

1 HAMMONDLAW, P.C.
Julian Hammond (SBN 268489)
2 jhammond@hammondlawpc.com
Polina Brandler (SBN 269086)
3 pbrandler@hammondlawpc.com
Ari Cherniak (SBN 290071)
4 acherniak@hammondlawpc.com
1201 Pacific Avenue, Suite 600
5 Tacoma, WA 98402
(310) 601-6766
6 (310) 295-2385 (Fax)

7 *Attorneys for Plaintiffs and the Putative Class*

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF ALAMEDA**

12
13 MARI CARR and SEYED ALAVI, individually
and on behalf of all others similarly situated,

14 Plaintiffs,

15 vs.

16
17 KONICA MINOLTA BUSINESS SOLUTIONS
U.S.A., INC., a New York Corporation,

18
19 Defendant.

CASE NO. 21CV001245

**REVISED [~~PROPOSED~~] ORDER AND
JUDGMENT GRANTING FINAL APPROVAL
OF CLASS ACTION SETTLEMENT**

Date: June 27, 2023

Time: 3:00 p.m.

Dept. 23

Reservation ID: 21097245-001

1 This matter is before the Court on Plaintiffs' unopposed Motion for Order Granting Final
2 Approval of Class Action Settlement and Motion for Approval of Attorneys' Fees, Costs and Service
3 Awards for Class Representatives, in the above-entitled case. The motions, having been fully considered
4 by the Court, it is ruled and adjudged as follows:

5 **RECITALS**

6 On October 27, 2021, Plaintiff Mari Carr filed a putative class action complaint asserting causes
7 of action for Labor Code violations and unfair business practices. On July 15, 2022, Plaintiff filed a first
8 amended complaint, which added a claim for civil penalties pursuant to California's Private Attorneys
9 General Act ("PAGA"). On August 9, 2022, Plaintiff filed the currently operative second amended
10 complaint, which added Seyed Alavi as a named plaintiff.

11 On March 1, 2023, the Court preliminary approved the settlement. The parties now seek final
12 approval.

13 Class action settlements must be approved by the court as "fair, adequate, and reasonable." (CRC
14 3.769, subd. (g); *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244.) In approving class
15 action settlements, the court considers (1) the relative strength of the plaintiffs' case; (2) the risk, expense,
16 complexity, and the likely duration of further litigation of this dispute; (3) the risk of maintaining class
17 status through trial; (4) the amount offered in settlement; (5) the extent of discovery completed and stage
18 of the proceedings; (6) the experience and views of counsel that settlement is reasonable; and (7) the
19 presence or lack of any objections to the proposed settlement. (See *id.* at pp. 244-245; *Dunk v. Ford*
20 *Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.)

21 Representative litigants must submit any settlement of PAGA representative action for court
22 approval. (See Lab. Code § 2699, subd. (l)(2).) Because the Labor & Workforce Development Agency
23 ("LWDA") is not present at the negotiating table, the court's review of a PAGA settlement must make
24 sure that the interests of the LWDA in civil enforcement are defended and that the settlement is fair,
25 adequate, and reasonable under all the circumstances. (See *O'Connor v. Uber Technologies, Inc.* (N.D.
26 Cal. 2016) 201 F.Supp.3d 1110, 1133; see also Gov. Code, § 12652, subd. (e)(2)(B) [requiring False
27 Claims Act *qui tam* settlements be "fair, adequate, and reasonable under all circumstances"].)

28 The court therefore takes guidance from the context of class action settlements, which must also
be found to be "fair, adequate, and reasonable." (See, e.g., *Wershba v. Apple Computer, Inc.*
(2001) 91 Cal.App.4th 224, 244.) However, at least two factors are not analogous in the PAGA
settlement context: risk of maintaining class action status and reaction of other aggrieved employees. (Cf.

1 *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026.) Class action status is irrelevant because
2 PAGA actions are not certified. The lack of objections is largely irrelevant because PAGA procedures
3 provide no opportunity for absent aggrieved employees to offer their objections to the settlement. The
4 parties must serve the LWDA with settlement papers, but the law provides no procedure or timeline for
the LWDA to object. (Lab. Code, § 2699, subd. (l).)

5 FINDINGS

6 The Court approves of the settlement as fair, reasonable, and adequate. The settlement is entitled
7 to a presumption of fairness. (*Dunk, supra*, 48 Cal.App.4th p. at 1802.) The settlement was reached
8 through an arm's-length negotiation. The settlement was reached through an arm's-length negotiation.
9 (1/30/23 Hammond Decl., ¶ 14.) The investigation and discovery are sufficient to allow counsel and the
Court to act intelligently. (1/30/23 Hammond Decl., ¶¶ 12-13, 19-37.) Counsel is experienced in similar
10 litigation, and there are no objectors. (1/30/23 Hammond Decl., ¶¶ 5-6; Olivares Decl., ¶ 12; Supp.
11 Olivares Decl. ¶ 6.)

12 The settlement agreement released Plaintiffs' wage and hour claims against Defendant Konica
13 Minolta Business Solutions, USA, Inc. in exchange for a non-reversionary settlement payment of
14 \$1,247,907.53. The settlement amount reflects an increase of \$97,907.53 based on the escalator clause,
15 which was triggered when the Expenses Reimbursement Class increased from 584 members to 891 after
preliminary approval. (MPA, p. 1, fn. 1; see also Olivares Decl., ¶ 17.)

16 There are two classes: a sales class, which consists of 269 participating members, and a
17 reimbursement class, which consists of 890 participating members. Subject to the Court's approval of
18 fees, costs, and incentive awards, the average payout for sales class members will be approximately
19 \$1,962.83 and the average payout for the expense reimbursement class will be approximately \$254.65.
20 (Olivares Decl., ¶¶ 19-20; Supp. Olivares Decl., ¶¶ 9-10.) Plaintiff Carr will receive \$2,213.79 and
21 Plaintiff Alavi will receive \$2,673.25, in addition to any Court-approved incentive award. (Olivares
Decl., ¶ 23.)

22 The Court also approves of the PAGA settlement. There are 884 Aggrieved Employees, who will
23 receive an average of \$8.84 from the \$30,000 PAGA settlement. (Olivares Decl., ¶ 22.)

24 After mailing the Court-approved notice, three (3) notices were deemed undeliverable. (Olivares
25 Decl., ¶ 9.) The settlement administrator has not received any objections or pay period disputes, and has
26 received one written request for exclusion (from Hamid Cohanim, an individual belonging to both the
27 sales class and the reimbursement class). (Olivares Decl., ¶¶ 10-12, 19-20; Supp. Olivares Decl. ¶¶ 4-6,
28

9-10.) The settlement administrator received one dispute from an Expense Reimbursement class member who was excluded from the Sales Class. The dispute has been resolved, and that class members has been included in the Sales Class, increasing the Sales Class from 268 to 269. (Supp. Olivares Decl., ¶¶ 5, 8.)

