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Attorney for Plaintiff
Wendy Navarro Garcia

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

WENDY NAVARRO GARCIA, on behalf of herself and all similarly situated individuals and aggrieved employees,

Plaintiff,

V.

WIDDICOMBE ENTERPRISES, INC., and
DOES 1 to 100,

Defendants.

) NO. 30-2021-01235358-CU-OE-CXC
)
) DECLARATION OF ADAM ROSE IN
) SUPPORT OF MOTION FOR
) PRELIMINARY APPROVAL
)
) Date: April 14, 2023
) Time: 1:30 p.m.
) Dept: CX103
)
)
)

I, Adam Rose, declare the following:

1. I am one of the attorneys representing the plaintiff in this matter. I have personal knowledge of the facts in this declaration, and if called on to testify about the facts I would competently do so.

2. A true and correct copy of the signed settlement agreement is attached as Exhibit A.

3. A true and correct copy of the proposed notice to class members is attached as Exhibit B.

4. A true and correct copy of the proposed opt out form is attached as Exhibit C.

5. A true and correct copy of the proposed objection form is attached as Exhibit D.

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1 6. I am uploading a copy of the settlement agreement to the LWDA portal at the same
2 time as filing the motion for preliminary approval.

3 7. As part of the analysis and work toward settlement, I participated in an all-day
4 mediation with esteemed employment law mediator Chris Barnes on December 12, 2022.

5 8. As a part of the preparation for mediation, I had the opportunity to review the
6 following informal discovery produced by Widdicombe Enterprises, Inc.:

7 a) Plaintiff's personnel file, including time and payroll records in Excel

8 b) All employee handbooks that were applicable during the Class Period

9 c) All written policies relating to the following, during the Class Period: meal
10 and rest breaks, operating the time clock, attendance and tardiness, time rounding, seating,
11 uniform paycheck deductions, work expense reimbursements

12 d) The number of Class Members, broken down into current and former
13 employees

14 e) The number of current and former Aggrieved Employees

15 f) The total number of payroll periods collectively worked by the Aggrieved
16 Employees during the PAGA Period

17 g) The total number of workweeks collectively worked by the Class Members
18 during the Class Period

19 h) Exemplar of all meal break waivers or on duty meal break agreements

20 i) 20% sampling of time records, including both rounded and unrounded time,
21 for the Class Members during the Class Period, in excel format or other native electronic
22 format.

23 j) 20% sampling of payroll records for same set of Class Members during the
24 Class Period, in excel format or other native electronic format

25 9. Subject to a protective order, Frontier Law Center engaged an economics expert to
26 review the data to prepare damages calculations.

27 10. Based on the expert's calculations, the maximum liability for each of the causes of
28 action are the following:

- 1 a) Meal break violations - \$167,929, and interest of \$33,571
- 2 b) Rest break violations - \$824,770, and interest of \$164,881
- 3 c) Regular rate (overtime) violations - \$1,750, and interest of \$368
- 4 d) Off the clock violations - \$285,666, and interest of \$81,583
- 5 e) Waiting time penalties - \$113,048
- 6 f) Wage statement penalties - \$1,218,241

7 11. Thus, the maximum exposure amount (excluding PAGA) was \$2,891,807.

8 12. For the PAGA penalties, the maximum exposure was \$6,381,061.

9 13. Thus, the total exposure for damages, interest, and all penalties, was \$9,272,868.

10 14. The unpaid wages, wage statement penalties, and PAGA penalties causes of action
11 all come with statutory attorney fees.

12 15. The settlement of \$1,200,000 represents 12.9% of the total maximum exposure.

13 16. The following discussion explains the risks with each of the causes of action and the
14 corresponding risks and reductions:

15 a) For the meal break violations, there was a risk that a rogue manager was
16 preventing rest breaks at one of the restaurants, since the data seemed to show that missed
17 meal breaks was not uniform throughout all the five locations that Defendant operates,
18 which may be why the expert found a violation rate of 5.4%. Given the possibility that that
19 meal break violations occurred at just one of the five restaurants, that would arguably
20 decrease the maximum liability by 80% (i.e., four-fifths) from \$201,500 to about \$40,300.

21 b) For the rest break violations, the risk is that rest breaks are typically not
22 recorded so statements from class members might have been required to show commonality
23 and Defendant insisted that the class members were not required to work through rest
24 breaks. This is a situation where there is a 50% chance people would say they could not
25 take rest breaks, and the other 50% would state otherwise. Thus, the maximum liability
26 would be decreased by 50% from \$989,651 to \$484,825.50.

