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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

KERA SALTER, individually, and on behalf of
all others similarly situated,

Plaintiff,

vs.

BEACON HOME CARE GROUP INC., a
California corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 22CV011847

[Assigned for all purposes to: Hon. Michael
Markman]

CLASS ACTION

**DECLARATION OF H. SCOTT LEVIANT
IN SUPPORT OF PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT**

Date: December 5, 2024
Time: 10:00 a.m.
Courtroom: Dept. 23
Judge: Hon. Michael Markman

Action Filed: May 26, 2022
Trial Date: Not Set

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DECLARATION OF H. SCOTT LEVIANT

I, H. Scott Leviant, declare as follows:

1. I am admitted, in good standing, to practice as an attorney in the State of California, the United States Supreme Court, the Eighth Circuit Court of Appeals, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Eastern, Northern and Southern Districts of California. I have never been subject to discipline by the State Bar of California. I am a fully qualified, adult resident of the State of California, and, if called as a witness herein, I would testify truthfully to the matters set forth herein. All of the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true.

2. I am employed as a Senior Counsel at the law firm of Moon Law Group, PC (formerly Moon & Yang, APC). My business address is 725 S. Figueroa Street, Suite 3100, Los Angeles, California 90017 and my business telephone number is (213) 232-3128. I am counsel for Plaintiff KERA SALTER and I am proposed counsel for the Settlement Class.

3. This Declaration is submitted in support of Plaintiff's Motion for Final Approval of Class and Representative Action Settlement.

BACKGROUND

4. Plaintiff worked for Defendant as nonmedical home care worker. On May 26, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for: failure to pay minimum and regular rate wages, failure to pay overtime compensation, failure to provide meal periods, failure to authorize and provide rest breaks, failure to timely pay final wages at termination, failure to provide accurate itemized wage statements, failure to indemnify for necessary business expenses, and Unfair Business Practices.

5. Plaintiff sent a letter to the Labor and Workforce Development Agency ("LWDA"), pursuant to California Labor Code § 2699.3, providing notice of her intent to seek civil penalties under the Private Attorneys General Act, California Labor Code § 2698, *et seq.* ("PAGA Letter"). The LWDA did not indicate that it intended to investigate the alleged violations referenced in the letter, and the 65-

1 day time period permitted for the LWDA to provide such a notification expired. On September 26, 2022,
2 Plaintiff filed a First Amended Complaint alleging an additional cause of action for violation of the
3 Private Attorneys General Act (“PAGA”). The First Amended Class and Representative Action
4 Complaint is the operative complaint in the Action (the “Operative Complaint.”)

5 6. The Parties conducted informal discovery and investigation of the facts and law. Such
6 investigation included, *inter alia*, the exchange of extensive data and discoverable information in
7 preparation for the mediation sessions. The Parties have analyzed time clock, pay and other data for a
8 sample of 200 employees during the class period, pertaining to Plaintiff and the Class during the relevant
9 Settlement Period, including but not limited to the numbers of former and current members of the Class,
10 average workweeks and pay periods, and average rate of hourly pay. In addition, Defendant also
11 provided documents reflecting wage and hour policies and practices during the Settlement Period and
12 information regarding the total number of current and former employees in the Class. Defendant’s
13 policies included timekeeping requirements, payment of wages, attendance and punctuality, electronic
14 communication and internet use, business usage of personal automobiles, and separation of employment.
15 The handbook and policies were provided to all putative class members and applied to all putative class
16 members. Further, Plaintiff was deposed by Defendant on May 10, 2023. A first deposition was
17 scheduled for Plaintiff on May 4, 2023, but due to technical issues, the deposition was moved to May 10,
18 2023.

19 7. After reviewing documents regarding Defendant’s wage and hour policies and practices
20 and other information obtained during the exchange of discovery, Class Counsel were able to evaluate
21 the probability of class certification, success on the merits, and the reasonably obtainable maximum
22 monetary exposure for all claims. Class Counsel reviewed these records and prepared a damage analysis
23 prior to mediation. Class Counsel also investigated the applicable law regarding the claims and defenses
24 asserted in the litigation.

25 8. On May 24, 2023, the Parties participated in mediation with Jeffrey A. Ross, Esq., which
26 ultimately led to a proposed settlement, subject to review of financial data by Plaintiff’s Counsel and an
27 accountant. The Parties discussed at length the burdens and risks of continuing with the litigation as well
28 as the merits of claims and defenses. After the mediation, and the eventual settlement, the Parties then

1 signed a long form settlement agreement (the “Agreement”).

2 9. Plaintiff and Class Counsel are aware of the burdens of proof necessary to establish
3 liability for the claims asserted in the Action, both generally and in response to Defendant’s defenses
4 thereto. Plaintiff and Class Counsel have also taken into account Defendant’s agreement to enter into a
5 Settlement that confers substantial relief upon the Class. Plaintiff and Plaintiff’s Counsel have
6 considered the impact of any larger settlement or judgment on Defendant’s ability to operate as a going
7 concern. The Settlement in this matter is constrained by Defendant’s financial circumstances. Plaintiff’s
8 Counsel reviewed tax returns for 2020 and 2021 (the last complete return), and profit and loss and
9 balance sheets for 2022 and 2023. These financial documents were then provided to an accountant. The
10 accountant employed by Plaintiff’s Counsel then spoke directly to the accountant for Defendant, with all
11 counsel present, to obtain answers to questions about the documents. After that discussion, the
12 accountant for Plaintiff’s Counsel provided an opinion about the financial condition of Defendant to
13 Plaintiff’s Counsel, including a recommendation about Defendant’s realistically available cash
14 resources.¹ That opinion was considered as part of this proposed Settlement, as it presented a very
15 serious risk factor.

16 10. Based on the foregoing, Plaintiff and Class Counsel have determined that the Settlement
17 set forth in this Agreement is a fair, adequate, and reasonable Settlement and is in the best interests of the
18 Class. Solely for the purpose of settling this case, the parties agree that the requirements for establishing
19 class action certification with respect to this class have been met and are met. If this Settlement is not
20 approved by the Court for any reason, Defendant reserves its right to contest class certification. This
21 Settlement, if approved, will result in the termination of the litigation through the entry of the Judgment
22 and the release of all Released Claims for all Class Members, including all within the class definition
23 who have not elected to exclude themselves from the Class.

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28 ¹ A declaration from Kenneth Creal, CPA, was submitted as part of the supplemental materials filed
in support of the Motion for Preliminary Approval.

SUMMARY OF THE SETTLEMENT TERMS

11. Key provisions of the proposed settlement include the following:

- (a) Defendant agrees not to oppose certification for purposes of Settlement (Settlement, ¶ 12.1);
- (b) Class: All current and former employees who were hourly paid, nonexempt employees of Defendant who worked for Defendant in California during the Class Period (the “Class Period” is the period from May 26, 2018 to June 21, 2024). “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Class portion of the Settlement. (Settlement, ¶¶ 1.5, 1.9, 1.12, 1.35.)
- (c) Settlement Amount: Defendant will pay a maximum of **\$200,000.00**, referred to as the Gross Settlement Amount (or GSA herein), resulting in an average **gross** benefit per Class Member of about **\$319.49** (Settlement, ¶ 1.21; 3.1; Leviant Decl., ¶ 17.);
- (d) Funding of Gross Settlement Amount: Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant’s share of payroll taxes by transmitting the funds to the Administrator within thirty (30) days after the Administrator has calculated and informed Defendant of the employer’s share of payroll taxes on the Wage Portion. (Settlement, ¶ 4.3.)
- (e) Class Size: **626** individuals who worked 25,810 workweeks (Mitzner Decl., ¶ 10)
- (f) PAGA Group Size: **372** aggrieved employees who worked 15,845 pay periods during the PAGA Period. (Mitzner Decl., ¶¶ 2, 13)
- (g) PAGA Period: May 26, 2021, to the date the Court grants Final Approval. (Settlement, ¶ 1.31);
- (h) Kullar/Munoz Analysis: Plaintiff addresses the claims analysis in the Motion, at Part V.B.3, and below, at Paragraph 18;
- (i) No Reversion: The Settlement is a **non-reversionary** settlement (Settlement, ¶ 3.1);

- (j) Certification: Plaintiff addresses certification requisites in the Motion, at Part V.A. Certification was addressed in more detail in the Motion for Preliminary Approval;
- (k) No Claim Form: No claim form is required (Settlement, ¶ 3.1);
- (l) Class Release: The Settlement will release wage-and-hour claims for Participating Class Members (those Class Members who do not opt out of the Settlement) all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint (Settlement, ¶ 5.2);
- (m) PAGA Release: Aggrieved Employees and the LWDA will release all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the PAGA Notice, regardless of whether they opt out of the class portion of the Settlement (Settlement, ¶ 5.3);
- (n) Net Settlement Amount Available to the Class: After deducting Class Counsel's attorneys' fees and costs, service payment to Plaintiff, administration costs, and the PAGA penalty, the remainder will be available for distribution to Class Members who do not opt out, with each Class Member receiving a share based on the number of Workweeks each Class Member worked for Defendant within the Class Period. Assuming all awards are granted as requested, the Net Settlement Amount will be **\$75,698.34**, resulting in an average **net** payment per Class Member of at least **\$120.92**, before any tax withholdings.² (Settlement, ¶ 1.27.)
- (o) Tax Allocation: The amounts distributed to Class Members will be characterized as 10% alleged unpaid wages, 90% to interest and penalties, and PAGA Settlement payments to Aggrieved Employees will be allocated as 100% penalties. (Settlement, ¶¶ 3.2.4.1, 3.2.5.)

² The Administrator's declaration assumes the full cost cap allocation is awarded. Since costs are less than the estimated cap, the Net Settlement Amount is higher.

- (p) Employer’s Portion of Payroll Taxes Paid Separately: Defendant’s portion of payroll taxes (e.g., FICA, FUTA, etc.) owed on any settlement payments to Class Members that constitute wages will be paid separate and apart from the GSA (Settlement, ¶ 3.1);
- (q) Settlement Administrator: The notice portion of the Settlement was administered by a third-party Administrator, Phoenix Settlement Administrators, with the costs of administration at a flat rate of up to \$15,000.00. Phoenix’s estimate for settlement administration services in the amount of \$9,000.00³ was selected as the lowest bid from a competitive bidding process, and is below the Parties’ estimated cost of \$15,000.00. (Settlement, ¶ 3.2.3; Mitzner Decl., Exh. B.)
- (r) Class Data for Administration: The Settlement Administrator received the Class Data, used the National Change of Address (“NCOA”) database to update the Class Data, and then used skip tracing on returned Notices (Settlement, ¶¶ 4.2; 1.10);
- (s) Notice: The Notice was issued within 14 days of receipt of the Class List (Settlement, ¶ 7.4.2). The Notice described how to dispute workweeks, submit an objection in writing, in person, or through an attorney, or request exclusion (Settlement, ¶¶ 7.5 – 7.7);
- (t) Notice Language: Notice was issued in English only, since all Class Members are English speakers (Settlement, ¶ 1.11; 7.4.2);
- (u) Objections: Objections could have been submitted in person, through an attorney, or in writing to the Settlement Administrator, with no pre-requisite to being heard (Settlement, ¶¶ 7.7.1 – 7.7.3);
- (v) Exclusion Requests: The procedure for exclusion requests, mailing a request to the Settlement Administrator, is the same as the procedure for submitting a written objection (Settlement, ¶¶ 7.5.1 and 7.7.2);

³ The administration cost is \$8,750.00.

