JAMES HAWKINS APLC
James R. Hawkins, Esq. (#192925)
Gregory Mauro, Esq. (#222239)
Michael Calvo, Esq. (#314986)
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel.: (949) 387-7200
Fax: (949) 387-6676
Email: James@jameshawkinsaplc.com
Email: Greg@jameshawkinsaplc.com
Email: Michael@jameshawkinsaplc.com

Attorneys for Plaintiff NHYELA WASHINGTON, individually and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

NHYELA WASHINGTON, individually and on behalf of all others similarly situated, Plaintiff, v. PREDICINE, INC., a Delaware Corporation; and DOES 1-50, inclusive, Defendant.	CASE NO.: 21CV003730 Judge: Hon. Brad Seligman Dept: 23 **DECLARATION OF JAMES HAWKIS IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES** Date: February 27, 2024 Time: 3:00 p.m. Dept.: 23

DECLARATION OF JAMES HAWKINS

I, James Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiff NHYELA WASHINGTON (hereinafter referred to as "Plaintiff" or "Class Representative"), who commenced this class and PAGA action on behalf of the Settlement Class Members and Aggrieved Employees. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of the Stipulation of Class and PAGA Representative Action Settlement, ("Settlement Agreement"), which Plaintiff filed concurrently herewith, along with the supporting Memorandum of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. Attached hereto as **Exhibit A** is a true and correct copy of the executed Settlement Agreement which the Parties ask the Court to approve. Attached as **Exhibit 1** to the Settlement Agreement is a true and correct copy of the Notice Class Action Settlement ("Class Notice").

3. On December 7, 2021 Plaintiff filed a putative class action complaint entitled *Nhyela Washington v. Predicine, Inc.*, Alameda County Superior Court No. 22STCV05538 seeking damages for Defendant's alleged failure to pay minimum wages, failure to pay overtime compensation, failure to authorize and provide meal periods or premium pay in lieu thereof, failure to authorize and permit rest breaks of premium pay in lieu thereof, failure to indemnify necessary business expenses, failure to timely pay final wages at termination, and unfair business practices.

4. On December 7, 2021, Plaintiff provided written notice by certified mail to the Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the California Labor Code that Plaintiff alleged Defendant had violated with respect to non-exempt and/or hourly paid employees in California.

5. On March 29, 2023, the Parties engaged in private mediation with a well-respected wage and hour class action mediator, Jeffrey Krivis. Defendant provided discovery sufficient to

enable the Plaintiff and Class Counsel to rigorously evaluate the strengths and risks of the case and perform an analysis of the potential damages arising from the claims made in this case. As a result of settlement efforts, the Parties agreed to the mediator proposal for the Gross Settlement Amount of $95,000.00 for approximately 53 Settlement Class Members and the terms of which are fully memorialized in the Settlement Agreement. At all times, the Parties' negotiations were adversarial and non-collusive.

6. As a result of the investigations, and subsequent settlement discussions and the resultant settlement and scope of claims, on August 29, 2023, Plaintiff filed a First Amended Class Action Complaint against Defendant, adding a cause of action for civil penalties under the PAGA, combining the class and PAGA actions.

7. "Settlement Class" or "Settlement Class Members" means all current and former California non-exempt employees of Defendant during the Class Settlement Period: December 7, 2017, through June 1, 2023, subject to section 3.2.2 of the settlement agreement. Defendant represents there are approximately 53 Settlement Class Members as of the date of mediation, March 29, 2023. Defendant represents that, for the Class Settlement Period, there were approximately 1,100 Workweeks. Plaintiff has included an escalator clause into the settlement agreement at paragraph 3.3.2 to protect the integrity of the settlement.

8. Plaintiff's Counsel conducted a thorough investigation into the factual and legal issues implicated by Plaintiff's claims and was able to objectively assess the settlement's reasonableness. For example, prior to filing the action, Plaintiff contacted Plaintiff's Counsel to discuss the factual bases for pursuing their actions against Defendant for Labor Code violations. Plaintiff was intimately familiar with Defendant's labor policies and practices, and over the course of multiple interviews, knowledgeably summarized those policies and practices to Plaintiff's Counsel. During those conversations, Plaintiff's Counsel explained how the policies and practices were instituted and provided valuable insight into how they gave rise to the alleged Labor Code violations. Further, formal business records for Plaintiff were requested and received and reviewed. Based on these interviews with Plaintiff, and review of records, Plaintiff's Counsel determined that there were legally sufficient grounds for pursuing the Actions against Defendant and in preparation

for drafting the complaints, Plaintiff's Counsel conducted their own independent preliminary investigations into the factual bases for Plaintiff's claims, which entailed, *inter alia*, a careful examination of Plaintiff's personnel files and associated records.

9. In summary, Plaintiff's Counsel performed a thorough investigation into the claims at issue, which included: (1) determining Plaintiff's suitability as private attorneys general and subsequent class representative through interviews, background investigations, and analyses of their employment files and related records for 25% of shifts; (2) evaluating all of Plaintiff's potential representative claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions, and the type of employer; (4) analyzing employees' time and wage records and driver manifest; (5) reviewing Defendant's employment policies and practices; (6) researching settlements in similar cases and the prior settlement in this case; (7) evaluating Plaintiff's claims and estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief; and (9) participating in the mediation.

10. By engaging in such a thorough investigation and evaluation of Plaintiff's claims, Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth in the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Settlement Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, and various defenses asserted by Defendant.

11. 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. To date, no class has been certified and no court has made any findings that Defendant engaged in any wrongdoing or in any wrongful conduct, or otherwise acted improperly or in violation of any law, rule or regulation with respect to any of the issues presented in this action.

12. Since the filing of the complaint, the Parties have exchanged extensive informal discovery and engaged in numerous discussions regarding the factual and legal issues surrounding this case. Throughout the litigation, Defendant produced thousands of pages of

information and thousands of lines of data, including policies, handbooks, relevant policies, training records, meal and rest period policies, employee handbooks, and payroll and time records for all employees for varying time periods during the class period. Defendant also provided Plaintiff's personnel file, and information regarding the number of employees holding these positions during the relevant time period. Defendant also provided substantial information concerning the total number of potential Settlement Class Members, the payroll data at issue, and the applicable hourly rates, workweeks and pay periods, and other summary data related to the alleged class. Defendant also produced declarations from putative Settlement Class Members challenging the alleged claims. The Parties have conducted themselves in informed, good faith arms-length negotiations after conducting discovery and exchanging extensive evidence and information about the claims and defenses of this lawsuit through informal discovery, and engaging in pre-mediation discussions, telephone conferences, and correspondence all aimed at settling their dispute.

13. In preparation for the mediation, Plaintiff reviewed the entire discovery and information produced. The information had to be extrapolated and processed to figure out the amount of compensation Plaintiff contends are due to the Classes. The evidence and information gathered and reviewed by counsel provided a factual framework for a comprehensible and reliable damage model pertaining to all Settlement Class Members. The mediation included discussions and examination of the proposed Classes and the Parties' respective positions on the legal and factual issues raised in the Complaint.

14. As a result of the mediation, the Parties agreed to settle this matter for a Gross Settlement Amount ("GSA") of $95,000.00. Plaintiff's counsel balanced the terms of the proposed Settlement against the risk of litigation and probable outcome at the class certification stage, and if any Class were certified, at trial. Based on their own respective independent investigations and evaluations, and after taking into account the sharply disputed factual and legal issues involved in this matter, the risks attending further prosecution of the case, and the monetary benefits received under the Settlement despite the questionable nature of the claims, Plaintiff's counsel is of the opinion that Settlement for the consideration and on the terms set forth in the Settlement

Agreement is fair, reasonable and adequate and is in the best interests of Plaintiff sand the Class. Counsel for the Parties investigated the applicable law as applied to the facts discovered regarding the claims of Plaintiff, Defendant's defenses thereto and the damages claimed by Plaintiffs on behalf of the Settlement Class.

