

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

AND RELEASE OF CLAIMS

This Class Action and PAGA Settlement Agreement is entered into by and between Plaintiff Ashley Chilton, individually, and on behalf of all members of the Settlement Class, and on behalf of the State of California with respect to PAGA Group Members, as defined below, and Defendants, as that term is defined below, and is approved by their respective counsel of record. This Settlement resolves the Action and the released claims as provided below subject to the Court's approval.

A. Definitions

1. "Action" or "Lawsuit" means and refers to the case entitled *Ashley Chilton v. Pacific Eye Institute, et al.*, Case No. CIVSB2200827, filed in San Bernardino Superior Court.

2. "Agreement," "Settlement Agreement," "Settlement," or "Stipulation" means this Class Action and PAGA Settlement Agreement and Release of Claims, including any attached Exhibits.

3. "Class Claims" or "Released Class Claims" will include all claims that were pled in the Action, or which could have been pled in any of the Complaints in the Action based on the facts alleged therein, that arose during the Class Period.

4. "Class Counsel" refers to Mehrdad Bokhour of Bokhour Law Group, P.C. and Joshua Falakassa of Falakassa Law, P.C.

5. "Class Data" means a complete list that Defendants will diligently and in good faith compile from its records and provide to the Settlement Administrator on one spreadsheet and will include the Settlement Class Members' full names; last known addresses; telephone numbers; Social Security Numbers; and dates of employment and/or number of Workweeks Worked as non-exempt employees of any Defendant during the Class Period and the PAGA Period for each Settlement Class Member.

6. "Class Member" refers to any individual that falls under the Settlement Class, PAGA Group Members, or both, as applicable.

1 7. “Class Period” and “Class Release Period” shall mean January 10, 2018, until
2 November 7, 2022.

3 8. “Complaint” refers to the First Amended Class Action and PAGA Representative
4 Complaint filed in the San Bernardino Superior Court action entitled Ashley Chilton v. Pacific
5 Eye Institute, et al., Case No. CIVSB2200827.

6 9. “Court” means the Superior Court of the State of California for the County of
7 San Bernardino.

8 10. “Defendants” means and refers to Defendants Pacific Eye Institute, A Medical
9 Group, Inc., and UVP Management, LLC, as well as their successors, predecessors, parents,
10 subsidiaries, agents, affiliates, officers, directors, agents, and any entities to which either
11 provides or previously provided management services, including without limitation Pacific Eye
12 Surgeons, A California Professional Medical Corporation.

13 11. “Defendants’ Counsel” or “Defense Counsel” mean and refer to Pablo Orozco
14 and Chelsea Bodin of Nilan Johnson Lewis PA.

15 12. “Effective Date” means the latter of: (a) The Court’s final approval of the
16 settlement if no objections by or on behalf of Class Members have been filed and not withdrawn;
17 (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or
18 withdrawn; or (c) the final resolution of any appeal that has been filed.

19 13. “Final Approval” refers to the order of the Court granting final approval of this
20 Settlement Agreement and entering a judgment approving this Settlement on substantially the
21 same terms provided herein or as may be modified by subsequent agreement of the Parties or
22 order of the Court.

23 14. “Final Settlement Class” means, collectively, all Participating Class Members.

24 15. “Individual Settlement Amount” will have the meaning ascribed to it in
25 Paragraph 50(d) below.

26 16. “Net Settlement Amount” will have the meaning ascribed to it in Paragraph 50(c)
27 below.

1 17. “Notice” means the notice of settlement of class action and PAGA Settlement
2 that will be sent to the Settlement Class Members.

3 18. “Notice Response Deadline” is forty-five (45) calendar days from the date the
4 Notice is mailed to the Class Members.

5 19. “Objecting Settlement Class Member” means a Settlement Class Member, other
6 than Plaintiff, who submits a valid and timely objection to the terms of this Agreement with
7 respect to the Class Claims pursuant to Paragraph 73(a) below.

8 20. “PAGA” refers to the California Labor Code Private Attorneys General Act of
9 2004, California Labor Code sections 2698–2699.5.

10 21. “PAGA Claims” or “Released PAGA Claims” will include any and all claims,
11 actions, and causes of action for civil penalties under the Private Attorneys General Act,
12 California Labor Code section 2698, et seq., arising between January 5, 2021 and November 7,
13 2022, based on the factual allegations and legal theories in the LWDA Letter and the Complaint,
14 for alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510,
15 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and Industrial Welfare
16 Commission Wage Orders, including inter alia, Wage Orders 4-2001 and 5- 2001.

17 22. “PAGA Members” and “PAGA Group Members” refers to all current and former
18 non-exempt employees who worked for any Defendant within the State of California at any time
19 during the PAGA Period.

20 23. “PAGA Notice” refers to the notices sent by Plaintiff, by and through counsel,
21 on or about January 5, 2022 to the LWDA and to Defendants, alleging that Defendants engaged
22 in violations of the California Labor Code and California Wage Order(s).

23 24. “PAGA Penalties” will have the meaning ascribed to it in Paragraph 50(c) below.

24 25. “PAGA Period” and “PAGA Release Period” means January 5, 2021, until
25 November 7, 2022.

26 26. “Participating Class Member” means a Class Member who does not submit a
27 timely and valid Request for Exclusion. “Parties” or “Settling Parties” mean Plaintiff, the
28 Settlement Class Members, the PAGA Group Members, and Defendants, collectively.

1 27. “Plaintiff” or “Class Representative” as used herein means Ashley Chilton.

2 28. “Preliminary Approval Date” means the date the Court preliminarily approves
3 the Settlement Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

4 29. “Preliminary Approval Order” means the judicial Order to be entered by the
5 Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement
6 and providing for the issuance of the Notice to the Settlement Class Members, an opportunity to
7 opt out of settlement of the Class Claims, an opportunity to submit timely objections to the terms
8 of this Settlement related to the Class Claims, and setting a hearing on the fairness of the terms
9 of Settlement, including approval of attorneys’ fees and costs.

10 30. “QSF” means the Qualified Settlement Fund set up by the Settlement
11 Administrator for the benefit of the Final Settlement Class, and from which the settlement
12 payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue
13 Code Section 468.

14 31. “Release” shall mean the general release and discharge of all claims by Plaintiff,
15 release and discharge of the Class Claims by all Participating Class Members, and the release
16 and discharge of all PAGA Claims by PAGA Group Members.

17 32. “Released Parties” shall refer to Defendants, as expressly defined in Paragraph
18 11, together with their current and former officers, directors, members, managers, shareholders,
19 agents, insurers, charitable organizations, parents, predecessors, subsidiaries, affiliates,
20 operators, partners, attorneys, successors, and assignees.

21 33. “Request for Exclusion” will have the meaning ascribed to it in Paragraph 73(a)
22 below.

23 34. “Service Payment” or “Service Award” means the amount approved by the Court
24 to be paid to Class Representative in addition to her Individual Settlement Amount as a
25 Participating Class Member.

26 35. “Settlement Administration Costs” means the costs payable from the Settlement
27 Amount to the Settlement Administrator for administering this Settlement, including, but not
28 limited to, costs of notice to the Class, printing, distributing, and tracking documents for this

1 Settlement, tax reporting, due diligence, reporting and remittance obligations, distributing the
2 Settlement Amount, and providing necessary reports and declarations, as requested by the
3 Parties. The Settlement Administration Costs shall be paid from the Settlement Amount.