27 c) For the regular rate violations, it is driven by documents so it would be
28 decreased only slightly. There is still a possibility that not all class members worked

1 overtime and even if they did, it did not necessarily mean their regular rate was inaccurate.
2 A reasonable assumption is about 25% of the class members worked overtime with regular
3 rate violations, evidenced by the low maximum exposure. Taking this into consideration,
4 the maximum exposure of \$2,118 would be reduced by 25% to \$1,864.50.

5 d) For the off the clock violations, the same risk as above would apply, namely
6 that there is a possibility that not all class members worked overtime off the clock. The
7 expert extrapolated from data comparing timecards to wage records, but there is a
8 possibility the extrapolation could be somewhat zealous. Assuming that about half the class
9 members worked off the clock, that would reduce the maximum liability from \$367,249 by
10 half to \$183,624.50.

11 e) The wage statement penalties depend on a finding of willfulness, as Labor
12 Code section 226, subdivision (e) states wage statement penalties apply based on a knowing
13 and intentional lack of compliance. The wage statements tended to match the recorded time
14 information, but on the other hand there can be wage statement violations when premium
15 pay for missed breaks and off the clock time is not listed on the wage statements. With the
16 maximum wage statement violation amount at \$1,218,241, this cause of action would also
17 face a 50% reduction based on the risk of a lack of willfulness. This would reduce the
18 maximum liability from \$1,218,241 to \$609,120.50.

19 f) For the waiting time penalty, of the 1,172 class members, 922 no longer work
20 for Defendant. That is 78.6 percent of the total. Thus, maximum waiting time penalty of
21 \$113,048 should be reduced by 22.4 percent to \$88,885.

22 g) For the PAGA penalties, the first concept is that under *Amaral v. Cintas*
23 *Corp. No. 2* (2008) 163 Cal.App.4th 1157, generally an employer is not liable for successive
24 penalty violations unless they are notified of the initial violations. Since Defendant was
25 apparently not notified until this case began, arguably only the initial, lower PAGA
26 penalties would apply. Also, the risks described above with the other causes of action
27 would apply, since underlying violations of the Labor Code must be shown. With the initial
28 violation framework that would reduce the maximum PAGA penalties by half, and the risk

1 that at least one of the Labor Code violations could not be proved, that would reduce the
2 maximum liability by another 20 percent of the remaining 50 percent since there were five
3 causes of action (this is an additional 10%). Thus, the maximum PAGA penalties would be
4 reduced from \$6,381,061 by 60% to \$2,552,424.40.

5 17. In sum, the settlement of \$1,200,000 is 12.9% of the maximum liability, but given
6 the above risks showing a more realistic range of provable liability at \$3,961,044.40,
7 \$1,200,000 represents 30% - both figures are within the range of reasonableness.

8 18. Also, considering the net settlement amount of \$688,500, the average recovery for
9 the class members is \$587.45; however, each class members' recovery will depend on their
10 respective number of workweeks.

11 19. Further, the selected settlement administrator, Phoenix Class Action Settlement
12 Solutions, has significant experience with third-party administration, since from initial case
13 pre-consultation and noticing through award distribution, taxing and case conclusion,
14 Phoenix Class Action Settlement Solutions provides support services to achieve the highest
15 level of outcomes; Phoenix Class Action Settlement Solutions value driven on all size cases
16 and provides management, secure data custody, neutral communication and a dedicated
17 team to maintain superior case continuity.

18 20. I am qualified to represent the class, as since I graduated from University of San
19 Francisco Law School in 1998, I have settled upwards of 250 individual employment law
20 cases, and I have also handled the following class actions from start to finish: *Ramirez v.*
21 *Arevalo Landscaping*, Los Angeles Superior Court case number BC397109; *Friedrich v. La*
22 *Vaquita Corp.*, Los Angeles Superior Court case number BC564432; *Carvalho v. Staff*
23 *Pro*, Alameda County Superior Court case number RG16812554; *Hart v. Marriott*
24 *International, Inc.*, United States District Court case number 8:17-cv-2021-JVS; *Cole v.*
25 *Saucey, Inc.*, Los Angeles Superior Court case number BC707895; *Rowe v. Laura Geller*
26 *Beauty, LLC*, United States Bankruptcy Court case number 1:18-bk-14102-MEW (New
27 York); *Rowe v. Ulta Salon, Beauty, and Cosmetics, LLC*, Sacramento Superior Court case
28 number 34-2019-00267231, *Luna et al. v. Triple Canopy, Inc.*, Santa Clara Superior Court

1 case number 19CV345169, *Smith v. Budget Rent A Car System, Inc.*, United States District
2 Court case number 2:19-cv-4720-SVW, *Shrum v. Sacramento Elite Patrol, Inc.*,
3 Sacramento Superior Court case number 34-2019-002767231, *Morris v. Blue Mountain*
4 *Enterprises, LLC*, Solano County Superior Court case number FCS035858, *Lopez v. Mac*
5 *Arthur Co.*, Riverside County Superior Court case number RIC1905043, *Diaz v. Marriott*
6 *International, Inc.*, San Diego Superior Court case number 37-2019-00044740, *Castellanos*
7 *et al. v. Southwest Patrol, Inc.*, San Diego Superior Court case number 37-2020-00024905,
8 *Inacio v. Land O' Lakes*, Merced Superior Court case number 19CV-04520, and *GSG Wage*
9 *and Hour Cases*, San Diego Superior Court case number JCCP5055.