- (w) PAGA Allocation: From the GSA, **\$16,000.00** will be allocated to settle claims brought pursuant to the California Private Attorneys General Act, Labor Code § 2699 *et seq.* (“PAGA”), and seventy-five percent (75%), or **\$12,000.00**, will be paid to the California Labor & Workforce Development Agency. (Settlement, ¶ 1.34; 3.2.5);
- (x) Notice to LWDA: Notice was provided prior to the filing of this Motion. Evidence is attached to this Declaration;
- (y) Enhancement/Service Award to Plaintiff: Defendant will not oppose the application for Class Representative Service Payment of up to **\$7,500.00** for Plaintiff, to be paid from the GSA (Settlement, ¶ 3.2.1);
- (z) Fees and Costs: Defendant will not oppose Class Counsel’s application for fees not to exceed 33 1/3% of the GSA (**\$66,666.67**), and actual costs, in an amount not to exceed **\$26,000.00**⁴, to be paid out of the GSA (Settlement, ¶ 3.2.2);
- (aa) Check Void Period: Settlement checks will be valid for 180 days (Settlement, ¶ 4.4.1);
- (bb) Uncashed Checks: Any settlement checks that are mailed to the Class Members and remain uncashed after 180 days of the date of issuance will be cancelled, and the moneys will be directed to the State Controller’s Office, Unclaimed Property Division in the name of the Class Member (Settlement, ¶ 4.4.3);
- (cc) Judgment Notice: Judgment will be posted on the Settlement Administrator’s website after entry (Settlement, ¶ 7.8.1);
- (dd) Confidentiality Provisions: The Settlement permits Class Counsel to discuss the Settlement with Class Members (Settlement ¶ 12.2).

12. A true and correct copy of the FIRST AMENDED CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE is attached hereto as Exhibit “1.”

⁴ Class Counsel’s actual costs are \$25,384.99.

THE SETTLEMENT IS FAIR, JUST AND REASONABLE

13. Plaintiff and counsel have diligently investigated the claims of the Class Members. Plaintiff and Class Counsel concluded, after taking into account the disputed factual and legal issues involved in this Action, the substantial risks attending further prosecution, including risks related to the outcome of certification and possible summary judgment efforts, the limited financial resources available to Defendant, and the substantial benefits to be received pursuant to the compromise and settlement of the Action as set forth in the Settlement, that settlement on the terms agreed to are in the best interest of Plaintiff and the putative Class and are fair and reasonable. Plaintiff's counsel brought to bear a great deal of experience with class actions in negotiating the settlement of this case.

14. One fundamental purpose of the class action device is to promote efficiency. Resolution at this time will forestall the need for additional expensive and time-consuming litigation that could very well result in an outcome less satisfactory than that proposed under this settlement. But, before any other consideration, we have agreed to this settlement because it is objectively reasonable. The potential for resolution benefits the class members, since they do not have to wait additional years for a similar recovery. The efficiency of this litigation benefits the Court, the parties and their counsel. A class-wide resolution is the most realistic method for addressing the claims raised in this matter.

15. We have engaged in the necessary investigation in this case that made it possible for us to exercise informed judgment in those aspects of the settlement process in which we were involved. The exchange of time and wage data, wage and hour policy documents, and data about the composition of the Class, were sufficient to permit us counsel to adequately evaluate the settlement. We had more than enough information upon which to evaluate a fair and reasonable settlement amount.

16. In addition to disputing the merits of Plaintiff's claims at trial, Defendant intended to aggressively challenge the case at the certification stage. Defendant contends that Plaintiff could not prevail on a certification motion. We believe that the case was viable through to a trial. However, while Plaintiff asserts a belief that this is a viable case for trial, we realize that there are always very significant risks associated with certification and trials, and those risks cannot be eliminated in this case. Continued litigation of this lawsuit presented Plaintiff and Defendant with substantial legal risks and costs that were (and continue to be) difficult to assess. The risks in this matter include:

- the risk that Plaintiff would be unable to establish liability for allegedly unpaid straight time or overtime wages, *see Duran v. US Bank Nat'l Ass'n*, 59 Cal. 4th 1, 39 & fn. 33 (2014) ("*Duran*"), *citing Dilts v. Penske Logistics, LLC* 2014 WL 205039 (S.D. Cal. 2014) (dismissing certified off-the-clock claims based on proof at trial);
- the risk that Defendant's challenged employment policies might not ultimately support class certification or a class-wide liability finding, *see, Duran*, 59 Cal. 4th at 14 & fn. 28 (citing Court of Appeal decisions favorable on class certification issue without expressing opinion as to ultimate viability of proposition);
- the risk that uncertainties pertaining to the legality of Defendant's policies and practices could preclude class-wide awards of penalties under Labor Code §§ 203 and 226(e);
- the risk that individual differences between Class Members could be construed as pertaining to liability, and not solely to damages, *see, Duran*, 59 Cal. 4th at 19;
- the risk that any civil penalties award under the PAGA could be reduced by the Court in its discretion, *see* Labor Code § 2699(e)(1);
- the risk that lengthy trial or appellate litigation could ensue;
- the risk violation rate estimates could prove lower than expected;
- ***the risk that Wage Order exemptions for personal attendants or other exemptions could eliminate many of the claims for many of the putative class members; and,***
- ***the extreme risk of Defendant's failure or inability to pay any significant judgment.***

These risks are non-exhaustive. While we remain confident that we possess credible strategies for responding to the legal and factual risks facing them, those risks cannot be disregarded. We carefully considered the risks created by all of these uncontrollable factors when evaluating the reasonableness of this proposed settlement. This Settlement provides a benefit to the Class Members that is very reasonable in light of these particular risks.

17. The Settlement is the product of arm's-length negotiations between the Parties occurring throughout the litigation. In light of the uncertainties of protracted litigation, the financial limitations placed on Defendant's funds, and the state of the law regarding the legal positions of the Parties, the settlement amount reflects the best feasible recovery for the Class Members. The settlement

1 amount is, of course, a compromise figure. By necessity it took into account risks related to liability,
2 damages, and the defenses asserted by Defendant. Moreover, each Class Member was given the
3 opportunity to opt-out of the Settlement, allowing those who feel they have claims that are greater than
4 the benefits they can receive under this Settlement to pursue their own claims. For the approximately
5 **626** members of the Class, the average **gross** benefit is **\$319.49** per class member, and the estimated
6 average **net** recovery for each Class Member is **\$120.92**. Given that Defendant could potentially defeat
7 certification, this is a significant sum to have achieved in settlement. Moreover, a Class Member who
8 worked a greater number of weeks for Defendant will receive a larger share of the Settlement than a
9 Class Member who worked for a shorter amount of time during the class period.

10 18. After analyzing the claims in this matter, Plaintiff has concluded that the value of this
11 Settlement is fair, adequate, and reasonable. The Class Settlement Amount of **\$200,000.00** is about 30%
12 of the **\$666,254.28** estimate of *risk-adjusted* recovery (excluding interest) at this stage in the litigation.
13 On that basis, it would be unwise to pass up this settlement opportunity. This assessment is based on a
14 carefully constructed model of the current fair value of the case, using estimated risks, average wage
15 rates, numbers of employees, and the amount of time covered by the class period. While Plaintiff would
16 certainly have preferred to recover more (and Defendant would have preferred to pay less), this outcome
17 is in line with a carefully constructed estimate of the current fair value of the case. On that basis, it
18 would be unwise to pass up this settlement opportunity. The maximum calculated reasonable exposure,
19 after removing the *most* implausible or extreme estimated recoveries, is **\$4,469,589.40**, *including* PAGA
20 penalties (which, nevertheless, includes a highly optimistic view of what could be proven in this matter).
21 Data used to generate exposure calculations includes the following information:

- 22 • Employees terminated within 3 years of the filing of the action: 517
 - 23 • Number of employees who worked within one year of the filing of the action: 553
 - 24 • Total class size: 626 (after one opt out request)
 - 25 • Workweeks: 25,810
 - 26 • PAGA pay periods: 15,845 PAGA Pay Periods.
 - 27 • Average hourly rate of pay: \$17.52
- 28

- Average regular rate of pay: \$18.03
- Shift length:
 - 70.4% of shifts were equal to or longer than 3.5 hours
 - 50% of shifts were equal to or longer than 5 hours
 - 44.6% of shifts were equal to or longer than 6 hours
 - 28.8% of shifts were over 8 hours

This data shows that half the class worked less than 5 hours per shift. These shifts have no meal period obligation, no overtime issues, and only one possible rest break. Thirty percent of shifts were not even entitled to rest break. Based on these and other risk factors, the exposure was calculated and then adjusted to account for risk. The risk-adjusted value of each claim, on a claim-by-claim basis, is as follows:

- A reasonably estimated exposure for unpaid off-the-clock wages was calculated, with the assistance of an expert, to be approximately **\$90,021.20**. However, with the risk factor discounts for certification and liability proof, the value of that claim is estimated by Plaintiff's counsel to be approximately **\$8,101.91**, assuming certification probability of 30% and merits success at 30%. The off-the-clock time resulted from alleged contacts during off-the-clock times. The data analyst was instructed to assume 3 minutes for every shift of off-the-clock time, which included employees having to go through a COVID-19 screening process. The exposure was calculated to be \$90,021.20, as set forth above. Here, a **\$90,021.20** exposure has a value of just under 10% of its maximum, given a likelihood of success on both events, which is an approximation of the chain probability of certification multiplied by merits chances: $0.3 \times 0.3 = 0.09$. However, this assumption (1) also ignores the fact that this did not affect every employee, and (2) also assumes the off-the-clock contacts happened every day *and* took an average of at least 3 minutes, an assumption that is likely far too optimistic. This theory of recovery also has a high degree of risk because it depends on Class Member estimates of the frequency and duration and is testimony dependent.
- A reasonably estimated exposure for unpaid wages due to rounding was calculated, with the assistance of an expert, to be approximately **\$17,816.50**. Defendant's practice of rounding dropped significantly in 2023. The data showed that 46% of pay periods had underpayment due to rounding, and 54% had overpayment or were unaffected by rounding. The question of whether the underpaid employees have a viable claim is currently uncertain. Rounding is now before the California Supreme Court, in the case of *Camp v. Home Depot* (I represent Plaintiff Camp in that matter). It is unclear whether the Camp appellate Court rule will prevail or whether the prior rounding decisions will be found to correctly interpret California law. Due to the above, the maximum exposure was then discounted by 75% due to the chances of prevailing at certification and by 75% for success on the merits. The maximum exposure multiplied by the discounted rates results in a risk-adjusted exposure of **\$10,021.78**.
- A reasonably estimated exposure for rest break violations over the class period was calculated at **\$219,307.20**, but with chances of certification and proof of liability (20% and 20% respectively) for a risk-adjusted exposure of **\$8,772.29**. The data analyst was

1 directed to assume one rest break violation per week for 100% of the Class Members.
2 Using this assumption that 100% of the Class missed one rest break per week due to the
3 demands of work assignments, an aggressive assumption, the exposure was calculated,
4 using average pay rates, to be \$219,307.20, as noted above, before high risk reductions.
5 While we aggressively advocated for this theory of liability at mediation, our
6 investigation suggests that Defendant's contentions may be accurate about this claim – it
7 is possible that some employees chose, voluntarily, to work through their rest breaks
8 instead of taking their required rest break. Assuming this is true, then the fact of
9 employee choice overrides the Defendant's obligation to provide rest breaks. The rest
10 break claim has, realistically, a very low likelihood of certification.

