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Attorneys for Plaintiff Jan Rodriguez

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF NAPA – HISTORIC COURTHOUSE

JAN RODRIGUEZ, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

COLLABRIA CARE, a California corporation;
and DOES 1 through 10, inclusive,

Defendants.

Case No. 21CV001788

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

1 This Stipulation of Settlement (“Stipulation” or “Settlement”) is made and entered into, as
2 of the date set forth below, between Plaintiff Jan Rodriguez, as an individual, as a representative of
3 the proposed Class described herein and as a representative of the State of California (“Plaintiff”),
4 and Defendant Collabria Care (“Defendant”), who are parties to the above-captioned litigation
5 (together, the “Parties”).

6 **1. DEFINITIONS**

7 1.1 “Action” means the above-captioned action, *Rodriguez v. Collabria Care*, Napa
8 Superior Court Case No. 21CV001788.

9 1.2 “Class Counsel” means Kane Moon, Allen Feghali, and Michael M. Citrin of
10 Moon Law Group, PC.

11 1.3 “Class Data” means a confidential spreadsheet that includes, for each Settlement
12 Class Member, their name, last known address, social security number, and number of Eligible
13 Workweeks and Eligible Pay Periods or data sufficient for the Settlement Administrator to
14 determine Eligible Workweeks and Eligible Pay Periods. The Class Data shall be based on
15 Defendant’s personnel and payroll records and provided in a format acceptable to the Settlement
16 Administrator.

17 1.4 “Class Period” means the time period December 28, 2017, through the date of
18 preliminary approval of the Settlement or to an earlier date at Defendant’s election pursuant to
19 section pursuant to section 3.2.2.

20 1.5 “Class Representative” or “Plaintiff” means Plaintiff Jan Rodriguez.

21 1.6 “Class Representative’s Released Claims” means any and all claims, obligations,
22 demands, actions, rights, causes of action, and liabilities against the Released Parties, of whatever
23 kind and nature, character, and description, whether in law or equity, whether sounding in tort,
24 contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other
25 source of law or contract, whether known or unknown, and whether anticipated or unanticipated,
26 including all unknown claims covered by California Civil Code Section 1542, by the Class
27 Representative, arising at any time up to and including the date on which the Court enters the
28 Order of Final Approval, for any type of relief, including without limitation claims for wages,

1 premium and other forms of pay, unpaid/unreimbursed costs, penalties (including waiting time
2 penalties), general damages, compensatory damages, liquidated damages, punitive damages,
3 interest, attorneys' fees, litigation and other costs, expenses, restitution, and equitable and
4 declaratory relief. The Class Representative's Released Claims also include, but are not limited
5 to, the Released Claims as well as any other claims under any provision of the Fair Labor
6 Standards Act ("FLSA"), the California Labor Code, any applicable California Industrial Welfare
7 Commission Wage Orders, any city or county Living Wage Ordinances, and claims under state or
8 federal discrimination statutes, including, without limitation, the California Government Code;
9 the Unruh Civil Rights Act, California Civil Code; the California Constitution; the California
10 Business and Professions Code, including but not limited to Sections 17200 *et seq.*; the United
11 States Constitution; the Age Discrimination in Employment Act ("ADEA") and the Older
12 Workers Benefit Protection Act; the Uniformed Services Employment and Reemployment Rights
13 Act, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.*; the Civil Rights Act of
14 1991; the Family and Medical Leave Act, to the extent not prohibited by law; the Americans with
15 Disabilities Act, 42 U.S.C. § 12101 *et seq.*; the Employee Retirement Income Security Act of
16 1974, 29 U.S.C. § 1001 *et seq.*; the Equal Pay Act; the Fair Credit Reporting Act; the Employee
17 Retirement Income Security Act of 1974; the Worker Adjustment and Retraining Notification
18 Act; the Sarbanes-Oxley Act of 2002; the California Family Rights Act; and all of their
19 implementing regulations and interpretive guidelines; any and all claims for monetary recovery
20 and personal or individual relief, except as prohibited by law; and any premiums, penalties,
21 interest, punitive damages, costs, attorneys' fees, injunctive relief, declaratory relief, or
22 accounting based on any of the foregoing claims. For the avoidance of doubt, this is a complete
23 and general release to the maximum extent by law. Notwithstanding the foregoing, the release of
24 the Class Representative's Released Claims do not include any claim or right that is not waivable
25 as a matter of law.

26 1.7 "Court" means the California Superior Court for the County of Napa.

27 1.8 "Defendant's Counsel" means Douglas Hart and Sarah Zenewicz of Morgan,
28 Lewis & Bockius LLP.

1 1.9 “Effective Date” means the date on which an order and Judgment on the
2 Settlement becomes final. For purposes of this Settlement, the final judgment “becomes final”
3 only after the Court grants the motion for final approval of the settlement and upon the latter of (i)
4 the period for filing any appeal, writ, or other appellate proceeding challenging or opposing the
5 Settlement (i.e., 60 days following entry of judgment) has elapsed without any appeal, writ, or
6 other appellate proceeding having been filed; (ii) any appeal, writ or other appellate proceeding
7 challenging or opposing the Settlement has been dismissed finally and conclusively with no right
8 to pursue further remedies or relief; or (iii) any appeal, writ or other appellate proceeding has
9 upheld the Court’s final order with no right to pursue further remedies or relief. In this regard, it
10 is the intention of the Parties that the Settlement shall not become effective, and Defendant will
11 not be obligated to fund this Settlement, until the Court’s order approving the Settlement is
12 completely final, and there is no further recourse by an appellant, objector, or intervenor who
13 seeks to contest the Settlement.

14 1.10 “Eligible Workweeks” shall mean the workweeks that each Settlement Class
15 Member worked for Defendant in California during the Class Period.

16 1.11 “Eligible Pay Periods” shall mean the pay periods that each PAGA Member
17 worked for Defendant in California during the PAGA Period.

18 1.12 “Enhancement Award” means the amount approved by the Court to be paid to the
19 Class Representative, in recognition of her efforts in coming forward as Class Representative and
20 as consideration for a full, general, and comprehensive release the Class Representative’s
21 Released Claims, which shall be in addition to her portion of the Net Settlement Amount and the
22 PAGA Payment.

23 1.13 “Final Approval Date” means the date on which the Court enters the Order of
24 Final Approval.

25 1.14 “Final Approval Hearing” means a hearing set by the Court, to take place on a date
26 established by the Court, for the purpose of (i) determining the fairness, adequacy, and
27 reasonableness of the Stipulation terms and associated Settlement pursuant to class action
28 procedures and requirements; (ii) determining the amount of the award of attorneys’ fees and

costs to Class Counsel; (iii) determining the amount of the Enhancement Award to the Class Representative; and (iv) entering the Judgment.

1.15 “Gross Settlement Amount” shall mean the amount that Defendant will pay in settlement of this matter, subject to section 3.2.2. The Gross Settlement Amount includes all awards of attorneys’ fees and costs to Class Counsel, Settlement Administration Costs, Enhancement Awards, the PAGA Settlement Payment (paid to the PAGA Members and the LWDA), and payments to the Participating Class Members.

1.16 “Individual PAGA Payment” means the individual amounts paid from the PAGA Payment to the individual PAGA Members for settlement of claims for civil penalties under PAGA.

1.17 “Individual Settlement Payment” means the settlement amount due each Participating Class Member from the Net Settlement Amount.

1.18 “LWDA” means the California Labor and Workforce Development Agency.

1.19 “LWDA PAGA Payment” means the payment to the LWDA from the PAGA Payment for settlement of claims for civil penalties under PAGA.

1.20 “Net Settlement Amount” is the portion of the Gross Settlement Amount available for distribution to the Participating Class Members, which shall equal the Gross Settlement Amount less PAGA Payment, Court-approved attorneys’ fees and costs award to Class Counsel, Settlement Administration Costs, and the Enhancement Award.

1.21 “Notice of Settlement” means the document provided to Settlement Class Members to notify them of the settlement, a copy of which is attached hereto as **Exhibit 1**.

1.22 “PAGA Members” means all current and former California non-exempt employees of Defendant during the PAGA Period.

1.23 “PAGA Payment” means the payment in settlement of all claims for PAGA penalties, 75% of which will be distributed as the LWDA PAGA Payment and 25% of which will be distributed as Individual PAGA Payments to the PAGA Members.

1 1.24 “PAGA Period” means the period from December 24, 2020, through the date of
2 preliminary approval of the Settlement or to an earlier date at Defendant’s election pursuant to
3 section 3.2.2.

4 1.25 “Participating Class Members” means the Settlement Class Members who do not
5 timely request to be excluded from the class portion of the settlement. No claim form is required
6 for a Settlement Class Member to become a Participating Class Member.

7 1.26 “Preliminary Approval Date” means the date the Court enters the Order
8 preliminary approving the Stipulation of Settlement and setting the Final Approval Hearing.

9 1.27 “Qualified Settlement Fund” means the Qualified Settlement Fund (“QSF”)
10 created under Internal Revenue Code Section 468B, to be overseen by the Settlement
11 Administrator.