15. I believe that the consideration and terms set forth in the Settlement Agreement are fair, reasonable, and adequate and are in the best interests of the Settlement Classes in light of all known facts and circumstances, including the various defenses asserted by Defendant, and numerous potential appellate issues. In addition, the prospect of a potential adverse summary judgment ruling, as well as the uncertainty of class certification, the difficulties of complex litigation, the lengthy process of establishing specific damages and various possible delays and appeals, were also carefully considered in agreeing to the proposed Settlement.

16. The GSA includes, without limitation, (1) attorneys' fees in the amount of $31,666.66 ("Attorneys' Fees and Costs ") and reimbursement of reasonable litigation costs and expenses in the amount of up to $17,000.00[1] to Class Counsel; (2) Class Representative Enhancement Award to Plaintiff in the amount of up to $5,000.00 ("Class Representative Enhancement Award"); (3) fees and expenses of administration of the Settlement to the Settlement Administrator in an amount not to exceed $4,000.00 ("Settlement Administrator Costs"); (4) $4,000.00 to PAGA with twenty-five percent (25%) share of the PAGA Penalties to be a part of the Net Settlement Sum that will be distributed to Settlement Class Members in the PAGA Group in the amount of $1,000.00; and (5) the seventy-five percent (75%) share of PAGA Penalties ("LWDA Payment") in the amount of $3,000.00 to the California Labor and Workforce Development Agency ("LWDA"). **The Entire Total Settlement Amount will be paid to all Settlement Class Members who do not opt out of the Settlement Class, and without the need to submit claims for payment.** After deductions, the Net Settlement Amount ("NSA") is estimated to be approximately **$33,333.34**. The Settlement Class Members are to be paid based on the NSA on a pro rata basis based upon the weeks each class member worked in comparison to the total work weeks worked by all Settlement Class Members.

---

[1] Class Counsel's costs to date are approximately $15,337.69.

17. Fairness of the Settlement is demonstrated by the uncertainty and risks to Plaintiff involved both in not prevailing on one or more of the causes of action or theories alleged in the operative Complaints and in non-certification, and if successful, Defendant disputes the ability of Plaintiff to certify a class in this case. Defendant also argued it maintained lawful written policies that were provided to the Settlement Class Members and enforced those policies. Yet, despite the defenses proffered by Defendant, the proposed Settlement commits Defendant to pay each Class Member a portion of the NSA. The amount to be paid to the Classes is fair, adequate and reasonable given the significant risk to Plaintiff and the Class in continuing with the litigation and not prevailing on their claims at class certification or at trial or not being paid anything even if trial was successful.

18. The Parties investigated relevant law as applied to the facts of the case, potential defenses, and damages claimed by Plaintiff on behalf of himself and the Class. Discovery largely focused on Plaintiff's allegations that Settlement Class Members were not paid all wages owed, including overtime and minimum wages, were not provided meal and rest periods, received improper wage statements, were not reimbursed all necessary expenses, and were not paid all owed and due wages during employment and upon separation of employment. Information and data exchanges included significant sampling of all Settlement Class Members' time and pay records, and dates of employment. The parties conducted their own evaluations of the potential recoveries based on the claims alleged in the Action and the defenses at play.

19. Defendant generally denies all claims alleged in the action and further deny class or representative treatment is appropriate for any purpose other than this settlement. It is therefore also Defendant's position that if litigation continued, class certification would not be granted, and would not result in any liability on the merits in any event. Defendant also positioned that it maintained lawful and accurate wage and hour policies, paid employees all wages owed, regularly trained its employees regarding its wage and hour policies, had no complaints from Settlement Class Members regarding pay practices, that individuals all took breaks and lunches at the same time as is customary in the construction field, and produced declarations from Settlement Class Members to support this position. However, Defendant has concluded further litigation would be

protracted and expensive. Thus Defendant determined it is desirable to settle the Action in the manner and upon the terms and conditions of the settlement agreement.

20. Although Plaintiff's Counsel believes the class claims are strong, Plaintiff's Counsel also recognizes that if the litigation had continued, they may well have encountered significant legal and factual hurdles that could have prevented the Class from obtaining any recovery. To be sure, a number of cases have found wage and hours actions to be especially amenable to class resolution. However, some courts have gone the other way, finding that some of the very claims at issue here-especially meal period and rest period violations-were not suitable for class adjudication because they raised too many individualized issues. *See Duran v. US. Bank National Association*, 59 Cal. 4th 1 , 31 (2014) (reversing a verdict from a class trial); *Ali v. US.A. Cab Ltd.*, 1 76 Cal. App. 4th 1333, 1341 (2009) (affirming denial of certification because employees' declarations attesting to having taken meal and rest periods demonstrated that individualized inquiries were required to show harm); *Campbell v. Best Buy Stores, L.P.* , 2013 U.S. Dist. LEXIS 137792, at *30- 41 (C.D. Cal. Sept. 20, 2013) (following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); .*Jimenez v. Allstate Ins. Co.*, 2012 U.S. Dist. LEXIS 65328 (C.D. Cal. Apr. 18, 2012) (denying motion to certify meal and rest period classes based on employer's practice of understaffing and overworking employees); *Gonzalez v. Officemax NA.*, 2012 U.S. Dist. LEXIS 163853 (C.D. Cal. Nov. 5, 2012) (same); *Brown v. Fed. Express Corp.*, 249 F.R.D.580, 587-88 (C.D. Cal. 2008) (denying certification of driver meal and rest period claims based on the predominance of individual issues); *Kenny v. Supercuts, Inc.*, 252 F.R.D. 64 I, 645 (N.D. Cal. 2008) (denying certification on meal periods claim); *Blackwell v. Skywest Airlines, Inc.* , 245 F.R.D. 453, 467- 68 (S.D. Cal. 2007) (declining to certify class action because individual issues predominated when different employee stations provided different practices with respect to meal periods).

21. Some courts have denied certification even when an employer's policies are unlawful on their face. For instance, in *Ordonez v. Radio Shack, Inc.*, 20 1 3 U.S. Dist. LEXIS 7868, *35-4 1 (C.D. Cal. Jan. 17, 201 3), the court denied certification even though the plaintiff submitted evidence of a facially unlawful policy regarding rest breaks. The *Ordonez* court concluded that the

predominance and superiority elements were not met based on the employer's presentation of anecdotal evidence of lawful compliance notwithstanding the unlawful policy. Id. at *38-40. And it should be underscored that that claims which are amendable to certification can be disposed of by motion for summary judgment. *See Loudv. Eden Med. Ctr.*, 2013 U.S. Dist. LEXIS 122873, **36-53 (N.D. Cal. Aug. 28, 2013) (granting summary judgment on wage statement claim because plaintiff could not show injury due to defects and that incorrect wage information is not willful).

22. As the above examples illustrate, the prospect of certifying a wage and hour action is always uncertain, and the risk of being denied class certification militates in favor of settlement. A denial of class certification effectively forecloses continued litigation, as neither the individual nor his or her attorney will have any incentive to proceed with an individual case when such small claims are at stake. *See In re Baycol Cases I & II*, 5 1 Cal. 4th 75 1 , 758 (2011) (explaining that a dismissal of class claims is effectively the "death knell" of the case, despite survival of individual claims). In other words, for cases where individual damages are relatively small, denial of class certification results in a near-complete loss for Plaintiffs as well as no recovery for the employees, who are shut out of the action. Thus, if the putative Class had not been certified, the value of Plaintiff’s case would have been reduced to a fraction of the value of this Settlement; indeed, Defendant would likely have offered no money to settle the class-wide claims if certification had been denied.

23. Finally, early resolutions save time and money that would otherwise go to litigation. Parties' resources, as well as the Court's, will be further taxed by continued litigation. And if this action had settled following additional litigation, the settlement amount would likely have taken into account the additional costs incurred, and there may have been less available for Settlement Class Members. Cost savings is one reason why California policy strongly favors early settlement. *See Nemy v. Regents of University of California*, 3 Cal. 4th 273, 277 (1992) (explaining the high value placed on settlements and observing that "[s]ettlement is perhaps most efficient the earlier the settlement comes in the litigation continuum."). This concern also supports settlement.