- 11 • A reasonably calculated exposure for meal break violations over the class period was
12 calculated at **\$181,510.25**, with chances of certification and liability risks (50% and 25%
13 respectively) resulting in a risk-adjusted exposure of **\$22,688.78**. This exposure is based
14 upon facial violations. The exposure valuation was still susceptible to attack. Employee
15 choice is a serious issue in the context of a meal period claim. The exposure attributed to
16 the meal break claim is based entirely on observed meal period violations within the time
17 records. The two largest categories of violations were seen, overwhelmingly, in shifts
18 with a missed first recorded meal period over 5 hours, and in shifts with a missed first
19 recorded meal period over 6 hours. This does not however mean that this claim would be
20 easy to certify or prove on the merits if certified. Again, the major issue here is employee
21 choice. So long as an employee has the opportunity to take a lawful meal period, an
22 employee can choose to take it late, cut it short, or skip it. We considered there to be high
23 risk that, in a war of declarations, Defendant could supply far more showing that class
24 members decided each day when they wanted to break for lunch, and or signed a meal
25 period waiver. With this in mind, we believe that a risk-adjusted exposure of **\$22,688.78**
26 is a reasonable valuation for this claim, at the pre-certification stage.
- 27 • Risk-adjusted penalty recoveries for wage statement penalties was estimated to be
28 approximately **\$74,616.75**, on a maximum exposure of **\$829,075.00** (with certification
and merits success chances of 30% and 30%, based on the off-the-clock theory of unpaid
wages, adjusted for the additional risk of needing to prove other elements in addition to
the underlying wage claim). While rounding issues are usually potent claims due to the
associated penalties (wage statement penalties under Labor Code § 226), this issue
impacted about 5% of the Class, rendering the impact negligible. The value of this claim
was just dealt a severe blow by the recent California Supreme Court decision of *Naranjo*
v. Spectrum Security Services, Inc. (May 6, 2024), which significantly strengthened the
good faith defense to Labor Code § 203 penalties. The uncertainty regarding the legality
of rounding would make proof of a knowing and intentional violation almost impossible.
Thus, the off-the-clock theory, while much harder to prove, generates a higher exposure
value on these derivative claims.
- Risk-adjusted penalty recoveries for Labor Code § 203 penalties was estimated to be
approximately **\$73,502.15**, on a maximum exposure of **\$816,690.50**, (with certification
and merits success chances of 30% and 30%, based on the off-the-clock theory of unpaid
wages, adjusted for the additional risk of needing to prove other elements in addition to
the underlying wage claim). While rounding issues are usually potent claims due to the
associated penalties (late pay under Labor Code § 203), this issue impacted about 5% of
the Class, rendering the impact negligible. The value of this claim was just dealt a severe
blow by the recent California Supreme Court decision of *Naranjo v. Spectrum Security*
Services, Inc. (May 6, 2024), which significantly strengthened the good faith defense to
Labor Code § 203 penalties. The uncertainty regarding the legality of rounding would
make proof of a knowing and intentional violation almost impossible. Thus, the off-the-
clock theory, while much harder to prove, generates a higher exposure value on these
derivative claims

- A reasonably calculated exposure for unreimbursed expenses was estimated to be **\$55,168.75**, but with chances of certification and proof of liability (60% and 50% respectively) for a risk-adjusted exposure of **\$16,550.63**. The allegation is that Defendant occasionally contacted employees by cell phone regarding patient issues when the Class Members were off-the-clock. This did not happen with a high degree of regularity and it did not happen to every Class Members on a consistent basis. The unadjusted exposure is likely too high. Based on the inconsistency, the exposure was then discounted by 60% due to the chances of prevailing at certification and by 50% due to liability risks. The maximum exposure multiplied by the discounted rates results in a risk-adjusted exposure of **\$16,550.63**.
- Performing risk-adjusted valuations for all claims yields a total value in the range of **\$508,655.15**, excluding PAGA.⁵
- PAGA penalties were calculated as having a maximum realistic exposure of **\$2,260,000.00**, but a risk adjusted value of **\$452,000.00**, after factoring in risks of reduction in penalties pursuant to Court discretion and the high risk of the inability to prove violations for all aggrieved employees.⁶ PAGA penalty exposures are commonly calculated two ways, primarily to address the issue of “stacking,” which is the argument that a single incorrect act cannot result in multiple penalties all based on that one violation. Here, using the “catch-all” \$100 penalty, and assuming one violation for every single PAGA Pay Period, the maximum exposure would be **\$2,260,000.00**. We then had to determine a viable current value for this claim. The PAGA claim would require the participation of a large percentage of the job workforce of about 327 current and former aggrieved employees. Many of the claims are testimony dependent. In addition, the Court could, in the interest of justice, reduce any penalty further, once the violation was proven. A 20% adjustment is a very reasonable recovery percentage rate, based, primarily, on the substantial difficulty of obtaining cooperation of a large percentage of Aggrieved Employees who would gain relatively little for doing so. The resulting, risk-adjusted exposure is **\$452,000.00**.

Beyond the claim risks, the class composition data provides additional information about the nature of the putative class when viewed through the lens of experience in the field of wage and hour class actions. Compared to the estimated size of the putative class, it is evident that this workforce has a very high rate of turnover, and the average term of employment is short. While it is easy to assume that a large population of former employees would be willing to cooperate with Plaintiff’s Counsel, the reality is that

⁵ It is difficult to assign specific percentages to future events, but it does provide a specific method for attempting to reduce the concept of “very high risk” or “high risk” to a quantifiable amount. Certification of a claim is typically a binary event. One does not obtain a 20% certification; a claim is either certified or it is not. But the current expected value is best quantified by applying a risk reduction, based on the total experience of counsel. The numbers explain with math what can also be described conceptually in words.

⁶ Alternatively, using a simpler approach, if the default \$100 penalty per pay period were applied to the approximately 20,138 pay periods, the exposure would be roughly \$2,138,000, slightly less than the calculated exposure that assumes full participation by all aggrieved employees and some viable mechanism for “proving” violations for each employee for each pay period.

1 is often untrue in workforces with high turnover rates. Home health care work often carries with it a high
2 burnout rate, and employees often want nothing to do with the job once they leave, including recalling
3 any issues they had while employed. It will be very hard to chase down such a large population of
4 former employees and secure their cooperation at a significant percentage rate.

5 19. The settlement here is fully supportable. Many risks are eliminated through settlement.
6 And, with respect to those risks, certification rates in California are **lower** than conventional wisdom
7 holds. *See, e.g., Findings of the Study of California Class Action Litigation, 2000-2006*, available at
8 <http://www.courtinfo.ca.gov/reference/documents/class-action-lit-study.pdf> (finding, at page 5, and in
9 Table 9, at page 15, that only 21.4% of all class actions were certified either as part of a settlement **or** as
10 part of a contested certification motion). Here, the estimated certification probabilities are **above** the
11 average rate at which cases were certified in California over the study years, based upon data available.
12 Here, the estimated certification probabilities are **above** the average rate at which cases were certified in
13 California over the study years, based upon data available through the California Courts websites. In
14 sum, well *under* 20% of all cases filed as proposed class actions are ultimately certified by way of a
15 *contested* motion. The recovery is roughly **4%** of the maximum plausible recovery (estimated to be
16 approximately **\$4,469,589.40**, including PAGA), resulting primarily from the financial condition of
17 Defendant, and still within the expected range of outcomes under the likelihood of success metric and
18 still consistent with other cases in which courts have granted approval of class wage and hour
19 settlements.⁷ It would also be appropriate to evaluate the result by examining only the premium wages at
20 issue (approximately \$508,655.15, with no risk reduction), excluding penalties and interest; the
21 settlement is about 39% of the premium wages (unpaid wages, meal period premiums, and rest break
22 premiums) at maximum realistic exposure value.⁸ Because the total Settlement amount and the

23
24 ⁷ *See, e.g., Ferrell v. Buckingham Property Mgmt.* (E.D. Cal. Jan. 21, 2020) Case No. 1:19-cv-
25 00332-LJO-SAB, 2020 WL 291042, *17-20 (granting preliminary approval of settlement that
26 represented 5.2% of the original valuation of the claims); *Thomas v. Cognizant Tech. Sols. U.S. Corp.*
(C.D. Cal. June 24, 2013) No. SACV111123JSTANX, 2013 WL 12371622, at *6 (granting final
approval of settlement that encompassed between 4.4% and 5% of the maximum estimated liability).

27 ⁸ The exclusion of interest and penalties from the fairness evaluation is proper because, first, PAGA
28 penalties are discretionary (*see* Lab. Code § 2699(e)(2) (the court in its discretion “may award a lesser
amount than the maximum civil penalty amount specified by this part...”), and, second, courts evaluate

1 proportion of the Settlement allocated to PAGA penalties fall within the range of what is reasonable, the
2 Settlement should be approved.

3 20. To the best of my knowledge there are no other like claims asserted or filed by Class
4 Members. To the best of my knowledge, no Class Member has refrained from bringing an action with
5 claims similar to those raised in the Action, whether in reliance on the Action or otherwise, and who
6 thus might be prejudiced by dismissal of the Action.

7 8 THE EXPERIENCE OF CLASS COUNSEL

9 21. Moon Law Group, PC (former named Moon & Yang, APC), has been engaged in the
10 practice of employment and labor law for almost a decade and presently focuses exclusively on
11 plaintiffs' employment law. The firm and its lawyers have handled many hundreds of wage-related
12 class actions between them. The firm and its lawyers have successfully settled more than 300 class
13 action matters during that time span. The firm and its lawyers have also tried both bench and jury trials
14 (representing both plaintiffs and defendants) relating to employment matters. Moon Law Group, PC, is
15 routinely appointed lead or co-lead class counsel (or counsel for representative plaintiffs in FLSA
16 representative actions) in federal and state courts in California and elsewhere, by way of motion for
17 class certification or motion for settlement approval. I personally participated in the litigation of more
18 than 500 class actions since 1999, and more than 90 percent of those cases were wage and hour matters.
19 While I have not maintained a comprehensive list, I have been appointed as lead or co-lead counsel in
20 many hundreds of class actions.