10 21. I actively participated in and helped finalize class action settlements in the
11 following: *Arya Security Services Cases*, Orange County Superior Court case number
12 JCCP4991, *Allen v. Caine & Weiner*, Los Angeles Superior Court case number BC465806,
13 *Terry v. SHAC, LLC dba Sapphire*, Eighth Judicial District of Nevada case number A-09-
14 602800-C, *Carter v. Fantasy Castle*, Los Angeles Superior Court case number BC433666,
15 *Blunt v. Valley Ball Cabaret*, Los Angeles Superior Court case number BC380265,
16 *Lawrenz, et al. v. Blacktalon Enterprises, Inc.*, et al., Sacramento Superior Court case
17 number 34-2019-00267748, and *Stricklin, et al. v. First Alarm Security & Patrol, Inc.*,
18 Santa Clara Superior Court case number 18CV323753.

19 22. Further, I have helped to obtain preliminary approval in the following cases, and the
20 motions for final approval are set for filing: *Marroquin v. Teleferic Barcelona*, Santa Clara
21 Superior Court case number 21CV388321, and *Massey v. Hummel + Mann*, Santa Barbara
22 Superior Court case number 21CV02985.

23 23. I also helped to obtain class certification for *Van Bebber v. Dignity Health*, United
24 States District Court case number 1:19-cv-00264, and I obtained FLSA conditional
25 certification in *Aguilar v. American Paragon Protective Services*, JAMS case number
26 1110026768. Further, I obtained FLSA certification and finalized a settlement involving
27 over 300 opt-ins in *Desio v. Russell Road Food & Beverage*, United States District Court
28 case number 2:15-1440-GMN (Nevada).

1 24. I have handled and finalized settlements on the following substantial PAGA-only
2 cases: *McAfee v. Chief Protective Services*, Riverside County Superior Court case number
3 RIC1721984, *Hall v. Pirch, Inc.*, San Diego Superior Court case number 37-2016-
4 00036606, *Green v. American Guard*, Los Angeles Superior Court case number BC688437,
5 *Hernandez v. Contemporary Services Corp.*, Los Angeles Superior Court case number
6 BC684206, *McNeal v. Platinum Security Services*, Los Angeles Superior Court case
7 number 19STCV05709, *Cruz v. Holder Construction Group, LLC*, Santa Clara Superior
8 Court case number 19CV341862, *Nunes v. Westmont Living*, San Luis Obispo Superior
9 Court case number 19CV-0935, *Gibson v. Swift Transportation Co.*, United States District
10 Court case number 5:20-cv-00318-ODW, and *Katabyan v. Awesome Doughnut*, Los
11 Angeles Superior Court case number 20STCV19903.

12 25. I am not aware of any other pending matter or action asserting claims that will be
13 extinguished or adversely affected by the settlement.

14 26. Based on the above and the arguments in the motion, I strongly believe the
15 settlement is fair, reasonable, and adequate, and I respectfully request the court to grant the
16 motion for preliminary approval.

17
18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct.

20 Date: March 15, 2023

Adam Rose

Adam Rose

Exhibit A

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Wendy Navarro Garcia (“Plaintiff”) and defendant Widdicombe Enterprises, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as the “Parties,” or individually as “Party.” This Settlement Agreement shall be binding on Plaintiff, Class Members (as defined herein), the State of California as to the employment of aggrieved employees (as set forth herein) and on Defendant, subject to the terms and conditions hereof and the approval of the Court.

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Wendy Navarro Garcia v. Widdicombe Enterprises, Inc., et al.*, initiated on December 9, 2021 and pending in Superior Court of the State of California, County of Orange.
- 1.2. “Administrator” means Phoenix Class Action Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all individuals who resided in California and were employed by Defendant as non-exempt hourly employees at any time between November 22, 2020 and the date of preliminary approval or February 10, 2023, whichever occurs first (the “PAGA period”).
- 1.5. “Class” means all individuals who resided in California and were employed by Defendant as non-exempt hourly employees at any time between January 1, 2018 and the date of preliminary approval or February 10, 2023, whichever occurs first (the “Class period”).
- 1.6. “Class Counsel” means Adam Rose, and Manny Starr of Frontier Law Center.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and actual costs and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including their name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either

a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the court approved notice of class action settlement and hearing date for final approval, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from January 1, 2018 to preliminary approval, or February 10, 2023, whichever is first.
- 1.13. “Class Representative” means Wendy Navarro Garcia.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Orange.
- 1.16. “Defendant” means named Defendant Widdicome Enterprises, Inc.
- 1.17. “Defense Counsel” means Katherine DenBleyker and Samuel Knecht of Lewis Brisbois Bisgaard & Smith.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if and only if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” means the order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment entered by the Court upon granting final approval of the Settlement.