24. Further, beyond the risk of an adverse ruling on the merits or certification, Class Counsel considered the fact that continued litigation would likely take years and would be

extremely expensive given the breadth and complexity of the claims. In this case, post-trial and appellate proceedings are likely to occur, which will surely drag the case far into the future even with a positive trial result. When facing a distant and unsure resolution of the allegations in this action, the swift, sure and substantial Settlement is all the more reasonable. Avoiding such costly litigation in favor of more immediate benefits to the Class was a consideration favoring settlement. Given these realities, it is highly likely that the future expense of this litigation, and its likely duration if the settlement is not approved, would be significant and weigh heavily in favor of approval of this settlement.

25. The GSA is well within the acceptable range of reasonableness for the claims of the Settlement Class Members. After analysis and review of Defendant's time and pay record production and other payroll data, Class counsel estimates the overall value of the claims at approximately **$458,201** should Plaintiff prevail at the class certification stage and at trial and survive any appeals and win on all claims and be awarded maximum damages and penalties for call Settlement Class Members and certain assumptions and extrapolations were confirmed with further discovery. If this amount was reduced by a reasonable 30% to **$320,740** to account for the risks of continued litigation and not prevailing on one or more claims and the Court not awarding penalties based upon Defendant's good faith arguments. Indeed, Defendant's apparent compliant policies could potentially support Defendant's good faith and lack of willfulness arguments, where for example LC 203 and 226 claims could be reduced to zero, which accounts for approximately 50% of the alleged penalties and damages disused herein.

26. There are an estimated 1,100 workweeks during the class period and approximately 520 bi-weekly Pay Periods during the PAGA period. The thrust of the value of the case was valued as the failure to provide meal periods and rest periods and failure to pay overtime wages for off the clock work during meal periods. The overtime claim was valued at approximately **$42,850** calculated as follows (OT rate of $38.95 X 1 hour per week X 1,100 workweeks). The meal period claims were valued at approximately **$108,447** based upon approximately 4,539 potential shifts X 92.6% alleged violation rate X $25.97). The regular rate claim was valued at **$20,799.** Defendant also potentially owes to Settlement Class Members **$224,380 in waiting time**

penalties (for a total of 36 termed employees X $25.97 X 30 days). The value of the failure to reimburse necessary business expenses was valued at approximately **$6,875** ($25 per month for occasional cell phone use X 275 possible months in the class period). The value of the derivative LC 226 claim was valued at approximately **$49,350** for 53 employees during the LC 226 period**.** Defendant also potentially owes to Settlement Class Members **$55,000 in PAGA** penalties based upon a reasonable $100 per PAGA pay period penalty. The rest period claim provided little to no value based apparent complaint policies in place during the class period. As a result, the GSA of $95,000.00 represents a reasonable recovery and approximately 20%-29% of the overall potential value. This recovery could easily be much higher if at trial PAGA penalties were reduced or damages for certain pay periods or workweeks could not be proven for certain individuals. The proposed GSA is within the "ballpark of reasonableness" and should be approved. Counsel for Plaintiff believes that this is a fair and reasonable Settlement in light of the complexities of the case, the state of the law and uncertainties of class certification and litigation, the policies and practices Defendant has had in place or implemented during the purported liability period, and the benefit to be recovered for the Class. Given the risks inherent in litigation, this settlement is fair, adequate, and reasonable and is in the best interests of the Settlement Class, and should be preliminarily approved.

27. Based on the estimated Net Settlement Amount of **$33,333.34** provides on average each Settlement Class Member with approximately **$629** per Class Member which equates to approximately $30 per workweek. The lowest possible payout would be approximately **$30** for someone who worked only 1 workweek during the Class Period. To the extent any amount for Attorneys' Fees, Costs, Claims Administration Costs or Incentives are not awarded, the difference in those amounts will be added to the NSA. This is a guaranteed amount of money paid to Settlement Class Members now, rather than the continued risk of further litigation and receiving no money sometime in the far future and after trial and appeals.

28. The PAGA members who worked during the PAGA period will be paid a PAGA Payment based upon a pro rata share of the number of pay periods each PAGA member worked compared to the total pay periods worked by all PAGA group members during the PAGA period

of December 7, 2020, through June 1, 2023. As a result, there are approximately 53 PAGA members who will each receive approximately **$18.86** per PAGA member.

29. The Class Representative has provided extensive supporting documents and assisted Class Counsel in developing information necessary to litigate and settle this case. Plaintiff also conducted record review and consultation with counsel in preparation for mediation, and to assist in evaluating and proving the claims. The settlement provides for a Payment to be paid to the Class Representative in the amount of $5,000.00 subject to Court approval. The purpose is to compensate the Class Representatives an additional incentive payment, taking into consideration the risks, time, effort and expenses incurred in coming forward to provide invaluable information and negotiate and litigate this matter on behalf of all Settlement Class Members who otherwise, would probably not file their own individual claims to recover what may be relatively low damages. Further, the Payment of $5,000.00 as an Class Representative Enhancement Award to the Class Representative is a very fair and justified as part of the Settlement based on the risks Plaintiff has taken and benefits conferred upon the Settlement Class.

30. Class certification, as requested by the Parties for the purposes of the settlement only, should be granted because Plaintiff allege that the proposed Settlement Class Members' claims all stem from the same alleged conduct, i.e., that Defendant violated California law because of Defendant's failure to pay minimum wages, failure to pay overtime compensation, failure to authorize and provide meal periods or premium pay in lieu thereof, failure to authorize and permit rest breaks of premium pay in lieu thereof, failure to indemnify necessary business expenses, failure to timely pay final wages at termination, and unfair business practices. In addition to compensatory damages, Plaintiff and the Settlement Class seek attorneys' fees, costs, and interest. Under these specific circumstances, the commonality requirement for class certification is satisfied. The typicality requirement for certification is also met as it is alleged that the Class Representative and the proposed Settlement Class were subjected to similar violations based upon similar conduct, policies and practices of the Defendant regardless of their duties.

31. The adequacy requirement for certification is also met. The Class Representative and Class Counsel have prosecuted this action vigorously on behalf of the Settlement Class. The

Class Representative will receive a reasonable award for the time and effort spent assisting Class counsel with factual issues surrounding the case. Other than this specific payment to the Class Representative, all of the Settlement Class Members will receive a proportionate share of the NSA, as detailed above provided they do not exclude themselves. Further, all PAGA Members during the PAGA Period will receive their pro rata share of PAGA Penalties. As a result, there is no conflict of interest between the Class Representative and the Settlement Class Members. Further, the NSA will be fairly distributed among Participating Settlement Class Members, and no "settlement allocation" questions will be raised.

32. Common questions of law and fact predominate over individual questions and class-wide treatment of this dispute is superior to individual litigation. Plaintiff alleges that the proposed Settlement Classes in this case are sufficiently cohesive, since all Settlement Class Members share a common nucleus of facts and potential legal remedies, and since all of the Settlement Class Members and the Class Representative seek compensation for unpaid wages and other civil and statutory penalties from Defendant for the allegations described in the Complaints. Common questions about compensation or lack thereof for work performed by Settlement Class Members and the Settlement Class Members' potential legal remedies are identical. The alternative method of resolution is individual claims for relatively small amounts of damages, but individual cases would be uneconomical for potential plaintiffs because the cost of litigation dwarfs potential recovery. Therefore, a class action is the preferred method of resolution.

33. The class notice plan here calls for the proposed settlement administrator Apex Class Action LLC, to mail a Notice of Class Action settlement to all known and reasonably ascertainable Settlement Class Members based on Defendant's records. Further, the Settlement Administrator will conduct a skip-trace and use all reasonable efforts to locate Settlement Class Members and will re-mail all returned envelopes with forwarding addresses. The notice is consistent with the class certification notices approved by numerous state and federal courts, and is the best notice practicable under circumstances of this case. The proposed Settlement Class Members are ascertainable because all of the Settlement Class Members have worked for Defendant during the Class Periods and can be identified through Defendant's records.