21 22. Mr. Kane Moon received a B.A. in History in 1998 from UCLA. He received his J.D.
22 from Loyola Marymount Law School in 2006. He became an Active Member of the State Bar of
23 California in June 2007 and has been an Active Member in good standing continuously since then. He
24 is a current member of the California Employment Lawyers Association (CELA).

25 23. Mr. Moon co-founded Moon & Yang, APC, now Moon Law Group, PC, in March
26

27 the strength of a proposed settlement without taking potential penalties or interest into consideration. *See*
28 *Rodriguez v. West Publishing Corp.*, 563 F.3d 948, 955 (9th Cir. 2000); *see also Miller v. CEVA*
Logistics U.S.A., Inc., 2015 WL 729638, at *7 (E.D. Cal. Feb. 19, 2015).

2010. Since that time, Mr. Moon built his practice to have an emphasis on employment and related civil litigation cases. In fact, the practice is focused almost exclusively on advocating for the rights of employees in wage-and-hour litigation through class and representative actions. Moon Law Group, PC is presently class counsel for many dozens of other putative wage-and-hour class and representative action lawsuits pending in various state and federal jurisdictions throughout California. Moon Law Group, PC has also successfully settled hundreds of wage-and-hour cases; tried both bench and jury trials in employment-related matters, representing both plaintiffs and defendants; and been appointed lead or co-lead class counsel in numerous federal and state courts in California. The following is a list of some of the firm's class action settlements that have received preliminary and final approval: *Mark Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 20, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 (class size approx. 2,650; lead counsel) (In approving my \$650 hourly rate, the Court found: "Class Counsel's declarations show that the attorneys are experienced and successful litigators. Other courts have approved the attorneys' current rates for the Moon & Yang, APC attorneys." (*Id.* at *10.); *Sison v. Cha Hollywood Medical Center, L.P.*, LASC BC6441 29 (class size approx. 2,100; co-counsel); *Jones v. Fitness Alliance, LLC*, Riverside Superior Court PSC1404079 (class size approx. 1,000; lead counsel); *Gomez v. H Mart Companies, Inc.*, LASC BC671525 (class size approx. 2,500; co-counsel); *Montoya v. Golden 1 Credit Union*, Sacramento Superior Court 34-2018-00228252 (class size approx. 1,900; lead counsel); *Campa v. Bloomingdeals, Inc.*, LASC BC700366 (class size approx. 1,500; lead counsel); *Black v. Mission Healthcare Services, Inc.*, LASC 19STCV04602 (class size approx. 1,000; lead counsel); *Onofre v. Caitac Garment Processing, Inc.*, LASC BC702283 (class size approx. 750; lead counsel); *Martinez v. Bail Hotline Bail Bonds, Inc.*, LASC BC700131 (class size approx. 173; lead counsel); *Jones v. Citiguard, Inc.*, LASC BC664890 (class size approx. 587; lead counsel); *Slaughter v. ACA Security Stems, LP*, LASC BC699137 (class size approx. 300; lead counsel); *Taylor v. Sherman's Delicatessen & Bakery, LLC*, LASC BC722765 (class size approx. 515; lead counsel); *Vertti v. Bagcraft Papercon III, LLC*, LASC 19STCV12729 (class size approx. 260; lead counsel); *Rodriguez v. Rossmoyne, Inc.*, LASC BC699137 (class size approx. 220; lead counsel); *Vargas v. AMS Paving, Inc.*, LASC BC722767 (case size approx. 260; lead counsel); *Garcia v. Comfy U.S.A. Apparel, Inc.*, LASC BC709630 (class

size approx. 210; lead counsel); *Lagos v. ThyssenKrupp Elevator Corporation*, LASC BC682972 (\$750,000 for 79 Class Members; lead counsel); *Aparicio v. Lineage Logistics, LLC*, LASC BC722764 (class size approx. 155; lead counsel). Mr. Moon's experience is and has been invaluable in assessing the reasonableness of settlements such as the one at issue here.

24. Aside from myself and supervising Partner Kane Moon, associate attorney Mariam Ghazaryan also worked on this matter:

- (a) Mariam Ghazaryan is an associate at Moon Law Group, PC. Ms. Ghazaryan's practice is focused on labor and employment class action lawsuits involving various violations of California and federal labor laws.
- (b) Ms. Ghazaryan received her law degree from Southwestern School of Law.
- (c) Ms. Ghazaryan was admitted to the California bar in December 2021.
- (d) Ms. Ghazaryan's billing rate is \$600 per hour.

25. I received my undergraduate degree from Occidental College. Graduating cum laude, I majored in economics and received a "minor" emphasis in mathematics. Along with my study of economics and mathematics, I also had an emphasis in physics. This combination of scientific and economic education has been of assistance during my litigation of complex civil actions. I received my Juris Doctor degree from the University of Southern California Law Center.

26. My experience relevant to class action litigation includes the following:

- (a) I have been involved in the litigation of class actions since 1997, working as a law clerk on a number of class action matters. Since 1999, I have participated as an attorney in the litigation of hundreds of class actions, in California Superior Courts and in federal courts in California, Illinois, and Louisiana. I emphasized litigation of wage and hour class actions beginning in 2005, but I have focused on complex litigation of different types at all times since 1999.
- (b) Dating back to 1999, some of the earliest cases in which I contributed to my then-firm's efforts as co-lead/liaison counsel include:

- i. *In re Paradise Memorial Park Litigation*, Los Angeles Superior Court Lead Case No. BC130375; and,

ii. *In re Lincoln Memorial Park Litigation*, Los Angeles Superior Court Lead Case No. BC133643.

(c) I have litigated contested class certification motions multiple times, prevailing on many. Examples include the following:

- 1) In 2023, I certified a rest break claim against SMS Transportation, in the matter of *Beard v. SMS Transportation*. Rest break claims are notably difficult to certify.
- 2) In 2023, I certified a regular rate claim against Downtown Women's Center, in the matter of *Evans v. Downtown Women's Center*.
- 3) In 2018, I certified wage and hour claims against Home Depot, in the matter of *Utne v. Home Depot*, in the United States District Court, Northern District of California. The contested certification resulted in a certified class of roughly 140,000 individuals.
- 4) In 2019, I certified a Fair Credit Reporting Act claim related to employment background checks against Wal-Mart Stores, Inc., in the matter of *Pitre v. Wal-Mart Stores, Inc.*, in the United States District Court, Central District of California. The contested certification resulted in a certified class of over 5,000,000 individuals.
- 5) In 2018, I fully briefed a contested class certification motion in the matter of *Harelson v. U.S. Aviation*, in the United States District Court, Northern District of California. After certification was fully briefed, the matter successfully settled.
- 6) In 2013, I certified an investment fraud suit, in the matter of *Larsen v. Coldwell Banker*, in the United States District Court, Central District of California.
- 7) In 2012, I fully briefed a contested class certification motion, in the wage and hour matter of *Gillings v. Time Warner*, in the United States District Court, Central District of California. In that matter, summary

1 judgment was granted against my clients and the certification motion
2 was deemed moot. I appealed to the Ninth Circuit and obtained a
3 reversal of the District Court's decision. Upon remand, the matter
4 settled.

5 8) In approximately 2011, I fully briefed a contested class certification
6 motion, in the wage and hour matter of *Gomez v. Lincare, Inc.*, in the
7 Superior Court of California, County of Orange. Certification was
8 denied. The result was appealed, and a partial reversal was obtained.

9 9) In approximately 2008, I fully briefed a contested class certification
10 motion, in the wage and hour matter of *Ghazaryan v. Diva Limousine,*
11 *LTD.*, Superior Court of California, County of Los Angeles.
12 Certification was denied. I appealed, handling all briefing, and, in
13 *Ghazaryan v. Diva Limousine, LTD.*, 169 Cal.App.4th 1524 (2009), pet.
14 for rev. denied, I obtained a decision directing the trial court to certify
15 the class. *Ghazaryan* is now widely cited, including by the California
16 Supreme Court, as a comprehensive source for the standards applied to
17 certification motions in California.

18 10) In approximately 2006, I fully briefed a contested class certification
19 motion, in the wage and hour matter of *Laliberte v. Pacific Mercantile*
20 *Bank*, Superior Court of California, County of Orange. Certification
21 was denied. I appealed, handling all briefing. The published opinion of
22 *Laliberte v. Pacific Mercantile Bank*, 147 Cal.App.4th 1 (2007), rev.
23 denied, pet. for cert. den. resulted, and I petitioned for a Writ of
24 Certiorari related to certification due process issues.

25 11) In approximately 2008, I assisted with briefing of a contested class
26 certification motion, in the wage and hour matter, against the
27 Automobile Club of Southern California (AAA). A class was certified
28 and the matter tried.

(d) I have prosecuted appeals in more than 20 class action matters alone, arguing before the United States Court of Appeals for the Ninth Circuit Court and several of California's Courts of Appeal. I have taken several appeals through to Petitions for Writs of Certiorari to the United States Supreme Court. In connection with the appeals I have handled, I have participated in appeals resulting in decisions concerning or relating to class actions or wage and hour issues. Among others, those include:

- i. *Camp v. Home Depot, U.S.A., Inc.*, 84 Cal. App. 5th 638 (October 24, 2022), *rev. granted* (February 1, 2023);
- ii. *Donohue v. AMN Services, Inc.*, (February 25, 2021) (amicus counsel)
- iii. *Gilberg v. California Check Cashing Stores, LLC*, 913 F.3d 1169 (9th Cir. Jan. 29, 2019), *pet. for rehearing and pet. for en banc rehearing den.*;
- iv. *Troester v. Starbucks Corporation*, 5 Cal. 5th 829 (2018), *as modified on denial of reh'g* (Aug. 29, 2018);
- v. *Gillings v. Time Warner Cable LLC*, 583 Fed.Appx. 712 (9th Cir. 2014);
- vi. *Ghazaryan v. Diva Limousine, LTD.*, 169 Cal. App. 4th 1524 (2009), *pet. for rev. denied*;
- vii. *Laliberte v. Pacific Mercantile Bank*, 147 Cal. App. 4th 1 (2007), *rev. denied, pet. for cert. denied*;
- viii. *Alvarez v. May Dept. Stores Co.*, 143 Cal. App. 4th 1223 (2006), *rev. denied, pet. for cert. denied*;
- ix. *Johnson v. Glaxosmithkline, Inc.*, 166 Cal. App. 4th 1497 (2008), *rev. denied*;
- x. *Howard, et al. v. America Online, Inc.*, 208 F.3d 741 (9th Cir. 2000), *pet. for cert. denied*;

- 1 xi. *Brown v. Ralphs Grocery Company*, 197 Cal. App. 4th 489 (2011)
2 (amicus counsel);
3 xii. *D. R. Horton, Inc. and Michael Cuda*, Case 12–CA–25764, 357
4 NLRB No. 184 (January 3, 2012) (amicus counsel). This NLRB
5 matter is of particular note, as it is at the center of a dispute
6 regarding the interplay between the Federal Arbitration Act (FAA)
7 and two labor relations laws, the National Labor Relations Act
8 (NLRA) and Norris-LaGuardia Act. Cases highlighting that issue
9 have been accepted by the United States Supreme Court.