4 36. "Settlement Administrator" means and refers to ILYM Group, Inc., which the
5 Parties have mutually agreed will provide the Notice to the Settlement Class Members and
6 distribute the settlement amounts as described in this Agreement.

7 37. "Settlement Amount" or "Gross Settlement Amount" will have the meaning
8 ascribed to it in Paragraph 50(a) below.

9 38. "Settlement Class Member" refers to individual members of the Settlement
10 Class.

11 39. "Settlement Class" refers to all current and former non-exempt employees who
12 worked for any Defendant within the State of California at any time during the Class Period.

13 40. "Workweeks Worked" for each Class Member means any workweek during the
14 Class Period and/or the PAGA Period, as applicable, in which the Class Member was employed
15 by Defendants as a non-exempt employee in California and worked at least one shift during the
16 workweek for or on behalf of Defendants. Workweeks Worked shall not include weeks where a
17 Class Member only had sick time, vacation time, was on leave, or otherwise did not record any
18 actual work time in Defendants' timekeeping system. Workweeks Worked will be calculated
19 based on Defendants' business records.

20 **B. General Terms**

21 41. On or about January 11, 2022, Plaintiff filed a class action complaint in the Court
22 against Defendants. In this class action, Plaintiff alleged, on behalf of herself and all others
23 similarly situated, that Defendants violated California state wage and hour laws and the
24 California Business and Professions Code Section 17200 *et seq.* as a result of Defendants'
25 California wage and hour policies and practices. Specifically, Plaintiff's allegations included:
26 (1) failure to pay all minimum wages, (2) failure to pay overtime wages, (3) meal period
27 violations, (4) rest period violations, (5) wage statement violations (6) waiting time penalties,
28 and (7) unfair competition.

1 42. On or about July 18, 2022, Plaintiff filed a First Amended Class Action
2 Complaint adding a representative cause of action under PAGA against Defendants based on
3 the foregoing California Labor Code violations.

4 43. Defendants deny Plaintiff's claims and allegations and contend that the Action is
5 not suitable for class certification and/or representative treatment.

6 44. Plaintiff believes she can proceed with her class and representative claims, that
7 the Action is meritorious, and that class certification is appropriate.

8 45. Class Counsel conducted extensive investigation, informal discovery, review and
9 analysis of data and documents, including Defendants' written policies and practices and the
10 production of payroll and timekeeping records for Class Members, and evaluation concerning
11 the claims in the Action.

12 46. On November 27, 2022, the Parties participated in mediation before Daniel
13 Turner, a highly experienced class action mediator. Although the Parties did not reach a
14 settlement on that date, they continued their extensive arms-length negotiations in good faith,
15 through Mr. Turner, resulting in settlement of the Action memorialized in this Settlement
16 Agreement.

17 47. Class Counsel is both knowledgeable about and has done extensive research with
18 respect to the applicable law and potential defenses to the claims of the Class Members. Class
19 Counsel has diligently pursued an investigation of the Class Members' claims against
20 Defendants. Based on the foregoing data, and on their own independent investigation and
21 evaluation, Class Counsel is of the opinion that the settlement with Defendants for the
22 consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and
23 adequate, and is in the best interest of the Class Members in light of all known facts and
24 circumstances, including the risk of significant delay and uncertainty associated with litigation,
25 various defenses asserted by Defendants, and numerous potential appellate issues.

26 48. Defendants deny each of the allegations and claims asserted against them in the
27 Action. Nevertheless, Defendants have concluded that, because of the substantial expense of
28 defending against the Action, the length of time necessary to resolve the issues presented herein,

1 the inconvenience involved, and the concomitant disruption to their business operations, it is in
2 Defendants' best interest to accept the terms of this Agreement. The Parties agree that neither the
3 Parties' Settlement, this Agreement, nor the acts to be performed or judgments to be entered
4 pursuant to the terms of the Settlement Agreement, shall be construed as an admission by
5 Defendants of any wrongdoing or violation of any statute or law or liability on the claims or
6 allegations in the Action.

7 49. Stipulation for Class Certification and Representative Treatment. For purposes
8 of effectuating a settlement according to the terms of this Agreement only, Defendants will
9 stipulate that: (a) the Settlement Class Members described herein who do not Request Exclusion
10 from the Settlement Class may be conditionally certified as a settlement class, and (b) the PAGA
11 Group Members may be treated as a single group appropriate for representative treatment. This
12 stipulation to certification and representative treatment is in no way an admission that class
13 certification and/or representative treatment is otherwise proper and shall not be admissible in
14 this or in any other action except for the sole purposes of enforcing this Agreement. Should, for
15 whatever reason, the Court fail to issue Final Approval, the Parties' stipulation to class
16 certification and representative treatment as part of the Settlement shall become null and void
17 *ab initio* and shall have no bearing on and shall not be admissible in connection with the issue
18 of whether or not class certification and/or representative treatment would be appropriate in a
19 non-settlement context. Defendants expressly reserve their right to oppose representative
20 treatment, class certification and/or proactively move to deny certification should the Settlement
21 be modified or reversed on appeal or otherwise not become final. Plaintiff expressly reserves
22 her rights and declares that she will continue to pursue class certification and representative
23 treatment and a trial should the Court fail to issue Final Approval.

24 **C. Terms of Settlement**

25 50. The financial terms of the Settlement are as follows:

26 (a) Gross Settlement Amount: The Parties agree to settle this Action for One Million,
27 Nine Hundred and Seventy Thousand Dollars (\$1,970,000) ("the Settlement Amount"). The
28 Settlement Amount is the maximum amount that will be paid by Defendants, and includes

1 Individual Settlement Amounts, attorneys' fees of Class Counsel, costs and expenses, the Service
2 Payment to Class Representative, all Settlement Administration Costs, and payment to the Labor
3 Workforce Development Agency (LWDA) for PAGA Penalties. Defendants shall separately pay
4 the employers' share of applicable payroll taxes.

5 (b) The Settlement is based on Defendants' representation that there were
6 approximately 68,020 weeks worked by the Class Members through the Class Period. In the event
7 that the actual number of workweeks worked by all Class Members during the Class Period
8 increases by 10% or more, then Defendants shall increase the Maximum Settlement Amount on a
9 proportional basis (i.e., if there was an 11% increase in the number of workweeks, Defendants will
10 increase the maximum settlement amount by 1%).

11 (c) Net Settlement Amount: The "Net Settlement Amount" is defined as the
12 Settlement Amount less attorneys' fees and litigation costs as approved and awarded by the Court,
13 the Service Payment to Class Representative as approved and awarded by the Court, the Settlement
14 Administration Costs, as approved and awarded by the Court, and the Eighteen Thousand Seven
15 Hundred and Fifty Dollars (\$18,750) allocated to payment to the LWDA for PAGA Penalties as
16 described in Paragraph 50(d) below. In the event that the Court reduces the attorneys' fees and
17 litigation costs or Service Awards, Settlement Administration Costs, or either increases or
18 decreases the amount allocated to PAGA Penalties, the Net Settlement Amount shall be increased
19 or decreased accordingly.