34. The Notice also fulfills the neutrality requirement. It summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner, and is accurate, objective, and understandable to Settlement Class Members , as is required under prevailing precedent. The Notice clearly states the Settlement does not constitute an admission of liability by Defendant and recognizes the Court has not ruled on the merits. It also states the final settlement approval decision has yet to be made. The Notice also clearly instructs the Settlement Class Members on how to object or exclude themselves from the Settlement. Therefore, Settlement Class Members will have the option to participate or exclude themselves simply by mailing a request to exclude themselves. The Settlement Class consists of non-exempt employees who speak English. Thus, the Notice of Class Action is drafted in a manner that is likely to be readily understood by the Settlement Class. Accordingly, the Notice complies with the standards of fairness, completeness and neutrality required of a Notice of Class Action Settlement. The Notice therefore is neutral, objective and understandable.

35. I have a great deal of experience in wage and hour class action litigation. I have obtained certification of several classes, I have been approved as class counsel in many other wage/hour class actions, and I am currently litigating numerous others. Although not an all inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this action:

a. *Aguilar v. 7-Eleven, Inc*., et. al., Orange County Superior Court- Case No.: 30-2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium wages for meal period and rest periods and resultant penalties. Class Notice pending.

b. *Carey, et. al. v. Arthur J. Gallagher*, et. al., USDC, SOUTHERN DISTRICT- Case No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis-classification of insurance claims adjusters employed by Gallagher Bassett, a third party administrator (TPA) in the State of California. Certification granted. Plaintiff's counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

c. *Dao v. 3M Company*, et al. USDC, CENTRAL DISTRICT, Case No. CV-08-

04554. Wage and Hour Class Action case seeking past wages for "off the clock", overtime and meal and rest break violations for production workers in the State of California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff's counsel appointed co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

e. *Morgan v. Aramark Campus*, LLC, USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

f. *West v Iron Mountain Information Management, Inc, et. al*.; Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Settlement for "binding arbitration." Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiff's counsel, lead trial counsel and class counsel.

g. *Gonzalez v. Superior Industries Inter, Inc., et al*., Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

h. *Acosta v. Fleetwood Travel Trailers of California, Inc*., et al., Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted and funds fully distributed.

j. *Padron v. Universal Protection Service, et al,* Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for security officers in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

k. *Martinez v. Securitas Security Services USA*, et al., Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action seeking past wages for meal and rest break violations for security officers employed by Defendant in the State of California. Plaintiff's counsel and co-counsel. Case settled, Final Approval granted and funds fully distributed.

l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc*. et al., Riverside Superior Court, Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for housekeepers employed by Defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

m. *Herrador v. Culligan International Company, et al*., USDC, CENTRAL DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages for field and branch employees of Defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

n. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No. 05CC00128. Wage and Hour Class Action seeking past wages for restaurant employees of Defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

o. *Denton v. BLB Enterprises, Inc., et al*., Orange County Superior Court, Case No. 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest break violations for security guards employed by Defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

p. *Rios v. Sandberg Furniture Manufacturing Co*., Inc, et al., Los Angeles Superior Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and rest break violations for production employees employed by Defendant in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

q. *McMurray v. Dave and Busters, Inc*., et al., Orange County Superior Court, Case No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest break violations for restaurant employees employed by Defendant in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

r. *Osuna v. DFG Restaurants, Inc.,* et al., Los Angeles Superior Court, Case No. BC 330145. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendant, DBA Carl's Jrs. in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

s. Burns v. Gymboree Operations, Inc., et al., San Francisco Superior Court, Case No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest break violations for retail employees employed by Defendant in the State of California. Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

t. *Willems v. Diedrich Coffee, Inc.,* et al., Orange County Superior Court, Case No. 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendant in the State of California. Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

u. *Davila, et al. v. Beckman Coulter, Inc*., et al., Orange County Superior Court, Case No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production workers employed by Defendant in the State of California. Plaintiff's counsel appointed lead counsel. Cased settled; final approval granted; no objections and funds fully distributed.

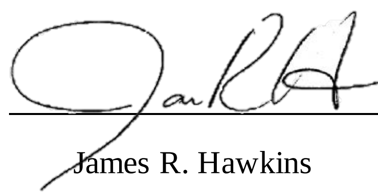
v. *Perez v. Naked Juice Company of Glendora, Inc*., Los Angeles Superior Court, Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations for production employees employed by Defendant in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

36. Here, the Parties' agreement to pay Class Counsel Fees of 33% of the GSA is reasonable. My firm and I have been the only counsel to represent Plaintifff and the Settlement Class in this matter, and we have borne the entire risk and cost of this litigation on a pure contingency fee basis. The legal issues raised drew significantly upon my experience and the extensive review and analysis of documents and information by me and others at my firm and our co counsel. In a complex action such as this, the proposed attorneys' fees are, at the very least, on the low side of the market rate for contingency fees.

37. At this juncture, with the addition of more hours due to the administration of the the Settlement by Class Counsel, administration of the Settlement, and preparation for final approval, counsel for plaintiff will provide a detailed analysis of its time in advance of the final approval hearing. Plaintiff's counsel will file a motion for attorneys' fees and costs to be heard concurrently with the motion for final approval in accordance with the terms of the settlement agreement.

38. Despite the complexity of the case, Class Counsel has, through the investment of substantial effort and the resources of my law firm been able to secure an outstanding settlement on behalf of the Settlement Class. Plaintiff would have faced substantial legal and factual obstacles in demonstrating that class certification was appropriate. Plaintiff would also have been required to establish a significant amount of witness testimony, pattern and practice evidence, statistical evidence, sampling evidence, expert testimony, and other evidence in order to present their case both at the class certification stage and trial. Defendant vigorously contested liability, the amount of claimed damages, and the propriety of class certification, and would have continued to do so through trial. Accordingly, I believe the Settlement to be fair, reasonable, and adequate and in the best interests of the Settlement Class. The fairness and adequacy of the Settlement is confirmed by all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, the various defenses asserted by Defendant, and numerous potential appellate issues.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 31, 2024 at Irvine, California.



James R. Hawkins

EXHIBIT A

MORGAN, LEWIS & BOCKIUS LLP
Brian D. Berry, Bar No. 229893
Sarah Zenewicz No. 258068
Camille A. Watson, Bar No. 342162
One Market, Spear Street Tower
San Francisco, CA 94105
Tel: +1.415.442.1000
Fax: +1.415.442.1001
brian.berry@morganlewis.com
sarah.zenewicz@morganlewis.com
camille.watson@morganlewis.com

Attorneys for Defendant
PREDICINE, INC.

JAMES HAWKINS APLC
James R. Hawkins, Bar No. 192925
Gregory Mauro, Bar No. 222239
Michael Calvo, Bar No. 314986
Lauren Falk, Bar No. 316893
Ava Issary, Bar No. 342252
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel: +1.949.387.7200
Fax: +1.949.387.6676
greg@jameshawkinsaplc.com
michael@jameshawkinsaplc.com
lauren@jameshawkinsaplc.com
ava@jameshawkinsaplc.com

Attorneys for Plaintiff NHYELA WASHINGTON

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

NHYELA WASHINGTON, individually, and on behalf of all others similarly situated,

Plaintiff,

vs.

PREDICINE, INC., a Delaware Corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 21CV003730

STIPULATION OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT

This Stipulation of Settlement ("Stipulation" or "Settlement") is made and entered into, as of the date set forth below, between Plaintiff Nhyela Washington, as an individual, as a representative of the proposed Class described herein and as a representative of the State of California ("Plaintiff"), and Defendant Predicine, Inc. ("Defendant"), who are parties to the above-captioned litigation (together, the "Parties").

1. **DEFINITIONS**

1.1 "Action" means the above-captioned action, *Washington v. Predicine, Inc.*, Alameda Superior Court Case No. 21CV003730.

1.2 "Class Counsel" means James R. Hawkins, Gregory Mauro, Michael Calvo, Lauren Falk and Ava Issary of James Hawkins APLC.