10 (e) I was the lead appellate author in a matter before the California Supreme Court
11 that generated substantial interest in the field of wage and hour litigation. That
12 matter, *Troester v. Starbucks Corporation*, resolved a significant issue of
13 whether, under California law, a *de minimis* defense exists to the employer’s
14 obligation to pay all wages for all compensable time worked by an employee.

15 (f) I was the lead appellate counsel in a matter before the California Court of
16 Appeal (Sixth Appellate District) that generated substantial interest in the field
17 of wage and hour litigation. That matter, *Camp v. Home Depot, U.S.A., Inc.*,
18 held that prior jurisprudence erroneously concluded that, under California law,
19 underpayment of wages as a result of rounding of time clock punches is lawful
20 so long as the rounding was neutral on its face and as applied. *Camp* is now
21 pending before the California Supreme Court but remains citable as authority
22 pursuant to an Order of the California Supreme Court.

23 (g) In addition to my work on complex litigation matters and class actions, I have
24 authored published articles and columns on issues related to class actions and
25 other litigation issues, including:

- 26 i. H. Scott Leviant, *Unintended Consequences*, 6 U.C. Davis Bus. L.J.
27 18 (2006), at <http://blj.ucdavis.edu/article.asp?id=636> (May 1,
28 2006);

- 1 ii. H. Scott Leviant and Lilit Ter-Astvatsatryan, *Where Troester Stops*
2 *Not Even Troester Knows*, DAILY JOURNAL (Los Angeles), July 2,
3 2019;
- 4 iii. H. Scott Leviant and Lilit Ter-Astvatsatryan, *Unaccounted Time:*
5 *Reading the Tea Leaves of Troester*, DAILY JOURNAL (Los Angeles),
6 September 12, 2018;
- 7 iv. Dennis F. Moss and H. Scott Leviant, *Class Actions: One step*
8 *forward after two steps back*, DAILY JOURNAL (Los Angeles),
9 January 11, 2012;
- 10 v. H. Scott Leviant, *Arbitration: A Look Back, a Look Ahead*, DAILY
11 JOURNAL (Los Angeles), December 28, 2010;
- 12 vi. H. Scott Leviant, *Witnesses Cannot Hide*, Daily Journal (Los
13 Angeles), April 21, 2010;
- 14 vii. H. Scott Leviant, *Divide and Conquer: The New Paradigm of Class*
15 *Action Defense?*, FORUM, January/February 2009
- 16 viii. H. Scott Leviant, *Class Action Appellate Report*, FORUM, 2009-
17 2010 (Ongoing series);
- 18 ix. H. Scott Leviant & Linh Hua, *Legislature Using Purse Strings to*
19 *Bind Judiciary*, Daily Journal (San Francisco), March 15, 2010;
- 20 x. H. Scott Leviant, *Wrongfully Recused?*, DAILY JOURNAL (Los
21 Angeles), December 2, 2009;
- 22 xi. H. Scott Leviant, *Cutting Class*, DAILY JOURNAL (Los Angeles),
23 April 15, 2008;
- 24 xii. H. Scott Leviant, *Leveling The Playing Field*, DAILY JOURNAL (Los
25 Angeles), May 4, 2007;
- 26 xiii. H. Scott Leviant, *A Bad Meal Deal: 'Brinker' Gets the Incentive*
27 *Question Wrong*, DAILY JOURNAL (Los Angeles), August 6, 2008;
- 28

- xiv. H. Scott Leviant & Jason E. Barsanti, *Maximize Recovery in Unpaid Wage Cases*, FORUM, January/February 2008;
- xv. H. Scott Leviant, et al., *Electronic Evidence: No Longer an Optional Element in a Comprehensive Litigation Plan*, ADVOCATE, April 2006;
- xvi. H. Scott Leviant, *Improving Rule 12(b)(6) survival odds: Some considerations for effective RICO pleading*, CIVIL RICO REPORT, Volume 15, Number 22, April 26, 2000 (LRP Publications).

(h) In addition to publications in industry newspapers, periodicals and journals, I am the Supervising Editor, primary author and founder of the legal blog The Complex Litigator (<http://www.thecomplexlitigator.com>). The Complex Litigator reports and comments on news and topics relevant to class action and complex litigation practice, with a primary emphasis on wage and hour litigation issues. Through my blog, I have also, on occasion, published podcasts of round table discussions with preeminent members of the wage and hour practice bar on both the plaintiff and defense sides. My blog has been cited to the California Supreme Court in at least one Petition for Review. The Complex Litigator has been in existence since 2008, having outlasted many other legal blogs, and it has a unique readership that numbers in the tens of thousands.

(i) I have also lectured on issues related to class actions and complex litigation, including the following educational seminars:

i. *Strategies for Settlement of Individual and Wage & Hour Class Actions*, Bridgeport's Eighth Annual Wage & Hour Litigation Conference (December 16, 2011)

ii. *The Year in Review – Staying Abreast of Current Cases*, Consumer Attorneys of San Diego Class Action Symposium (October 14, 2011)

- 1 iii. *Concepcion v. AT&T and Derivative Wage & Hour Claims*,
2 Bridgeport's Mid Year Wage & Hour Litigation Conference (June 3,
3 2011)
- 4 iv. *Advanced Principles: UCL Remedies and Defenses*, 20th Annual
5 Golden State Antitrust and Unfair Competition Law Institute
6 (October 21, 2010)
- 7 v. *Refining Your Wage and Hour Practice*, 2010 CELA Annual
8 Conference (October 2, 2010)
- 9 vi. *Word v. WordPerfect Software, Tips, Tools and Tricks: Legal*
10 Technology for Plaintiffs Employment Lawyers (September 30,
11 2010)
- 12 vii. *California's 17200 -- Its Use and Abuse*, Federalist Society (May
13 19, 2010)
- 14 viii. *20 Tips for Successful Navigation of e-Discovery Requirements*, Los
15 Angeles County Bar Association's Thirtieth Annual Labor and
16 Employment Law Symposium (March 31, 2010)
- 17 ix. *Social Networking for Lawyers: A Roadmap to Success*, Los
18 Angeles County Bar Association's 2nd Annual two-day 2009 Small
19 Firm and Solo Practitioners Conference: MISSION POSSIBLE
20 (June 25, 2009)
- 21 x. *A Seminar Overview of the Current State of Employment Law*, The
22 Westchester/LAX/Marina Del Rey Chamber of Commerce
23 (February 23, 2006)

24 (j) I served three consecutive years as an elected member of the Board of
25 Governors of the Consumer Attorneys of California. In that capacity, I worked
26 to preserve the right of California's consumers and employees to bring proposed
27 class actions. For example, I provided assistance to CAOC in its successful
28 effort to defeat AB 298, which would have substantially impaired the ability of

1 plaintiffs to prosecute class actions in California. More recently, on behalf of
2 CAOC, I co-authored several requests for publication of unpublished class
3 action decisions, including one such request in *Jaimez v. Daiohs USA, Inc.*, 181
4 Cal. App. 4th 1286 (2010), and authored amicus briefs for CAOC in the Eighth
5 Circuit matter entitled *Avritt v. Reliastar Life. Ins. Co.*, Case No. 09-2843, the
6 California Supreme Court matter entitled *Californians for Disability Rights v.*
7 *Mervyn's, LLC*, 39 Cal. 4th 223 (2006), and the California Court of Appeal
8 matter entitled *Brown v. Ralphs Grocery Company*, 197 Cal. App. 4th 489
9 (2011).

10 27. My current contingent billing rate is consistent with my practice area, legal market and
11 accepted hourly rates:

- 12 (a) In the December 8, 2008 article “Billable Hours Aren’t the Only Game in Town
13 Anymore,” *NATIONAL LAW JOURNAL*, the following hourly billing rates were
14 reported by Sheppard Mullin Richter & Hampton, a leading firm in the defense of
15 wage-and-hour class actions that I have frequently opposed when litigating wage-
16 and-hour class actions: Partners: \$475-\$795; Associates: 1st Year - \$275, 2nd Year
17 - \$310, 3rd Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year - \$415, 7th
18 Year - \$435, 8th Year - \$455.
- 19 (b) In 2009 I was retained as appellate counsel in the appeal of a denial of class
20 certification. For the specialized work on that appeal, I charged an hourly rate of
21 \$650.00 per hour, a rate the hiring co-counsel accepted.
- 22 (c) The 2023-24 Adjusted Laffey Matrix states that an attorney with 20 or more years
23 experience can reasonably charge \$1,057 per hour.
24 <http://www.laffeymatrix.com/see.html>.⁹ That rate is derived from the Washington,
25 D.C. area and requires a costs of living evaluation for use in Los Angeles. Using
26 federal statistics for average attorney salaries, attorney pay is 8.7% lower in Los
27

28 ⁹Last viewed January 30, 2024.

Angeles, compared to Washington, D.C., indicating an 8.7% downward adjustment to the Laffey Matrix may be appropriate.

<https://www.bls.gov/oes/current/oes231011.htm>.¹⁰ However, using federal employee pay tables, federal employee wages are 0.13% higher when Los Angeles is compared to Washington, D.C., indicating almost no adjustment to the Laffey Matrix is appropriate. <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2024/general-schedule>.¹¹ And, using Schedule 9 of 5 U.S.C. § 5332, there is a 3% differential favoring Los Angeles. Thus, something in the range of a 8.7% locality reduction to a 3.0% locality increase appears appropriate here. Thus, applying an adjustment factor of 0.0%, the locality corrected Adjusted Laffey Matrix hourly rate for attorneys with 20 or more years of experience is \$1,057. The complete Adjusted Laffey Matrix is set forth below.

- (d) The full 2023-2024 Adjusted Laffey Matrix provides for the following hourly rates for paralegal/law clerks and attorneys falling into various ranges of years of experience:

Year	Adj. Factor**	Paralegal Clerk	1-3	4-7	8-10	11-19	20+
6/01/22-5/31/23	1.059295	\$239	\$437	\$538	\$777	\$878	\$1,057

- (e) I have been selected to Super Lawyers from 2012-2024, achieving that professional recognition for more than a decade. I was selected for the Rising Stars edition of Super Lawyers in 2009.
- (f) Based upon my practice area, geographic market, experience, including all of the above information, reputation, and generally accepted hourly rates, my current, regular hourly billing rate is now \$925.00, which is well below the presumptively appropriate hourly rate of \$1,057 for attorneys with 20 or more years of

¹⁰Last viewed January 30, 2024.

¹¹ Last viewed January 30, 2024.

1 experience.

2
3 REASONABLENESS OF THE REQUESTED FEE AWARD

4 28. When this case was taken on a contingent fee basis, with the firm agreeing to assume
5 responsibility for litigation costs, the ultimate result was far from certain. In the course of this litigation,
6 Moon Law Group, PC, paid filing fees, copy charges, Westlaw fees, and mailing, telephone and express
7 mail charges. There was never a guarantee that Moon Law Group, PC, would recoup those expenditures.
8 The firm took on this case, which necessarily required the firm to forego other opportunities, given finite
9 resources to devote to cases.