12 1.28 “Released Class Claims” means all federal, state and local law claims, rights,
13 demands, liabilities, and causes of action, asserted in any of the complaints filed in the Action,
14 and all claims that could have been asserted in the Action based on the facts alleged in any of the
15 complaints filed in the Action under any federal, state or local law or arising under the Wage
16 Orders, including causes of action for (1) failure to pay minimum wages for all hours worked (2)
17 claims relating to the rounding of time; (3) claims related to the regular rate calculation; (4)
18 failure to pay overtime compensation; (5) failure to provide meal periods and pay meal period
19 premiums; (6) failure to authorize and permit rest breaks and pay rest period premiums; (7)
20 failure to indemnify necessary business expenses; (8) failure to timely pay all final wages; (10)
21 failure to provide accurate itemized wage statements; (11) unfair and unlawful competition based
22 on the Labor Code violations alleged in (1)-(10); and all claims for attorneys’ fees and costs
23 based on the foregoing, that accrue during the Class Period.

24 1.29 “Released PAGA Claims” means all claims for civil penalties under PAGA
25 asserted in any of the complaints filed in the Action, and all claims that could have been asserted
26 in the Action based on the facts alleged in any of the complaints filed in the Action and in
27 Plaintiff’s December 24, 2021 PAGA Notice in California Labor and Workforce Development
28 Agency (“LWDA”), Case No. LWDA-CM-859545-21 including, but not limited to, claims for

1 violations of the California Labor Code for (1) failure to pay minimum wages for all hours
2 worked (2) claims relating to the rounding of time; (3) claims related to the regular rate
3 calculation; (4) failure to pay overtime compensation; (5) failure to provide meal periods and pay
4 meal period premiums; (6) failure to authorize and permit rest breaks and pay rest period
5 premiums; (7) failure to indemnify necessary business expenses; (8) failure to timely pay all final
6 wages; (10) failure to provide accurate itemized wage statements.

7 1.30 “Released Parties” means Defendant and any parent, subsidiary, affiliated or
8 related entities (including any companies, corporations, partnerships, alter egos, joint venturers,
9 and actual or alleged joint employers), and each of their respective past, present and future agents,
10 employees, servants, officers, directors, partners, members, trustees, fiduciaries, representatives,
11 shareholders, stockholders, attorneys, equity sponsors, (defined as a company/corporation and/or
12 partnership that is, directly or indirectly, under common control with that Defendant or any of its
13 parents and/or affiliates), divisions, assigns, predecessors, successors, insurers, and consultants,
14 who may be liable for any of the Released Class Claims and Released PAGA Claims.

15 1.31 “Response Deadline” means forty-five (45) days after the Settlement
16 Administrator mails the Notice of Settlement to Settlement Class Members. It shall be the last
17 date on which Settlement Class Members may: (a) postmark any Opt-Out Request from the class
18 portion of the Settlement, (b) postmark any written objection to the Settlement or notice of intent
19 to appear at the Final Approval Hearing, and (c) postmark any Eligible Workweek or Eligible Pay
20 Period Dispute. The Response Deadline for Settlement Class Members to whom the Notice of
21 Settlement is remailed after having been returned as undeliverable to the Settlement
22 Administrator shall be sixty (60) calendar days after the Settlement Administrator’s initial
23 mailing of the Notice of Settlement to Settlement Class Members, or fourteen (14) days after the
24 re-mailing, whichever is later.

25 1.32 “Settlement Administration Costs” means the costs payable from the Gross
26 Settlement Amount to the Settlement Administrator for administering this Settlement in
27 accordance with the Settlement Administrator’s responsibilities outlined in this Stipulation.
28

1 1.33 “Settlement Administrator” means ILYM Group, Inc. who shall be responsible for
2 the administration of the Settlement, distribution of any amounts owed under this Settlement, and
3 matters necessarily related thereto, pursuant to the terms of this Settlement, and subject to
4 appointment by the Court.

5 1.34 “Settlement Class” or “Settlement Class Members” means all current and former
6 California non-exempt employees of Defendant during the Class Period.

7 **2. RECITALS**

8 2.1 **Background and Procedural History**

9 2.1.1 On December 24, 2021, Plaintiff submitted her PAGA Notice to the
10 LWDA, Case No. LWDA-CM-859545-21.

11 2.1.2 On December 28, 2021, Plaintiff initiated her putative class action in Napa
12 County Superior Court alleging causes of action for (1) failure to pay minimum wages; (2) failure
13 to pay overtime; (3) failure to provide meal periods; 4) failure to authorize and permit rest breaks;
14 (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at
15 termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business
16 practices.

17 2.1.3 Through substantial and extensive informal discovery, Defendant provided
18 Class Counsel with written policies and data reflecting the Settlement Class Members’ time
19 worked, pay, workweeks, pay periods, and employment status during the Class Period.

20 2.1.4 The Parties participated in a private mediation with experienced wage and
21 hour mediator Tripper Ortman on December 19, 2022. The Parties failed to reach a settlement at
22 mediation and continued negotiations after, eventually reaching an agreement on a settlement
23 through a mediator’s proposal. All terms of the settlement are contained within this Stipulation of
24 Settlement. At all times, the Parties’ settlement negotiations have been non-collusive,
25 adversarial, and at arm’s length.

26 2.2 **Benefits of Settlement**

27 2.2.1 Based on their own independent investigations and evaluations, Class
28 Counsel is of the opinion that the Settlement with Defendant for the consideration and terms set

1 forth herein, considering the representative and class claims, and the risk of loss, is fair,
2 reasonable, and adequate in light of all known facts and circumstances, and is in the best interests
3 of the Settlement Class. Class Counsel is also of the opinion that the total consideration and
4 payment set forth in this Stipulation of Settlement is adequate in light of the uncertainties
5 surrounding the risk of further litigation, the possibility of losing class certification, that the
6 PAGA claim could be deemed unmanageable, and the defenses that Defendant has asserted
7 and/or could assert as to the substantive merit of the claims.

8 2.2.2 Class Counsel has weighed the monetary benefit under the Settlement to
9 the Settlement Class against the expenses and length of continued proceedings that would be
10 necessary to prosecute the Action against Defendant through class certification, through
11 manageability motions, summary judgment, trial and possible appeals. Class Counsel has also
12 taken into account the uncertain outcome and risk of any litigation, especially in complex actions
13 such as class and representative actions, as well as the difficulties and delay inherent in such
14 litigation. As a result, Class Counsel has determined that the settlement set forth in this
15 Stipulation of Settlement is in the best interests of the Settlement Class.

16 2.2.3 Defendant and the Released Parties specifically and generally deny any and
17 all liability or wrongdoing of any sort with regard to the claims alleged, make no concessions or
18 admissions of liability of any sort, and contend that for any purpose other than Settlement, the
19 Action is not appropriate for class or representative action treatment. Nonetheless, Defendant has
20 concluded that further conduct of the Action would be protracted, distracting, and expensive, and
21 that it is desirable that the Action be fully and finally settled in the manner and upon the terms
22 and conditions set forth in this Stipulation. Defendant has also taken into account the uncertainty
23 and risks inherent in any litigation. Defendant has therefore determined that it is desirable and
24 beneficial to it to settle the Action in the manner and upon the terms and conditions set forth in
25 this Stipulation.

26 2.2.4 Neither this Stipulation of Settlement, nor any document referred to in it,
27 nor any actions taken pursuant to this Stipulation of Settlement, is or should be construed as an
28 admission by Defendant of any fault, wrongdoing, or liability whatsoever. Nor should the

1 Stipulation of Settlement be construed as an admission that Plaintiff could meet any of the class
2 action requirements or that any PAGA claim would be manageable. There has been no final
3 determination by any court as to the merits of the claims asserted by Plaintiff against Defendant,
4 as to whether a class action should be certified, or that any PAGA claim is manageable.

5 3. SETTLEMENT TERMS

6 3.1 **Conditional Class Certification.** For the purposes of the Settlement Agreement
7 only, the Parties agree to conditional certification of the Settlement Class. If, for any reason, the
8 Settlement Agreement is not approved, then the stipulation conditional certification shall be void.
9 Should the Settlement Agreement not become final, for whatever reason, the fact that the Parties
10 were willing to stipulate to class certification as part of the Settlement shall have no bearing on,
11 and shall not be admissible in connection with, the issue of whether a class should be certified in
12 a non-settlement context in the Action, and shall have no bearing on, and shall not be admissible
13 in connection with, the issue of whether a class should be certified or whether the PAGA claim is
14 manageable.

15 3.2 **Gross Settlement Amount**

16 3.2.1 Gross Settlement Amount: Defendant shall pay a non-reversionary amount
17 not to exceed One Hundred and Fifty Thousand Dollars (\$150,000) as the Gross Settlement
18 Amount to resolve the Actions on a class and representative basis, subject to section 3.2.2. The
19 Gross Settlement Amount shall be used to pay, as approved by the Court, Class Counsel's
20 attorneys' fees and costs, the Enhancement Award, Settlement Administration Costs, the PAGA
21 Payment to the LWDA and the PAGA Members, and the Individual Settlement Payments to the
22 Participating Class Members. Notwithstanding the foregoing, in addition to the Gross Settlement
23 Amount, Defendant will pay the employer's portion of payroll taxes, including FICA and FUTA,
24 on the portion of each Individual Settlement Payment allocated as unpaid wages.