- 1.22. “Gross Settlement Amount” means \$1,200,000 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the Labor and Workforce Development Agency.
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period from November 22, 2020 to the date of preliminary approval or February 10, 2023, whichever occurs first.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, in the amount of \$100,000, 25% of which (\$25,000) shall be allocated to the Aggrieved Employees and 75% of which (\$75,000) shall be allocated to the LWDA (\$) in settlement of PAGA claims.

- 1.34. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.35. “Plaintiff” means Wendy Navarro Garcia, the named plaintiff in the Action.
- 1.36. “Preliminary Approval” means the Order Granting Preliminary Approval.
- 1.37. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.38. “Released Class Claims” means the claims being released as described in Paragraph 6.2 below.
- 1.39. “Released PAGA Claims” means the claims being released as described in Paragraph 6.3 below.
- 1.40. “Released Parties” means: Defendant and each of its former, present, and future owners, parents, and subsidiaries, and all of their current, former, and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and legal representatives.
- 1.41. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.42. "Response Deadline" means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after returned as undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline.
- 1.43. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.44. “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On December 9, 2021, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for 1) wage and hour violations, 2) meal period violations, 3) rest period violations, 4) wage statement penalties, 5) waiting time penalties, and 6) violation of the Unfair Competition Law. On March 4, 2022, Plaintiff filed a First Amended Complaint that added a seventh cause of action for PAGA Penalties. The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint.”)] Defendant denies the allegations in the Operative Complaint, denies any

failure to comply with the laws identified in in the Operative Complaint and denies all liability for the causes of action alleged.

- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff sent written notice to Defendant and the LWDA on November 19, 2021.
- 2.3. On December 12, 2022, the Parties participated in an all-day mediation presided over Chris Barnes which led to this Agreement to settle the Action.
- 2.4. Prior to mediation Plaintiff obtained, through informal discovery, sufficient documentation to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.5. The Parties represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$1,200,000 and as the Gross Settlement Amount and to separately pay all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
 - 3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff’s request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder for the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using an IRS Form 1099. Plaintiff assumes full responsibility for taxes on the Class Representative Service Payment.
 - 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 1/3 of the Gross Settlement Amount, which is currently estimated to be \$400,000, and a

Class Counsel Litigation Expenses Payment of not more than \$12,000. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility for taxes on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$14,500 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$14,500, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Members' Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Then, 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$100,000 to be paid from the Gross Settlement Amount, with 75%

(\$75,000) allocated to the LWDA PAGA Payment and 25% (\$25,000) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the Aggrieved Employees' 25% share (\$25,000) of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks. Based on a review of its records to date, Defendant estimates there are approximately 65,884 Workweeks at issue.

4.2. Class Data. Not later than 21 calendar days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 30 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will also send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator will update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator will conduct a Class Member address search for all other Class Members whose checks are returned undelivered without a USPS forwarding address. Within 7 days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to Community Legal Aid Social thereby leaving no unpaid residue as required by Code of Civil Procedure Section 384, subd. (b) ("Cy Pres Recipient"). The Parties represent that they and their counsel have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

6. RELEASE OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

6.1 Plaintiff's Release of Additional Claims and Rights. Upon the Effective Date, and as a condition of receiving any portion of the Class Representative Service Payment, Plaintiff will agree to the additional following General Release: In consideration of Defendant's promises and agreements as set forth herein, Plaintiff and her former and

present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences related to her employment or alleged employment with the Released Parties including all claims alleged in the Action, and all claims known and unknown, without exception, except as may be prohibited by law. Plaintiff's Release specifically excludes any claims or actions to enforce this Agreement, or to any claims for unemployment insurance, disability insurance, social security benefits, or workers' compensation benefits that arose at any time. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them. Specifically, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits afforded by section 1542 of the California Civil Code, which reads:

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.