10 29. Because of the uncertainty of the outcome in this and other wage and hour litigation
11 undertaken by Moon Law Group, PC, we took this case with the expectation that a risk enhancement,
12 either in the form of a lodestar multiplier or a percentage of the fund award equivalent thereto, would be
13 available if we prevailed. This expectation stems from the fact that many cases we undertake as putative
14 class actions do not resolve successfully.

15 30. Class Counsel's experience in employment class actions was integral in evaluating the
16 strengths and weaknesses of the case against Defendant and the reasonableness of the settlement.
17 Practice in the narrow fields of wage and hour litigation requires skill and knowledge concerning the
18 rapidly evolving substantive law (state and federal), as well as the procedural law of class action
19 litigation.

20 31. In the past 5 years, Moon Law Group, PC, has settled hundreds of wage & hour class
21 actions. Just as the Court in *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n.11 (2008) observed, it
22 has been the experience at Moon Law Group, PC, that attorney fee awards of one-third of a common
23 settlement fund are the rule, rather than the exception. Here, Class Counsel agrees that they will seek
24 no more than one third of the settlement amount in fees. This is consistent with common practice,
25 consistent with Ninth Circuit practice, consistent with California law approving the percentage of the
26 fund method to award fees from a common fund, *Laffitte v. Robert Half Intern. Inc.*, 1 Cal. 5th 480, 503
27 (2016). Class Counsel is aware that this court's benchmark for a fee award is 30% of the total fund.
28 However, the Court does have discretion to award higher than the benchmark of 30%, and in this case,

1 the recovery of one third of the settlement amount is not inappropriate in light of the many hours
2 expended by attorneys and paralegals performing work for Plaintiff before and after the filing of this
3 matter. That work includes:

- 4 (a) Numerous interviews with the client, and review of documents provided by
5 Plaintiff;
- 6 (b) Legal research and investigation regarding the Defendant's practices at numerous
7 points in the litigation;
- 8 (c) Preparation of multiple drafts of the original class action complaint and finalization
9 and filing of the original class action complaint;
- 10 (d) Review of the first amended complaint, and finalization of that complaint;
- 11 (e) Preparation with the Plaintiff for two deposition sessions;
- 12 (f) Extensive "meet and confer" efforts with Defendant's counsel to obtain relevant
13 documents and information through informal discovery;
- 14 (g) Contacting witnesses;
- 15 (h) Review of data and documents produced by Defendant;
- 16 (i) Analysis of the audit results and preparation of a damages model with the aid of a
17 statistics expert;
- 18 (j) Research and preparation of Plaintiff's mediation brief;
- 19 (k) Attendance at mediation;
- 20 (l) Consultations with Plaintiff's accountant regarding financial data;
- 21 (m) Conferences with all counsel and accountants;
- 22 (n) Drafting, negotiating, and reviewing multiple drafts of the Settlement and
23 attachments;
- 24 (o) Preparation of the initial motion for preliminary approval and multiple revisions
25 thereafter;
- 26 (p) Supplemental filings of additional information requested by this Court;
- 27 (q) Monitoring of the notice process; and
- 28 (r) Preparation of this motion for final approval and multiple revisions thereafter.

32. The recorded lodestar incurred by Moon Law Group, PC is approximately **\$96,097.50** to date, based on the firm's contemporaneous time recording software, and I did not bill for a significant amount of time related to discovery disputes (I estimate that I did not bill for approximately 5 hours of time reviewing correspondence, reviewing mediation data, and numerous other activities, for an unbilled lodestar of approximately \$4,625). The breakdown of work by attorney is as follows:

Attorney	Time	Rate	Total
H. Scott Leviant	55.1	\$975	\$53,722.50
Kane Moon	30.25	\$900	\$27,225.00
Mariam Ghazaryan	25.25	\$600	\$15,150.00
	115.6	Total:	\$96,097.50

That lodestar would be approximately \$4,625 higher if I included the estimated time that I did not include in by billing entries. The bottom line is that attorneys for Plaintiff invested substantial amounts of time pursuing formal and informal discovery and evaluating data before and after the mediation in this matter. Those efforts led to this settlement. I also anticipate that I will spend an additional 5 hours on this matter, appearing at the hearing of this Motion, working with the administrator to process the Settlement, obtaining a supplemental declaration for this Court's review, and preparing final accounting filings after distribution of the Settlement, for an additional lodestar of \$4,625. The fee request is **\$66,666.67**, which is 33 1/3% of the GSA, as specified in the Settlement. As we are requesting a fee of **\$66,666.67**, this represents a "negative" multiplier (a multiplier below 1.0) of **0.66**, which is *below* the range of commonly approved *positive* lodestar multipliers (below the lower end of the range of commonly approved lodestar multipliers), when compared to the recorded, unbilled, and estimated future lodestar of \$100,722.50. Multipliers between two and four are common and reasonable for a lodestar crosscheck. In this case, where the lodestar significantly exceeds the requested fee, a fee award of 33 1/3% is appropriate. Therefore, Plaintiff's Counsel request an award of fees of **\$66,666.67**. The Settlement also provides for the award of actual costs. Recoverable costs are capped at \$26,000.00 under the Settlement. The actual costs incurred, which includes future motion filing fee costs, are \$25,384.99

1 for Moon Law Group, LC, as set forth in Exhibit “2” hereto, Plaintiff’s Counsel requests an award of
2 **\$25,384.99** for costs incurred, which is below the capped amount permitted under the Settlement.

3
4 THE CONTRIBUTION OF PLAINTIFF AND THE REASONABLENESS OF THE REQUESTED
5 INCENTIVE AWARD

6 33. Here, Plaintiff seeks a Service Payment of up to **\$7,500.00**. This amount is very
7 reasonable given the risks undertaken by Plaintiff for involvement in the Action. Taking the risk of filing
8 a lawsuit against an employer deserves recognition, especially in light of the settlement achieved by
9 Plaintiff. Additionally, Plaintiff was actively involved in the litigation and settlement negotiations of this
10 Action, expending considerable effort in advancing the interests of the Class. Plaintiff provided
11 information to counsel before the filing of this matter; participated in a full-day deposition of her claims;
12 assisted with the settlement process (which included conferring with counsel during the preparation of
13 Plaintiff’s mediation briefs); and, regularly conferred with counsel regarding the case whenever
14 questions arose. Plaintiff’s Declaration also confirms that Plaintiff was an active participant in the filing
15 and settlement of this case.

16
17 THE THIRD-PARTY ADMINISTRATOR QUALIFICATIONS AND STATEMENT OF NO
18 CONFLICTS OR AFFILIATION

19 34. The parties have agreed that administration will be handled by a third-party
20 administrator. In counsel’s experience as class counsel in similar wage-and-hour actions with a similar
21 number of employees, Phoenix Class Action Settlement Administrators, is fully capable of
22 administering the settlement at a competitive and reasonable cost and should be approved by the Court
23 to administer the settlement notice process. Phoenix Settlement Administrators was selected because it
24 submitted a low bid in the amount of **\$8,750.00** for administration services, below the estimated
25 amount of \$15,000. The current declaration from Phoenix Settlement Administrators demonstrates that
26 all tasks required of the Administrator have been performed as expected to date. Phoenix Settlement
27 Administrators previously provided a declaration confirming its experience and its implementation of
28 measures designed to protect Class Member data and Class Settlement funds. Finally, this firm has no

1 relationship with Phoenix Settlement Administrators, other than as a client retaining a vendor of
2 services via an arms-length transaction. We have no ownership interest in Phoenix Settlement
3 Administrators.

4
5 EXHIBITS

6 35. As noted above, a true and correct copy of the FIRST AMENDED CLASS ACTION
7 AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE is attached hereto as **Exhibit “1.”**
8 The Settlement includes Exhibit A (the “Notice”).

9 36. As noted above, a true and correct copy of all costs incurred in this matter by Class
10 Counsel is attached hereto as **Exhibit “2.”**

11 37. Attached hereto as **Exhibit “3”** is a true and correct copy of confirmation of the
12 submission of the settlement to the Department of Industrial Relations, through its online submission
13 portal.

14
15 PAGA SETTLEMENT NOTIFICATION TO DIR

16 38. Counsel for Plaintiff provided notice of the requested approval of the PAGA settlement
17 through the online submission portal.

18 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is
19 true and correct. Executed November 8, 2024, at Los Angeles, California.

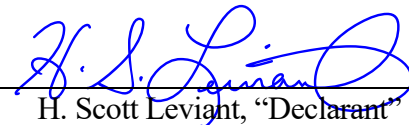
20
21 
22 H. Scott Leviant, “Declarant”

Exhibit “1”

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H. Scott Leviant (SBN 200834)
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Attorneys for Defendant
BEACON HOME CARE GROUP INC., a California corporation

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA
UNLIMITED JURISDICTION

KERA SALTER, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

BEACON HOME CARE GROUP INC., a
California corporation; and DOES 1
THROUGH 10, inclusive

Defendants.

Case No. 22CV011847

[Assigned for All Purposes to Honorable
Tara Desautels, Department 23]

**PUTATIVE CLASS AND
REPRESENTATIVE ACTION**

**FIRST AMENDED CLASS ACTION AND
PAGA SETTLEMENT AGREEMENT
AND CLASS NOTICE**

Action Filed: May 26, 2022

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“**Agreement**”) is made by and between Plaintiff Kera Salter, individually and on behalf of others similarly situated (“**Plaintiff**”) and Defendant Beacon Home Care Group Inc., a California corporation (“**Defendant**”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. **DEFINITIONS.**

- 1.1. “**Action**” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Kera Salter, et al. v. Beacon Home Care Group Inc., et al.*, case number 22CV011847 initiated on May 26, 2022, and pending in the Superior Court of the State of California, County of Alameda.
- 1.2. “**Administrator**” means Phoenix Class Action Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “**Administration Expenses Payment**” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with the anticipated Motion for Preliminary Approval of the Settlement (as defined below).
- 1.4. “**Aggrieved Employee**” and “**Aggrieved Employees**” interchangeably means all current and former employees who were hourly paid, nonexempt employees of Defendant and who worked for Defendant in California during the PAGA Period.
- 1.5. “**Class**” means all current and former employees who were hourly paid, nonexempt employees of Defendant who worked for Defendant in California during the Class Period.
- 1.6. “**Class Counsel**” means Kane Moon, H. Scott Leviant, and Mariam Ghazaryan of Moon Law Group, PC.
- 1.7. “**Class Counsel Fees Payment**” and “**Class Counsel Litigation Expenses Payment**” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “**Class Data**” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number,

and number of Class Period Workweeks and PAGA Pay Periods.

1.9. “**Class Member**” or “**Settlement Class Member**” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.10. “**Class Member Address Search**” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address (“**NCOA**”) database, skip traces, and direct contact by the Administrator with Class Members.