25 3.2.2 Escalation of Gross Settlement Amount and Defendant Option: Plaintiff
26 relied on Defendant's representation that Defendant employed roughly one hundred forty-five
27 (145) Settlement Class Members, who worked an estimated thirteen thousand four hundred
28 (13,400) workweeks during the Class Period up to the time of the Parties' December 19, 2022

1 mediation. If the actual number of Eligible \Workweeks worked by Participating Class Members
2 during the Class Period exceeds 13,400 workweeks by ten percent (10%), meaning that the actual
3 Eligible Workweeks worked by Participating Class Members during the Class Period is greater
4 than fourteen thousand, seven hundred forty (14,740) workweeks, then Defendant shall have the
5 option to either (i) establish the end date of the Class Period as of the 14,740th workweek, which
6 shall end the Class Period and the PAGA Period, or (ii) pay additional money for the additional
7 release period commensurate with the number of workweeks that exceed 14,740 workweeks at
8 eleven dollars and nineteen cents (\$11.19) per additional workweek.

9 3.3 Allocation of Gross Settlement Amount

10 3.3.1 Class Representative Enhancement Award: Class Counsel shall seek a
11 Class Representative Enhancement Award of up to Five Thousand Dollars and Zero Cents
12 (\$5,000.00) to Plaintiff, payable to Plaintiff for Plaintiff's efforts in the Action and a general
13 release of Plaintiff's individual claims, set forth below. Plaintiff agrees to assume full
14 responsibility and liability for employee taxes owed on the Enhancement Award. Defendant shall
15 not oppose Class Counsel's request for Court approval of an Enhancement Award in the
16 foregoing amount. Any amount of the Class Representative Enhancement Award that is not
17 awarded by the Court shall be included in the Net Settlement Amount.

18 3.3.2 Attorneys' Fees and Costs: Class Counsel may apply to the Court for an
19 award of reasonable attorneys' fees not to exceed one-third of the Gross Settlement Amount,
20 \$50,000.00, and will seek an award of costs for reimbursement of Class Counsel's out-of-pocket
21 costs incurred up to an additional \$20,000.00, to be paid out of the Gross Settlement Amount.
22 Defendant reserves the right to challenge Class Counsel's requests for fees and costs if the
23 requests exceed the parameters established by this Stipulation. The Settlement Administrator
24 shall issue IRS Forms 1099 to Class Counsel for the payments made pursuant to this section.
25 Class Counsel shall be solely and legally responsible for paying all applicable taxes on their fees
26 and costs award and shall indemnify, defend, and hold the Released Parties harmless from any
27 claim or liability for taxes, penalties or interest arising as a result of any payments received by
28 Class Counsel pursuant to this Stipulation. Any amount of Class Counsel's requested fees and

1 costs that is not awarded by the Court shall be included in the Net Settlement Amount. Neither
2 Class Counsel nor any other attorneys acting for, or purporting to act for, the Settlement Class,
3 Settlement Class Members, or Plaintiff, may recover or seek to recover any amounts for fees,
4 costs, or disbursements from the Defendant or the Released Parties except as expressly provided
5 herein.

6 3.3.3 Settlement Administrator Costs: The Settlement Administration Costs
7 incurred by the Settlement Administrator as a result of the procedures and processes expressly
8 required by this Stipulation shall be paid out of the Gross Settlement Amount and are estimated
9 not to exceed \$15,000.00. Under no circumstances will Defendant be required to contribute
10 additional funds, above and in addition to the Gross Settlement Amount, to cover any unexpected
11 Settlement Administration Costs. The Settlement Administration Costs shall include: all costs of
12 administering the Settlement, including all tax document preparation, custodial fees, and
13 accounting fees incurred by the Settlement Administrator; all costs and fees associated with
14 establishing and maintaining a Qualified Settlement Fund; all costs and fees associated with
15 preparing, issuing and mailing the Notice of Settlement and other correspondence to Settlement
16 Class Members; all costs and fees associated with communicating with Settlement Class
17 Members, Class Counsel, and Defendant's Counsel; all costs and fees associated with computing,
18 processing, reviewing, and paying the payments due under this Stipulation, and resolving
19 disputed claims; all costs and fees associated with calculating tax withholdings and payroll taxes,
20 making related payment to federal and state tax authorities, and issuing tax forms relating to
21 payments made under the Settlement; all costs and fees associated with preparing any tax returns
22 and any other filings required by any governmental taxing authority or agency; all costs and fees
23 associated with preparing any other notices, reports, or filings to be prepared in the course of
24 administering payments due under this Stipulation; and any other costs and fees incurred and/or
25 charged by the Settlement Administrator in connection with the execution of its duties under this
26 Stipulation.

27 3.3.4 Individual Settlement Payments to Participating Class Members: Each
28 Participating Class Member will be entitled to receive an Individual Settlement Payment, which

1 will be paid out of the Net Settlement Amount. The amount of each Individual Settlement
2 Payment will be calculated on a pro rata basis, based on the Eligible Workweeks each
3 Participating Class Member worked during the Class Period. There is no need for a Participating
4 Settlement Class Member to submit a claim form in order to be eligible for and to receive an
5 Individual Settlement Payment. To determine each Settlement Class Member's estimated
6 "Individual Settlement Payment," the Settlement Administrator will use the following formula:
7 $\text{estimated Individual Settlement Payment} = \text{individual Eligible Workweeks} \div \text{all Settlement Class}$
8 $\text{Member Eligible Workweeks} \times \text{Net Settlement Amount}$. The Parties recognize that the
9 Individual Settlement Payments to be paid to Participating Class Members reflect settlement of a
10 dispute over claimed wages, interest, penalties, and other alleged damages.

11 3.3.5 PAGA Payment: A total amount of \$10,000 from the Gross Settlement
12 Amount will be allocated as the PAGA Payment to be paid as penalties under PAGA, seventy-
13 five percent (75%) of this amount (\$7,500) will be the LWDA PAGA Payment to paid to the
14 LWDA and the remaining twenty-five (25%) of this amount (\$2,500) shall be distributed to the
15 PAGA Members as Individual PAGA Payments. Any portion of the PAGA Payment not
16 approved by the Court shall be added to the Net Settlement Amount and any additional amount
17 ordered by the Court shall be paid from the Gross Settlement Amount. The 25% of the PAGA
18 Payment to be distributed to the PAGA Members as Individual PAGA Payments and shall be
19 distributed based on a pro rata share based on the number of Eligible Pay Periods each PAGA
20 Member worked during the PAGA Period.

21 3.4 **Taxation**

22 3.4.1 Tax Treatment of Individual Settlement Payments. All Individual
23 Settlement Payments to Participating Class Members shall be allocated as follows for tax
24 purposes: 25% of each Individual Settlement Payment reflects compromise of claims for alleged
25 unpaid wages; 75% of each Individual Settlement Payment reflects a compromise of claims for
26 alleged interest, penalties and unreimbursed expenses. The portion of the Individual Settlement
27 Payment attributable to unpaid wages will be subject to regular and/or applicable payroll and
28 income tax withholdings (for the employee portion only), and will be reported on an IRS Form

1 W-2. Participating Class Members will each indemnify and hold harmless the Released Parties
2 for any taxes due or owing by them with respect such payments and/or any penalties and interest
3 owed by the Released Parties for the failure to withhold with respect to such payments. The
4 Settlement Administrator shall make appropriate tax withholdings from the portion of each
5 Individual Settlement Payment designated as unpaid wages, and shall pay the employer portion of
6 payroll taxes with funds separate from the Gross Settlement Amount to be furnished by
7 Defendant. Participating Class Members will be responsible for paying all other taxes due on
8 their Individual Settlement Payments. Other than as set forth above, the Settlement Administrator
9 will not make any deductions, withholdings, or additional payments, including without limitation,
10 medical or other insurance payments or premiums, employee 401(k) contributions or matching
11 employer contributions, wage garnishments to the extent permitted by law, or charity
12 withholdings, from or with respect to the Individual Settlement Payments, and entry of the Order
13 of Final Approval by the Court shall be deemed authority not to make any such deductions,
14 withholdings, or additional payments.

15 3.4.2 Tax Treatment of Individual PAGA Payments: All Individual PAGA
16 Payments shall be allocated as 100% penalties, for which a 1099 will be issued if required.
17 PAGA Members will be responsible for paying all other taxes due on their Individual PAGA
18 Payments. PAGA Members will be responsible for paying all taxes due on their Individual
19 PAGA Payments. The Settlement Administrator will not make any deductions, withholdings, or
20 additional payments, including without limitation, medical or other insurance payments or
21 premiums, employee 401(k) contributions or matching employer contributions, wage
22 garnishments to the extent permitted by law, or charity withholdings, from or with respect to the
23 Individual PAGA Payments.