20 (d) Individual Settlement Amounts for the Settlement Class: The Settlement
21 Administrator will use the Class Data provided by Defendants to calculate each Participating Class
22 Member's and PAGA Group Member's Individual Settlement Amounts based on the following
23 formula:

24 i. PAGA Amount: \$25,000 of the Gross Settlement Amount has been
25 designated to the PAGA Claims. Twenty-five percent (25%) or \$6,250, shall be paid out to
26 PAGA Group Members, while seventy-five percent (75%), or \$18,750, will be paid to the
27 LWDA. Each PAGA Member shall receive a portion of the \$6,250 proportionate to their number
28 of Workweeks Worked during the PAGA Period compared to the total number of Workweeks

1 Worked by all PAGA Members during the PAGA Period. PAGA Group Members will have
2 their settlement amount for the Released PAGA Claims paid one hundred percent (100%) as
3 civil penalties for which no taxes will be withheld and for which a Form 1099 will be issued by
4 the Settlement Administrator.

5 ii. Class Amount: The Net Settlement Amount shall be allocated to each
6 Participating Class Member based on their proportionate Workweeks Worked during the Class
7 Period. This is determined by multiplying the Net Settlement Amount by a fraction, the
8 numerator of which is the Participating Class Member's total Workweeks Worked during the
9 Class Period, and the denominator of which is the total Workweeks Worked by all Participating
10 Class Members during the Class Period. If there are any timely submitted Requests for
11 Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement
12 Amounts for each Participating Class Member so that the amount actually distributed to
13 Participating Class Members equals one hundred percent (100%) of the Net Settlement Amount
14 allocated toward Released Class Claims.

15 (e) Allocation of Individual Settlement Amounts: The Individual Settlement
16 Amounts will be allocated for tax purposes based on the allegations in the Action as follows:
17 twenty percent (20%) will be as attributed to wages subject to withholding of all applicable local,
18 state, and federal taxes; and eighty percent (80%) will be attributed as civil penalties and interest
19 (pursuant to, *e.g.*, California Labor Code sections 203, 226) from which no taxes will be
20 withheld. The Settlement Administrator will issue to each Participating Class Member an
21 Internal Revenue Service Form W-2 and comparable state forms with respect to the wage
22 allocation and a Form 1099 with respect to the civil penalties and interest allocations.

23 (f) Service Payment to Plaintiff: The amount awarded to Plaintiff as a Service Payment
24 will be set by the Court in its discretion, not to exceed \$10,000. Defendants agree not to oppose this
25 request. The Service Payment to Plaintiff will be paid out of the Gross Settlement Amount. Plaintiff
26 will be issued IRS Form 1099 in connection with this payment. Plaintiff shall be solely and legally
27 responsible to pay any and all applicable taxes on this payment. The Parties agree that any amount
28 awarded by the Court as the Service Payment to Plaintiff less than the requested amount shall not be

1 a basis for Plaintiff or Class Counsel to void this Stipulation. Should the Court approve a lesser
2 amount for the Service Payment, the difference shall be added to the Net Settlement Amount to be
3 distributed to the Participating Class Members. In the event of any appeal of the amount of the
4 service awards (if any) approved by the Court, after the exhaustion of any such appellate review,
5 additional amounts not awarded to Class Representative shall be added to the Net Settlement
6 Amount to be distributed to the Participating Class Members.

7 (g) Attorneys' Fees and Costs: Defendants agree not to oppose a request by Class
8 Counsel to the Court for an award of attorneys' fees of one-third (33.33%) of the Settlement Amount
9 (approximately \$656,666.66), plus reasonable litigation costs not to exceed \$15,000 ("Attorneys'
10 Fees and Cost Award"). For purposes of this Settlement, Defendants agree not to oppose any
11 contention by Class Counsel that attorneys' fees should be based on the common fund theory. The
12 Attorneys' Fees and Cost Award shall be paid from the Gross Settlement Amount, and except for
13 this award, Defendants shall have no further obligation to pay any attorneys' fees, costs, or expenses
14 to Class Counsel. Should the Court approve a lesser amount than what is sought by Class Counsel,
15 the difference shall be added to the Net Settlement Amount to be distributed to the Participating
16 Class Members. Any Court order awarding less than the amount sought by Class Counsel shall not
17 be grounds to rescind the Settlement Agreement or otherwise void the Settlement. In the event of
18 any appeal of the amount of the awards of attorneys' fees and costs (if any) approved by the Court,
19 final funding and administration of the portion of the attorneys' fees and/or costs award in dispute
20 will be segregated and stayed pending the exhaustion of appellate review. After the exhaustion of
21 any such appellate review, additional amounts not awarded as attorneys' fees and costs shall be
22 added to the Net Settlement Amount to be distributed to the Participating Class Members and/or
23 PAGA Group Members. The Settlement Administrator shall issue to Class Counsel an IRS Form
24 1099 reflecting the amount of attorneys' fees and costs awarded by the Court. Class Counsel agrees
25 that any allocation of fees between or among Class Counsel and any other attorney representing or
26 claiming to represent the Class Members shall be the sole responsibility of Class Counsel.

27 (h) Settlement Administration Costs: The fees and other charges of the Settlement
28 Administrator will be paid from the Gross Settlement Amount, not to exceed \$10,000 subject to

1 Court approval, unless approved by all Parties and the Court.

2 (i) Tax Liability: Class Counsel, Defendants, and Defendants' Counsel make no
3 representations as to the tax treatment or legal effect of Settlement Amounts called for hereunder,
4 and Plaintiff and the Class Members are not relying on any statement or representation by Class
5 Counsel, Defendants, or Defendants' Counsel in this regard. Plaintiff and Final Settlement Class
6 Members understand and agree that they will be solely responsible for the payment of any taxes and
7 penalties assessed on their respective Settlement Amounts described herein. Income tax withholding
8 will also be made pursuant to applicable federal, state, and/or local withholding codes or regulations.
9 Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal
10 Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations
11 promulgated thereunder, or other applicable tax law, are changed after the date of this Agreement,
12 the processes set forth in this Section may be modified in a manner to bring Defendants into
13 compliance with any such changes.

14 (j) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT
15 (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH
16 PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN
17 "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF
18 THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE
19 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER
20 ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
21 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
22 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
23 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
24 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, THEIR,
25 OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING
26 TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED
27 INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER
28 PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT

1 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
2 ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY
3 THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
4 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
5 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR
6 ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS
7 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF
8 THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING
9 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

10 51. No Credit Towards Benefit Plans. The Individual Settlement Payments and
11 Individual PAGA Payments made to Participating Class Members and/or PAGA Group
12 Members under this Settlement, as well as any other payment made pursuant to this Settlement,
13 will not be utilized to calculate any additional benefits under any employee benefit plan, policy,
14 or bonus program sponsored by Defendants to which any Class Members may be eligible,
15 including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase
16 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
17 Parties' intention that this Settlement Agreement will not affect the rights, contributions, or
18 amounts to which any Class Member may be entitled under any employee benefit plans, policy,
19 or bonus program. Any payments made under the terms of this Settlement shall not be applied
20 retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form
21 of compensation for the purposes of Defendants' benefit plans, policies, or bonus programs.
22 Defendants retain the right to modify the language of their benefit plan, policies and bonus
23 programs to effect this intent and to make clear that any amounts paid pursuant to this Settlement
24 are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as
25 defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting,
26 benefit accrual, or any other purpose, and that additional contributions or benefits are not
27 required by this Settlement.