The Notice discloses the updated gross settlement amount as well as the administration costs (up to \$15,000), service award to Plaintiffs (up to \$10,000 for Car and up to \$7,500 for Alavi), the request for attorneys' fees (35% or \$436,767.64, based upon the updated settlement amount) and litigation costs (up to \$25,000), and PAGA allocation of \$30,000, to be split between the LWDA and aggrieved employees. (Olivares Decl., Ex. A.)

ORDER AND JUDGMENT

1. The Settlement Agreement attached as **Exhibit 1**, is fully and finally approved and is hereby incorporated by reference.

2. Pursuant to California Rules of Court, Rule 3.769(d), this Court makes final the conditional class certification contained in the Order Granting Preliminary Approval of Class Action Settlement, and thus certifies two classes:

(a) "Sales Class" defined as all persons who were employed by Defendant in California as Sales Representatives or in a similar capacity at any time during the Class Period, which is the period of time from March 16, 2020 through March 1, 2023; and

(b) "Expense Reimbursement Class" defined as all persons who were employed by Defendant in California and who were required to work remotely at any time during the Class Period.

3. Plaintiffs are appointed and designated, for all purposes, as Class Representatives, and the law firm HammondLaw, P.C., is appointed and designated as counsel for the Classes.

4. In response to the Notice, one Class Member validly requested to be excluded from the Settlement.

5. In response to the Notice, no Class Member submitted an objection to the Settlement. The Court finds that given the absence of objections, and objections being a prerequisite to appeal, that this Order and Judgment shall be considered as final as of the date of notice of entry.

6. Accordingly, as of the Effective Date, Released Parties are discharged and released from any and all liability with respect to the Sales Class Released Claims and Expense Reimbursement Class Release Claims.

7. The Court hereby finally and unconditionally approves the Settlement Agreement as fair, reasonable, and adequate and directs the parties to implement its terms, and specifically:

- 1 a. Approves the Gross Settlement Amount of \$1,247,907.53;
- 2 b. Approves of the PAGA settlement - \$30,000 to be split between LWDA and
3 Aggrieved Employees;
- 4 c. Approves of a reduced service award of \$7,500 to Plaintiff Carr and \$5,000 to
5 Plaintiff Alavi. Plaintiff Carr estimates spending between 28 and 30-hours performing work on this case.
6 (Carr Decl., ¶ 11.) Plaintiff Alavi estimates spending approximately 11 to 12-hours performing work on
7 this case. (Alavi Decl., ¶ 9.) Without minimizing Plaintiffs' efforts, the time spent on this case is not
8 unusual, and there is no indication that Plaintiffs were disposed or otherwise undertook unique
9 efforts/risks in this action;
- 10 d. Approves Counsel's request for an award of \$415,969.18 in attorneys' fees, or
11 one-third of the gross settlement. Plaintiffs' counsel represents that the lodestar amount is \$197,690
12 through May 22, 2023. (6/2/23 Hammond Decl., ¶ 11 [263.1 hours].) Thus, the requested fees represent
13 a lodestar multiplier of 2.1. (Id., ¶ 57; see also *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th
14 480). The Court approves the requested fees, supported by the lodestar cross-check as reasonable and
15 necessary. 10% of the attorney fee award shall be kept in the settlement administrator's trust fund until
16 completion of the distribution process and the Court approval of a final accounting;
- 17 e. Approves Counsel's request for reimbursement of litigation expenses of
18 \$16,046.90 as reasonable and necessary; and
- 19 f. Approves payment to CPT of \$13,750 as costs – incurred and anticipated for
20 completion of the administration (Olivares Decl., ¶ 25).

21 8. A Final Accounting is set for December 19, 2023 at 3:00 p.m. in Department 23. Counsel
22 shall submit a final report in the form of an Administrator Declaration and a proposed Amended
23 Judgment (CCP 384) at least 5 court days prior to that hearing regarding the status of the settlement
24 administration.

25 9. The Court retains exclusive and continuing jurisdiction over the litigation for purposes of
26 supervising, implementing, interpreting, and enforcing this Final Approval Order and the Settlement
27 Agreement, and, if necessary, to conduct a further hearing on certification of distribution of settlement
28 amounts.

IT IS SO ORDERED AND ADJUDGED.

Dated: 6/30/23



Hon. Brad Seligman

Judge of the Superior Court

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EXHIBIT 1

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Settlement Agreement”) is made and entered into between Mari Carr and Seyed Alavi (“Plaintiffs” or “Class Representatives”), individually and on behalf of the Settlement Classes (as defined below), by and through HammondLaw, P.C. (“Class Counsel”), on the one hand, and Konica Minolta Business Solutions U.S.A., Inc., (“Defendant”), on the other hand, subject to the approval of the Court, as provided below. This Settlement Agreement is intended by Plaintiffs and Defendant to fully, finally, and forever resolve, discharge, and settle the Action (as defined below) and Released Claims (as defined below), upon and subject to the terms and conditions hereof, as follows:

1. Definitions.

As used herein, for the purposes of this Settlement Agreement only, the following terms will be defined as set forth below:

1.1 “Action” refers to the civil action entitled: *Carr et al. v. Konica Minolta Business Solutions U.S.A., Inc.*, Case No. 21CV001245, in the Superior Court of California, Alameda County.

1.2 “Class Member” refers to all Sales Class Members and Expense Reimbursement Class Members, as defined below.

1.3 “Sales Class” or “Sales Class Members” refers to all persons who were employed by Defendant in California as Sales Representatives or in a similar capacity at any time during the Class Period, as defined below.

1.4 “Expense Reimbursement Class” or “Expense Reimbursement Class Members” refers to all persons who were employed by Defendant in California and who worked remotely at any time during the Class Period, as defined below.

1.5 “Class Counsel” refers to the attorneys of record for the Class Representatives, *i.e.*, HammondLaw, P.C.

1.6 “Class Notice” refers to the form of direct-mail notice substantially in the form attached as “**Exhibit A**,” as may be modified by the Court.

1.7 “Class Period” means the period from March 16, 2020 through to the date the Court grants Preliminary Approval.

1.8 “Class Representatives” refers to Plaintiffs Mari Carr and Seyed Alavi.

1.9 “Complaint” refers to the Second Amended Complaint in this Action.

1.10 “Court” refers to the Superior Court of California for Alameda County.

1.11 “Final Approval Hearing” refers to the hearing at which the Court will make a final determination whether the terms of the Settlement are fair, reasonable, and adequate for the Class and meet all applicable requirements for approval.

1.12 “Final Approval Order and Judgement” refers to the final order by the Court approving the Settlement following the Final Approval Hearing and entering final judgment.

1.13 “Effective Date” is 60 days following the date the Final Approval Order and Judgment is signed. If an appeal is taken from the Final Approval Order and Judgment, then the Effective Date will be ten business days after the appeal is withdrawn or denied, or after an appellate decision affirming the final approval decision becomes final.

1.14 “Gross Settlement Amount” (also referred to herein as “GSA”) refers to the maximum settlement payment of One Million One Hundred Fifty Thousand Dollars (\$1,150,000) that Defendant will be obligated to make, unless the escalator clause set forth in Section 19 is triggered. Separately from the GSA, Defendant shall bear all employer-side payroll tax payments due and payable to federal and state tax authorities as a result of this Settlement.