24 3.4.3 Circular 230 Disclaimer: Each Party to this Stipulation (for purposes of
25 this section, the “acknowledging party” and each Party to this Stipulation other than the
26 acknowledging party, an “other party”) acknowledges and agrees that (1) no provision of this
27 Stipulation, and no written communication or disclosure between or among the Parties or their
28 attorneys and other advisers, is or was intended to be, nor shall any such communication or

1 disclosure constitute or be construed or be relied upon as, tax advice within the meaning of
2 United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the
3 acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and
4 tax counsel for advice (including tax advice) in connection with this Stipulation, (b) has not
5 entered into this Stipulation based upon the recommendation of any other party or any attorney or
6 advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by
7 any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the
8 acknowledging party; and (3) no attorney or adviser to any other party has imposed any limitation
9 that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of
10 whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax
11 treatment or tax structure of any transaction, including any transaction contemplated by this
12 Stipulation.

13 **3.5 No Effect on Employee Benefits.** Neither the Settlement nor any amounts paid
14 under the Settlement will modify any previously credited hours or service under any employee
15 benefit plan, policy, or bonus program sponsored by the Released Parties. Such amounts will not
16 form the basis for additional contributions to, benefits under, or any other monetary entitlement
17 under the Released Parties' sponsored benefit plans, policies, or bonus programs. The payments
18 made under the terms of this Stipulation shall not be applied retroactively, currently, or on a
19 going forward basis, as salary, earnings, wages, or any other form of compensation for the
20 purposes of the Released Parties' benefit plans, policies, or bonus programs. The Released
21 Parties retain the right to modify the language of their benefit plans, policies and bonus programs
22 to effectuate this intent, and to make clear that any amounts paid pursuant to this Settlement are
23 not for "hours worked," "hours paid," "hours of service," or any similar measuring term as
24 defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting,
25 benefit accrual, or any other purpose, and that additional contributions or benefits are not required
26 by this Stipulation of Settlement.

27 **3.6 Releases**
28

1 3.6.1 Class Representative's Release. Except for any claims or causes of action
2 arising out of the obligations created in this MOU, if Defendant pays the Gross Settlement
3 Amount in full, then Plaintiff shall fully and finally release the Released Parties from any and all
4 claims, known and unknown, under federal, state and/or local law, statute, ordinance, regulation,
5 common law, or other source of law including, but not limited to, the Released Claims
6 ("Plaintiff's Further Released Claims"). Plaintiff's Further Released Claims include all claims,
7 whether known or unknown arising out of Plaintiff's employment relationship with Defendant, as
8 of the date the Court grants final approval of the settlement. Even if Plaintiff discovers facts in
9 addition to or different from those that Plaintiff now knows or believes to be true with respect to
10 the subject matter of Plaintiff's Further Released Claims, those claims will remain released and
11 forever barred. Thus, Plaintiff expressly waives and relinquish the provisions, rights and benefits
12 of section 1542 of the California Civil Code, which reads:

13 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
14 **THAT THE CREDITOR OR RELEASING PARTY DOES**
15 **NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
16 **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 Notwithstanding the foregoing, Plaintiff does not waive or release any claim which cannot be
18 waived or released by private agreement. Further, nothing in this Agreement shall prevent
19 Plaintiff from filing a charge or complaint with, or from participating in, an investigation or
20 proceeding conducted by the SEC, OSHA, EEOC, DFEH, NLRB or any other federal, state or
21 local agency charged with the enforcement of any employment or other applicable laws.
22 Plaintiff, however, understands that by signing this MOU, Plaintiff waives the right to recover
23 any damages or to receive other relief in any claim or suit brought by or through the EEOC, the
24 DFEH or any other state or local deferral agency on their behalf to the fullest extent permitted by
25 law, but expressly excluding any monetary award or other relief available from the SEC/OSHA,
26 including an SEC/OSHA whistleblower award, or other awards or relief that may not lawfully be
27 waived.
28

1 3.6.2 Participating Class Member Release. If Defendant pays the Gross
2 Settlement Amount in full, then all Participating Class Members shall fully and finally release the
3 Released Parties from the Released Class Claims.

4 3.6.3 PAGA Member Release. If Defendant pays the Gross Settlement Amount
5 in full, then Plaintiff, as a representative of the State of California and on behalf of the LWDA
6 and as a representative of the PAGA Members, shall fully and finally release the Released Parties
7 from the Released PAGA Claims.

8 **4. APPROVAL OF SETTLEMENT, NOTICE TO CLASS AND ADMINISTRATION**

9 **4.1 Preliminary Approval**

10 4.1.1 Class Counsel shall submit to the Court this Stipulation of Settlement and
11 exhibits thereto for preliminary approval by the Court. Class Counsel will prepare and file the
12 motion for preliminary approval and supporting papers for the Court, subject to Defendant's prior
13 review and approval. Plaintiff will provide the motion for preliminary approval to Defendant for
14 its review and approval at least seven days before filing.

15 4.1.2 Pursuant to California Labor Code § 2699(l), concurrently with the filing
16 of the motion for preliminary approval, Plaintiff will provide notice of the proposed Settlement to
17 the LWDA.

18 4.1.3 The Court's preliminary approval of this Settlement shall be embodied in
19 an order certifying the Class for settlement purposes only, preliminarily approving the Settlement
20 and providing for Notice of Settlement to be mailed to the Class in materially the same format
21 attached hereto as **Exhibit 1**, and which will also set the date for the Final Approval Hearing.
22 The Notice of Settlement shall advise Settlement Class Members of their options, which include
23 filing an Opt-Out Request to the class settlement; filing an objection to the Settlement and
24 receiving an Individual Settlement Payment and an Individual PAGA Payment (if applicable); or
25 taking no action and receiving an Individual Settlement Payment and an Individual PAGA
26 Payment (if applicable).

27 **4.2 Notice**

1 4.2.1 Delivery of Class Data: No later than twenty-one (21) calendar days after
2 the Preliminary Approval Date, Defendant shall provide the Class Data to the Settlement
3 Administrator. The Settlement Administrator shall maintain the Class Data, and all data
4 contained within the Class Data, as private and confidential and shall not disclose such data to
5 any persons or entities, unless otherwise required by law. The information in the Class Data is
6 being supplied solely for purposes of the administration of the settlement and cannot be used by
7 the Settlement Administrator or any agent or representative of the Settlement Administrator for
8 any other purpose. Upon receipt of the Class Data, the Settlement Administrator shall check with
9 the U.S. Postal Service National Change of Address Database and update any addresses for the
10 Settlement Class Members.

11 4.2.2 Notice By First-Class Mail. Within twenty-one (21) calendar days of the
12 receipt of the Class Data, the Settlement Administrator will send via United States first class mail
13 the Notice of Settlement to the Settlement Class Members in both English and Spanish. If any
14 Notice of Settlement is returned to the Settlement Administrator as undeliverable, the Settlement
15 Administrator shall run a skip-trace using that Settlement Class Member's social security number
16 in an effort to attempt to ascertain the current address of the Settlement Class Member. If such an
17 address(es) is ascertained, the Settlement Administrator shall re-mail the Notice of Settlement
18 within ten (10) calendar days. If alternative addresses are obtained for a Settlement Class
19 Member, the Settlement Administrator shall send the Notice of Settlement to up to two (2)
20 alternative addresses.

21 4.3 **Opt-Out Requests**

22 4.3.1 Settlement Class Members, except for the Class Representative, will have
23 until the Response Deadline within which to opt out of the class portion of this Settlement;
24 however, exercising this option has no effect on the PAGA portion of this settlement, PAGA
25 Members will be mailed an Individual PAGA Payment and be bound by the release of the
26 Released PAGA Claims regardless of whether they opt out of the class settlement. Settlement
27 Class Members who want to opt out must timely submit a signed and dated written request to be
28 excluded from the class portion of the Settlement to the Settlement Administrator ("Opt-Out

Request”). The Opt-Out Request must be postmarked on or before the Response Deadline, include the case name and number, the Settlement Class Member’s name, address, must be signed by the Settlement Class Member, and must reasonably communicate the Settlement Class Member’s election to be excluded from the class Settlement.

4.3.2 Settlement Class Members who do not timely submit an executed Opt-Out Request shall be deemed a Participating Class Member and bound by this Settlement including the Participating Class Member Release. Settlement Class Members who timely submit an executed Opt-Out Request will not be bound by the Participating Class Member Release and will not receive an Individual Settlement Payment. The Notice of Settlement shall advise Settlement Class Members of their ability to opt-out of the class portion of the Settlement and of the consequences thereof, and further inform them that they cannot opt out of the PAGA settlement. Neither the Parties nor any of their counsel will solicit, encourage, counsel or advise any Settlement Class Member to submit an Opt-Out Request.

4.3.3 If a Settlement Class Member submits both an Opt-Out Request and an Objection within the Response Deadline, then the Opt-Out Request will be deemed valid and the Objection invalid and the individual will not be deemed a Participating Class Member.