28 52. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under

no circumstances will any portion of the Settlement Amount revert to Defendants. Final Settlement Class Members will not have to make a claim to receive an Individual Settlement Amount. Distributions, in the form of Individual Settlement Amounts, will be made directly to each Final Settlement Class Member. The Settlement Administrator shall be responsible for accurately and timely reporting any remittance obligations with respect to unclaimed funds as a result of a Final Settlement Class Member not cashing an Individual Settlement Amount by the check cashing deadline, as set forth in Paragraph 77 of this Agreement.

53. Class Counsel and Plaintiff believe that the Settlement is fair and reasonable, and adequate, and will so represent same to the Court.

D. Release As to All Participating Settlement Class Members

54. Upon the Effective Date of this Settlement, Plaintiff and all Participating Settlement Class Members, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, will forever completely release and discharge the Released Parties from the Released Class Claims for the Class Release Period.

55. Plaintiff and Defendants intend that the Settlement described in this Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Participating Class Members to obtain a recovery based on, arising out of, and/or related to any and all of the Released Class Claims. The Settlement Class Members shall be so notified in the Notice. This Paragraph does not apply to any Settlement Class Member who timely and validly opts out of the Settlement for purposes of Class Claims. Plaintiff, on behalf of herself and the Participating Settlement Class Members, acknowledges and agrees that the claims for (1) unpaid minimum wages, (2) unpaid overtime wages; (3) meal break violations; (4) rest break violations; (5) waiting time penalties; (6) failure to provide accurate and itemized wage statements, and (7) unfair competition are disputed, and that the payments set forth in this Agreement constitute payment of all sums allegedly due to her. Plaintiff, on behalf of herself and the Participating

1 Settlement Class Members, acknowledges and agrees that California Labor Code Section 206.5
2 is not applicable to the Parties hereto. Section 206.5 provides in pertinent part as follows:

3 An employer shall not require the execution of any release of any claim or right on
4 account of wages due, or to become due, or made as an advance on wages to be
5 earned, unless payment of those wages has been made.

6 56. Each Participating Settlement Class Member will be deemed to have made the
7 foregoing Release as if by manually signing it.

8 **E. Release as to State of California and PAGA Members**

9 57. Upon the Effective Date of this Settlement, Plaintiff, the State of California, and
10 PAGA Group Members shall waive, release, and discharge Released Parties of any and all
11 Released PAGA Claims. A Class Member's submission of Request for Exclusion will have no
12 effect on their release of the Released PAGA Claims. In other words, even if a Class Member
13 submits a Request for Exclusion, they will still be bound by the release set forth in this
14 Paragraph.

15 58. Plaintiff and Defendants intend that the Settlement described in this Agreement
16 will release and preclude any further claim, whether by lawsuit, administrative claim or action,
17 arbitration, demand, or other action of any kind, by the LWDA to obtain a recovery based on,
18 arising out of, and/or related to any and all of the Released PAGA Claims.

19 59. Plaintiff, on behalf of herself and the PAGA Group Members, acknowledges and
20 agrees that the claims for PAGA Penalties are disputed, and that the payments set forth in this
21 Agreement constitute payment of all sums allegedly due to her.

22 60. Each PAGA Group Member and the LWDA will be deemed to have made the
23 foregoing Release as if by manually signing it.

24 **F. General Release by Plaintiff Only Release by Class Representative**

25 61. As a material inducement to Defendants to enter into this Settlement Agreement,
26 in addition to Plaintiff's release of the Released Class Claims and Released PAGA Claims,
27 Plaintiff does hereby, for herself and for her respective spouses, domestic partners, marital
28 community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees,

1 legatees, executors, administrators, trustees, conservators, guardians, assigns, and
2 representatives, forever completely release and discharge the Released Parties from any and all
3 charges, complaints, claims, liabilities, obligations, promises, agreements, contracts,
4 controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and
5 expenses (including for back wages, statutory penalties, civil penalties, liquidated damages,
6 exemplary damages, interest, attorneys' fees, and costs) of any nature whatsoever, from the
7 beginning of time through the execution of this Stipulation, whether known or unknown,
8 suspected or unsuspected, concealed or hidden, including but not limited to all claims arising
9 out of, based upon, or relating to Plaintiff's employment with Defendants or the remuneration
10 for or termination of such employment.

11 62. Without limiting the generality of the foregoing, Plaintiff also expressly releases
12 all claims or rights against Released Parties arising out of or relating to alleged violations of any
13 contracts, express or implied (including but not limited to any contract of employment); any
14 contract or covenant of good faith and fair dealing (express or implied); any tort, including but
15 not limited to, negligence, fraud, misrepresentation and violation of California Labor Code
16 section 970, negligent infliction of emotional distress, intentional infliction of emotional
17 distress, defamation, "retaliation" claims and claims for violation of public policy, any claim for
18 improper or unauthorized wage deductions, failure to pay the applicable wage, unpaid wages,
19 unpaid vacation benefits, penalties, liquidated damages, other damages, overtime, and alleged
20 "off the clock" work under federal and state law, including, but not limited to, California Labor
21 Code Sections 204 and 558, waiting time penalties pursuant to California Labor Section 203,
22 damages, or penalties pursuant to California Labor Code Section 226, meal period and rest break
23 payments and penalties pursuant to California Labor Code Sections 226.7 and 512, failure to
24 provide itemized wage statements pursuant to California Labor Code Section 226, statutory or
25 civil penalties pursuant to California Labor Code Sections 210, failure to indemnify for business
26 expenses pursuant to Labor Code section 2802, failure to provide one day of rest in seven
27 pursuant to California Labor Code Sections 551 and 552, unfair competition and unfair business
28 practices pursuant to Business and Professions Code Section 17200 *et seq.*, interest and costs

1 pursuant to California Civil Code Section 3287 and California Labor Code Section 218.6,
2 statutory or common law rights to attorneys' fees and costs, including those pursuant to
3 California Labor Code Section 1194 *et seq.*; claims under the Private Attorneys General Act of
4 2004, Labor Code section 2699 *et seq.*, and the alleged violation or breach of any other state or
5 federal statute, rule, and/or regulation; including all applicable Industrial Welfare Commission
6 Wage Orders, and all similar causes of action, including but not limited to, any claim for
7 restitution, equitable relief, interest, penalties, costs, or attorneys' fees in connection with any
8 of the foregoing, negligent infliction of emotional distress, intentional infliction of emotional
9 distress, and defamation; any "wrongful discharge," "constructive discharge," and "retaliation"
10 claims; any claims relating to any breach of public policy; any legal restrictions on Defendants'
11 right to discharge employees; and any federal, state, or other governmental statute, regulation,
12 or ordinance, including, without limitation: (1) Title VII of the Civil Rights Act of 1964 (race,
13 color, religion, sex, and national origin discrimination or harassment, including retaliation for
14 reporting discrimination or harassment); (2) 42 U.S.C. § 1981 (discrimination); (3) Equal Pay
15 Act, 29 U.S.C. § 209(d)(1) and California Labor Code 1197.5 (equal pay); (4) Americans with
16 Disabilities Act, 42 U.S.C. § 12100 *et seq.* (disability discrimination); (5) Family and Medical
17 Leave Act, 29 U.S.C. § 2601 *et seq.* (family/medical leave); (6) California Fair Employment and
18 Housing Act, Cal. Government Code § 12900 *et seq.* (discrimination or harassment in
19 employment and/or housing, including discrimination or harassment based on race, religious
20 creed, color, national origin, ancestry, disability, marital status, sex (including pregnancy), or
21 age, including retaliation for reporting discrimination or harassment); (7) California Family
22 Rights Act, Cal. Government Code § 12945.1 *et seq.* (family/medical leave); (8) California
23 Labor Code, including Section 1720 *et seq.*, or any Industrial Welfare Commission Wage Order;
24 (9) Executive Order 11246 (race, color, religion, sex, and national origin discrimination or
25 harassment); (10) Executive Order 11141 (age discrimination); (11) Sections 503 and 504 of the
26 Rehabilitation Act of 1973 (handicap discrimination); (12) the Fair Labor Standards Act; (13)
27 Employee Retirement Income Security Act, 29 U.S.C. § 1000 *et seq.* (employee benefits); (14)
28 the California Civil Code; (15) the California Labor Code; (16) the California Constitution; (17)

1 the National Labor Relations Act; and (18) any other federal, state, or local statute or legislation.