6.2 Released Class Claims: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, rights, demands, liabilities and causes of action that were asserted in the Operative Complaint, or that could have arisen out of the allegations made in the Operative Complaint, for the duration of the Class Period, including but not limited to causes of action for Wage and Hour Violations, Meal Period Violations, Rest Period Violations, Wage Statement Penalties, Waiting Time Penalties, Unfair Competition, and PAGA Penalties, and any violation or breach of the California Labor Code arising from or related to the conduct alleged, including without limitation, Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 1194, 1194.2, 1197.1, and 2699, and Industrial Welfare Commission Wage Orders (including and not limited to Wage Order No. 5-2001), or any other state statute, rule and/or regulation, or similar causes of action arising from or relating to the conduct alleged.. Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

6.3 Released PAGA Claims: All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims, rights, demands, liabilities and causes of action for PAGA penalties that were asserted in the Operative Complaint and PAGA Notice, or that could have arisen out of the allegations made in the Operative Complaint and PAGA Notice, for the duration of the Class Period, including but not limited to causes of action for Wage and Hour Violations, Meal

Period Violations, Rest Period Violations, Wage Statement Penalties, Waiting Time Penalties, Unfair Competition, and PAGA Penalties, and any violation or breach of the California Labor Code arising from or related to the conduct alleged, including without limitation, Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 1194, 1194.2, 1197.1, and 2699, and Industrial Welfare Commission Wage Orders (including and not limited to Wage Order No. 5-2001), or any other state statute, rule and/or regulation, or similar causes of action arising from or relating to the conduct alleged.. Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

- 6.4 Release by Plaintiff and the State of California: Plaintiff, on behalf of the State of California and the LWDA will also release the Released PAGA Claims identified in Paragraph 6.3 of this Agreement, as well as all claims that could have been premised on the claims, causes of action or legal theories described the Operative Complaint.

7. MOTION FOR PRELIMINARY APPROVAL. Class Counsel will be responsible for drafting all documents necessary to obtain Preliminary Approval.

- 7.1 Defendant's Declaration in Support of Preliminary Approval. In advance of the Preliminary Approval Hearing, Defendant will prepare and deliver to Class Counsel a signed Declaration from Defendant and Defense Counsel disclosing any facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 7.2 Plaintiff's Responsibilities. Plaintiff will file an unopposed motion before the Court to request Preliminary Approval and will prepare all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve, its competency, operative procedures for protecting the security of Class Data, amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance, and all facts relevant to any actual or potential conflicts of interest with Class Members and/or the proposed Cy Pres Recipient, the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; and (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, [and/or] the Administrator [and/or] the proposed Cy Pres; (v) a signed declaration from Class Counsel attesting to its competency to represent the Class Members; and (vi) transmission to the LWDA of all

settlement documents. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.3 Responsibilities of Counsel. Class Counsel shall be responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement, obtaining a prompt hearing date for the Motion for Preliminary Approval, and providing the preliminary approval order to the Administrator.

7.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, the Parties will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, the Parties will expeditiously work together to modify the Agreement and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION.

8.1 Selection of Administrator. The Parties have jointly selected Phoenix Class Action Administration Solutions to serve as the Administrator.

8.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund under US Treasury Regulation section 468B-1.

8.4 Notice to Class Members.

8.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and confirm the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

8.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts.

8.4.3 Not later than 3 business days after the Administrator's receipt of any

Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

8.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

8.4.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

8.5 Requests for Exclusion (Opt-Outs).

8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

8.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including release of the Released Class Claims and Released PAGA Claims under Paragraphs 6.2 and 6.3 of this Agreement.

8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the Released PAGA Claims identified in Paragraph 6.3 of this Agreement and are still eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. However, if a Class Member timely produces evidence contrary to Defendant's records, the Administrator shall promptly notify the Parties to discuss and resolve the challenge, including providing all available relevant information to all counsel. The Parties will resolve all challenges jointly, which shall be final and binding on any Class Members disputing Workweeks, and shall thereafter instruct the Administrator how to proceed in processing the dispute. If the Parties cannot reach an agreement, challenges shall be referred to the Administrator for a determination and if the challenge remains unresolved after that, the challenge shall be submitted to the Court for final determination. All such challenges are to be submitted to the Court prior to the Final Approval Hearing, for resolution by the Court.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

8.7.2 Participating Class Members may send written objections to the Administrator, by mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who

elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

8.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

8.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8.8.1 Email Address and Toll-Free Number. The Administrator will maintain and monitor an email address and a toll-free telephone number to receive Class Member calls and emails.

8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis all Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments. The Weekly Reports must include provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

8.8.4 Workweek and/or Pay Period Challenges. The Court has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Court's decision shall be final and not appealable or otherwise susceptible to challenge.

8.8.5 Administrator's Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices,

attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration.

8.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration.

9. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, at its sole discretion, elect to withdraw from and nullify the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel of its election to withdraw no later than 30 calendar days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval").

10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ESCALATOR CLAUSE.