4.4 **Objections.** Participating Class Members, except for the Class Representative, may object to the Settlement in person at the Final Approval Hearing and/or in writing. Participating Class Members, except for the Class Representative, will have until the Response Deadline to mail to the Settlement Administrator a written objection to the Settlement and/or a notice of intent to appear at the Final Approval Hearing. Only Settlement Class Members who have not filed an Opt-Out Request (i.e., Participating Class Members) may object to the Settlement. The written objection should state the Participating Class Member’s name and address and describe the reason(s) why the Participating Class Member objects to the Settlement and include or attach any documents upon which the objection is based. The Parties and their counsel will not solicit, encourage, counsel or advise any individual to object to the Settlement.

4.5 **Eligible Workweek and Eligible Pay Period Disputes.** Participating Class Members and PAGA Members may dispute their Eligible Workweeks and Eligible Pay Periods if

1 they believe they worked for more Eligible Workweeks or Eligible Pay Periods in the Class
2 Period or PAGA Period than stated on their Notice of Settlement. Participating Class Members
3 and PAGA Members may do this by submitting information to the Settlement Administrator in
4 writing no later than the Response Deadline. The Settlement Administrator will jointly work with
5 Class Counsel and Defendant's Counsel to resolve the dispute in good faith. If the Parties cannot
6 agree on the Eligible Workweeks or Eligible Pay Periods to be credited to that Participating Class
7 Member or PAGA Member, the Court shall make the final decision based on the information
8 presented by the individual and the Parties.

9 **4.6 Certification Reports by the Settlement Administrator.** The Settlement
10 Administrator will, on a weekly basis during and for a reasonable period following distribution of
11 the Notice of Settlement, provide updates to Class Counsel and Defendant's Counsel as to the
12 number of persons in the Settlement Class who submitted (i) valid Opt-Out Requests; (ii) written
13 Objections, and (iii) Eligible Workweeks or Eligible Pay Period disputes. All written objections
14 shall be provided to the Parties' counsel within 2 days of receipt by the Settlement Administrator.
15 To the extent practicable, the weekly updates shall also provide updated data on the extent of
16 Notices of Settlement that are returned undeliverable and any re-mailing efforts.

17 **4.7 Nullification of Settlement.** Defendant shall have the sole right to void and
18 withdraw from this Settlement if at any time prior to the Final Approval Date: (a) five percent
19 (5%) or more of all Settlement Class Members submit timely and valid Opt-Out Requests; or (b)
20 the Settlement is construed in such a fashion that Defendant would be required to pay more than
21 the Gross Settlement Amount, exclusive of Defendant's share of the employer payroll taxes,
22 subject to section 3.2.2; or (c) the Court does not certify the Settlement Class, or does not certify a
23 class releasing all of the Released Class Claims defined in this Stipulation, or does not approve
24 the PAGA settlement including the release of the Released PAGA Claims, or otherwise makes an
25 order inconsistent with any of the material terms (as determined by Defendant) of this Settlement;
26 (d) any pending litigation or litigation filed prior to the Final Approval Date in any way prevents
27 the Settlement from being preliminarily or finally approved by the Court; or (e) Plaintiff or Class
28 Counsel materially breach the Settlement.

1 **4.8 Final Approval and Entry of Final Judgment**

2 4.8.1 Prior to the Final Approval Hearing, Plaintiff will move the Court for entry
3 of an “Order of Final Approval” and associated entry of Judgment: (a) certifying the Settlement
4 Class for Settlement purposes only, (b) finding the Settlement fair, reasonable, adequate, and in
5 the best interests of the Participating Class Members, (c) approving the PAGA Payment to the
6 LWDA and the PAGA Members, (d) approving Class Counsel’s application for an award of
7 attorneys’ fees and costs, (e) approving the Class Representative’s application for an
8 Enhancement Award, (f) approving the payment of reasonable Settlement Administration Costs,
9 and (g) releasing and barring any further Released Class Claims by Participating Class Members
10 and Released PAGA Claims by or on behalf of the PAGA Members. Plaintiff will provide the
11 motion for final approval to Defendant for its review and approval at least seven days before
12 filing. The Parties and their respective counsel shall make all reasonable efforts to secure entry of
13 the Order of Final Approval. The proposed Order of Final Approval and the associated proposed
14 Judgment shall be filed with the Court with the motion for final approval, or as otherwise directed
15 by the Court.

16 4.8.2 Class Representative and Class Counsel shall be responsible for justifying
17 the amount of the Enhancement Award and attorneys’ fees and costs to the Court, and they agree
18 to submit, as appropriate, the necessary materials to justify these payments. If the Court (or any
19 appellate court) awards less than the amount requested for attorneys’ fees and/or costs, or less
20 than the amount requested for the Enhancement Award for the Class Representative, only the
21 awarded amounts shall be paid and shall constitute satisfaction of the obligations of Defendant
22 under this Stipulation.

23 4.8.3 If an appeal results in an order materially modifying, setting aside, or
24 vacating any portion of the Stipulation, with the exception of any modification of the amount of
25 attorneys’ fees or costs to be paid to Class Counsel, or the amount of the Enhancement Award
26 paid to the Class Representative, each party adversely impacted by the order shall have the right
27 to treat such order as an event preventing Final Approval. To exercise this right, the party must
28 inform the other party and the Settlement Administrator, in writing, of the exercise of this right,

1 within ten (10) calendar days of receiving notice of any order modifying, setting aside, or
2 vacating any portion of the Stipulation. Before any Party elects to exercise its right to treat such
3 order as an event permanently preventing Final Approval, that Party must meet and confer in
4 good faith with the other Party to determine if an agreement can be reached modifying this
5 Settlement to the mutual satisfaction of the Parties.

6 4.8.4 If the Final Approval does not occur, or if this Stipulation is terminated or
7 canceled pursuant to its terms, the Parties to this Stipulation shall be deemed to have reverted to
8 their respective status as of the date and time immediately prior to the execution of this
9 Stipulation. In such an event, if the Stipulation is not approved by the Court substantially in the
10 form agreed to by the Parties, or if the Settlement set forth in the Stipulation is terminated,
11 cancelled, declared void, or fails to become effective in accordance with its terms, or if the
12 Judgment does not become a Final Judgment, or if the Effective Date does not occur, this
13 Stipulation (except for those provisions relating to non-admission, denial of liability set forth
14 herein, and the confidentiality agreements entered into by the Parties) shall be deemed null and
15 void, its terms and provisions shall have no further force and effect and shall not be used in this
16 Actions or in any other proceeding for any purpose, and any Judgment or order entered by the
17 Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*.
18 Notwithstanding any other provision of this Stipulation, no order of the Court, or modification or
19 reversal on appeal of any order of the Court, reducing the amount of any attorneys' fees or costs
20 to be paid by Defendant to Class Counsel, or reducing the amount of the Enhancement Award
21 paid to the Class Representative, shall constitute grounds for cancellation or termination of the
22 Stipulation, or grounds for limiting any other provision of the Judgment.

23 **4.9 Funding and Distribution of the Settlement Proceeds**

24 4.9.1 Within twenty-one (21) calendar days after the Effective Date, Defendant
25 shall pay the Gross Settlement Amount into the Qualified Settlement Fund set up, held, and
26 controlled by the Settlement Administrator.

27 4.9.2 Within fourteen (14) calendar days after Defendant funds the Qualified
28 Settlement Fund, the Settlement Administrator shall issue Individual Settlement Payments to

1 Participating Class Members, Individual PAGA Payments to the PAGA Members, the LWDA
2 PAGA Payment to the LWDA, the Court-approved attorneys' fees and costs to Class Counsel,
3 and the court-approved Enhancement Award to Class Representative.

4 4.9.3 The Settlement Administrator shall keep counsel for the Parties apprised of
5 all distributions from the Qualified Settlement Account and upon completion of administration of
6 that portion of the Settlement, the Settlement Administrator shall provide written certification,
7 under penalty of perjury, of such completion to the Court and counsel for all Parties.

8 4.9.4 Upon completion of administration of the Settlement, the Settlement
9 Administrator shall provide written certification, under penalty of perjury, of such completion to
10 the Court, Class Counsel and Defendant's Counsel.

11 4.10 **Uncashed Checks.** After one hundred and eighty (180) calendar days of issuance,
12 funds from undeposited Individual Settlement Payment and Individual PAGA Payment checks
13 will be held by the Settlement Administrator. Even if a Participating Class Member or PAGA
14 Member does not cash or deposit his or her settlement payment check(s) within one-hundred
15 eighty (180) calendar days of issuance, the Stipulation of Settlement, including its release, will be
16 binding on that Participating Class Member or PAGA Member. After the 180 days has expired,
17 the Settlement Administrator shall void the uncashed settlement checks and the amount of the
18 uncashed settlement payments shall be transmitted to the State of California, to be held and
19 disposed of by the Controller in accordance with California's Unclaimed Property Law for the
20 benefit of the Participating Class Members and PAGA Members who did not cash the settlement
21 checks until such time that they claim their property. The Parties agree that this disposition
22 results in no "unpaid residue," as the entire Net Settlement Amount will be paid out to
23 Participating Class Members, whether or not they timely cash their Individual Settlement
24 Payments.