2 63. Plaintiff expressly waives and relinquishes all rights and benefits afforded by
3 Section 1542 of the Civil Code of the State of California and does so understanding and
4 acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code
5 of the State of California states:

6 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
7 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
8 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
9 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
10 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
11 PARTY.

12 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a
13 full and complete release and discharge of all parties, Plaintiff and Class Counsel expressly
14 acknowledge that this Settlement Agreement is intended to include in its effect, without
15 limitation, all claims that Plaintiff knew of, as well as all claims that she does not know or
16 suspect to exist in her favor, against the Released Parties, or any of them, for the time period
17 from the beginning of time to the execution of this Settlement Agreement, and that this
18 Settlement Agreement contemplates the extinguishment of any such claims.

19 **G. Interim Stay of Proceedings**

20 64. The Parties agree to the stay of all proceedings in the Action, including with
21 respect to California Code of Civil Procedure section 583.310, except such proceedings
22 necessary to implement and complete the Settlement, pending final approval of the Settlement
23 by the Court.

24 **H. Notice Process**

25 65. Appointment of Settlement Administrator. The Parties have agreed to the
26 appointment of the Settlement Administrator to perform the duties of a settlement administrator,
27 including mailing the Notice, using standard devices to obtain forwarding addresses,
28 independently reviewing and verifying documentation associated with any claims or opt-out
requests, resolving any disputes regarding the calculation or application of the formula for
determining the Individual Settlement Amounts, drafting and mailing the settlement checks to

1 Final Settlement Class Members, issuing Forms W-2 and 1099, reporting to taxing authorities,
2 due diligence, reporting and remittance obligations, and performing such other tasks as set forth
3 herein or as the Parties mutually agree or that the Court orders.

4 66. Disputes Regarding Settlement Administration. Any and all disputes relating to
5 administration of the Settlement by the Settlement Administrator (except for disputes regarding
6 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction
7 over the terms and conditions of this Settlement Agreement, until Plaintiff and Defendants notify
8 the Court that all payments and obligations contemplated by this Settlement Agreement have
9 been fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will
10 confer in good faith to resolve the dispute without the necessity of Court intervention. The
11 Settlement Administrator shall also be responsible for issuing to Plaintiff, Final Settlement Class
12 Members, and Class Counsel any Forms W-2, Forms 1099, or other Tax Forms as may be
13 required by law for all amounts paid pursuant to this Agreement. The Settlement Administrator
14 shall also be responsible for setting up all necessary tax accounts and forwarding all payroll
15 taxes and penalties to the appropriate government authorities.

16 67. Class Data. Within fifteen (15) days after entry of the Preliminary Approval
17 Order, Defendants shall provide the Class Data to the Settlement Administrator. The Settlement
18 Administrator will run a check of the Class Members' addresses against those on file with the
19 U.S. Postal Service's National Change of Address List. The Class Data provided to the
20 Settlement Administrator will not be provided to Class Counsel and it will remain confidential,
21 it shall be used solely to administer the Settlement, and it will not be used or disclosed to anyone,
22 except as required by applicable tax authorities, pursuant to Defendants' express written consent,
23 or by order of the Court.

24 68. Notice. The Notice, as approved by the Court, shall be sent by the Settlement
25 Administrator to the Settlement Class Members, by first class mail, in English and Spanish,
26 within seven (7) calendar days following the Settlement Administrator's receipt of the Class
27 Data. The Settlement Administrator shall use standard devices, including a skip trace, to obtain
28 forwarding addresses of Settlement Class Members if any envelopes are returned.

1 69. Returned Notices. The Settlement Administrator will take steps to ensure that the
2 Notice is received by all Settlement Class Members, including utilization of the National Change
3 of Address Database maintained by the United States Postal Service to review the accuracy of
4 and, if possible, update a mailing address. If no forwarding address is provided, the Settlement
5 Administrator will promptly attempt to determine the correct address using a skip trace, or other
6 search using the name, address, and/or Social Security number of the Class Member involved,
7 and will then perform a single re-mailing. In the event the procedures in this Paragraph are
8 followed and the intended recipient of a Notice Packet still does not receive the Notice Packet,
9 the Class Member shall be bound by all terms of the Settlement and any Judgment entered by
10 the Court if the Settlement is approved by the Court. Notices will be re-mailed to any Settlement
11 Class Member for whom an updated address is located within ten (10) calendar days following
12 both the Settlement Administrator learning of the failed mailing and its receipt of the updated
13 address. The Notice shall be identical to the original Notice, except that it shall notify the
14 Settlement Class Member that the exclusion (opt-out) request or objection must be returned by
15 the later of the Notice Response Deadline or fifteen (15) days after the re-mailing of the Notice.

16 70. Presumption Regarding Receipt of Notice. It will be conclusively presumed that
17 if an envelope has not been returned within thirty (30) days of the mailing that the Settlement
18 Class Member received the Notice.

19 71. Disputes Regarding Class Data. Settlement Class Members are deemed to
20 participate in the Settlement unless they opt-out. The Notice will inform Settlement Class
21 Members of their estimated Individual Settlement Amount and the number of Workweeks Worked
22 during the Class Period and during the PAGA Period. Settlement Class Members may dispute
23 their Workweeks Worked if they feel they were employed more workweeks in the Class Period in
24 California than Defendants' records show by timely submitting evidence to the Settlement
25 Administrator. Defendants' records will be presumed determinative absent reliable evidence to
26 rebut Defendants' records, but the Settlement Administrator will evaluate the evidence submitted
27 by the Settlement Class Member and provide the evidence submitted to Class Counsel and Defense
28 Counsel who agree to meet and confer in good faith about the evidence to determine the Class

Member's actual number of Workweeks Worked and estimated Individual Settlement Amount. If Class Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the Settlement Administrator to render a final decision. All disputes will be decided within ten (10) business days of the Notice Response Deadline. Settlement Class Members will have until the Notice Response Deadline to dispute Workweeks Worked, object, or opt out, unless extended by the Court. In the event that the Settlement Administrator increases the number of Workweeks Worked for any Settlement Class Member, then the Settlement Administrator will recalculate the Participating Class Members' Individual Settlement Amounts; accordingly, in no event will Defendants be required to increase the Gross Settlement Amount.

72. Declaration of Due Diligence. The Settlement Administrator shall provide counsel for the Parties, at least twenty-five (25) days prior to the Final Approval Hearing, a declaration of due diligence and proof of mailing with regard to the mailing of the Notice.