The settlement is based on Defendant's belief that there are approximately 65,884 workweeks at issue. If the number of workweeks is 10% or higher or 6,588 additional workweeks, then Defendant will, in its sole discretion, have the option to either: (a) have the Net Settlement Amount increase proportionally by the additional workweeks in excess of 74,473 workweeks multiplied by the per workweek value; or (b) have the cutoff date for the release period (the Class Period and PAGA Period) end on the date that the workweek total is 74,473 (10% more than the 65,884 workweeks at issue as of the mediation).

13. ADDITIONAL PROVISIONS.

13.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

13.2 Confidentiality Prior to Preliminary Approval. Plaintiff and Class Counsel agree that, other than filing the Motion for Preliminary Approval of Settlement and the Motion for Final Approval of Settlement with the Court, submission of this Agreement and other submissions required to be made to the Labor and Workforce Development Agency pursuant to PAGA, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to their attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff and Class Counsel agree not to, directly or indirectly, initiate any conversation or other communication with any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

13.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

13.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral

representations, warranties, covenants, or inducements made to or by any Party.

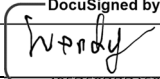
- 13.5 Attorney Authorization. Plaintiff and Defendant separately warrant and represent that they have authorized their respective counsel to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 13.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 13.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 13.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.
- 13.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.13 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

13.14 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

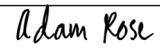
13.15 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

13.16 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 extends the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Date: 01/06/23 | 6:24 PST

DocuSigned by:

435D59DBD158459... for Plaintiff _____ for
Defendant

Date: 1/6/2023

DocuSigned by:

604F84882B60409... Counsel for Plaintiff _____ Counsel
for Defendant

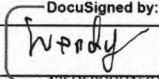
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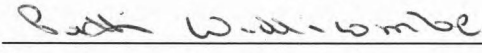
13.15 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

13.16 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 extends the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

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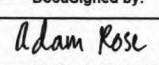
Date: 1/17/23

DocuSigned by:

435D59DBD158459...
for Plaintiff
Defendant


President
for
Widdicombe Enterprises, Inc.

Date: 1/6/2023

1.11.2023

DocuSigned by:

004F84882B00409...
Counsel for Plaintiff
for Defendant

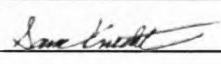

Counsel

Exhibit B

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

WENDY NAVARRO GARCIA, on behalf
of herself and all similarly situated
individuals and aggrieved employees,

Plaintiff,

v.

WIDDICOMBE ENTERPRISES, INC., and
DOES 1 to 100,

Defendants.

Case No. 30-2021-01235358-CU-OE-CXC

NOTICE OF PENDENCY OF PROPOSED CLASS ACTION SETTLEMENT

I. WHY DID I GET THIS NOTICE?

The records of Widdicombe Enterprises, Inc. (“Widdicombe”) indicate that you were employed by Widdicombe at some time between December 9, 2017 and February 10, 2023 (the “Class Period”) as a current or former non-exempt employee. This Notice explains that for settlement purposes only, the Court has granted preliminary approval of the class action settlement that may affect you. You have legal rights and options that you may exercise at this time.

II. WHAT IS THIS CLASS ACTION LAWSUIT ABOUT?

Plaintiff Wendy Navarro Garcia, a former employees who worked for Widdicombe, filed a class action and PAGA (Private Attorneys General Act) lawsuit on behalf of themselves and similarly-situated employees claiming that Widdicombe violated California labor laws by: (1) failing to pay all wages for all hours worked, including minimum, regular, overtime wages; (2) failing to provide meal periods or compensation in lieu thereof; (3) failing to provide rest breaks or compensation in lieu thereof; (4) failure to provide accurate and itemized wage statements; and (5) failing to timely pay wages owed upon termination of employment.

Widdicombe denies any wrongdoing, denies the allegations, and contends it was in full compliance with all California labor laws.

The Court has not ruled on whether the allegations have any merit. However, for the purpose of avoiding the time and expense of further litigation, the ultimate outcome of which is uncertain, and to provide a fair and reasonable resolution of this legal dispute, Plaintiff and Widdicombe have negotiated a settlement whereby Widdicombe has agreed to pay One Million Two Hundred Thousand Dollars and Zero Cents (\$1,200,000.00) to resolve the class and PAGA claims listed above. The Settlement is not an admission by Widdicombe of any liability.

III. WHO IS INCLUDED IN THIS CLASS ACTION?

The Class consists of all Widdicombe's current and former non-exempt employees who worked during the Class Period.

IV. WHAT DOES THE PROPOSED SETTLEMENT OFFER?

A. Widdicombe will pay \$1,200,000 to settle the claims. A Settlement Administrator was appointed to administer the settlement. The Settlement Administrator will first pay from the \$1,200,000: (1) PAGA allocation of \$100,000; (2) attorneys' fees up to \$400,000 plus documented costs up to \$12,000; (3) an enhancement not to exceed \$10,000 to Plaintiff for work on the claims; and (4) \$14,500 for administration expenses, which yields the Net Settlement Amount.