25 5. MISCELLANEOUS PROVISIONS

26 5.1 **This Settlement is Fair, Adequate and Reasonable.** The Parties believe this
27 Settlement is a fair, adequate and reasonable settlement of the Actions and have arrived at this
28

1 Settlement in arms-length negotiations, taking into account all relevant factors, present and
2 potential.

3 **5.2 Invalidity of Any Provision.** Before declaring any provision of this Stipulation
4 invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible
5 consistent with applicable precedents so as to define all provisions of this Stipulation valid and
6 enforceable. Should the Court deem any clause or provision of this Stipulation be invalid, illegal,
7 or unenforceable, it shall first attempt to modify or reform it as minimally necessary to be valid,
8 lawful, and enforceable.

9 **5.3 No Admission.** Neither the acceptance nor the performance by Defendant of the
10 terms of this Stipulation, nor any of the related negotiations or proceedings, is or shall be claimed
11 to be, construed as, or deemed to be, an admission by Defendant of the truth of any of the
12 allegations in the Complaint, the representative character of the Actions, the validity of any of the
13 claims that were or could have been asserted by Plaintiff, Settlement Class Members and/or
14 PAGA Members in the Actions, or of any liability or guilt of Defendant or the Released Parties in
15 the Actions. Nothing in this Stipulation shall be construed to be or deemed an admission by
16 Defendant of any liability, culpability, negligence, or wrongdoing toward Plaintiff, Settlement
17 Class Members, PAGA Members or any other person, and Defendant specifically disclaims any
18 liability, culpability, negligence, or wrongdoing toward Plaintiff, Settlement Class Members,
19 PAGA Members and any other person. Each of the Parties has entered into this Stipulation with
20 the intention to avoid further disputes and litigation with the attendant inconvenience, expenses,
21 and contingencies.

22 **5.4 Cooperation.** The Parties agree to cooperate fully with one another to accomplish
23 and implement the terms of this Settlement. Such cooperation shall include, but not be limited to,
24 execution of such other documents and the taking of such other action as may reasonably be
25 necessary to fulfill the terms of this Settlement. The Parties to this Settlement shall exercise
26 reasonable efforts, including all efforts contemplated by this Settlement and any other efforts that
27 may become necessary by Court order, or otherwise, to effectuate this Settlement and the terms
28 set forth herein.

1 **5.5 Privacy of Documents and Information.** Plaintiff and Class Counsel agree that
2 none of the documents and information provided to them by Defendant in connection with the
3 Actions and this Settlement shall be used for any purpose (including in any other litigation) other
4 than this Settlement of the Actions.

5 **5.6 Notices.** Unless otherwise specifically provided herein, all notices, demands, or
6 other communications given hereunder shall be in writing and shall be deemed to have been duly
7 given as of the third business day after mailing by United States certified mail, return receipt
8 requested, addressed as follows:

9 **To the Class Counsel:**

10 Kane Moon
11 Allen Feghali
12 Michael M. Citrin
13 MOON LAW GROUP, PC
14 1055 W. Seventh St., Suite 1880
15 Los Angeles, California 90017

16 **To Defendant:**

17 Douglas R. Hart
18 Morgan, Lewis & Bockius LLP
19 300 South Grand Avenue
20 Twenty-Second Floor
21 Los Angeles, CA 90071-3132
22
23 Sarah Zenewicz
24 Morgan, Lewis & Bockius LLP
25 One Market, Spear Street Tower
26 San Francisco, California 94105-1126

27 **5.7 Drafting.** The Parties hereto agree that the terms and conditions of this
28 Stipulation of Settlement are the result of lengthy, intensive, arm's-length negotiations between
the Parties and that this Stipulation shall not be construed in favor of or against any party by
reason of the extent to which any party or its counsel participated in the drafting of this
Stipulation.

5.8 Publicity. Neither Plaintiff nor Class Counsel shall issue any press release or
announcement of any kind related in any way to the settlement. Plaintiff and Class Counsel agree
that, prior to seeking preliminary approval of the settlement, they will keep the terms of the

1 settlement confidential. From and after preliminary approval of the settlement, Plaintiff and Class
2 Counsel may: (1) as required by law; (2) as required under the terms of the settlement; or (3) as
3 required under counsel's duties and responsibilities as class counsel, comment regarding the
4 specific terms of the settlement. In all other cases, Plaintiff and Class Counsel agree to limit their
5 statements regarding the terms of the settlement, whether oral, written or electronic (including the
6 world wide web), to say the Action has been resolved and that Plaintiff and Class Counsel are
7 satisfied with the settlement terms. Nothing in this Paragraph is intended to interfere with Class
8 Counsel's duties and obligations to faithfully discharge their duties as Class Counsel, including
9 but not limited to, communicating with Settlement Class Members regarding the Settlement, and
10 nothing shall prohibit Class Counsel from referring to the Settlement in adequacy of counsel
11 declarations or related court filings.

12 **5.9 Neutral reference for Class Representative.** Plaintiff shall direct any inquiries
13 by any future employers to Defendant's human resources department, which shall provide only:
14 (1) Plaintiff's employment dates and job title(s) and responsibilities while employed; and (2)
15 Plaintiff's pay rates during Plaintiff's employment.

16 **5.10 No Exclusion by Class Representative.** The Class Representative, by signing
17 this Stipulation, is bound by the terms herein and further agrees not to request to be excluded
18 from the Settlement and not to object to any terms of this Stipulation. Any such request for
19 exclusion or objection shall therefore be void and of no force or effect. Class Counsel and the
20 Class Representative waive any right to file any challenge to the terms of this Stipulation.

21 **5.11 Modification.** This Stipulation may not be changed, altered, or modified, except
22 in writing signed by the Parties hereto and approved by the Court. This Stipulation may not be
23 discharged except by performance in accordance with its terms or by a writing used by the Parties
24 hereto.

25 **5.12 Binding on Successors.** This Stipulation shall be binding upon and inure to the
26 benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
27 successors, and assigns.
28

5.13 **Execution in Counterparts.** This Stipulation shall become effective upon its execution by all of the undersigned. The Parties may execute this Stipulation in counterparts, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.

5.14 **Jurisdiction.** The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Stipulation, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation. Any action to enforce this Stipulation shall be commenced and maintained only in the Court.

5.15 **Headings.** Paragraph titles or captions contained in the Stipulation are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Stipulation, or any provision thereof.

IN WITNESS WHEREOF, this Stipulation of Settlement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

AGREED AND UNDERSTOOD.

Dated: 8/31/2023, 2023

PLAINTIFF JAN RODRIGUEZ

DocuSigned by:

Jan Westcott Rodriguez

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Jan Rodriguez

Dated: _____, 2023

DEFENDANT COLLABRIA CARE

Cearstian Smith

Chief Human Resources Officer

APPROVED AS TO FORM:

MOON LAW GROUP, PC

Dated: 09/07/2023, 2023

By: _____

Kane Moon
Kane Moon
Allen Feghali
Counsel for Plaintiff

5.13 **Execution in Counterparts.** This Stipulation shall become effective upon its execution by all of the undersigned. The Parties may execute this Stipulation in counterparts, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.

5.14 **Jurisdiction.** The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Stipulation, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation. Any action to enforce this Stipulation shall be commenced and maintained only in the Court.

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IN WITNESS WHEREOF, this Stipulation of Settlement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

AGREED AND UNDERSTOOD.

Dated: _____, 2023 PLAINTIFF JAN RODRIGUEZ

August 25, 2023 | 5:05 PM EDT

Jan Rodriguez

Dated: _____, 2023 DEFENDANT COLLABRIA CARE

DocuSigned by:

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Cearstian Smith

Chief Human Resources Officer

APPROVED AS TO FORM:

MOON LAW GROUP, PC

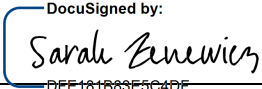
Dated: _____, 2023

By: _____

Kane Moon
Allen Feghali
Counsel for Plaintiff

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MORGAN, LEWIS & BOCKIUS LLP

Dated: August 25, 2023 | 7:21 PM EDT, 2023 By: 
Douglas R. Hart
Sarah Zenewicz
Counsel for Defendant

5.13 **Execution in Counterparts.** This Stipulation shall become effective upon its execution by all of the undersigned. The Parties may execute this Stipulation in counterparts, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.

5.14 **Jurisdiction.** The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Stipulation, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation. Any action to enforce this Stipulation shall be commenced and maintained only in the Court.

5.15 **Headings.** Paragraph titles or captions contained in the Stipulation are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Stipulation, or any provision thereof.

IN WITNESS WHEREOF, this Stipulation of Settlement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

AGREED AND UNDERSTOOD.