1.11. “**Class Notice**” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation unless otherwise agreed by the Parties, attached as **Exhibit A** and incorporated by reference into this Agreement. The Parties, through counsel, may agree to modifications to the Class Notice required to correct errors or effectuate changes required by the Court without the need to amend this Agreement, and the revised Class Notice shall be incorporated herein in place of the original Exhibit A.

1.12. “**Class Period**” means the period from May 26, 2018, to the date the Court grants Preliminary Approval or August 15, 2024, whichever is earlier.

1.13. “**Class Representative**” means the named Plaintiff in the Operative Complaint (defined below) in the Action seeking Court approval to serve as a Class Representative.

1.14. “**Class Representative Service Payment**” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. “**Court**” means the Superior Court of California, County of Alameda.

1.16. “**Defendant**” means named Defendant Beacon Home Care Group Inc.

1.17. “**Defense Counsel**” means Denis S. Kenny and John B. Lough, Jr., of Scherer Smith & Kenny LLP.

1.18. “**Effective Date**” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its order granting final approval of the Settlement; and (b) the Judgment

1 is final. The Judgment is final as of the latest of the following occurrences: (a) if no
2 Participating Class Member objects to the Settlement, the day the Court enters Judgment;
3 (b) if one or more Participating Class Members objects to the Settlement, the day after the
4 deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the
5 Judgment is filed, the day after the appellate court affirms the Judgment and issues a
6 remittitur.

7 1.19. ***“Final Approval”*** means the Court’s order granting final approval of the Settlement
8 following the Motion for Final Approval of the Settlement and Final Approval Hearing.

9 1.20. ***“Final Approval Hearing”*** means the Court’s hearing on the Motion for Final Approval of
10 the Settlement.

11 1.21. ***“Gross Settlement Amount”*** means Two Hundred Thousand and 00/100 Dollars
12 (\$200,000.00), which is Maximum Settlement Amount less the Plaintiff Settlement Payment
13 (defined below), which is the all-inclusive total amount Defendant agrees to pay under the
14 Settlement relating to the Class Action Payments identified in this Section. The Gross
15 Settlement Amount will be used to pay (1) Individual Class Payments, (2) Individual PAGA
16 Payments, (3) the LWDA PAGA Payment, (4) Class Counsel Fees Payment, (5) Class
17 Counsel Litigation Expenses Payment, (6) Class Representative Service Payment, and (7)
18 the Administration Expenses Payment (collectively, the ***“Class Action Payments”***).

19 1.22. ***“Individual Class Payment”*** means each Participating Class Member’s pro rata share of the
20 Net Settlement Amount calculated according to the number of Workweeks worked during
21 the Class Period.

22 1.23. ***“Individual PAGA Payment”*** means each Aggrieved Employee’s pro rata share of 25% of
23 the PAGA Penalties calculated according to the number of PAGA Pay Periods worked
24 during the PAGA Period.

25 1.24. ***“Judgment”*** means the judgment entered by the Court based upon the Final Approval.

26 1.25. ***“LWDA”*** means the California Labor and Workforce Development Agency, the agency
27 entitled under Labor Code § 2699(i) to receive the LWDA PAGA Payment.

28 1.26. ***“LWDA PAGA Payment”*** means the 75% of the PAGA Penalties paid to the LWDA under

Labor Code § 2699(i).

1.27. “**Maximum Settlement Amount**” means Two Hundred Five Thousand and 00/100 Dollars (\$205,000.00), which is the all-inclusive total amount Defendant agrees to pay under the Settlement. The Maximum Settlement Amount will be used to pay (a) Plaintiff Settlement Payment and (b) Class Action Payments.

1.28. “**Net Settlement Amount**” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: (1) Individual PAGA Payments, (2) the LWDA PAGA Payment, (3) Class Representative Service Payment, (4) Class Counsel Fees Payment, (5) Class Counsel Litigation Expenses Payment, and (6) the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. “**Non-Participating Class Member**” means any Class Member who opts out of the Class portion of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. “**PAGA Pay Period**” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.31. “**PAGA Period**” means the period from May 26, 2021, to the date the Court grants Final Approval.

1.32. “**PAGA**” means the Private Attorneys General Act (Labor Code §§ 2698 et seq.).

1.33. “**PAGA Notice**” means Plaintiff’s May 21, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3(a).

1.34. “**PAGA Penalties**” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$4,000.00) and 75% to the LWDA (\$12,000.00) in settlement of PAGA claims.

1.35. “**Participating Class Member**” means a Class Member who does not submit a valid and timely Request for Exclusion from the Class portion of the Settlement.

1.36. “**Plaintiff**” means Kera Salter, the named plaintiff in the Action.

1.37. “**Plaintiff Settlement Payment**” means payment to Plaintiff in consideration for a release

of claims not encompassed in the Operative Complaint against Defendant and memorialized in a separate individual settlement agreement.

1.38. “**Preliminary Approval**” means the Court’s order granting preliminary approval of the Class portion of the Settlement.

1.39. “**Preliminary Approval Order**” means the proposed order granting preliminary approval of the Class portion of the Settlement.

1.40. “**Released Class Claims**” means the claims being released as described in Paragraph 5.2 below.

1.41. “**Released PAGA Claims**” means the claims being released as described in Paragraph 5.3 below.

1.42. “**Released Parties**” means: Defendant and each of its former and present directors, officers, shareholders, owners, former and present managing employees, members, attorneys, agents, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

1.43. “**Request for Exclusion**” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.44. “**Response Deadline**” means sixty (60) days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Class portion of the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. The Response Deadline for Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall be extended by fourteen (14) calendar days beyond the sixty (60) days otherwise provided in the Class Notice for all Class Members whose notice is re-emailed.

1.45. “**Settlement**” means the disposition of the Action effected by this Agreement and the Judgment.

1.46. “**Workweek**” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

1 **2. RECITALS.**

2 2.1. On May 26, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of
3 action against Defendant for (1) failure to pay minimum wages (Cal. Lab. Code §§ 204,
4 1194, 1194.2, and 1197); (2) failure to pay overtime compensation (Cal. Lab. Code §§ 1194,
5 1198); (3) failure to provide meal periods (Cal. Lab. Code §§ 226.7, 512); (4) failure to
6 authorize and permit rest breaks (Cal. Lab. Code § 226.7); (5) failure to indemnify necessary
7 business expenses (Cal. Lab. Code § 2802); (6) failure to pay final wages at termination (Cal.
8 Lab. Code §§ 201–203); (7) failure to provide accurate itemized wage statements (Cal. Lab.
9 Code § 226); and (8) unfair business practices (Cal. Bus. & Prof. Code §§ 17200 et seq.).

10 On September 26, 2022, Plaintiff filed a First Amended Complaint alleging causes of action
11 against Defendant for (1) failure to pay minimum wages (Cal. Lab. Code §§ 204, 1194,
12 1194.2, and 1197); (2) failure to pay overtime compensation (Cal. Lab. Code §§ 1194, 1198);
13 (3) failure to provide meal periods (Cal. Lab. Code §§ 226.7, 512); (4) failure to authorize
14 and permit rest breaks (Cal. Lab. Code § 226.7); (5) failure to indemnify necessary business
15 expenses (Cal. Lab. Code § 2802); (6) failure to pay final wages at termination (Cal. Lab.
16 Code §§ 201–203); (7) failure to provide accurate itemized wage statements (Cal. Lab. Code
17 § 226); (8) unfair business practices (Cal. Bus. & Prof. Code §§ 17200 et seq.); and (9) civil
18 penalties under Private Attorneys General Act (Cal. Lab. Code §§ 2699 et seq.) The First
19 Amended Complaint is the operative complaint in the Action (the “***Operative Complaint***”).
20 Defendant denies the allegations in the Operative Complaint, denies any failure to comply
21 with the laws identified in the Operative Complaint and denies any and all liability for the
22 causes of action alleged.

23 2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to Defendant and
24 the LWDA by sending the PAGA Notice.

25 2.3. On May 24, 2023, the Parties participated in a half-day mediation presided over by Jeffrey
26 A. Ross, Esq., which did not result in settlement, but the Parties agreed to continue settlement
27 negotiations subject to Defendant providing certain financial documents from 2020 through
28 2023, including tax returns and in years where not tax returns were filed profits/losses sheets

1 and balance sheets (“**Financials**”). In the months that followed, Defendant provided the
2 Financials, which Plaintiff’s counsel’s Certified Public Accountant (CPA) reviewed. On
3 August 16, 2023, Plaintiff’s counsel and Defendant’s counsel met-and-conferred via
4 telephone to discuss Plaintiff’s counsel’s CPA’s analysis of the Financials (“**Initial**
5 **Analysis**”). On September 13, 2023, Plaintiff’s Counsel provided the Initial Analysis in
6 written form, which Defendant’s Counsel provided to Defendant. On December 5, 2023,
7 CPAs for the Parties met-and-conferred via telephone to discuss the Initial Analysis.
8 Afterwards, the Parties continued to engage in settlement negotiation, which led to this
9 Agreement to settle the Action.

10 2.4. Prior to mediation and negotiating the Settlement, the parties engaged in an informal
11 exchange of documents and information arising out of and relating to the claims and
12 defenses in this Action (which included Defendant producing time records and wage
13 statements for a sampling of Class Members, Financials, and taking Plaintiff’s
14 deposition). Plaintiff’s investigation was sufficient to satisfy the criteria for court approval
15 set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar*
16 *v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) (“**Dunk/Kullar**”).

17 2.5. The Court has not granted class certification, but the Parties stipulate and agree to
18 certification of the Class for purposes of this Settlement and this Agreement only.
19 Defendant does not waive, and instead expressly reserves, its right to challenge the
20 propriety of class certification, collective action certification, or representative / PAGA
21 treatment for any other purpose should the Court not approve the Settlement or this
22 Agreement, or this Agreement does not reach its effective date for any reason.

23 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any
24 other pending matter or action asserting claims that will be extinguished or affected by the
25 Settlement.

26 **3. MONETARY TERMS.**

27 3.1. Maximum Settlement Amount. Defendant promises to pay Two Hundred Five Thousand
28 and 00/100 Dollars (\$205,000.00) and no more as the Maximum Settlement Amount, and to

1 separately pay any and all employer payroll taxes owed on the Wage Portions of the
2 Individual Class Payments. Defendant has no obligation to pay the Maximum Settlement
3 Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this
4 Agreement. The Administrator will disburse the entire Maximum Settlement Amount
5 without asking or requiring Participating Class Members or Aggrieved Employees to submit
6 any claim as a condition of payment. None of the Maximum Settlement Amount will revert
7 to Defendant.