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

1.4 "Class Settlement Period" means the time period December 7, 2017, through June 1, 2023, subject to section 3.2.2.

1.5 "Class Representative" or "Plaintiff" means Plaintiff Nhyela Washington.

1.6 "Class Representative's Released Claims" means any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against the Released Parties, of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law or contract, whether known or unknown, and whether anticipated or unanticipated, including all unknown claims covered by California Civil Code Section 1542, by the Class Representative, arising at any time up to and including the date on which the Court enters the Order of Final Approval, for any type of relief, including without limitation claims for wages, premium and other forms of pay, unpaid/unreimbursed costs, penalties (including waiting time penalties), general damages, compensatory damages, liquidated damages, punitive damages, interest, attorneys' fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief. The Class Representative's Released Claims also include, but are not limited to, the Released Claims as well as any other claims under any provision of the Fair Labor Standards Act ("FLSA"), the California Labor Code, any applicable California Industrial Welfare Commission Wage Orders, any city or county Living Wage Ordinances, and claims under state or federal discrimination statutes, including, without limitation, the California Government Code; the Unruh Civil Rights Act, California Civil Code; the California Constitution; the California Business and Professions Code, including but not limited to Sections 17200 *et seq.*; the United States Constitution; the Age Discrimination in Employment Act ("ADEA") and the Older Workers Benefit Protection Act; the Uniformed Services Employment and Reemployment Rights Act, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.*; the Civil Rights Act of 1991; the Family and Medical Leave Act, to the extent not prohibited by law; the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*; the Equal Pay Act; the Fair Credit Reporting Act; the Employee Retirement Income Security Act of 1974; the Worker Adjustment and Retraining Notification Act; the Sarbanes-Oxley Act of 2002; the California Family Rights Act; and all of their implementing regulations and interpretive guidelines; any and all claims for monetary recovery and personal or individual relief, except as prohibited by law; and any premiums, penalties, interest, punitive damages, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting based on any of the foregoing claims. For the avoidance of doubt, this is a complete and general release to the maximum extent by law. Notwithstanding the foregoing, the release of the Class Representative's Released Claims do not include any claim or right that is not waivable as a matter of law.

1.7 "Court" means the California Superior Court for the County of Alameda.

1.8 "Defendant's Counsel" means Brian D. Berry, Sarah Zenewicz and Camille A. Watson of Morgan, Lewis & Bockius LLP.

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

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

1.11 "Eligible Pay Periods" shall mean the pay periods that each PAGA Member worked for Defendant in California during the PAGA Settlement Period.

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

1.13 "Final Approval Date" means the date on which the Court enters the Order of Final Approval.

1.14 "Final Approval Hearing" means a hearing set by the Court, to take place on a date established by the Court, for the purpose of (i) determining the fairness, adequacy, and reasonableness of the Stipulation terms and associated Settlement pursuant to class action 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 Settlement 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.

1.24 "PAGA Settlement Period" means the period from December 7, 2020, through June 1, 2023, subject to section 3.2.2.

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

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

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

1.28 "Released Class Claims" means all federal, state and local law claims, rights, demands, liabilities, and causes of action, asserted in any of the complaints filed in the Lawsuit, and all claims that could have been asserted in the Action arising from the same alleged facts in the complaints or in any PAGA letter sent by Plaintiff to the LWDA, including causes of action for (1) failure to pay minimum wages for all hours worked; (2) failure to pay overtime compensation; (3) failure to provide meal periods and pay meal period premiums; (4) failure to authorize and permit rest breaks and pay rest period premiums; (5) failure to indemnify necessary business expenses; (6) failure to timely pay wages during employment and all final wages; (7) failure to provide accurate itemized wage statements; (8) unfair and unlawful competition based on the Labor Code violations alleged in (1)-(7); and all claims for attorneys' fees and costs based on the foregoing, that accrue during the Class Settlement Period.

1.29 "Released PAGA Claims" means all claims for civil penalties under PAGA asserted in the Action during the PAGA Settlement Period, and all claims that could have been asserted in the Action based on the same alleged facts in the complaint or in any PAGA letter sent by Plaintiff to the LWDA, including but not limited to claims for violations of the California Labor Code for unpaid minimum wages, unpaid overtime wages, unpaid meal period premiums, unpaid rest period premiums, inaccurate wage statements, failure to keep accurate records, failure to indemnify for all necessary business expenses, and failure to timely pay wages during employment or at termination.

1.30 "Released Parties" means Defendant and its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns, subsidiaries and affiliates.

1.31 "Response Deadline" means sixty (60) days after the Settlement Administrator mails the Notice of Settlement to Settlement Class Members. It shall be the last date on which Settlement Class Members may: (a) postmark any Opt-Out Request from the class portion of the Settlement, (b) postmark any written objection to the Settlement or notice of intent to appear at the Final Approval Hearing, and (c) postmark any Eligible Workweek or Eligible Pay Period Dispute. The Response Deadline for Settlement Class Members to whom the Notice of Settlement is remailed after having been returned as undeliverable to the Settlement Administrator shall be seventy (70) calendar days after the Settlement Administrator's initial mailing of the Notice of Settlement to Settlement Class Members, or fourteen (14) days after the re-mailing, whichever is later.

1.32 "Settlement Administration Costs" means the costs payable from the Gross Settlement Amount to the Settlement Administrator for administering this Settlement in accordance with the Settlement Administrator's responsibilities outlined in this Stipulation.

1.33 "Settlement Administrator" means Apex Class Action Settlement Administrators who shall be responsible for the administration of the Settlement, distribution of any amounts owed under this Settlement, and matters necessarily related thereto, pursuant to the terms of this Settlement, and subject to appointment by the Court.

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

2. **RECITALS**

2.1 **Background and Procedural History**

2.1.1 On December 7, 2021, Plaintiff sent a PAGA notice to the LWDA and Defendant regarding alleged California Labor Code violations. On December 7, 2021, Plaintiff filed her Class Action Complaint in Alameda County Superior Court alleging causes of action on behalf of herself and a putative class of Defendant's current and former California non-exempt employees for (1) failure to pay wages including overtime; (2) failure to provide meal periods; (3) failure to authorize and permit rest periods; (4) failure to timely pay wages at termination (5) failure to provide accurate itemized wage statements; (6) failure to reimburse business expenses; and (7) unfair business practices.

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

2.1.3 The Parties participated in a private mediation with experienced wage and hour mediator Jeffrey Krivis on March 29, 2023, and reached an agreement on a settlement. All terms of the settlement are contained within this Stipulation of Settlement. At all times, the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length.

2.2 **Benefits of Settlement**

2.2.1 Based on their own independent investigations and evaluations, Class Counsel is of the opinion that the Settlement with Defendant for the consideration and terms set forth herein, considering the representative and class claims, and the risk of loss, is fair, reasonable, and adequate in light of all known facts and circumstances, and is in the best interests of the Settlement Class. Class Counsel is also of the opinion that the total consideration and payment set forth in this Stipulation of Settlement is adequate in light of the uncertainties surrounding the risk of further litigation, the possibility of losing class certification, that the PAGA claim could be deemed unmanageable, and the defenses that Defendant has asserted and/or could assert as to the substantive merit of the claims.

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

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

2.2.4 Neither this Stipulation of Settlement, nor any document referred to in it, nor any actions taken pursuant to this Stipulation of Settlement, is or should be construed as an admission by Defendant of any fault, wrongdoing, or liability whatsoever. Nor should the Stipulation of Settlement be construed as an admission that Plaintiff could meet any of the class action requirements or that any PAGA claim would be manageable. There has been no final determination by any court as to the merits of the claims asserted by Plaintiff against Defendant, as to whether a class action should be certified, or that any PAGA claim is manageable.

3. **SETTLEMENT TERMS**

3.1 **Amendment of the Pleadings.** In connection with approval of this Settlement, and following execution of this Stipulation, Plaintiff will file a First Amended Complaint for settlement purposes only to add her PAGA claim, as attached hereto as **Exhibit 2**. The Parties will stipulate to request the Court grant Plaintiff leave to file the Consolidated Complaint. Plaintiff will file her Motion for Preliminary Approval following the filing of the First Amended Complaint. If, for any reason, the Court does not approve this Stipulation, fails to enter the Judgment, or if this Stipulation is terminated for any other reason, then the Parties will stipulate to striking the First Amended Complaint and the operative pleading will be the original Complaint.