Dated: _____, 2023 PLAINTIFF JAN RODRIGUEZ

August 25, 2023 | 5:05 PM EDT

Jan Rodriguez

Dated: _____, 2023 DEFENDANT COLLABRIA CARE

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Cearstian Smith

Chief Human Resources Officer

APPROVED AS TO FORM:

MOON LAW GROUP, PC

Dated: _____, 2023

By: _____

Kane Moon
Allen Feghali
Counsel for Plaintiff

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MORGAN, LEWIS & BOCKIUS LLP

Dated: _____, 2023

By: _____
Douglas R. Hart
Sarah Zenewicz
Counsel for Defendant

EXHIBIT 1

Jan Rodriguez v. Collabria Care
Napa County Superior Court Case No. 21CV001788

*A court has authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
Your legal rights are affected whether you act or do not act.*

NOTICE OF CLASS AND PAGA ACTION SETTLEMENT

To: All current and former California non-exempt employees of Collabria Care (“Defendant”), who worked at any time between December 28, 2017, and _____ (the “Settlement Class”).

SETTLEMENT CLASS MEMBERS ARE ELIGIBLE TO RECEIVE PAYMENT FROM THE CLASS SETTLEMENT AND MAY ALSO BE ELIGIBLE TO RECEIVE PAYMENT FROM THE PAGA SETTLEMENT DESCRIBED IN THIS NOTICE.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	To receive a settlement payment, you do not need to do anything. Your payment will be mailed to you, automatically, after the Court grants final approval to the settlement. <i>You must, however, keep a current address on file with the Settlement Administrator to ensure receipt of your check.</i>
CHANGE CONTACT AND ADDRESS INFORMATION	Update your address with the Administrator to ensure your check is sent to the correct address.
EXCLUDE YOURSELF FROM THE CLASS SETTLEMENT	If you do not want to participate in the class settlement, you may exclude yourself (“opt out”) of the class portion of the settlement. If you exclude yourself from the class settlement, then you will not receive any payment from the Net Settlement Amount (defined below). This is the only option that allows you to pursue your own claims (in your own lawsuit) against Defendant about the legal claims in this case. However, if you are a PAGA Member (defined below), then even if you exclude yourself from the class settlement, you will still receive a portion of the PAGA settlement and will be bound by the release of PAGA claims.
OBJECT IN WRITING	Write to the Court if you think the settlement is not fair.
OBJECT AT A HEARING	Ask to speak in Court about why you think the settlement is not fair.

- **YOUR RIGHTS AND OPTIONS – AND THE DEADLINES TO EXERCISE THEM – ARE EXPLAINED IN THIS NOTICE.**
- **DEFENDANT WILL NOT RETALIATE IN ANY MANNER AGAINST ANY SETTLEMENT CLASS MEMBER FOR PARTICIPATING OR NOT PARTICIPATING IN THIS SETTLEMENT.**

BACKGROUND ON THE LAWSUIT

1. **What is this Notice about?**

The purpose of this Notice is to inform you of the settlement a class and PAGA action filed in Napa County Superior Court on behalf of all current and former California non-exempt employees of Defendant.

Plaintiff Jan Rodriguez initiated this lawsuit on December 28, 2021, by filing a Class Action Complaint in Napa County Superior Court. The operative First Amended Complaint alleges causes of action for (1) failure to pay minimum wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods; (4) failure to authorize or permit rest breaks; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; (8) unfair business practices; and (9) civil penalties under the California Private Attorneys General Act (“PAGA”).

Defendant denies all allegations in the Action and contends that it has fully complied with federal, state and local wage and hour laws. The settlement is not an admission of any wrongdoing by Defendant or an indication that any law was violated or that this case was suitable for class or representative treatment.

On December 19, 2022, Plaintiff and Defendant attended a private mediation with an experienced wage and hour mediator. Through arms-length negotiations at and after the mediation, the Parties reached a class and PAGA settlement subject to Court approval, which is summarized in this Notice.

2. **Why did I get this Notice?**

You received this Notice because Defendant’s records identify you as a Settlement Class Member during the period between December 27, 2017, and _____ (the “Class Period”). The Settlement will resolve Settlement Class Members’ claims, summarized above, during the Class Period. The Settlement will also resolve claims for civil penalties under PAGA. You may also be a “PAGA Member” if you worked for Defendant during the period from December 24, 2020, through _____ (the “PAGA Period”).

The purpose of this notice is to explain the Action, the pending Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the Action is the California Superior Court for Napa County, and the Action is known as *Jan Rodriguez v. Collabria Care*, Case No. 21CV001788. The Court held a hearing on _____, 2023, and the Judge Cynthia P. Smith preliminarily approved this Settlement and directed that you and the rest of the Settlement Class receive this Notice.

The Court will hold a Final Approval hearing concerning the Settlement on _____, 2023 at _____, in Napa County Superior Court, Department A, Historic Courthouse, 825 Brown Street, Napa, California 94559. The Final Approval Hearing may be continued to another date without further notice.

3. **Why is there a settlement?**

The Court has not decided in favor of Plaintiff or Defendant or made any decision as to whether this case could proceed to a trial on a class or representative basis. There was no trial, nor has the Court made any decisions on the merits. Instead, both sides agreed to a no-fault settlement of the Action after engaging in arms-length negotiations through a private mediation.

4. **Who are the Attorneys for the Settlement Class and the PAGA Members?**

The Court has appointed Class Counsel to represent the Settlement Class and the PAGA Members in connection with this Settlement, Moon Law Group, PC, 1055 West Seventh Street, Suite 1880, Los Angeles, CA 90017 (213) 232-3128.

THE TERMS OF THE SETTLEMENT

5. What is the Settlement Amount?

The proposed Settlement provides for a maximum payment of \$150,000 (referred to as the “Gross Settlement Amount”). From the Gross Settlement Amount, Class Counsel will apply to the Court for: attorneys’ fees of one-third of the Gross Settlement Amount, which is \$50,000 and up to \$20,000 in costs; a Class Representative Enhancement Award of \$5,000 to Plaintiff for her work and efforts prosecuting this case, for undertaking the risks of payment of costs (in the event of an unsuccessful outcome of the Action) and for signing a general release of any claims she may have against Defendant; a \$10,000 payment as settlement for claims for civil penalties under PAGA (the “PAGA Payment”), of which 75% will go to the California Labor Workforce Development Agency (“LWDA”) and 25% will be divided among the PAGA Members as described below; and Settlement Administration Costs to ILYM Group, Inc estimated not to exceed \$15,000.00. The exact amount of the attorneys’ fees, litigation costs, Class Representative Enhancement Award, and Settlement Administration Costs will be determined by the Court at the Final Approval hearing. The remaining portion of the Gross Settlement Amount is the “Net Settlement Amount,” which is currently estimated to be approximately \$ [REDACTED]. The Net Settlement Amount will be apportioned and paid out as Individual Settlement Payments to the Participating Class Members, who are the Settlement Class Members who do not request to be excluded (“opt out”) from the Settlement.

6. How will the Individual Settlement Payments to Participating Class Members be calculated?

Participating Class Members will receive Individual Settlement Payments from the Net Settlement Amount. **A claim form is not required to become a Participating Class Member.**

Settlement Class Members who opt out of the class settlement will not become Participating Class Members and will not receive Individual Settlement Payments and will not be bound by the class portion of this Settlement. No amount of the Gross Settlement Amount will revert to Defendant, even if Settlement Class Members choose to opt out of the Settlement. In the event that any Settlement Class Member chooses to opt out of the Settlement, the Individual Settlement Payments that would have been apportioned to that individual will instead be distributed to the Participating Class Members.

Each Participating Class Member’s Individual Settlement Payment will be a pro rata share of the Net Settlement Amount based on the number of workweeks that each Participating Class Member worked for Defendant during the Class Period (from December 28, 2017, to [REDACTED]) (“Eligible Workweeks”) as a proportion of all Eligible Workweeks for all Participating Class Members.

All Individual Settlement Payments to Participating Class Members shall be allocated as follows for tax purposes: 25% of each Individual Settlement Payment reflects a compromise of claims for alleged unpaid wages; 75% of each Individual Settlement Payment reflects a compromise of claims for alleged interest, penalties and unreimbursed expenses. The portion of the Individual Settlement Payment attributable to unpaid wages will be subject to regular and/or applicable payroll and income tax withholdings and will be reported on an IRS Form W-2. Participating Class Members will receive an IRS Form 1099 for the portion of the Individual Settlement Payment attributable to alleged interest, penalties and unreimbursed expenses if required by law. Participating Class Members will be responsible for correctly characterizing the Individual Settlement Payment for tax purposes and paying taxes due, if any.

Your total estimated Eligible Workweeks is [REDACTED]. Based on that, your anticipated approximate Individual Settlement Payment is [REDACTED].

7. How will the PAGA Payment be allocated to the LWDA and PAGA Members?

The Parties will ask the Court to approve the \$10,000 PAGA Payment in settlement of claims for civil penalties under PAGA. As required under PAGA, 75% of the PAGA Payment, or \$7,500, will be paid to the LWDA. The remaining 25% of the PAGA Payment, or \$2,500, will be distributed to the PAGA Members as Individual PAGA Payments.