1.15 “Net Settlement Amount” (also referred to herein as “NSA”) is the GSA minus Court-approved attorney’s fees and litigation costs, and Court-approved Settlement Administration Costs, Service Awards and PAGA Penalties, all as defined below. The NSA is the maximum amount that will be available for distribution to Settlement Class Members, unless the escalator clause set forth in Section 19 is triggered.

1.16 “PAGA Penalties” refers to the Thirty Thousand Dollars (\$30,000) allocated to Plaintiff Carr’s PAGA claims which shall be paid as follows: 75% of the PAGA Penalties (\$22,500) shall be paid to the LWDA as its share of the civil penalties for PAGA claims; and the remaining 25% of the PAGA Penalties (\$7,500) shall be distributed to Class Members who worked during the PAGA Period, as defined below, as their share of the settlement of civil penalties for PAGA claims.

1.17 “PAGA Period” means the period from April 30, 2020 through to the date the Court grants preliminary approval.

1.18 “Parties” are Plaintiffs and Defendant.

1.19 “Released Claims” are Sales Class Released Claims and Expense Reimbursement Released Claims, as defined in Sections 16.1 and 16.2

1.20 “Released Parties” include Defendant and all of its parents, subsidiaries, affiliates, predecessors, successors, and related entities, and its and their respective officers, directors, employees, fiduciaries, trustees, agents, attorneys and benefit plans.

1.21 “Request for Exclusion” refers to a request to be excluded from the Settlement, which must be made in writing in conformity with the requirements set forth in the Class Notice, as well as the Court’s order granting preliminary approval, and mailed to the Administrator and postmarked on or before the Response Deadline as defined below.

1.22 “Response Deadline” is forty-five (45) calendar days after the date that the Class Notice is mailed to Class Members and is the deadline by which Class Members’ Requests for Exclusion, disputes regarding Settlement Payments, and/or objections must be postmarked in order to be timely.

1.23 “Service Award” refers to monetary award to each Plaintiff, in an amount not to exceed Ten Thousand Dollars (\$10,000) to Mari Carr, and in an amount not to exceed Seven Thousand Five Hundred Dollars (\$7,500) to Seyed Alavi, or other amounts as approved by the Court, to be paid for from the Gross Settlement Amount, subject to approval by the Court, as described below.

1.24 “Settlement Administrator” refers to the third-party administrator mutually selected by the parties, subject to approval by the Court, to perform the notice, claims administration, and distribution functions further described in this Settlement Agreement.

1.25 “Settlement Administration Costs” refers to the cost of paying the Settlement Administrator. This cost will be paid out of the GSA, in an amount not to exceed \$15,000.

1.26 “Settlement Class” or “Settlement Class Member” refers to Class Members who do not request exclusion from the Settlement.

1.27 “Settlement Payment” refers to the amount paid to each Settlement Class Member.

2. Procedural History and Recitals.

On October 27, 2021, Plaintiff Carr filed her class action lawsuit in Alameda County Superior Court based on Defendant’s alleged failure, with respect to Sales Class Members, to (1) issue accurate itemized wage statements in violation of California Labor Code § 226(a); (2) pay overtime in violation of Labor Code §§ 1194, 510, and Wage Order No. 4-2001, § 3; and (3) pay all wages due and owing upon discharge, in violation of Labor Code §§ 201-203; and with respect to Expense Reimbursement Class Members, for (4) its failure to reimburse all necessarily incurred business expenses in violation of California Labor Code § 2802. Defendant filed its Answer to the Complaint on December 23, 2021, generally denying the allegations in the Complaint and raising multiple affirmative defenses.

On May 19, 2022, the Parties participated in a mediation session with Steve Pearl, an experienced wage and hour mediator. The parties were not able to reach settlement at mediation and continued to engage in settlement discussions for nearly two months following the mediation. The Parties ultimately reached the basic terms of a settlement, which are memorialized in this formal Settlement Agreement, subject to approval by the Court.

On July 15, 2022 Plaintiff Carr filed a First Amended Complaint, adding a claim for PAGA civil penalties. On or about August 9, 2022, Plaintiff Carr filed a Second Amended Complaint adding Seyed Alavi as a named Plaintiff and Class Representative.

2.1 This Settlement Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Settlement Agreement is intended or will be construed as an admission by Defendant of any liability or wrongdoing whatsoever. Additionally, Defendant reserves the right to contest any issues relating to class certification and liability if this Settlement Agreement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Action, or that but for the Settlement Agreement, a Class should be certified in the Action. Notwithstanding, in the interest of avoiding further litigation, Defendant desires to fully and finally settle the Released Claims.

NOW THEREFORE, in consideration of the covenants and agreements set forth herein, and of the release of all Released Claims, Plaintiffs, on behalf of themselves and the Classes, Class Counsel, and Defendant agree to the terms and provisions of this Settlement Agreement, subject to the approval of the Court.

3. Limitation on Effect of Certification.

The Parties agree that certification of a class is appropriate for settlement purposes only. In the event that the Settlement is not finally approved, or the Settlement is otherwise terminated, the certification of a class in this Action shall be vacated and shall be of no force or effect whatsoever and shall not be admissible nor construed as an admission or concession of any kind by the Parties, in whole or part, and Defendant expressly reserves all rights to challenge certification of a class on all available grounds.

4. Payment of the GSA.

On the Effective Date, Defendant shall transmit the GSA to the Settlement Administrator, in addition to an amount equal to employer-side payroll taxes due on the wage component of the NSA. This Settlement is non-reversionary and under no circumstances will any part of the GSA revert to Defendant.

5. Calculation of the NSA and Distribution of Settlement Proceeds.

5.1 Each Settlement Class Member will be entitled to a share of the NSA in accordance with the formula set forth below. Payments will be made from the NSA only to Settlement Class Members, as set forth herein.

5.2 20% of the NSA (approx. \$132,000.00) shall be allocated to the Expense Reimbursement Class Members (the "Reimbursement Settlement Payment") and paid pro rata based on the number of pay periods he or she worked as an Expense Reimbursement Class Member during the Class Period.

5.2.1 100% of the Reimbursement Settlement Payment shall be allocated as non-wage payments and reported on an IRS Form 1099.

5.3 80% of the NSA (approx. \$528,000.00) shall be allocated to the Sales Class Members ("Sales Class Settlement Payment") and paid pro rata based on the number of pay periods he or she worked as a Sales Class Member during the Class Period.

5.3.1 20% of each Sales Class Settlement Payment will be allocated as wages and reported on an IRS Form W-2; and the remaining 80% of each Sales Class Member Settlement Payment will be allocated as penalties and interest and reported on an IRS Form 1099.

5.4 The 25% of the PAGA Penalties allocated to the Class shall be paid in equal amounts to each Class Member who worked during the PAGA Period.

5.4.1 100% of the PAGA payments made to Class Members shall be allocated as penalties and reported on an IRS Form 1099.