73. Settlement Class Members' Rights. Each Settlement Class Member will be fully advised of the Settlement, the ability to object to the provisions in the Settlement related to the Class Claims, and the ability to opt out or request exclusion from the Class Claims provisions of the Settlement. The Notice will inform the Settlement Class Members of the Court-established deadlines for filing objections or requesting exclusion from the Class Claims provisions of the Settlement in accordance with the following guidelines:

(a) Requests for Exclusion from Participating Settlement Class. Any Settlement Class Member, other than Plaintiff, may request to be excluded from the Participating Settlement Class by submitting a "Request for Exclusion" to the Settlement Administrator, postmarked on or before the Notice Response Deadline. The Request for Exclusion should state in words to this effect:

I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE CHILTON V. PACIFIC EYE INSTITUTE LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE CLASS CLAIMS IN THIS LAWSUIT.

Any Request for Exclusion must include the full name, address, telephone number, last four digits of the Social Security number or date of birth, and signature of the Settlement Class Member requesting exclusion. The Request for Exclusion must be returned by mail to the Settlement Administrator at the specified address. Any such Request must be made in accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only if postmarked by the Notice Response Deadline, unless the Parties otherwise agree in writing. Any Settlement Class Member who timely requests exclusion in compliance with these requirements: (i) will not have any rights under this Agreement with respect to the Class Claims, including the right to object, appeal, or comment on the Settlement; (ii) will not be entitled to receive any payments under this Agreement with respect to Class Claims; (iii) will not be bound by this Agreement, or the Judgment, with respect to the Class Claims; and (iv) will be bound by this Agreement, or the Judgment, with respect to the PAGA Claims.

(b) Binding Effect on Final Settlement Class Members. Except for those Settlement Class Members who exclude themselves in compliance with the procedures set forth above, all Settlement Class Members will: (i) be deemed to be Final Settlement Class Members for all purposes under this Agreement; (ii) will be bound by the terms and conditions of this Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise provided herein, will be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

(c) Objections to Settlement of Class Claims. Any Settlement Class Member, other than Plaintiff, may object to the terms of this Agreement with respect to the Class Claims and may appear at the Final Approval Hearing and object whether or not they have filed a written objection as outlined herein. To object, a Settlement Class Member shall inform the Settlement Administrator, in writing, of their objection, which must be postmarked by the Notice Response Deadline at the address set forth in the Notice. Such objection shall include the full name, address, telephone number, and dates of employment with Defendants of the Objecting Settlement Class Member, the case name and number, the basis for the objection, including any legal support and each specific reason in support of the objection, as well as any documentation

1 or evidence in support thereof and, if the Objecting Settlement Class Member is represented by
2 counsel, the name and address of their counsel. If any Objecting Settlement Class Member
3 wishes to speak at the Final Approval Hearing with respect to the Class Claims, that Objecting
4 Settlement Class Member's written submission should include a request to be heard, and the
5 Court will determine whether Objecting Settlement Class Members will be permitted to speak.
6 The Settlement Administrator shall provide objections, if any, to Class Counsel and Defense
7 Counsel within three (3) days of receipt, and the Settlement Administrator shall attach the same
8 to its declaration of due diligence it files with the Court prior to the Final Approval Hearing.
9 Any Participating Class Member who files an objection remains eligible to receive monetary
10 compensation from the Settlement. Plaintiff and Defendants shall not be responsible for any
11 fees, costs, or expenses incurred by any Class Member and/or their counsel related to any
12 objections to the Settlement. Submitting an objection does not preserve the right to appeal a final
13 judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and
14 properly intervening or filing a motion to vacate the Judgment under Code of Civil Procedure
15 section 663. Settlement Class Members and PAGA Members may not object to or opt out of the
16 Settlement with respect to the PAGA Claims. At no time will any of the Parties or their counsel
17 seek to solicit or otherwise encourage Class Members to submit written objections to the
18 Settlement or appeal from the Judgment. To the extent a timely Notice of Objection is withdrawn
19 before Final Approval, such an objection shall be treated as though no objection has been made.

20 (d) Failure to Object. Any Settlement Class Member who desires to object with
21 respect to the Class Claims but fails to timely submit a written objection waives any right to
22 object and will be foreclosed from making any objection to this Settlement. Any Settlement
23 Class Member who does not timely and properly become a party of record by intervening or
24 filing a motion to vacate the Judgment waives any and all rights to appeal from the Judgment,
25 including all rights to any post-Judgment proceeding and appellate proceeding, such as a motion
26 to vacate judgment, motion for new trial, a motion under California Code of Civil Procedure
27 section 473, and extraordinary writs.

28 (e) Responses to Objections. Counsel for the Parties may file a response to any

1 objections submitted by Objecting Settlement Class Members at least five (5) court days before
2 the date of the Final Approval Hearing.

3 74. Settlement Class Members will have until the Notice Response Deadline to
4 object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The
5 Settlement Administrator shall disclose jointly to Class Counsel and Defendants' Counsel what
6 objections or Requests for Exclusion were timely submitted on a weekly basis, and upon the
7 request of Class Counsel or Defense Counsel.

8 75. Funding of the Settlement Amount. Defendants shall make a one-time deposit
9 into the QSF of the Settlement Amount, as described in Paragraph 50(a) that is necessary to
10 make all payments required under this Settlement, within seven (7) days after the Effective Date,
11 plus Defendants shall separately pay its share of employer payroll taxes as calculated and
12 directed by the Settlement Administrator.

13 76. Distribution of Funds. No later than seven (7) calendar days after deposit of the
14 payment into the QSF, the Settlement Administrator will mail the payments to the Participating
15 Class Members, the payment for the attorneys' fees and costs to Class Counsel, any Service
16 Payment to the Class Representative, the payment to the LWDA for PAGA penalties, and will
17 pay itself the Settlement Administration Costs.

18 77. Deadline for Cashing Settlement Checks. Final Settlement Class Members shall
19 have 180 calendar days after mailing by the Settlement Administrator to cash their settlement
20 checks. If any Final Settlement Class Member's check is not cashed within that period, the check
21 will be void and a stop-payment will be issued. All unclaimed funds shall be sent to the California
22 Unclaimed Property Fund in the name of the Class Member. The release will be binding upon all
23 Final Settlement Class Members who do not cash their checks within the 180-day period. In the
24 event that any settlement check is returned to the Settlement Administrator within 180 days of
25 mailing, the Settlement Administrator will, within five (5) business days of receipt of the returned
26 settlement check, perform a skip trace to locate the individual. If a new address is located by these
27 means, the Administrator will have ten (10) business days to re-issue the check and will notify
28 Defense Counsel and Class Counsel that a re-issued check has been sent. Neither Defendants,

1 Defense Counsel, Class Counsel, Plaintiff, nor the Settlement Administrator will have any liability
2 for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized
3 negotiation of settlement checks. Without limiting the foregoing, in the event a Final Settlement
4 Class Member notifies the Settlement Administrator that they believe a settlement check has been
5 lost or stolen, the Settlement Administrator shall immediately stop payment on such check. If the
6 check in question has not been negotiated prior to the stop payment order, the Settlement
7 Administrator will issue a replacement check.

8 78. No person shall have any claim against Defendants, Defendants' Counsel,
9 Plaintiff, Class Counsel, or the Settlement Administrator based on mailings, distributions,
10 payments, or reports made in accordance with or pursuant to this Agreement. This provision
11 does not, however, prevent a Party from seeking enforcement of this Agreement.