Not all Settlement Class Members are PAGA Members who are entitled to an Individual PAGA Payment. If you are a PAGA Member, you are entitled to receive an Individual PAGA Payment; no claim form is required. Because PAGA Members cannot opt out of the PAGA settlement, if you are a PAGA Member and you opt out of the class settlement, you will still receive an Individual PAGA Payment and be bound by the PAGA settlement.

Each PAGA Member's Individual PAGA Payment will be a pro rata share of the 25% of the PAGA Payment to be distributed to PAGA Members. It will be based on the number of pay periods that each PAGA Member worked for Defendant during the PAGA Period (from December 24, 2020, to [REDACTED]) ("Eligible Pay Periods") as a proportion of all Eligible Pay Periods for all PAGA Members. For tax purposes, 100% of the Individual PAGA Payments will be allocated as penalties for which an IRS Form 1099, if required by law.

Your total estimated Eligible Pay Periods is [REDACTED]. Based on that, your anticipated approximate Individual PAGA Payment is [REDACTED].

HOW TO GET A PAYMENT

8. How can I get a settlement payment?

If you do nothing, you will automatically receive your Individual Settlement Payment and Individual PAGA Payment (if any) after the Court approves the Settlement at a Final Approval Hearing. You must notify the Settlement Administrator of any change in your name, mailing address and/or telephone number if the information shown on this is not correct. **It is your responsibility to keep the Settlement Administrator informed of any change in your address. Settlement payments will be mailed to the last known address the Settlement Administrator has on file for you.** You can contact the Settlement Administrator by U.S. Mail, email or phone at [REDACTED] if you need to update your contact information.

9. What do I do if I believe my Eligible Workweeks or Eligible Pay Periods are incorrect?

If you believe the Eligible Workweeks and Eligible Pay Periods above are not correct, you may send a letter to the Settlement Administrator indicating what you believe to be the correct information. Your letter must be postmarked on or before [REDACTED], 2023. *[45 days within mailing of Notice]*. You should include any documents or other information which supports what you believe support that you worked a different number of Eligible Workweeks or Eligible Pay Periods.

Settlement checks should be cashed promptly upon receipt. Proceeds of checks which remain uncashed after 180 days from the date of issuance will be forwarded to the State of California Unclaimed Property Fund in the name of each Participating Class Member and/or PAGA Member who did not cash his or her settlement check. If your settlement check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

WHAT HAPPENS IF THE COURT APPROVES THE SETTLEMENT

10. What am I giving up to get an Individual Settlement Payment?

If the Court approves this Settlement, and unless you exclude yourself, you will become a Participating Class Member, and that means that you cannot sue, continue to sue, or be a part of any other lawsuit against Defendant concerning the legal claims being resolved in this Settlement. Specifically, you will be giving up or “releasing” claims against the Released Parties, as follows:

Released Parties: Defendant and any parent, subsidiary, affiliated or related entities (including any companies, corporations, partnerships, alter egos, joint venturers, and actual or alleged joint employers), and each of their respective past, present and future agents, employees, servants, officers, directors, partners, members, trustees, fiduciaries, representatives, shareholders, stockholders, attorneys, equity sponsors, (defined as a company/corporation and/or partnership that is, directly or indirectly, under common control with that Defendant or any of its parents and/or affiliates), divisions, assigns, predecessors, successors, insurers, and consultants, who may be liable for any of the Released Class Claims and Released PAGA Claims.

Released Class Claims: If Defendant pays the Gross Settlement Amount in full, then all Participating Class Members shall fully and finally release the Released Parties the complaints filed in the Action, and all claims that could have been asserted in the Action based on the facts alleged in any of the complaints filed in the Action under any federal, state or local law or arising under the Wage Orders, including causes of action for (1) failure to pay minimum wages for all hours worked (2) claims relating to the rounding of time; (3) claims related to the regular rate calculation; (4) failure to pay overtime compensation; (5) failure to provide meal periods and pay meal period premiums; (6) failure to authorize and permit rest breaks and pay rest period premiums; (7) failure to indemnify necessary business expenses; (8) failure to timely pay all final wages; (10) failure to provide accurate itemized wage statements; (11) unfair and unlawful competition based on the Labor Code violations alleged in (1)-(10); and all claims for attorneys’ fees and costs based on the foregoing, that accrue during the Class Period. (the “Released Class Claims”).

11. What PAGA Claims are released by this Settlement?

If the Court approves this Settlement, then the PAGA Members will fully and finally release the Released Parties from all claims for civil penalties under PAGA asserted in any of the complaints filed in the Action, and all claims that could have been asserted in the Action based on the facts alleged in any of the complaints filed in the Action and in Plaintiff’s December 24, 2021 PAGA Notice in California Labor and Workforce Development Agency (“LWDA”), Case No. LWDA-CM-859545-21 including, but not limited to, claims for violations of the California Labor Code for (1) failure to pay minimum wages for all hours worked (2) claims relating to the rounding of time; (3) claims related to the regular rate calculation; (4) failure to pay overtime compensation; (5) failure to provide meal periods and pay meal period premiums; (6) failure to authorize and permit rest breaks and pay rest period premiums; (7) failure to indemnify necessary business expenses; (8) failure to timely pay all final wages; (10) failure to provide accurate itemized wage statements during the PAGA Period.

EXCLUDING YOURSELF FROM THE CLASS SETTLEMENT

12. How do I exclude myself (“opt out”) of the class portion of the Settlement?

If you wish to pursue your own separate lawsuit against any of the Released Parties for any claims covered by the Released Class Claims, or if you otherwise wish not to participate in the class settlement for whatever

reason, you should exclude yourself from the class settlement (that is, “opt out” of the class portion of the Settlement). However, you cannot opt out of the PAGA portion of the settlement. Those who opt out of this Settlement and who are also PAGA Members will still be bound by the release of PAGA in this Settlement and will receive an Individual PAGA Payment.

To opt out of the class portion of the Settlement and the Released Class Claims, you must provide a signed and dated letter to the Settlement Administrator requesting to be excluded. The letter must include the case name and number, your name, address, must be signed by you, and must reasonably communicate your election to be excluded from the class Settlement. The letter must be postmarked and mailed to the Settlement Administrator at the following address (or in the enclosed envelope) on or before [REDACTED], 2023. [45 days within mailing of Notice] Opt-out requests postmarked after the deadline will be invalid.

[Settlement Admin address]

13. If I don’t exclude myself from the class settlement, can I sue Defendant for the same thing?

No. Unless you exclude yourself, you give up any right to sue the Released Parties for the Released Class Claims. If you have a claim or lawsuit already filed against Defendant or any of the Released Parties, you should speak to your lawyer in that case immediately.

You cannot exclude yourself from the PAGA portion of the Settlement and you cannot sue the Released Parties for the Released PAGA Claims later if this Settlement is approved.

OBJECTING TO THE SETTLEMENT

14. How do I tell the Court that I do not agree with the Settlement or believe it is not fair?

If you do not think the Settlement is fair, then you can object to some or all aspects of the Settlement. Even if you object, if the Court approves the Settlement, then you will still receive an Individual Settlement Payment. Unless you opt-out of the class portion Settlement and you will be bound by Released Class Claims. You can either object to the Settlement in person at the Final Approval Hearing, or you can submit a written objection. Written objections and notices of intent to appear at the Final Approval Hearing can be mailed to the Settlement Administrator and postmarked on or before [REDACTED], 2023, at the following address:

[Settlement Admin Address]

The written objection should state your name, address, and describe all legal and factual reasons that you object to the terms of the settlement. You should also include or attach any documents upon which your objection is based.

THE FINAL APPROVAL HEARING WITH THE COURT

15. When and where will the Court decide whether to grant final approve the settlement?

The Court will hold a Final Approval hearing on [REDACTED], 2023 at [REDACTED], in Napa County Superior Court, Department A, Historic Courthouse, 825 Brown Street, Napa, California 94559. At this hearing the Court will determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel’s request for attorneys’ fees and costs, the Class Representative’s Enhancement Award, and the Settlement Administrator’s fees and expenses.

The Court may reschedule the Final Approval hearing without further notice to Settlement Class Members. However, any Settlement Class Member who has filed a Notice of Intention to Appear at the Final Fairness hearing will be notified by Class Counsel of any rescheduling of the date and time of the Final Fairness hearing.

16. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Judge may have. But you are welcome to come at your own expense. If you timely submit a written objection, you don't have to come to Court to talk about it. You may also hire and pay your own lawyer to attend if you so desire.

GETTING MORE INFORMATION

17. Whom may I contact if I have questions about the settlement?

You may contact Class Counsel at the contact information listed above in Paragraph 4 if you have any questions about the Settlement. You may also contact the court-appointed Settlement Administrator, _____ by calling toll free 1-800 [REDACTED], or you can write to [Admin at Address].

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, OR DEFENDANT'S MANAGERS, SUPERVISORS, OR ATTORNEYS FOR INFORMATION.