B. Your individual share will be based on the number of workweeks you worked for Widdicombe during the Class Period, which is calculated by dividing the Net Settlement Amount by the total number of workweeks worked by the class members during the class period and then multiplying the result by each class members' total workweeks. Please see below for your estimated share.

C. If you do not exclude yourself from the settlement as explained below, you will release Widdicombe and its parents, future parents, predecessors, successors, subsidiaries, affiliates, partners, assigns, and trusts, and all of its employees, officers, agents, attorneys, stockholders, fiduciaries, other service providers, and assigns ("Releasees") from all claims in the operative first amended complaint ("Released Claims").

V. WHAT ARE MY OPTIONS?

A. **You may accept your share of the settlement.** You will be deemed to have accepted your share of the settlement if you do not submit a timely and valid request to be excluded from the settlement as described in this Notice. In accepting your settlement share, you will waive all "Released Claims" as described above.

B. **You may accept your share of the settlement but dispute the number of your workweeks.** If you do not agree with the number of workweeks calculated for you, you should provide corrected information to Phoenix Class Action Administration Solutions, at the following address: P.O. Box 7208, Orange, California 92863, or by calling (800) 523-5773. The Settlement Administrator will read the documents both you and Widdicombe provide and make the final determination of the amount of your settlement award. Your supporting documentation must be postmarked by <<date>> to be valid. Once the dispute is resolved by the Settlement Administrator, and if the Settlement is finally approved by the Court, you will be sent a check for your Settlement Share and you will have released all "Released Claims" as described above.

C. **You may exclude yourself from the class action settlement.** If you exclude yourself from the settlement, you will no longer be a member of the Class so you will not receive any settlement money and you will not be bound by the class settlement Release. To be excluded from the settlement, you must send by mail, postmarked by <<date>>, a written letter requesting that you be excluded from the class action with your name, address, telephone number, and signature to the Settlement Administrator, Phoenix Class Action Administration Solutions, at the following address: P.O. Box 7208, Orange, CA 92863.

D. **You may object to the settlement.** If you want to object to the settlement because you find it unfair, unreasonable, or inadequate, you may do so according to the procedures set forth below in paragraph IX. By objecting, you are not excluding yourself from the settlement. If the Court approves the settlement despite your objection, you will be sent a check for your settlement share and you will be bound by the Release described above. The Court will consider the merits of all timely objections, whether the objector appears at the final fairness hearing.

VI. WHAT IS MY ESTIMATED SHARE?

Your *estimated* share is [insert estimated share]. This was calculated based on Widdicombe's records, which show you worked approximately [insert workweeks]. This amount is an estimate. The actual amount you receive may be more or less than the estimated amount shown, depending on factors including whether other class members request exclusion from the Settlement and how much the Court approves in attorneys' fees, litigation expenses, and other costs.

VII. WHAT ARE THE PROCEDURES FOR PAYMENT?

A. The Settlement Administrator will calculate your share of the settlement and issue you a check for your settlement share.

B. The settlement is allocated 20% each to wages (for which employment taxes will be deducted and W-2s issued) and 80% to interest and penalties (for which 1099s will be issued). The employer is paying the employer's share of any payroll tax.

C. You will have one hundred and eighty (180) calendar days from the date of the check's issuance to cash your settlement check. After the expiration of the 180-day period, any amounts from settlement checks that remain uncashed and otherwise unclaimed, plus any interest that has accrued on those funds, will be paid to Community Legal Aid SoCal, in accordance with Code of Civil Procedure section 384.

D. It is important for the parties to have your current address in to send you other mailings. You should contact the Settlement Administrator to report any change of your address after you receive this Notice.

VIII. HEARING ON PROPOSED SETTLEMENT

A final fairness hearing will be held in Department CX-103 of the Orange County Superior Court at 1:30 p.m. on [date], 751 W. Santa Ana Blvd., Santa Ana, CA 92701 to decide whether the proposed settlement is fair, reasonable, and adequate. You do not have to attend the hearing. Class Counsel will answer any questions the Judge may have. You may attend at your own expense.

IX. PROCEDURES FOR EXCLUSION FROM SETTLEMENT

If you wish to exclude yourself from the settlement, and payment under the Agreement, you must mail a letter to the Settlement Administrator stating that you want to be excluded from the Settlement that includes your name, address, telephone number, and signature on or before 60 days from the mailing of this Notice. The objection must be mailed to the Settlement Administrator at:

Navarro Garcia v. Widdicombe Enterprises, Inc.
c/o Phoenix Class Action Administration Solutions
P.O. Box 7208
Orange, CA 92863

X. PROCEDURES FOR OBJECTING TO SETTLEMENT

If you wish to object to the settlement as described above, you are encouraged to do two things: (1) submit an objection in writing to the Settlement Administrator stating why you object to the settlement on or before 60 days from the mailing of this Notice; and (2) formally intervene into the court action by filing separate paperwork with the Court through your own independent legal counsel or as a *pro per*.

