los Participantes de la Demanda.

9. ¿Y si no deseo formar parte del Acuerdo propuesto?

Cualquier persona que no desee participar en el Acuerdo propuesto puede excluirse a sí misma ("exclusión voluntaria") completando, firmando y enviando por correo una carta de Solicitud de Exclusión antes del **XXXX** al Administrador del Acuerdo de la siguiente manera:

Administrador del Acuerdo:

INSERTAR
INSERTAR
INSERTAR

INSERTAR

Si su Solicitud de Exclusión está con matasellos después del XXX, será rechazada, y usted será un Miembro de la Demanda Colectiva y estará sujeto a los términos del Acuerdo.

Para ser válida, cualquier Solicitud de Exclusión debe indicar que el Miembro de la Demanda Colectiva desea ser excluido del Acuerdo y contener la siguiente información adicional: (1) el nombre y la dirección actual del Miembro de la Demanda Colectiva; (2) la firma del Miembro de la Demanda Colectiva; y (3) tener un matasello con fecha límite el [INSERTAR FECHA LÍMITE DE LA RESPUESTA]. La solicitud de Exclusión debe indicar que DESEO SER EXCLUIDO/A DEL ACUERDO DE LA DEMANDA COLECTIVA ACEVEDO VS. DEANCO HEALTHCARE, LLC o de otra manera evidenciar una clara intención de ser excluido/a del Acuerdo. La Solicitud de Exclusión debe enviarse por correo al Administrador del Acuerdo a la dirección especificada anteriormente.

Cualquier persona que presente una Solicitud de Exclusión oportuna y válida no se considerará un Miembro de la Demanda Colectiva Participante y no recibirá ningún pago como parte de este Acuerdo. Dichas personas mantendrán cualquier derecho a demandar al Demandado por separado sobre los reclamos hechos en esta demanda.

10. ¿Y si tengo una objeción?

Cualquier objeción al Acuerdo propuesto debe ser por escrito y enviarse por correo al Administrador del Acuerdo (identificado anteriormente) antes de _____. Para ser válida, cualquier objeción debe: (1) contener el nombre completo y la dirección del miembro del Acuerdo de Demanda Colectiva que se opone; (2) exponer cada razón específica para justificar la objeción; (3) tener matasellos antes del [INSERTAR FECHA LÍMITE DE RESPUESTA] y enviado por correo al Administrador del Acuerdo a la dirección especificada anteriormente. Los Miembros de la Demanda Colectiva no necesitan incluir argumentos legales para que sus objeciones por escrito sean consideradas. Los Miembros de la Demanda Colectiva que no presenten una objeción por escrito a tiempo aún pueden comparecer en la audiencia de justicia y aprobación final y hablar con respecto a cualquier objeción en la audiencia.

11. ¿Qué pasa si el número de períodos de pago enumerados en los registros del Demandado no son precisos?

Los registros del demandado indican que trabajó [INSERTAR EL NÚMERO DE PERÍODOS DE PAGO TRABAJADOS DURANTE EL PERÍODO DE LA DEMANDA SEGÚN LOS REGISTROS DEL DEMANDADO]. Si cree que la cantidad de períodos de pago que los registros del Demandado indican que trabajó desde el 21 de septiembre de 2017 hasta [INSERTAR FECHA DE APROBACIÓN PRELIMINAR] son inexactos, puede presentar una disputa con el Administrador del Acuerdo y proporcionar cualquier información justificativa antes del [INSERTAR FECHA LÍMITE DE RESPUESTA].

12. ¿QUIÉN REPRESENTA A LA DEMANDA COLECTIVA?

El Tribunal ha designado a la Demandante Sara Acevedo como representante de la demanda colectiva y a Ronald Flores Nunfio y Sara Acevedo como representantes de PAGA. El Tribunal ha designado a los siguientes Abogados de los Demandantes para representar a la Demanda Colectiva:

WINSTON LAW GROUP, P.C.

David S. Winston
david@employmentlitigators.com
1880 Century Park East, Suite 511
Los Ángeles, California 90067
Teléfono: (424) 288-4568
Fax: (424) 532-4062

WILSHIRE LAW FIRM

Justin F. Marquez
justin@wilshirelawfirm.com
3055 Wilshire Blvd., 12th Floor
Los Ángeles, California 90010
Teléfono: (213) 381-9988
Fax: (213) 381-9989

Usted no necesita contratar a su propio abogado porque los Abogados de la Demanda Colectiva trabajaran en su nombre. Sin embargo, si desea su propio abogado, incluso para hacer cualquier objeción al Acuerdo propuesto, usted es libre de contratar a uno a su propio costo.

13. ¿Cuál es el siguiente paso en el caso?

El Acuerdo propuesto sólo se ha aprobado preliminarmente. El Tribunal celebrará una audiencia en el Dept. 10 del Tribunal Superior del Condado de Los Ángeles, 312 N. Spring Street, Los Ángeles, California 90012 el **de 2022, a las XX**, para considerar cualquier objeción y determinar si el Acuerdo finalmente debe aprobarse como justo, razonable y adecuado. También se le pedirá al Tribunal que apruebe el acuerdo del reclamo del representante de PAGA y también la solicitud de los Abogados de la Demanda Colectiva para los honorarios y costos de los abogados, los costos de la administración del acuerdo y las adjudicaciones propuestas de servicios. La audiencia puede continuar sin previo aviso. No es necesario que comparezca en esta audiencia.