3.2 **Conditional Class Certification.** The Parties stipulate, for settlement purposes only, to the certification by the Court of the Settlement Class. If, for any reason, the Court does not approve this Stipulation, fails to enter the Judgment, or if this Stipulation is terminated for any other reason, the Settlement Class will be decertified and Defendant shall, and hereby does, retain the right to dispute the appropriateness of class certification.

3.3 **Gross Settlement Amount**

3.3.1 Gross Settlement Amount: Defendant shall pay a non-reversionary amount not to exceed Ninety-Five Thousand Dollars ($95,000) as the Gross Settlement Amount to resolve the Actions on a class and representative basis, subject to section 3.3.2. The Gross Settlement Amount shall be used to pay, as approved by the Court, Class Counsel's attorneys' fees and costs, the Enhancement Award, Settlement Administration Costs, the PAGA Payment to the LWDA and the PAGA Members, and the Individual Settlement Payments to the Participating Class Members. Notwithstanding the foregoing, in addition to the Gross Settlement Amount, Defendant will pay the employer's portion of payroll taxes, including FICA and FUTA, on the portion of each Individual Settlement Payment allocated as unpaid wages.

3.3.2 Escalation of Gross Settlement Amount or Truncation of Class Settlement Period: If the number of Eligible Workweeks for Participating Settlement Class Members exceeds 1,100 by more than 10% during the Class Settlement Period (i.e., exceed 1,210 Eligible Workweeks), then at Defendant's option, either (a) the Gross Settlement Amount will increase pro rata per additional Eligible Workweek over the 10% increase, i.e., if the Eligible Workweeks for Participating Settlement Class Members during the Class Period are 1,221, which is 11% greater than the workweek estimate at mediation, then the Gross Settlement Amount increases by 1%; or (b) the Class Settlement Period shall end as of the date the Eligible Workweeks for Participating Settlement Class Members during the Class Settlement Period reaches 1,210.

3.4 **Allocation of Gross Settlement Amount**

3.4.1 Class Representative Enhancement Award: The Class Representative's Enhancement Award will, subject to Court approval, be paid out of the Gross Settlement Amount and will not exceed $5,000, for the Class Representative's services and assistance to the

Settlement Class, and in exchange for the Class Representative's Released Claims. Class Representative assumes full responsibility and liability for all taxes owed on the Class Representative Enhancement Award. Any amount of the Class Representative Enhancement Award that is not awarded by the Court shall be included in the Net Settlement Amount.

3.4.2 Attorneys' Fees and Costs: Class Counsel may apply to the Court for an award of reasonable attorneys' fees not to exceed one-third of the Gross Settlement Amount, $31,666.66, and will seek an award of costs for reimbursement of Class Counsel's out-of-pocket costs incurred up to an additional $17,000, to be paid out of the Gross Settlement Amount. Defendant reserves the right to challenge Class Counsel's requests for fees and costs only if the requests exceed the parameters established by this Stipulation. The Settlement Administrator shall issue IRS Forms 1099 to Class Counsel for the payments made pursuant to this section. Class Counsel shall be solely and legally responsible for paying all applicable taxes on their fees and costs award and shall indemnify, defend, and hold the Released Parties harmless from any claim or liability for taxes, penalties or interest arising as a result of any payments received by Class Counsel pursuant to this Stipulation. Any amount of Class Counsel's requested fees and costs that is not awarded by the Court shall be included in the Net Settlement Amount. Neither Class Counsel nor any other attorneys acting for, or purporting to act for, the Settlement Class, Settlement Class Members, or Plaintiff, may recover or seek to recover any amounts for fees, costs, or disbursements from the Defendant or the Released Parties except as expressly provided herein.

3.4.3 Settlement Administrator Costs: The Settlement Administration Costs incurred by the Settlement Administrator as a result of the procedures and processes expressly required by this Stipulation shall be paid out of the Gross Settlement Amount and are estimated not to exceed $4,000. Under no circumstances will Defendant be required to contribute additional funds, above and in addition to the Gross Settlement Amount, to cover any unexpected Settlement Administration Costs. The Settlement Administration Costs shall include: all costs of administering the Settlement, including all tax document preparation, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and fees associated with establishing and maintaining a Qualified Settlement Fund; all costs and fees associated with preparing, issuing and mailing the Notice of Settlement and other correspondence to Settlement Class Members; all costs and fees associated with communicating with Settlement Class Members, Class Counsel, and Defendant's Counsel; all costs and fees associated with computing, processing, reviewing, and paying the payments due under this Stipulation, and resolving disputed claims; all costs and fees associated with calculating tax withholdings and payroll taxes, making related payment to federal and state tax authorities, and issuing tax forms relating to payments made under the Settlement; all costs and fees associated with preparing any tax returns and any other filings required by any governmental taxing authority or agency; all costs and fees associated with preparing any other notices, reports, or filings to be prepared in the course of administering payments due under this Stipulation; and any other costs and fees incurred and/or charged by the Settlement Administrator in connection with the execution of its duties under this Stipulation.

3.4.4 Individual Settlement Payments to Participating Class Members: Each Participating Class Member will be entitled to receive an Individual Settlement Payment, which will be paid out of the Net Settlement Amount. The amount of each Individual Settlement Payment will be calculated on a pro rata basis, based on the Eligible Workweeks each Participating Class Member worked during the Class Settlement Period. There is no need for a Participating Settlement Class Member to submit a claim form in order to be eligible for and to receive an Individual Settlement Payment. To determine each Settlement Class Member's estimated "Individual Settlement Payment," the Settlement Administrator will use the following formula: estimated Individual Settlement Payment = individual Eligible Workweeks ÷ all Settlement Class Member Eligible Workweeks × Net Settlement Amount. The Parties recognize that the Individual Settlement Payments to be paid to Participating Class Members reflect settlement of a dispute over claimed wages, interest, penalties, and other alleged damages.

3.4.5 PAGA Payment: A total amount of $4,000 from the Gross Settlement Amount will be allocated as the PAGA Payment to be paid as penalties under PAGA, seventy-five percent (75%) of this amount ($3,000) will be the LWDA PAGA Payment to paid to the

LWDA and the remaining twenty-five (25%) of this amount ($1,000) shall be distributed to the PAGA Members as Individual PAGA Payments. Any portion of the PAGA Payment not approved by the Court shall be added to the Net Settlement Amount and any additional amount ordered by the Court shall be paid from the Gross Settlement Amount. The 25% of the PAGA Payment to be distributed to the PAGA Members as Individual PAGA Payments and shall be distributed based on a pro rata share based on the number of Eligible Pay Periods each PAGA Member worked during the PAGA Settlement Period.

3.5 **Taxation**

3.5.1 Tax Treatment of Individual Settlement Payments. All Individual Settlement Payments to Participating Class Members shall be allocated as follows for tax purposes: 33% of each Individual Settlement Payment reflects compromise of claims for alleged unpaid wages; 67% 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 (for the employee portion only), and will be reported on an IRS Form W-2. Participating Class Members will each indemnify and hold harmless the Released Parties for any taxes due or owing by them with respect such payments and/or any penalties and interest owed by the Released Parties for the failure to withhold with respect to such payments. The Settlement Administrator shall make appropriate tax withholdings from the portion of each Individual Settlement Payment designated as unpaid wages, and shall pay the employer portion of payroll taxes with funds separate from the Gross Settlement Amount to be furnished by Defendant. Participating Class Members will be responsible for paying all other taxes due on their Individual Settlement Payments. Other than as set forth above, the Settlement Administrator will not make any deductions, withholdings, or additional payments, including without limitation, medical or other insurance payments or premiums, employee 401(k) contributions or matching employer contributions, wage garnishments to the extent permitted by law, or charity withholdings, from or with respect to the Individual Settlement Payments, and entry of the Order of Final Approval by the Court shall be deemed authority not to make any such deductions, withholdings, or additional payments.