5.4.2 If a Class Member timely and validly submits a Request for Exclusion, as set forth herein, their share will return to the NSA and will be distributed to the remaining Settlement Class Members, with the exception of the Class Member's share of PAGA penalties, which shall be paid to the Class Member regardless of whether of they exclude themselves from the Settlement.

5.5 Payments to Class Members pursuant to this Settlement Agreement will not be construed as compensation for purposes of determining eligibility for or benefit calculations of any health and welfare benefit plan, retirement benefit plan, vacation benefit plan, unemployment compensation, including, without limitation, all plans, subject to the Employee Retirement Income Security Act ("ERISA"). The Parties agree these payments do not represent any modification of any employee's previously-credited hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or other program or policy.

6. Attorneys' Fees and Costs.

Class Counsel shall request attorneys' fees up to 35% of the GSA (i.e., \$402,500.00) for attorneys' fees; and up to \$25,000 for reimbursement of actual litigation costs. Defendant agrees to not oppose Class Counsel's request for attorneys' fees and costs in these amounts. If the GSA increases pursuant to the escalator clause set forth in Section 19, Class Counsel's attorneys' fees shall increase in the amount of up to 35% of the increased GSA. Class Counsel retains the right to appeal any attorney's fees and costs that are awarded by the Court that are lower than these amounts, but such an appeal will delay Defendant's obligation to make all payments set forth in this Settlement Agreement. Any unapproved amounts of attorneys' fees and litigation costs will be added to the NSA and will be distributed to the Settlement Class Members.

7. Service Award.

Class Counsel shall request Service Awards of up Ten Thousand Dollars (\$10,000) to Mari Carr, and up to Seven Thousand Five Hundred Dollars (\$7,500) to Seyed Alavi. Any unapproved amounts will be added to the NSA and be distributed to the Settlement Class Members.

8. PAGA Penalties

Subject to Court approval, \$30,000 shall be attributed to claims under the PAGA. The Settlement Administrator shall apportion and distribute the payment as follows: (a) \$22,500 shall be paid to the LWDA as its 75% share of the settlement of civil penalties for PAGA claims; and (b) \$7,500 shall be distributed to the Class Members who worked during the PAGA Period as their 25% share of the settlement of civil penalties for PAGA claims.

9. Costs of Settlement Administration.

The Parties have mutually agreed to the selection of CPT ("Settlement Administrator"), to undertake the administration of the Settlement in this Action. The administration duties include, without limitation, the following: establishing and maintaining a qualified settlement account for the NSA, obtaining tax identification number(s) for Defendant applicable to the Settlement, calculating the Class Member Payments, performing an initial National Change of Address (NCOA) search upon receipt of the Class Member mailing addresses, mailing the Class Notices, performing one skip trace on Class Notices which are returned as undeliverable, reviewing and processing Requests for Exclusion, disputes, and objections, setting up a toll-free number, mailing the Class Members Payments and tax forms to the Settlement Class Members, and setting up a static website regarding the Settlement. The Settlement Administrator will report payment of the individual Class Member Payments to all required taxing and other authorities, take appropriate withholdings, forward payments for withholdings and issue Internal Revenue Service Forms W-2 and 1099. The Parties estimate that the costs and expenses of administration of the settlement will not exceed \$15,000. If the Class size increases, and the Settlement Administration Costs exceed \$15,000, any remaining additional Settlement Administration Costs will be paid out of the GSA. Any amounts allocated but not paid to the Settlement Administrator will be added to the NSA and distributed to the class.

10. Notice Administration.

10.1.1 Within twenty (20) calendar days of the order granting preliminary approval of the Settlement ("Preliminary Approval Order") Defendant shall provide the Settlement Administrator with the following information ("Class Data List"):

(a) the names, employment identification number, last known addresses, last known e-mail address, telephone numbers, and Social Security numbers of each Class Member; and

(b) the number of pay periods worked by each Class Member during the Class Period.

10.1.2 Upon its receipt of the Class Data List, the Settlement Administrator shall access the National Change of Address ("NCOA") Database, and update the addresses contained therein.

10.1.3 Within thirty (30) calendar days of the Preliminary Approval Order, the Settlement Administrator shall provide the Class Notice by bulk first class mail, forwarding requested, to the Class Members at the addresses identified through the process described above.

10.1.4 As to any Class Notices that are returned as undeliverable, or where the NCOA Database indicates that the last known address of any Class Member is invalid or otherwise undeliverable, the Settlement Administrator will perform a skip trace procedure and re-mail all returned, undelivered mail within five (5) calendar days of the date on which the Settlement Administrator is informed that a Class Notice is undeliverable or otherwise invalid. Class Members will have an additional fifteen (15) calendar days beyond the Response Deadline to respond to any re-mailed notice.

10.1.5 The Settlement Administrator and all those working through, in concert with, or on behalf of the Settlement Administrator, shall be obligated to take all reasonable steps to maintain the confidentiality of Class Member information and to carry out the other duties enumerated in the Settlement Agreement, including calculating each Class Member's potential share of the Settlement.

10.1.6 The Settlement Administrator shall provide Defendant's counsel and Class Counsel with weekly summary reports, including the total number of Class Notices that were returned as undeliverable, the total number of objections, disputes, and/or Requests for Exclusion. The Settlement Administrator shall maintain records of its work, which will be available for inspection upon request by Defendant's counsel or Class Counsel.

10.1.7 The Class Notice will be pre-printed in substantially the form attached hereto as **Exhibit A**, subject to approval by the Court. In addition to other information contained on the Class Notice, the Class Notice will include an explanation of the *pro rata* distribution formula used to determine the share of the Net Settlement Amount that he or she may be entitled to receive under the Settlement.

11. Requests for Exclusion.

11.1 Any Class Member may elect to opt out of the Settlement by submitting a written Request for Exclusion to the Settlement Administrator, received or postmarked no later than the Response Deadline. The Request for Exclusion must contain the following: full name, signature, address and last four digits of his or her social security number; name and case number, and a clear statement that he or she seeks to be excluded from the Settlement. The Settlement Administrator shall immediately send all Requests for Exclusion to Defendant's counsel and Class Counsel. A Class Member who fails to comply with the opt out procedure set forth herein on or before the Response Deadline will not be excluded and will instead be bound by all provisions of the Settlement Agreement and all orders issued pursuant thereto.

11.2 Any Class Member who elects to opt out of the Class in the manner and within the time limits specified above (1) will not have any rights under the Settlement Agreement; (2) will not be entitled to receive any compensation under the Settlement Agreement; (3) will not have standing to submit any

objection to the Settlement Agreement; and (4) will not be bound by the Settlement Agreement. However, a Class Member may not opt out of the release of PAGA claims set forth in §§ 16.1 and 16.2, as applicable, and shall be paid his or her share of PAGA Penalties regardless of whether he or she opts out of the Class.

11.3 Except for persons who elect to opt out of the Settlement in the manner and within the time limits specified above, in the Preliminary Approval Order, and in the Class Notice, all Class Members, will be deemed to be within the Settlement Class for all purposes under this Settlement Agreement, will be bound by the terms and conditions of this Settlement Agreement (including the release provisions in § 16 and its subparts), including all orders issued pursuant thereto, and will be deemed to have waived all unstated objections and opposition to the fairness, reasonableness, and adequacy of this Settlement Agreement, and any of its terms.