14. ¿Cómo puedo recibir más información?

Este Aviso contiene un resumen de los términos básicos del Acuerdo propuesto. Hay más detalles en un Acuerdo de Conciliación y en un sitio web creado por el Administrador del Acuerdo accesible en: **www.xxxxxx.com**. También puede llamar o enviar un correo electrónico a los Abogados de la Demanda Colectiva (enumerados anteriormente) o al Administrador del Acuerdo (enumerado anteriormente). También puede pedirle a los Abogados de la Demanda Colectiva que le envíen una copia de la Estipulación Conjunta del Acuerdo y la Exoneración de la Demanda Colectiva y de Representación. Las alegaciones y otros registros en este litigio pueden, en ausencia de cualquier orden y/o procedimiento relacionado con COVID-19 implementado por el Tribunal, examinarse durante el horario laboral habitual en la Oficina del Secretario del Tribunal Superior del Condado de Los Ángeles, 312 N. Spring Street, Los Ángeles, California 90012. También puede obtener información adicional a través del sistema en línea del Tribunal en <http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil> buscando el número del caso.

Por favor, no llame al Tribunal, a la Oficina del Secretario o al Demandado para obtener información sobre este Acuerdo.



CERTIFIED TRANSLATION

A copy of the translated version is attached to this statement of certification.

Documents Translated For:

LAST NAME: Schwan	FIRST NAME: Bradley	MIDDLE NAME: N/A
COMPANY: Littler Mendelson, P.C.	DIVISION: N/A	

List of Materials Translated:

Acevedo vs. Deanco Healthcare, LLC (Los Angeles County Superior Court Case No. 21STCV34724)—Joint Stipulation of Class Action and Representative PAGA Settlement with Class Notice.

Source Language:	English
Target Languages:	Spanish

Dallas, Texas

WITH REFERENCE TO THE ABOVE-MENTIONED MATERIALS/DOCUMENTS, we at ASTA-USA Translation Services, Inc., a professional document translation company, confirm that we are accredited and competent to translate the above referenced document(s) and attest that the language translation completed by ASTA-USA's certified professional translators, represents an accurate and correct interpretation of the terminology/content of the source document(s). **This is to certify the correctness of the translation only.** We do not guarantee that the original is a genuine document or that the statements contained in the original document(s) are true.

IN WITNESS WHEREOF, ASTA-USA Translation Services, Incorporated has caused the Certificate to be signed by its duly authorized officer(s).

By:

Alain J Roy, President

Date: October 4, 2022



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EXHIBIT 2

Case Name: Ronald Flores Nunfio vs. Deanco Healthcare

Requesting Attorneys Name: David Winston
 E-Mail: david@employmentlitigators.com
 ILYM Contact: Jonathan Paul
 E-Mail: Jonathan@ilymgroup.com
 Contact Number: 310.948.7117

Assumptions: Class Action Settlement

ASSUMPTIONS	
Total Estimated # of Class Members	3,000
NCOA	Yes
Remail of Undeliverables	Yes
Toll-Free Telephone Support Included	Yes
Case Duration (Years)	1

Activity	Rate Type	Unit Cost	Volume	Amount
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CASE STARTUP				
Initial Setup - <i>Import and Formatting of Data*</i>	Hourly	\$150.00	3	\$450.00
Project Manager (Case notification and maintenance)	Hourly	\$120.00	3	\$360.00

*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.

Subtotal \$810.00

PROJECT MANAGEMENT & NOTICING				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	10	\$1,200.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	10	\$700.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s)	Hourly	\$70.00	5	\$350.00
Report Processing	Hourly	\$70.00	5	\$350.00
Certified Spanish Translation (client providing)	Flat Rate	\$0.00	0	\$0.00
Toll Free Customer Service Representative	Flat Rate	\$1,110.00	1	\$1,110.00
NCOA	Flat Rate	\$415.00	1	\$415.00
Static Website	Flat Rate	\$500.00	1	\$500.00
Weekly Reports	Flat Rate	\$750.00	1	Waived

Subtotal \$4,625.00

NOTIFICATION/MAILING				
Fulfillment of Notice, English & Spanish	Per Piece	\$1.00	3,000	\$3,000.00
USPS First Class Postage	Per Piece	\$0.51	3,000	\$1,530.00
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$2.00	180	\$360.00
Storage, Photocopies, Deliveries	Flat Fee	\$375.00	1	\$375.00

Subtotal \$5,265.00

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)*				
Distribution Setup & Management	Hourly	\$150.00	5	\$750.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	5	\$625.00
Notice, Check, Stub & Release - (including 1099)	Per Check	\$0.60	3,000	\$1,800.00
USPS First Class 1oz Postage	Per Piece	\$0.55	3,000	\$1,650.00
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$3.00	300	\$900.00
Preparation of Taxes	Hourly	\$125.00	10	\$1,250.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$8,475.00

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	3	\$300.00
Send Funds to Cy Pres	Flat Fee	\$150.00	1	\$150.00
Declaration	Hourly	\$125.00	3	\$375.00

Subtotal \$825.00

TOTAL CASE ESTIMATE - NOT TO EXCEED: \$20,000.00

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

Sara Acevedo, et al. v. Deanco Healthcare, LLC
21STCV34724

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 PROOF OF SERVICE