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

3.5.3 Circular 230 Disclaimer: Each Party to this Stipulation (for purposes of this section, the "acknowledging party" and each Party to this Stipulation other than the acknowledging party, an "other party") acknowledges and agrees that (1) no provision of this Stipulation, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Stipulation, (b) has not entered into this Stipulation based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or adviser to any other party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Stipulation.

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

3.7 **Releases**

3.7.1 <u>Class Representative's Release</u>. As of the Effective Date, the Class Representative for herself only, shall be deemed to have fully, finally, and forever released the Released Parties from all Class Representative's Released Claims through the Final Approval Date. The Class Representative may hereafter discover claims or facts in addition to, or different from, those which she now knows or believes to exist, but Class Representative expressly agrees to fully, finally and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, which exist or may exist on behalf of or against the other at the time of execution of this Stipulation. The Class Representative shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits she may otherwise have had relating to the Class Representative's Released Claims pursuant to Section 1542 of the California Civil Code, which provides as follows:

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

> **favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**

Notwithstanding the foregoing, Class Representative does not waive or release any claim which cannot be waived or released by private agreement or law. Class Representative does not waive or release worker's compensation claims. Further, nothing in this Stipulation shall prevent Class Representative from filing a charge or complaint with, or from participating in, an investigation or proceeding conducted by the SEC, OSHA, EEOC, DFEH, NLRB or any other federal, state or local agency charged with the enforcement of any employment or other applicable laws. Class Representative, however, understands that by signing this Stipulation, she waives the right to recover any damages or to receive other relief in any claim or suit brought by or through the EEOC, the DFEH or any other state or local deferral agency on his behalf to the fullest extent permitted by law, but expressly excluding any monetary award or other relief available from the SEC/OSHA, including an SEC/OSHA whistleblower award, or other awards or relief that may not lawfully be waived.

3.7.2 Participating Class Member Release. As of the Effective Date, all Participating Class Members fully and finally release the Released Parties from the Released Claims that arose during the Class Settlement Period.

3.7.3 PAGA Member Release. As of the date of the Effective Date, Plaintiff, as a representative of the State of California, on behalf of the LWDA and as representative of the PAGA Members, fully and finally release the Released Parties from the PAGA Released Claims for the PAGA Settlement Period.

4. APPROVAL OF SETTLEMENT, NOTICE TO CLASS AND ADMINISTRATION

4.1 Preliminary Approval

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

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

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

4.2 **Notice**

4.2.1 Delivery of Class Data: No later than thirty (30) calendar days after the Preliminary Approval Date, Defendant shall provide the Class Data to the Settlement Administrator. The Settlement Administrator shall maintain the Class Data, and all data contained within the Class Data, as private and confidential and shall not disclose such data to any persons or entities, unless otherwise required by law. The information in the Class Data is being supplied solely for purposes of the administration of the settlement and cannot be used by the Settlement Administrator or any agent or representative of the Settlement Administrator for any other purpose. Upon receipt of the Class Data, the Settlement Administrator shall check with the U.S. Postal Service National Change of Address Database and update any addresses for the Settlement Class Members.

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

4.3 **Opt-Out Requests**

4.3.1 Settlement Class Members, except for the Class Representative, will have until the Response Deadline within which to opt out of the class portion of this Settlement; however, exercising this option has no effect on the PAGA portion of this settlement, PAGA Members will be mailed an Individual PAGA Payment and be bound by the release of the Released PAGA Claims regardless of whether they opt out of the class settlement. Settlement Class Members who want to opt out must timely submit a signed and dated written request to be 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 they believe they worked for more Eligible Workweeks or Eligible Pay Periods in the Class Settlement Period or PAGA Settlement Period than stated on their Notice of Settlement. Participating Class Members and PAGA Members may do this by submitting information to the Settlement Administrator in writing no later than the Response Deadline. The Settlement Administrator will jointly work with Class Counsel and Defendant's Counsel to resolve the dispute in good faith. If the Parties cannot agree on the Eligible Workweeks or Eligible Pay Periods to be credited to that Participating Class Member or PAGA Member, the Court shall make the final decision based on the information presented by the individual and the Parties.

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

4.7 **Nullification of Settlement.** Defendant shall have the sole right to void and withdraw from this Settlement if at any time prior to the Final Approval Date: (a) five percent (5%) or more of all Settlement Class Members submit timely and valid Opt-Out Requests; or (b) the Settlement is construed in such a fashion that Defendant would be required to pay more than the Gross Settlement Amount, exclusive of Defendant's share of the employer payroll taxes, subject to section 3.3.2; or (c) the Court does not certify the Settlement Class, or does not certify a class releasing all of the Released Class Claims defined in this Stipulation, or does not approve the PAGA settlement including the release of the Released PAGA Claims, or otherwise makes an order inconsistent with any of the material terms (as determined by Defendant) of this Settlement; (d) any pending litigation or litigation filed prior to the Final Approval Date in any way prevents the Settlement from being preliminarily or finally approved by the Court; or (e) Plaintiff or Class Counsel materially breach the Settlement.

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

4.8.1 Prior to the Final Approval Hearing, Plaintiff will move the Court for entry of an "Order of Final Approval" and associated entry of Judgment: (a) certifying the Settlement Class for Settlement purposes only, (b) finding the Settlement fair, reasonable, adequate, and in the best interests of the Participating Class Members, (c) approving the PAGA Payment to the LWDA and the PAGA Members; (d) approving Class Counsel's application for an award of attorneys' fees and costs, (e) approving the Class Representative's application for an Enhancement Award, (f) approving the payment of reasonable Settlement Administration Costs, and (g) releasing and barring any further Released Class Claims by Participating Class Members and Released PAGA Claims by or on behalf of the PAGA Members. Plaintiff will provide the motion for final approval to Defendant for its review and approval at least seven days before filing. The Parties and their respective counsel shall make all reasonable efforts to secure entry of the Order of Final Approval. The proposed Order of Final Approval and the associated proposed

Judgment shall be filed with the Court with the motion for final approval, or as otherwise directed by the Court.

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

4.8.3 If an appeal results in an order materially modifying, setting aside, or vacating any portion of the Stipulation, with the exception of any modification of the amount of attorneys' fees or costs to be paid to Class Counsel, or the amount of the Enhancement Award paid to the Class Representative, each party adversely impacted by the order shall have the right to treat such order as an event preventing Final Approval. To exercise this right, the party must inform the other party and the Settlement Administrator, in writing, of the exercise of this right, within ten (10) calendar days of receiving notice of any order modifying, setting aside, or vacating any portion of the Stipulation. Before any Party elects to exercise its right to treat such order as an event permanently preventing Final Approval, that Party must meet and confer in good faith with the other Party to determine if an agreement can be reached modifying this Settlement to the mutual satisfaction of the Parties.

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

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

4.9.1 Within fifteen (15) calendar days after the Effective Date, Defendant shall pay the Gross Settlement Amount into the Qualified Settlement Fund set up, held, and controlled by the Settlement Administrator.

4.9.2 Within fifteen (15) calendar days after Defendant funds the Qualified Settlement Fund, the Settlement Administrator shall issue Individual Settlement Payments to Participating Class Members, Individual PAGA Payments to the PAGA Members, the LWDA PAGA Payment to the LWDA, the Court-approved attorneys' fees and costs to Class Counsel, and the court-approved Enhancement Award to Class Representative.

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

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

4.10 **Uncashed Checks.** After one hundred and eighty (180) calendar days of issuance, funds from undeposited Individual Settlement Payment and Individual PAGA Payment checks will be held by the Settlement Administrator. Even if a Participating Class Member or PAGA

Member does not cash or deposit his or her settlement payment check(s) within one-hundred eighty (180) calendar days of issuance, the Stipulation of Settlement, including its release, will be binding on that Participating Class Member or PAGA Member. After the 180 days has expired, the Settlement Administrator shall void the uncashed settlement checks and the amount of the uncashed settlement payments shall be transmitted to the State of California, to be held and disposed of by the Controller in accordance with California's Unclaimed Property Law for the benefit of the Participating Class Members and PAGA Members who did not cash the settlement checks until such time that they claim their property. The Parties agree that this disposition results in no "unpaid residue," as the entire Net Settlement Amount will be paid out to Participating Class Members, whether or not they timely cash their Individual Settlement Payments.