11.4 All parties and their counsel agree not to encourage opt-outs, directly or indirectly, through any means.

12. Objections.

Any Class Member who does not request exclusion from the Settlement may object to the Settlement by sending the Settlement Administrator, not later than the Response Deadline, a written statement objecting to the Settlement. The written objection must contain: full name, address, last four digits of his or her social security number, the case name and number, and a clear statement of the basis for his or her objection. The Settlement Administrator shall immediately send all objections to counsel for Defendant and Class Counsel.

Counsel for the Parties shall file any responses to any objections at the time the Motion for Final Approval is filed. Class Members may, prior to the Final Approval Hearing, withdraw their objections or opt out requests in a writing to the Settlement Administrator, which may then be filed with the Court.

13. Resolution of Disputes.

If any Class Member timely disputes the number of pay periods listed on his or her Class Notice or the date(s) of issue, the dispute will be submitted to the Settlement Administrator, who will examine the records and either verify the calculation or provide a corrected calculation. Disputes must be in writing that is submitted to the Settlement Administrator, postmarked on or before the Response Deadline. The dispute must contain: Class Member's full name, address, signature, and last four digits of his or her Social Security number; and any facts supporting the Class Member's dispute, along with any supporting materials confirming that the paychecks attributed to him or her are incorrect. The Settlement Administrator's determination of disputes will be final and non-appealable.

14. Payment Procedure.

14.1 Payments to Settlement Class Members, Class Counsel, Class Representatives, Taxing Authorities and LWDA: Within ten (10) calendar days of receipt of the GSA, the Settlement Administrator will distribute, subject to approval by the Court: (a) Settlement Payments to Class Members; (b) attorneys' fees and costs to Class Counsel; (c) Settlement Administration Costs to the Settlement Administrator; (d) Service Awards to the Class Representatives; (e) applicable tax withholdings and employer's portion of payroll tax to the appropriate taxing authorities, and (f) the LWDA's share of the PAGA Penalties.

14.2 Uncashed Checks: Settlement Checks that are not cashed within ninety days from the date of issuance by the Settlement Administrator will be voided and the funds will be donated and distributed to Bet Tzedek as the *cy pres* in accordance with California Code of Civil Procedure § 384. Class Members whose checks are not timely cashed and which are cancelled, will be deemed to have irrevocably waived any right in or claim to any payment under the settlement, but the settlement and their release of Released Claims will remain binding upon them.

15. Taxes.

15.1 Employer's Portion of Payroll Taxes: Defendant shall pay the employer's portion of payroll taxes with respect to the wage portion of Sales Class Settlement Payments separately and in addition to the GSA.

15.2 Tax Treatment of Service Award: Plaintiffs will receive an IRS Form 1099 for their individual Service Awards and will be responsible for payment of any taxes owing on said amount.

15.3 Tax Treatment of Attorneys' Fees and Cost Award: Class Counsel will receive an IRS Form 1099 for any amount awarded to Class Counsel in the form of attorneys' fees or costs and will be responsible for payment of any taxes owing on said amount.

15.4 No Tax Advice: The Parties are not giving any tax advice in connection with the settlement or any payments to be made pursuant to this settlement including, but not limited to, within the meaning of United States Treasury Circular 230 (31 CFR part 10, as amended). The Parties do not assume any liability for taxes, fees, costs, or assessments resulting from any Settlement Class Members' failure to timely pay his or her share of taxes, interest, fees, or penalties owed.

16. Release.

16.1 Sales Class Released Claims: Upon payment of the Gross Settlement Amount, in exchange for the consideration set forth herein, each member of the Sales Class shall be deemed to have released the Released Parties from any and all claims that are alleged, or could reasonably have been alleged based on the facts and claims asserted in the Second Amended Complaint on their behalf and arising during the Class Period, including without limitation claims under Labor Code §§ 201, 202, 203, 226(a) and (e), 510, 226.7, 1194, 1194.2; IWC Wage Order No. 4-2001, §§ 3 and 4, and the UCL based on the Sales Class Released

Claims; all claims related to Defendant's alleged misclassification of Sales Class Members; and any and all claims for PAGA civil penalties based on the Sales Class Released Claims and arising during the PAGA Period.

16.2 Expense Reimbursement Class Released Claims: Upon payment of the Gross Settlement, in exchange for the consideration set forth herein, each member of the Expense Reimbursement Class shall be deemed to have released the Released Parties from any and all claims that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the Second Amended Complaint on their behalf and arising during the Class Period, including without limitation claims under the California Labor Code, including section 2802, and the UCL based on the Labor Code; all claims related to Defendant's alleged failure to reimburse Expense Reimbursement Class Members for business expenses; and the claims for PAGA civil penalties based on the Expense Reimbursement Class Released Claims and arising during the Reimbursement PAGA Period.

16.3 Plaintiffs' General Release: Upon payment of the Gross Settlement, in exchange for the consideration set forth herein, Plaintiffs release, acquit, discharge, and covenant not to sue any of the Released Parties for any claim, whether known or unknown, which they have ever had, or hereafter may claim to have, arising on or before the date they sign this Settlement Agreement, including without limitation, any claims relating to or arising out of any aspect of their relationship with Defendant, or the termination of that relationship, any claims for unpaid compensation, wages, reimbursement for business expenses, penalties, or waiting time penalties under the California Labor Code, the California Business and Professions Code, or any state, county or city law or ordinance regarding wages or compensation; any claims for employee benefits, including without limitation, any claims under the Employee Retirement Income Security Act of 1974; any claims of employment discrimination on any basis, including without limitation, any claims under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1866, 42 U.S.C. section 1981, the Civil Rights Act of 1991, the Americans with Disabilities Act of 1991, the Family and Medical Leave Act of 1993, the California Fair Employment and Housing Act, the California Government Code; Section 503 of the Rehabilitation Act of 1973; the Fair Labor Standards Act (including the Equal Pay Act); the Employee Retirement Income Security Act; the California Family Rights Act; the California Pregnancy Discrimination Act; the California Wage Orders; the National Labor Relations Act; the Immigration Reform and Control Act; California's Occupational Safety and Health Act, or the Federal equivalent; the Worker Adjustment and Retraining Notification Act; and the Age Discrimination in Employment Act of 1967 or any other state, county or city law or ordinance regarding employment discrimination. Plaintiffs acknowledge and agree that the foregoing general release is given in exchange for the consideration provided to them under this Settlement Agreement by Defendant. However, this release shall not apply to claims for workers' compensation benefits, unemployment insurance benefits, pension or

retirement benefits, or any other claim or right that as a matter of law cannot be waived or released. Plaintiffs expressly waive any rights or benefits available to them under the provisions of Section 1542 of the California Civil Code, 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.