The written objection should be mailed to the Settlement Administrator as follows:

Navarro Garcia v. Widdicombe Enterprises, Inc.
c/o Phoenix Class Action Administration Solutions
P.O. Box 7208
Orange, CA 92863

The written objection must state your full name, address, and the dates of your employment with Widdicombe. The written objection must state the basis for each objection and any legal support. The written objection also should state whether you or your lawyer plan to formally intervene in the action and intend to appear and object at the Final Approval Hearing. Class Counsel will file any objections received within 5 business days of receipt. Objectors will be provided with the opportunity to speak at the final approval hearing regardless of whether they have filed an appearance or submitted a written opposition beforehand.

If you do not timely object to the settlement and formally intervene into the court action as set forth above, you may waive your right and standing to appeal the class settlement judgment that ultimately is entered by the Court. If you send an objection and formally intervene in the action, you may come to Court and be heard, but you do not have to come to Court to talk about it. If you mail your written objection on time, the Court will consider it. You may also pay your own lawyer to attend the Final Approval Hearing. The Court will provide objectors the opportunity to speak at the Final Approval Hearing regardless of whether they have filed an appearance or submitted a written opposition beforehand.

XI. EXAMINATION OF COURT PAPERS AND INQUIRIES

This Notice summarizes the class action settlement. To obtain additional information regarding the settlement you may: (1) call the Settlement Administrator at (800) 523 5773; (2) or access the court file via the Orange County Superior Court's website at www.occourts.org.

If you have any questions or comments regarding this Notice, the claims asserted in this class action and/or your rights regarding the settlement, you may contact any of the attorneys for the Class listed below. You will not be charged for speaking with these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense. Class Counsel are:

Adam Rose
Manny Starr
Frontier Law Center
23901 Calabases Rd., Suite 2074
Calabasas, CA 91302
(818) 914-3433
manny@frontierlawcenter.com

The Settlement Agreement and, ultimately, the order giving final approval to the Settlement will be posted on the Settlement Administrator's website at www.<<insert address>>.com.

Exhibit C

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

WENDY NAVARRO GARCIA, on behalf
of herself and all similarly situated
individuals and aggrieved employees,

Plaintiff,

v.

WIDDICOMBE ENTERPRISES, INC., and
DOES 1 to 100,

Defendants.

Case No. 30-2021-01235358-CU-OE-CXC

OPT OUT FORM

MAIL OR FAX BY _____ to:

Phoenix Settlement Administrators

P.O. Box 7208

Orange, CA 92863

Telephone: (800) 523-5773

Facsimile: (949) 209-2503

COMPLETE THIS FORM ONLY IF YOU WISH TO EXCLUDE YOURSELF FROM THE
SETTLEMENT CLASS. IF YOU EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS,
YOU WILL NOT RECEIVE A PAYMENT FROM THE SETTLEMENT.

I understand that by opting out of the Class Action Settlement, I will not be eligible to receive any
money that may result from any trial or settlement of this lawsuit. I do not wish to receive
compensation under the terms of any judgment or settlement or otherwise participate in this Class
Action. I also understand that even I opt-out of this Class Action Settlement, if I am deemed an
Aggrieved Employee I will still receive an Individual PAGA Payment if I worked during the
PAGA period.

If you wish to opt out of this Class Action, please check the box below.

☐

By checking this box, I affirm that I wish to be excluded from this Class Action Settlement.

Date Signed:

Signature

Name of Class Member: _____

Street Address: _____

City State Zip Code: _____

If you have any questions about this notice, you may also contact the Settlement Administrator at:

Phoenix Settlement Administrators

P.O. Box 7208 Orange, CA 92863

Telephone: (800) 523-5773

Facsimile: (949) 209-2503

Exhibit D

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

WENDY NAVARRO GARCIA, on behalf
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DOES 1 to 100,

Defendants.

Case No. 30-2021-01235358-CU-OE-CXC

OBJECTION FORM

MAIL OR FAX BY _____ to:

Phoenix Settlement Administrators

P.O. Box 7208

Orange, CA 92863

Telephone: (800) 523-5773

Facsimile: (949) 209-2503

COMPLETE THIS FORM ONLY IF YOU WISH TO OBJECT TO THE SETTLEMENT.

Please state by typing or writing the basis for your objection below, and then return the completed objection to the settlement administrator by mailing to the above address or by fax:

Date Signed:

Signature

Name of Class Member: _____

Street Address: _____

City State Zip Code: _____