12 79. 79. Without prejudice to any other remedies, the Settlement Administrator
13 shall agree to be responsible for any breach of its obligations (whether committed by the
14 Settlement Administrator or its agents) and to indemnify and hold the Parties and their counsel
15 harmless from and against all liabilities, claims, causes of action, costs and expenses (including
16 legal fees and expenses) arising out of any breach committed by the Settlement Administrator or
17 its agents.

18 **I. Duties of the Parties Prior to the Court's Approval**

19 80. Within 30 days of execution of this Agreement, Plaintiff will move the Court for
20 Preliminary Approval of this Settlement and entry of the Preliminary Approval Order
21 accomplishing the following:

22 (a) Scheduling the Final Approval Hearing on the issue of whether this Settlement
23 should be finally approved as fair, reasonable, and adequate as to the Class Members and a
24 hearing on fees, costs, and the Service Payment;

25 (b) Approving as to form and content the proposed Notice;

26 (c) Directing the mailing of the Notice by first class mail to the Settlement Class
27 Members;

28 (d) Preliminarily approving this Settlement; and

1 (e) Preliminarily certifying the class for purposes of this Settlement.

2 81. Class Counsel will provide Defendants' Counsel the opportunity to review the
3 motion for Preliminary Approval and provide input at least five (5) days before the motion is
4 filed with the Court.

5 82. In conjunction with the Preliminary Approval Hearing, Plaintiff will submit this
6 Settlement Agreement, and will include the proposed Notice Packet, which will include the
7 Notice of Class Action Settlement document and proposed Mailing Envelope.

8 83. 83. In accordance with section 2699(1)(2) of the California Labor Code,
9 Plaintiff shall provide a copy of this Settlement Agreement to the LWDA on the same day that
10 Plaintiff files her motion for Preliminary Approval of this Settlement with the Court.

11 84. 84. Reallocation of Settlement Proceeds. In the event the Court fails, on its
12 first hearing, to approve this Agreement because the amount of the PAGA Penalties is not
13 adequate, then the Parties shall cooperate in good faith to reallocate the total settlement proceeds,
14 within this Agreement, to try to achieve Final Approval of the Agreement upon any subsequent
15 Court hearings.

16 **J. Duties of the Parties Following Court's Final Approval**

17 85. In connection with the Final Approval Hearing provided for in this Settlement
18 Agreement, Class Counsel shall submit a proposed Final Approval Order:

19 (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and
20 adequate, and directing consummation of its terms and provisions;

21 (b) Approving Class Counsel's application for an award of attorneys' fees and
22 reimbursement of litigation costs and expenses, the Service Payment to the Class Representative,
23 and the payment to the Settlement Administrator for costs of administering the settlement; and

24 (c) Entering judgment approving settlement, thereby permanently barring all
25 Participating Class Members from prosecuting any Released Class Claims against any of the
26 Released Parties and permanently barring all PAGA Group Members and the State of California
27 from prosecuting any Released PAGA Claims against any of the Released Parties.
28

1 **K. Voiding the Agreement**

2 86. If the Court fails or refuses to issue the Final Approval Order or fails to approve
3 any material condition of this Settlement Agreement which effects a fundamental change of the
4 Settlement, the entire Settlement Agreement shall be rendered voidable and unenforceable as to
5 all Parties herein at the option of either Party.

6 87. In the event that five percent (5%) or more of the Class Members timely submit
7 a Request for Exclusion, Defendants retain the exclusive right, but not the obligation, to jointly
8 and unanimously elect to withdraw from and terminate the Settlement and return all Parties back
9 to their same position before the Settlement was reached and the Settlement Agreement was
10 entered into. In the event that Defendants exercise such right under this Section, Plaintiff and
11 Defendants shall resume the Action. Defendants must notify Class Counsel and the Court in
12 writing of such a joint and unanimous election to withdraw and terminate the Settlement no later
13 than five (5) business days after receiving written notice from the Settlement Administrator that
14 the number of opt outs equals or exceeds five percent (5%) of the Settlement Class. In the event
15 of Defendants' withdrawal, no Party may use the fact that the Parties agreed to the Settlement
16 for any reason, and Defendants shall pay all administration expenses incurred through the date
17 of its termination of the Settlement.

18 88. If the Settlement is voided or fails for any reason, Plaintiff and Defendants will
19 have no further obligations under the Settlement, including any obligation by Defendants to pay
20 the Settlement Amount, or any amounts that otherwise would have been owed under this
21 Settlement.

22 89. If the Settlement is voided or fails for any reason, any costs incurred by the
23 Settlement Administrator shall be borne equally by Defendants and Plaintiff, unless otherwise
24 specified in this Agreement.

25 **L. Other Terms**

26 90. Full and Complete Defense. This Agreement may be pleaded by any Released
27 Party as a full and complete defense to and may be used as the basis for an injunction against,
28 any action, suit, or other proceeding that has been or may be instituted, prosecuted, or attempted,

1 asserting any Released Claim.

2 91. Waiver. The waiver by one Party of any breach of this Agreement by another
3 Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

4 92. Parties' Authority. The signatories hereto represent that they are fully authorized
5 to execute this Settlement Agreement on behalf of the Party for whom or which that individual
6 signs.

7 93. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
8 accomplish the terms of this Settlement Agreement, including but not limited to, execution of
9 such documents and to take such other action as may reasonably be necessary to implement the
10 terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their
11 best efforts, including all efforts contemplated by this Settlement Agreement and any other
12 efforts that may become necessary by order of the Court, or otherwise, to effectuate this
13 Settlement Agreement and the terms set forth herein. As soon as practicable after execution of
14 this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of
15 Defendants and Defendants' Counsel, take all necessary steps to secure the Court's preliminary
16 and final approval of the settlement and the final entry of judgment.

17 94. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
18 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
19 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
20 cause of action, or rights released and discharged by this Settlement Agreement.

21 95. No Admission of Liability. Defendants deny any and all liability to Plaintiff and/or
22 any Class Member in this Action, as to any and all causes of action that were asserted or that might
23 have been asserted in this Action. Nonetheless, Defendants wish to settle and compromise to avoid
24 further substantial expense and the inconvenience and distraction of protracted litigation.
25 Defendants also have considered the uncertainty and risks inherent in litigation, and without
26 conceding any infirmity in the defenses that they have asserted or could assert against Plaintiff,
27 have determined that it is desirable and beneficial that Plaintiff's claims be settled in the manner
28 and upon the terms and conditions set forth in this Agreement.

1 96. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval
2 Order, nothing contained herein, nor the consummation of this Settlement Agreement, is to be
3 construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part
4 of Defendants or any of the other Released Parties. Each of the Parties hereto has entered into this
5 Settlement Agreement with the intention of avoiding further disputes and litigation with the
6 attendant inconvenience and expenses. This Settlement Agreement is a settlement document, and
7 it, along with all related documents such as the notices, and motions for preliminary and final
8 approval, shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence
9 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the
10 settlement, and/or interpret or enforce this Settlement Agreement. The stipulation for class
11 certification as part of this Settlement Agreement is for settlement purposes only and if, for any
12 reason, the settlement is not approved, the stipulation will be of no force or effect.