5. **MISCELLANEOUS PROVISIONS**

5.1 **This Settlement is Fair, Adequate and Reasonable**. The Parties believe this Settlement is a fair, adequate and reasonable settlement of the Actions and have arrived at this Settlement in arms-length negotiations, taking into account all relevant factors, present and potential.

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

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

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

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

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

To the Class Counsel:

James R. Hawkins
Gregory Mauro
Michael Calvo
Lauren Falk
Ava Issary
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, CA 92618

To Defendant:

Brian D. Berry
Sarah Zenewicz
Camille A. Watson
Morgan, Lewis & Bockius LLP
One Market, Spear Street Tower
San Francisco, California 94105-1126

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

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

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

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

5.12 **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.

5.13 **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.

5.14 **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: 8/28/2023, 2023 PLAINTIFF NHYELA WASHINGTON

DocuSigned by:
Nhyela Washington
A997A97F156F43D...
Nhyela Washington

September 5, 2023 | 12:44 PM PDT

Dated: ______________, 2023 DEFENDANT PREDICINE, INC.

DocuSigned by:
Shidong Jia
966375D90659413...

By: Shidong Jia, Chief Executive Officer

APPROVED AS TO FORM:

JAMES HAWKINS APLC

Dated: ______________, 2023 By: ________________________________

James R. Hawkins
Gregory Mauro
Michael Calvo
Lauren Falk
Ava Issary
Counsel for Plaintiff

MORGAN, LEWIS & BOCKIUS LLP

Dated: ______________, 2023 By: ________________________________

Brian D. Berry
Sarah Zenewicz
Camille A. Watson
Counsel for Defendant

Dated: _____________, 2023

DEFENDANT PREDICINE, INC.

____

By: Shidong Jia, Chief Executive Officer

APPROVED AS TO FORM:

JAMES HAWKINS APLC

Dated: August 28, 2023

By: _______________________________

James R. Hawkins
Gregory Mauro
Michael Calvo
Lauren Falk
Ava Issary
Counsel for Plaintiff

MORGAN, LEWIS & BOCKIUS LLP

Dated: September 5, 2023

By: _______________________________

Brian D. Berry
Sarah Zenewicz
Camille A. Watson
Counsel for Defendant

EXHIBIT 1

Nhyela Washington v. Predicine, Inc.
Alameda County Superior Court Case No. 21CV003730

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 Predicine, Inc. ("Defendant"), who worked at any time between December 7, 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. *You must, however, keep a current address on file with the Settlement Administrator to ensure receipt of your check.*
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 Alameda County Superior Court on behalf of all current and former California non-exempt employees of Defendant.

Plaintiff Nhyela Washington initiated this lawsuit on December 7, 2021, by filing a Class Action Complaint in Alameda County Superior Court. The operative First Amended Complaint alleges causes of action for (1) failure to pay wages including overtime; (2) failure to provide meal periods or pay meal period premiums; (3) failure to authorize and permit rest periods or pay rest period premiums; (4) failure to timely pay wages at termination; (5) failure to provide accurate itemized wage statements; (6) failure to reimburse business expenses; and (7) violation of Business and Professions Code sections 17200, *et seq.*; and (8) enforcement of Labor Code section 2698, *et seq.* ("PAGA"). The lawsuits is referred to in this Notice as the "Action."

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 March 29, 2023, Plaintiff and Defendant attended a private mediation with an experienced wage and hour mediator. Through arms-length negotiations, 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 7, 2017, and _________ (the "Class Settlement Period"). The Settlement will resolve Settlement Class Members' claims, summarized above, during the Class Settlement Period. The Settlement will also resolve claims for civil penalties under the California Private Attorneys' General Act ("PAGA"). You may also be a "PAGA Member" if you worked for Defendant during the period from December 7, 2020, through __________ (the "PAGA Settlement 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 Alameda County, and the Action is known as *Nhyela Washington v. Predicine, Inc.*, Case No. 21CV003730. The Court held a hearing on ___________, 2023, and the Judge Brad Seligman 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 Alameda County Superior Court, Department 23, Administration Building, 1221 Oak Street, Oakland, CA 94612. 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, James Hawkins APLC, 9880 Research Drive, Suite 200, Irvine, CA 92618, (949) 387-7200

THE TERMS OF THE SETTLEMENT

5. What is the Settlement Amount?

The proposed Settlement provides for a maximum payment of $95,000 (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 $31,666.66 and up to $17,000 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 $4,000 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 Apex Class Action Settlement Administrators, estimated at $4,000. 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 $33,333.34. 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 Settlement Period (from December 7, 2017, to ________) ("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: 33% of each Individual Settlement Payment reflects a compromise of claims for alleged unpaid wages; 67% 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 ____________. Based on that, your anticipated approximate Individual Settlement Payment is ____________.

7. <u>How will the PAGA Payment be allocated to the LWDA and PAGA Members?</u>

The Parties will ask the Court to approve the $4,000 PAGA Payment in settlement of claims for civil penalties under PAGA. As required under PAGA, 75% of the PAGA Payment, or $30,000, will be paid to the LWDA. The remaining 25% of the PAGA Payment, or $1,000, 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 7, 2020, to _________) ("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 ____________. Based on that, your anticipated approximate Individual PAGA Payment is ____________.

HOW TO GET A PAYMENT

8. <u>How can I get a settlement payment?</u>

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 ________ if you need to update your contact information.

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

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 ____________, 2023. [*60 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.

<u>Settlement checks should be cashed promptly upon receipt</u>. 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 its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns, subsidiaries and affiliates.

Released Class Claims: As of the Effective Date of the Settlement, the Participating Class Members (Settlement Class Members who do not timely opt out of the Class Settlement) will release the Released Parties from all federal, state and local law claims, rights, demands, liabilities, and causes of action, asserted in any of the complaints filed in the Lawsuit, and all claims that could have been asserted in the Action arising from the same alleged facts in the complaints or in any PAGA letter sent by Plaintiff to the LWDA, including causes of action for (1) failure to pay minimum wages for all hours worked; (2) failure to pay overtime compensation; (3) failure to provide meal periods and pay meal period premiums; (4) failure to authorize and permit rest breaks and pay rest period premiums; (5) failure to indemnify necessary business expenses; (6) failure to timely pay wages during employment and all final wages; (7) failure to provide accurate itemized wage statements; (8) unfair and unlawful competition based on the Labor Code violations alleged in (1)-(7); and all claims for attorneys' fees and costs based on the foregoing, that accrue during the Class Settlement 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 the Action during the PAGA Settlement Period, and all claims that could have been asserted in the Action based on the same alleged facts in the complaint or in any PAGA letter sent by Plaintiff to the LWDA, including but not limited to claims for violations of the California Labor Code for unpaid minimum wages, unpaid overtime wages, unpaid meal period premiums, unpaid rest period premiums, inaccurate wage statements, failure to keep accurate records, failure to indemnify for all necessary business expenses, and failure to timely pay wages during employment or at termination.

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 ____________, 2023. [*60 days within mailing of Notice*] Opt-out requests postmarked after the deadline will be invalid.

[Settlement Admin address]

13. <u>If I don't exclude myself from the class settlement, can I sue Defendant for the same thing?</u>

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. <u>How do I tell the Court that I do not agree with the Settlement or believe it is not fair?</u>

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 ________________, 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. <u>When and where will the Court decide whether to grant final approve the settlement?</u>

The Court will hold a Final Approval hearing on ____________, 2023 at ________, in Alameda County Superior Court, Department 23, Administration Building, 1221 Oak Street, Oakland, CA 94612. 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____________, 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.