17. Application for Preliminary Approval Order.

17.1 After the Parties' execution of this Settlement Agreement, Plaintiffs shall file a motion for preliminary approval of the Settlement, requesting a Preliminary Approval Order that contains the following provisions:

17.1.1 Preliminarily approving the Settlement Agreement;

17.1.2 Preliminarily approving and certifying the Sales Class for settlement purposes only;

17.1.3 Preliminarily approving and certifying the Expense Reimbursement Class for settlement purposes only;

17.1.4 Approving the form of the Class Notice, and finding that the proposed method of disseminating the Class Notice meet the requirements of due process and is the best notice practicable under the circumstances;

17.1.5 Establishing the procedures and the deadline by which Class Members may assert objections to the Settlement, seek exclusion from the Settlement, and/or dispute their settlement shares;

17.1.6 Establishing a deadline for the Parties to submit papers/briefing in response to any objections and in support of final approval of the Settlement Agreement; and

17.1.7 Setting a date for the Final Approval Hearing.

18. Final Approval Order and Judgment.

18.1 If the Settlement is preliminarily approved by the Court, the Parties shall promptly, and within 120 days thereafter, request that the Court enter an order granting final approval of the Settlement and judgment based thereon ("Final Approval Order and Judgment"), which includes the following provisions:

18.1.1 Confirming certification of the Sales Class for settlement purposes only;

18.1.2 Confirming certification of the Expenses Reimbursement Class for settlement purposes only;

18.1.3 Finding that the dissemination of the Class Notice in the form and manner ordered by the Court was accomplished as directed, and met the requirements of due process; and

18.1.4 Finally approving the Settlement Agreement as fair, reasonable and adequate, and directing consummation of the Settlement in accordance with its terms and provisions;

18.1.5 Directing the Parties to implement the terms of the Settlement Agreement;

18.1.6 Releasing and discharging the Released Parties from any and all liability with respect to the Released Claims;

18.1.7 Awarding reasonable attorneys' fees and litigation costs to Class Counsel as determined by the Court;

18.1.8 Awarding Service Awards to the Class Representatives as determined by the Court;

18.1.9 Awarding Settlement Administration Costs to the Settlement Administrator as determined by the Court;

18.1.10 Approving the allocation of PAGA Penalties to the LWDA;

18.1.11 Entering final judgment on the operative Second Amended Complaint; and

18.1.12 Preserving continuing and exclusive jurisdiction over all matters related to the administration and consummation of the terms of this Settlement Agreement and enforcement of the Judgment.

19. Escalator Clause.

If the total number of Sales Class Members exceeds 340 individuals by more than 10% (i.e., more than 374), then the 80% of the Gross Settlement Amount attributable to the Sales Class Members (i.e., \$920,000) shall be increased by the same percentage by which the number of Sales Class Members exceeds 374. In the alternative, and in its sole discretion, Defendant may elect to end the Class Period on the calendar date before the number of Sales Class Members exceeds 374.

If the total number of Expense Reimbursement Class Members exceeds 584 by more than 10% (i.e., more than 642), then the 20% of the Gross Settlement Amount attributable to the Expense Reimbursement Class Members (i.e., \$230,000) shall be increased by the same percentage by which the number of Expense Reimbursement Class Members exceeds 642. In the alternative, and in its sole discretion, Defendant may elect to end the Class Period on the calendar date before the number of Expense Reimbursement Class Members exceeds 642.

20. No Admissions.

The Parties understand and agree that this Settlement Agreement is the result of a good faith compromise settlement of disputed claims, and no part of this Settlement Agreement, or the negotiations leading thereto, or any document filed in support thereof, whether or not the Settlement is finally approved and/or consummated, may be offered or should be construed as an admission of any wrongdoing by Defendant or the Released Parties.

21. Avoidance of Undue Publicity.

The Parties and their counsel agree that they will not issue any press releases, communicate to the press, media or to the public, through social media or otherwise, the settlement terms or amount. Nothing herein will restrict Class Counsel from including publicly available information regarding this settlement in future judicial submissions regarding Class Counsel's qualifications and experience.

22. Non-Disparagement

Plaintiffs agree and promise that they will not undertake any harassing or disparaging conduct directed at Releasees or any of their managers, supervisors, or employees, and that they will refrain from making any negative, detracting, derogatory, or unfavorable statements about Releasees or any of their managers, supervisors, or employees.

23. Neutral Reference

Defendant agrees to respond to any inquiries about Plaintiffs from prospective employers by providing only Plaintiffs' dates of employment and position(s) held, provided that any such inquiries are directed only to The Work Number, which is a service Defendant uses to provide neutral references for former employees. The Work Number can be reached by email or phone at: Theworknumber.com; Tel: 1-800-367-5690, Defendant employer code: 25934.

24. Construction.

This Settlement Agreement was entered into after substantial good faith, arm's-length negotiations between the Parties. This Settlement Agreement has been entered into without any coercion and under no duress. The Parties acknowledge and agree that all Parties had an equal hand in drafting this Settlement Agreement so that it will not be deemed to have been prepared or drafted by one party or another.

25. Due Authority of Attorneys.

Each of the attorneys executing this Settlement Agreement on behalf of one or more Parties hereto warrants and represents that he or she has been duly authorized and empowered to execute this Settlement Agreement on behalf of each such respective Party and to bind them to the terms hereof. The parties also warrant that this Settlement Agreement is entered into knowingly and willingly and there is no fraud, duress, or undue influence.

26. Modification or Amendment.

This Settlement Agreement may not be modified or amended except in a writing signed by all signatories hereto or their attorneys or their successors in interest.

27. Successors.

This Settlement Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and assigns, and upon any corporation, partnership or other entity into or with which any Party hereto may merge, combine, or consolidate.

28. Counterparts.

This Settlement Agreement may be executed in one or more counterparts by facsimile or electronic signature which for purposes of this Settlement Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument. Any executed counterpart shall be admissible in evidence to prove the existence and contents of this Settlement Agreement.

29. Waivers.

The waiver by any Party of any breach of this Settlement Agreement will not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

30. Governing Law.

This Settlement Agreement will be governed by and construed, enforced, and administered in accordance with the internal laws of the State of California. The parties intend for this Settlement Agreement to be admissible and binding under Code of Civil Procedure section 664.6.

31. Headings.

The headings contained in this Settlement Agreement are for convenience and reference purposes only, and will not be given weight in its construction.

32. Notices.

Any notices, requests, demands, or other communications required or permitted to be given pursuant to this Settlement Agreement, other than the contemplated Class Notice to the Class Members, must be in writing and mailed as follows:

32.1 To Class Representatives, the Class and Class Counsel to the attention of Julian Hammond, Polina Brandler, and Ari Cherniak, HammondLaw, P.C., 1201 Pacific Ave., Suite 600, Tacoma, WA, 98402; Telephone: (310) 601-6766.

32.2 To Defendant, to the attention of Collin Cook, Fisher & Phillips LLP, 1 Montgomery Street, Suite 3400, San Francisco, CA 94104; Telephone: (415) 490-9032.