13 97. Confidentiality of Documents and Information. Plaintiff, the Settlement
14 Administrator, and Class Counsel shall maintain the confidentiality of all documents and other
15 information obtained in the Action that were specifically designated as confidential at the time
16 they were produced (formally or informally) in the Action, unless ordered to be disclosed by the
17 Court or by a subpoena.

18 98. Limitation on Publicity. Plaintiff and Class Counsel will not make any public
19 disclosure of the Settlement or discuss the Settlement with anyone other than those necessary to
20 effectuate the filing of the motion for preliminary approval, until after the motion for preliminary
21 approval is filed. Class Counsel will take all steps necessary to ensure Plaintiff is aware of, and
22 will encourage her to adhere to, the restriction against any public disclosure of the Settlement until
23 after the motion for preliminary approval is filed. Prior to and following preliminary approval of
24 the Settlement, Plaintiff and Class Counsel will not have any communications with any media
25 other than to direct any media inquiries to the public records of the Action on file with the Court
26 and will not publicize the Settlement, including on social media. Class Counsel will take all steps
27 necessary to ensure Plaintiff is aware of, and will encourage her to adhere to, the restriction against
28 any media comment on the Settlement and its terms. Class Counsel further agrees not to use the

Settlement or any of its terms for any marketing or promotional purposes. Nothing herein will restrict Class Counsel from including publicly available information regarding the Settlement in future judicial submissions regarding Class Counsel's qualifications and experience. Furthermore, Plaintiff and Class Counsel will undertake any and all disclosures required to be made to the LWDA in conformity with PAGA, and may discuss publicly available information regarding the Settlement with Class Members in the event that Class Members contact them with inquiries about their rights under the Settlement.

99. 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 registered or certified mail, return receipt requested, addressed:

To the Settlement Class Members and PAGA Group Members:

Mehrdad Bokhour mehrdad@bokhourlaw.com 1901 Avenue of the Stars, Suite 450 Los Angeles, California 90067 Tel: (310) 975-1493; Fax: (310) 675-0861	Joshua Falakassa Josh@falakassalaw.com 1901 Avenue of the Stars, Suite 450 Los Angeles, California 90067 Tel: (818) 456-6168 Fax: (888) 505-0868
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To Defendants:

Pablo Orozco porozco@nilanjohnson.com Chelsea Bodin cbodin@nilanjohnson.com 250 Marquette Avenue South, Suite 800 Minneapolis, MN 55401 Tel: (612) 305-7500; Fax: (612) 305-7501

100. Construction. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or their counsel participated in the drafting of this Settlement Agreement. Plaintiff and Defendants expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Agreement shall be in all

1 cases construed as a whole, according to its fair meaning.

2 101. Captions and Interpretations. Paragraph titles or captions contained herein are
3 inserted as a matter of convenience and for reference, and in no way define, limit, extend, or
4 describe the scope of this Settlement Agreement or any provision hereof. Each term of this
5 Settlement Agreement is contractual and not merely a recital.

6 102. Modification. This Settlement Agreement may not be changed, altered, or
7 modified, except in writing and signed by the Parties hereto, and approved by the Court. This
8 Settlement Agreement may not be discharged except by performance in accordance with its
9 terms or by a writing signed by all of the Parties hereto.

10 103. Dispute Resolution. Prior to instituting legal action to enforce the provisions of this
11 Agreement or to declare rights and/or obligations under this Agreement, a Party shall provide
12 written notice to the other Party and allow an opportunity to cure the alleged deficiencies, and
13 Plaintiff and Defendants agree to seek the help of the mediator identified in this Agreement to
14 resolve any dispute they are unable to resolve informally. During this period, the Parties shall bear
15 their own attorneys' fees and costs. This provision shall not apply to any legal action or other
16 proceeding instituted by any person or entity other than Plaintiff or Defendants.

17 104. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment of
18 dismissal pursuant to the terms of this Agreement, that, pursuant to Code of Civil Procedure
19 section 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action
20 over all Parties to interpret, enforce, and effectuate the terms, conditions, intents, and obligations
21 of this Agreement.

22 105. Enforceability. Pursuant to California Evidence Code section 1123(a) and (b),
23 this Agreement is intended by the Parties to be, and shall be, enforceable, binding and admissible
24 in a court of law.

25 106. Choice of Law. This Settlement Agreement shall be governed by and construed,
26 enforced, and administered in accordance with the laws of the State of California, without regard
27 to its conflicts-of-law rules.

28 107. Integration Clause. This Settlement Agreement contains the entire agreement

between the Parties relating to the settlement of the Action, Released Class Claims, and Released PAGA Claims, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

108. Binding on Successors and Assigns. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

109. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Settlement Class are numerous, it is impossible or impractical to have each Final Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the releases provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Final Settlement Class Member.

110. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

APPROVAL AND EXECUTION BY PARTIES:

CLASS REPRESENTATIVE:

Dated: 2/15/2023

DocuSigned by:


ASHLEY CHILTON

DEFENDANTS:

PACIFIC EYE INSTITUTE, A MEDICAL GROUP, INC.

Dated: _____

By:
 Its:

1 between the Parties relating to the settlement of the Action, Released Class Claims, and Released
2 PAGA Claims, and all prior or contemporaneous agreements, understandings, representations, and
3 statements, whether oral or written and whether by a Party or such Party's legal counsel, are
4 merged herein. No rights hereunder may be waived except in writing.

5 108. Binding on Successors and Assigns. This Settlement Agreement shall be binding
6 upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors,
7 administrators, successors, and assigns.

8 109. Signatures of All Class Members Unnecessary to be Binding. It is agreed that,
9 because the members of the Settlement Class are numerous, it is impossible or impractical to
10 have each Final Class Member execute this Settlement Agreement. The Notice will advise all
11 Settlement Class Members of the binding nature of the releases provided herein and such shall
12 have the same force and effect as if this Settlement Agreement were executed by each Final
13 Settlement Class Member.

14 110. Counterparts. This Settlement Agreement may be executed in counterparts, and
15 when each Party has signed and delivered at least one such counterpart, each counterpart shall
16 be deemed an original, and, when taken together with other signed counterparts, shall constitute
17 one fully signed Settlement Agreement, which shall be binding upon and effective as to all
18 Parties. Electronic signatures shall have the same force and effect as an original.

19 **APPROVAL AND EXECUTION BY PARTIES:**

20 **CLASS REPRESENTATIVE:**
21 Dated: 2/15/2023
22 
23 ASHLEY CHILTON

24 **DEFENDANTS:**
25 **PACIFIC EYE INSTITUTE, A MEDICAL**
26 **GROUP, INC.**
27 Dated: 2/22/2023
28 By: Richmond E. Roeske, M.D.
Its: President

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Dated: 2/22/2023

UVP MANAGEMENT, LLC



By: *Martin S. Rash*

Its: *President and Chief Executive Officer*

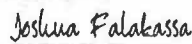
APPROVED AS TO FORM:

Dated: 2/15/2023

CLASS COUNSEL:

FALAKASSA LAW, P.C.

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Joshua Flakassa

Attorneys for Plaintiff

Dated: 2/16/2023

BOKHOUR LAW GROUP, P.C.

DocuSigned by:



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Mehrdad Bokhour

Attorneys for Plaintiff

DEFENDANTS' COUNSEL:

NILAN JOHNSON LEWIS PA

Dated: 2/25/23



Pablo Orozco

Chelsea Bodin

Attorneys for Defendants

Pacific Eye Institute and UVP Management, LLC