33. Entire Agreement.

This Settlement Agreement (including Exhibits hereto) sets forth the entire agreement of the Parties with respect to its subject matter and supersedes any and all other prior agreements and all negotiations leading up to the execution of this Settlement Agreement, whether oral or written, regarding the subjects covered herein. The Parties acknowledge that no representations, inducements, warranties, promises, or statements relating to the subjects covered herein, oral or otherwise, have been made by any of the Parties that are not embodied or incorporated by reference herein. Except as otherwise set forth in this Settlement Agreement, any notice, order, judgment, or other exhibit that requires approval of the Court must be approved without material alteration that substantially changes or increases the cost of compliance with this

Settlement Agreement in order for this Settlement Agreement to become effective. Before invoking this provision to challenge the effectiveness of this Settlement Agreement, the invoking party shall consult with, and if necessary mediate in good faith with, the other party in an effort to resolve any such challenge.

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on behalf of the Parties, as follows:

Plaintiffs and Class Representatives

Dated: _____, 2022

By: _____

Mari Carr

Dated: November 18, 2022

By: _____

Adam Alavi
Seyed Alavi

Konica Minolta Business Solutions U.S.A., Inc.

Dated: December 5, 2022

By: _____

Stephen F. Herbes
Stephen F. Herbes
Vice President & General Counsel

APPROVED AS TO FORM:

Counsel for Plaintiffs and Proposed Class Counsel

Dated: _____, 2022

By: _____

Julian Hammond
HammondLaw, P.C.

Settlement Agreement in order for this Settlement Agreement to become effective. Before invoking this provision to challenge the effectiveness of this Settlement Agreement, the invoking party shall consult with, and if necessary mediate in good faith with, the other party in an effort to resolve any such challenge.

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on behalf of the Parties, as follows:

Plaintiffs and Class Representatives

Dated: December 1, 2022

By:


Mari Carr

Dated: _____, 2022

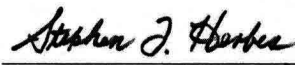
By:

Seyed Alavi

Konica Minolta Business Solutions U.S.A., Inc.

Dated: December 5, 2022

By:


Stephen F. Herbes
Vice President & General Counsel

APPROVED AS TO FORM

Counsel for Plaintiffs and Proposed Class Counsel

Dated: December 1, 2022

By:

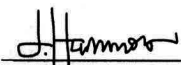

Julian Hammond
HammondLaw, P.C.

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

Carr and Alavi v. Konica Minolta Business Solutions, U.S.A., Inc.
(Alameda County Superior Court, Case No. 21CV001245)

TO: (1) All persons who worked for Konica Minolta Business Solutions, U.S.A., Inc. (“Defendant” or “KMBS”) as a Sales Representative or in a similar capacity in the State of California at any time from March 16, 2020 through [Date of Preliminary Approval] (“Sales Class Member”); and (2) All persons who worked for Defendant, including members of the Sales Class in the State of California from March 16, 2020 through [Date of Preliminary Approval] (“Expense Reimbursement Class Member”).

THIS NOTICE MAY AFFECT YOUR RIGHTS.

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice of Class Action Settlement because Defendant’s records show you are or were a Sales Class Member and/or an Expense Reimbursement Class Member and are therefore entitled to a payment from this Class Action Settlement.

On October 27, 2021, Plaintiff Mari Carr filed a class action lawsuit against Defendant. On July 15, 2022, a First Amended Complaint was filed adding a cause of action for civil penalties pursuant to the Private Attorneys General Act, Labor Code §§ 2699 et seq. (“PAGA”).

On August 9, 2022 a Second Amended Complaint was filed adding Seyed Alavi as a Plaintiff and class representative. The Second Amended Complaint alleges claims as follows: (1) on behalf of the Sales Class – failure to pay overtime, failure to provide itemized wage statements, waiting time penalties; and (2) on behalf of the Expense Reimbursement Class – failure to reimburse expenses (and is hereinafter referred to as the “Lawsuit”). Mari Carr and Seyed Alavi are jointly referred to herein as the “Plaintiffs.”

Class Counsel in this matter are Julian Hammond, Polina Brandler and Ari Cherniak of HammondLaw, P.C.

A tentative settlement of the case has been reached with Defendant. The settlement applies to the following settlement classes: “**Sales Class**” – All persons who worked for Defendant as a Sales Representative or in a similar capacity in the State of California, as reflected in Defendant’s records, at any time from March 16, 2020 through [Date of Preliminary Approval]; and (2) “**Expense Reimbursement Class**” – All persons who worked for Defendant in the State of California, including members of the Sales Class, as reflected in Defendant’s records, at any time from March 16, 2020 through [Date of Preliminary Approval] (collectively the “Class Members”). The dates from March 16, 2020 through [Date of Preliminary Approval] are referred to herein as the “Class Period.” The settlement resolves the class claims alleged in the Second Amended Complaint, as described above.

On [REDACTED], the Alameda County Superior Court granted preliminary approval of this Class Action Settlement and ordered that all Class Members be notified of the Settlement.

The Court has not made any determination of the validity of the claims in the Lawsuit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiffs or Defendant. Defendant expressly denies that it did anything wrong or that it has violated the law, and Defendant further denies any liability whatsoever to Plaintiffs or to the Class Members.

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment, and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
OPT OUT OF THE SETTLEMENT	Exclude yourself from the Settlement, get no payment other than your share of PAGA civil penalties as described below, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit.
OBJECT TO THE SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator about why you object to the settlement and they will forward your concerns to counsel, which will then be provided to the Court. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. You or your attorney may also address the Court during the Final Approval hearing scheduled for [DATE AND TIME] in Dept. 23, Administration Building of Alameda County Superior Court, 1221 Oak Street Oakland, CA 94612. You are not required to attend the Hearing, but you are welcome to do so.

Why Am I Receiving This Notice?

You were sent this Notice because you have a right to know about the proposed settlement of the Lawsuit, and about all of your options before the Court decides whether to finally approve the Settlement. If the Court approves the Settlement and then any objections and appeals are resolved, a "Settlement Administrator" appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

What Is This Case About?

Mari Carr and Seyed Alavi worked as Sales Representatives at KMBS in California. They are the "Plaintiffs" in this case and are suing KMBS on behalf of themselves and the Sales Class and the Expense Reimbursement Class for alleged violations of California's wage and hour and reimbursement laws. As it pertains to the **Sales Class** the claims are failure to pay overtime, failure to issue accurate itemized wage statements and waiting time penalties. As it pertains to the **Expense Reimbursement Class** the claims are failure to reimburse expenses. In the Lawsuit, the Plaintiffs also seek penalties under the PAGA for both classes, as well as fees and costs. Defendant denied and continues to deny all of the allegations made by Plaintiffs.

Plaintiffs and Defendant have tentatively settled this Lawsuit. The Settlement has received preliminary approval of the Court, subject to notice being provided to Class Members and final approval being given by the Court after a public hearing. The proposed Settlement is described in the next section.

As one of the Class Members, you will receive money from the proposed Settlement if the Court grants final approval. If the proposed Settlement is not approved, then the offer of settlement will be deemed withdrawn, and the case will proceed in Court as if no settlement had ever been made.

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

Summary of the Settlement Terms

Plaintiffs and KMBS have agreed to settle this case on behalf of the Sales Class and the Expense Reimbursement Class for the Gross Settlement Amount of \$1,150,000 ("Gross Settlement Amount"). The Gross Settlement Amount includes: (1) Administration Costs up to \$15,000; (2) a service payment to Plaintiff Carr of \$10,000, and a service payment to Plaintiff Alavi of up to \$7,500 (for a total of \$17,500) for their time and efforts in pursuing this case and in exchange for a general release of claims they will enter into as part of the settlement with KMBS; (3) fees of up to 35% of the Gross Settlement Amount (\$402,500) and up to \$25,000 in litigation costs to Class Counsel; and (4) payment allocated to the PAGA penalties in the amount of \$30,000 (with \$22,500 to be paid to the Labor and Workforce Development Agency ("LWDA")) and \$7,500 paid in equal shares among the Sales Class Members and Expense Reimbursement Class Members who worked during the PAGA Period (defined as April 30, 2020 to [the Date of Preliminary Approval]). After deducting these sums, a total of approximately \$660,000 will be available for distribution to Class Members ("Net Settlement Amount" or "NSA").

Distribution to Class Members

The Net Settlement Amount will be distributed as follows: [\$528,000] (approximately 80% of the NSA) shall be allocated to the Sales Class Members and shall be paid *pro-rata* based on the number of pay periods worked by a Sales Class Member during the Class Period in proportion to the pay periods worked by all Sales Class Members. [\$132,000] (approximately 20% of the NSA) shall be allocated to the Expense Reimbursement Class Members and shall be paid *pro-rata* based on the number of pay periods worked by an Expense Reimbursement Class Member during the Class Period in proportion to the pay periods worked by all Expense Reimbursement Class Members. In addition, as stated above, the \$7,500 of the PAGA penalties shall be paid in equal shares among those Sales Class Members and Expense Reimbursement Class Members who worked during the PAGA Period.

Your Estimated Settlement Award

Defendant's records also show that you [ARE/ ARE NOT] a member of the {Sales} Class and worked a total of: << **PAY PERIODS** >> during the Class Period. Your share of the Settlement allocated to the Sales Class is [\$XX.]

Defendant's records show that you [ARE/ ARE NOT] a member of the {Expense Reimbursement} Class and worked a total of: << **PAY PERIODS** >> during the Expense Reimbursement Class Period. Your share of the Settlement allocated to the Expense Reimbursement Class is [\$XX.]

Defendant's records show that [ARE/ ARE NOT] a member of the PAGA Class. Your share of the PAGA Payment is [\$7,500/ Class Size]

If you believe that the number of pay periods listed above is incorrect and wish to dispute it, you must mail a dispute to the Settlement Administrator no later than **RESPONSE DEADLINE**. Please include any documentation you have that you contend supports your dispute.

Tax Reporting

For tax reporting purposes, the monies paid to the Sales Class will be allotted 20% to wages and 80% to penalties and interest. Payments to the Expense Reimbursement Class will be allocated as non-wages. PAGA payments will be paid without payroll deductions. The Settlement Administrator will report payment of the individual Sales

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

Class and Expense Reimbursement Class Payments to all required taxing and other authorities, take appropriate withholdings, forward payments for withholdings and issue Internal Revenue Service Forms W-2 and 1099.

Please consult a tax advisor regarding the tax consequences of your Settlement Award. This notice is not intended to provide legal or tax advice on your Settlement Share.

Claims That You Are Releasing Under the Settlement

Sales Class Released Claims: If finally approved by the Court, each Sales Class Member who does not request exclusion from the Settlement will be bound by all of the terms of the Settlement, and will release KMBS from any and all claims that are alleged, or could reasonably have been alleged based on the facts and claims asserted in the Second Amended Complaint on their behalf and arising during the Class Period, including claims under Labor Code §§ 201, 202, 203, 226(a) and (e), 510, 226.7, 1194, 1194.2; IWC Wage Order No. 4-2001, §§ 3 and 4, and the UCL based on the Sales Class Released Claims; all claims related to KMBS' alleged misclassification of Sales Class Members; and claims for PAGA civil penalties based on the Sales Class Released Claims and arising during the PAGA Period.

Expense Reimbursement Class Released Claims: If finally approved by the Court, each Expense Reimbursement Class Member who does not request exclusion from the Settlement will release all claims that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the Second Amended Complaint on their behalf and arising during the Class Period, including claims under Labor Code § 2802 and the UCL based on the Labor Code § 2802 claim; all claims related to KMBS' alleged failure to reimburse Expense Reimbursement Class Members for business expenses; and the claims for PAGA civil penalties based on the Expense Reimbursement Class Released Claims and arising during the PAGA Period.

Your Options Under the Settlement

Option 1 – Do Nothing and Receive Your Payment

If you do not opt out, you are automatically entitled to your payment because you are a Class Member. If you do not dispute your pay periods calculation and do not opt out of the Settlement, you will be bound by the Settlement and receive a settlement payment. **In other words, if you are a Class Member, you do not need to take any action to receive the Settlement payment set forth above.**

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the Settlement, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name, address, telephone number, the case name and number, and the last four digits of your Social Security Number. Sign, date, and mail your written request for exclusion by U.S. First-Class Mail to:

CPT Group

The written request to be excluded from the Settlement must be postmarked or received by the Administrator no later than **[RESPONSE DEADLINE]**. If you exclude yourself from the Settlement then you will get no payment, other than your share of PAGA penalties, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit, other than your claim for PAGA civil penalties.

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

Option 3 – *File an Objection to the Settlement*

If you wish to object to the Settlement you may file an objection in writing stating why you object to the Settlement. Your objection must provide your full name, address and telephone number, the case name and number, the last four digits of your Social Security Number, and your reasons why you think the Court should not approve the Settlement. Your objection must be mailed the Administrator no later than **[RESPONSE DEADLINE]**. Please note that you cannot both object to the Settlement and exclude yourself. If the Court overrules your objection, you will be bound by the Settlement and will receive your share of the Settlement.

Final Fairness Hearing

You may, if you wish, also appear at the Final Fairness and Approval Hearing set for [REDACTED] at [REDACTED].m. in Dept 23, Administration Building, located at 1221 Oak Street Oakland, California 94612, and discuss your objections with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the Hearing at your own expense.

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may visit [www.\[REDACTED\].com](http://www.[REDACTED].com) or call the Settlement Administrator at **[PHONE NUMBER]**.

The pleadings and other records in this Lawsuit may be examined online on the Alameda County Superior Court's Website, known as 'eCourt Public Portal,' at <https://eportal.alameda.courts.ca.gov>. After arriving at the website, click the 'Search' tab at the top of the page, then select the Document Downloads link, enter the case number (21CV001245) and click 'Submit.' Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator or Class Counsel.

PLEASE DO NOT CONTACT THE COURT OR CLERK OF THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT.

Questions? Contact the Settlement Claims Administrator toll free at **[XXX-XXX-XXXX]**