8 3.2. Payments from the Maximum Settlement Amount. The Administrator will make and deduct
9 the following payments from the Maximum Settlement Amount, in the amounts specified
10 by the Court in the Final Approval:

11 3.2.1. To Plaintiff:

12 3.2.1.1. Plaintiff Settlement Payment to Plaintiff of not more than Five Thousand and
13 00/100 Dollars (\$5,000.00) (in addition to any Individual Class Payment,
14 Individual PAGA Payment, and Class Representative Service Payment,
15 Plaintiff is entitled to receive as a Participating Class Member and Aggrieved
16 Employee). Consideration for the Plaintiff Settlement Payment to Plaintiff is
17 memorialized as part of a separate individual settlement agreement, which is
18 attached as **Exhibit B.**

19 3.2.1.2. Class Representative Service Payment to the Class Representative of not
20 more than Seven Thousand Five Hundred and 00/100 Dollars (\$7,500.00)
21 (in addition to any Individual Class Payment and any Individual PAGA
22 Payment, the Class Representative is entitled to receive as a Participating
23 Class Member and Aggrieved Employee). Defendant will not oppose
24 Plaintiff's request for a Class Representative Service Payment that does not
25 exceed this amount. As part of the motion for Class Counsel Fees Payment
26 and Class Litigation Expenses Payment, Plaintiff will seek Court approval
27 for any Class Representative Service Payment no later than sixteen (16) court
28 days prior to the Final Approval Hearing. If the Court approves a Class

Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of this payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than Thirty-Three and One Third Percent (33 1/3%) of the Gross Settlement Amount (that is, \$200,000.00), which is currently estimated to be Sixty-Six Thousand Six Hundred Sixty-Six and 67/100 Dollars (\$66,666.67) and a Class Counsel Litigation Expenses Payment of not more than Twenty-Six Thousand and 00/100 Dollars (\$26,000.00). Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of this payment.

3.2.3. To the Administrator: An Administration Expenses Payment not to exceed Fifteen

Thousand and 00/100 Dollars (\$15,000.00) except for a showing of good cause and as approved by the Court. To the extent the Administration expenses are less or the Court approves payment less than Fifteen Thousand and 00/100 Dollars (\$15,000.00), the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. Ten Percent (10%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "***Wage Portion***"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining Ninety Percent (90%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "***Non-Wage Portion***"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Workweeks of Non-Participating Class Members are not included in the calculation of payments to Participating Class Members and therefore have no effect on the calculation of Individual Class Payments paid from the Net Settlement Amount.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of Sixteen Thousand and 00/100 Dollars (\$16,000.00) to be paid from the Gross Settlement Amount, with 75% (Twelve Thousand and 00/100 Dollars (\$12,000.00)) allocated to

the LWDA PAGA Payment and 25% (Four Thousand and 00/100 Dollars (\$4,000.00)) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (Four Thousand and 00/100 Dollars (\$4,000.00)) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Each Aggrieved Employee assumes full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records, Defendant estimates there are 649 Class Members who collectively worked a total of 30,850 Workweeks as of February 29, 2024, and 481 Aggrieved Employees who worked a total of 20,138 PAGA Pay Periods as of February 29, 2024.

4.2. Class Data. Not later than thirty (30) days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline

by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Maximum Settlement Amount. Defendant shall fully fund the Maximum Settlement Amount by transmitting the funds to the Administrator as follows:

4.3.1. Within sixty-five (65) days of Final Approval, the first portion of the payment of the Maximum Settlement Amount of One Hundred Five Thousand and 00/100 Dollars (\$105,000.00).

4.3.2. Within twelve (12) months of Final Approval, the remaining balance of the Maximum Settlement Amount of One Hundred Thousand and 00/100 (\$100,000.00).

4.3.3. Within thirty (30) days after the Administrator has calculated and informed Defendant of the employer's share of payroll taxes on the Wage Portion, Defendant will transmit those funds to the Administrator.

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

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than one hundred eighty (180) days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the

void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the NCOA database.

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

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure § 384(b) (State Bar Justice Gap Fund ("*Cy Pres Recipient*"). The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

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

specified in this Agreement.

5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. **Plaintiff's Release.**

5.1.1. **Scope of Plaintiff's Release.** Plaintiff and Plaintiff's respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 5.1.3, below ("***Plaintiff's Release***"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.2. **Plaintiff's Waiver of Rights Under California Civil Code § 1542.** For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of Section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her

1 **would have materially affected his or her settlement with the debtor**
2 **or released party.**

3 5.1.3. In addition to the above, Plaintiff has entered into and executed a general release of
4 claims not encompassed by Plaintiff's Release. *See* Exhibit B.

5 5.2. Release by Participating Class Members Who Are Not Aggrieved Employees ("Released
6 Class Claims"): All Participating Class Members, on behalf of themselves and their
7 respective former and present spouses, representatives, agents, attorneys, heirs,
8 administrators, successors, and assigns, release Released Parties from all claims that were
9 alleged, or reasonably could have been alleged, based on the Class Period facts stated in the
10 Operative Complaint, including any and all claims for (1) failure to pay minimum wages
11 (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime compensation
12 (Cal. Lab. Code §§ 1194, 1198); (3) failure to provide meal periods (Cal. Lab. Code §§
13 226.7, 512); (4) failure to authorize and permit rest breaks (Cal. Lab. Code § 226.7); (5)
14 failure to indemnify necessary business expenses (Cal. Lab. Code § 2802); (6) failure to pay
15 final wages at termination (Cal. Lab. Code §§ 201–203); (7) failure to provide accurate
16 itemized wage statements (Cal. Lab. Code § 226); and (8) unfair business practices (Cal.
17 Bus. & Prof. Code §§ 17200 et seq.).

18 Excluded from this portion of the release are claims for PAGA penalties that were
19 alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in
20 the PAGA Notice, including any and all PAGA penalties for (1) failure to pay minimum
21 wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime
22 compensation (Cal. Lab. Code §§ 1194, 1198); (3) failure to provide meal periods (Cal. Lab.
23 Code §§ 226.7, 512); (4) failure to authorize and permit rest breaks (Cal. Lab. Code § 226.7);
24 (5) failure to indemnify necessary business expenses (Cal. Lab. Code § 2802); (6) failure to
25 pay final wages at termination (Cal. Lab. Code §§ 201–203); (7) failure to provide accurate
26 itemized wage statements (Cal. Lab. Code § 226); and, (8) civil penalties under Private
27 Attorneys General Act (Cal. Lab. Code §§ 2699 et seq.)

28 Except as set forth in Section 5.3 of this Agreement, Participating Class Members

do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3. Release by Participating and Non-Participating Class Members Who Are Aggrieved Employees ("**Released PAGA Claims**"): All Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the PAGA Notice, including any and all PAGA penalties for (1) failure to pay minimum wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime compensation (Cal. Lab. Code §§ 1194, 1198); (3) failure to provide meal periods (Cal. Lab. Code §§ 226.7, 512); (4) failure to authorize and permit rest breaks (Cal. Lab. Code § 226.7); (5) failure to indemnify necessary business expenses (Cal. Lab. Code § 2802); (6) failure to pay final wages at termination (Cal. Lab. Code §§ 201–203); (7) failure to provide accurate itemized wage statements (Cal. Lab. Code § 226); and, (8) civil penalties under Private Attorneys General Act (Cal. Lab. Code §§ 2699 et seq.)

6. **MOTION FOR PRELIMINARY APPROVAL**. The Parties agree to jointly prepare and file a motion for preliminary approval ("**Motion for Preliminary Approval**") that complies with the Court's *Procedural Guidelines for Preliminary Approval of Class Action Settlements*.

6.1. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel documents necessary for obtaining Preliminary Approval, including:

- (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code § 2699(f)(2));
- (ii) a draft proposed order granting preliminary approval and approval of PAGA Settlement;

- (iii) a draft proposed Class Notice;
- (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and the proposed Cy Pres Recipient; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel;
- (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, the Administrator, and the proposed Cy Pres Recipient; and
- (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations [Labor Code § 2699.3(a)], Operative Complaint [Labor Code § 2699(l)(1)], this Agreement [Labor Code § 2699(l)(2)]); and, all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. Class Counsel shall verify that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement or disclose the existence of any such pending matters. Alternatively, if such other actions are filed between the execution of this Agreement and the filing of the Motion for Preliminary Approval and become known to Class Counsel, Class Counsel will advise Defense Counsel.

6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than forty-five (45) days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s

Preliminary Approval to the Administrator.

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

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected Phoenix Class Action Administration Solutions to serve as the Administrator and verified that, as a condition of appointment, Phoenix Class Action Administration Solutions agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("**QSF**") under US Treasury Regulation § 468B-1.

7.4. Notice to Class Members.

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

1 7.4.2. Using best efforts to perform as soon as possible, and in no event later than fourteen
2 (14) days after receiving the Class Data, the Administrator will send to all Class
3 Members identified in the Class Data, via first-class USPS mail, the Class Notice
4 substantially in the form attached to this Agreement as **Exhibit A**. The first page of
5 the Class Notice shall prominently estimate the dollar amounts of each Individual
6 Class Payment and/or Individual PAGA Payment payable to the Class Member
7 and/or Aggrieved Employee, and the number of Workweeks and PAGA Pay Periods
8 (if applicable) used to calculate these amounts. Before mailing Class Notices, the
9 Administrator shall update Class Member addresses using the NCOA database.

10 7.4.3. Not later than three (3) business days after the Administrator's receipt of any Class
11 Notice returned by the USPS as undelivered, the Administrator shall re-mail the
12 Class Notice using any forwarding address provided by the USPS. If the USPS does
13 not provide a forwarding address, the Administrator shall conduct a Class Member
14 Address Search, and re-mail the Class Notice to the most current address obtained.
15 The Administrator has no obligation to make further attempts to locate or send Class
16 Notice to Class Members whose Class Notice is returned by the USPS a second time.

17 7.4.4. The deadlines for Class Members' written objections, challenges to Workweeks
18 and/or pay periods, and Requests for Exclusion will be extended an additional
19 fourteen (14) days beyond the sixty (60) days otherwise provided in the Class Notice
20 for all Class Members whose notices are re-mailed. The Administrator will inform
21 the Class Member of the extended deadline with the re-mailed Class Notice.

22 7.4.5. If the Administrator, Defendant, or Class Counsel is contacted by or otherwise
23 discovers any persons who believe they should have been included in the Class Data
24 and should have received Class Notice, the Parties will expeditiously meet and
25 confer in person or by telephone, and in good faith, in an effort to agree on whether
26 to include them as Class Members. If the Parties agree, such persons will be Class
27 Members entitled to the same rights as other Class Members, and the Administrator
28 will send, via email or overnight delivery, a Class Notice requiring them to exercise

options under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5. Requests for Exclusion (Opt-Outs).

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

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

7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this

1 Agreement, regardless whether the Participating Class Member actually receives the
2 Class Notice or objects to the Settlement.

3 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
4 Non-Participating Class Member and shall not receive an Individual Class Payment
5 or have the right to object to the class action components of the Settlement. Because
6 future PAGA claims are subject to claim preclusion upon entry of the Judgment,
7 Non-Participating Class Members who are Aggrieved Employees are deemed to
8 release the claims identified in Paragraph 5.3 of this Agreement (Released PAGA
9 Claims) and are eligible for an Individual PAGA Payment.

10 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have sixty (60) days
11 after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class
12 Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks
13 and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The
14 Class Member may challenge the allocation by communicating with the Administrator via
15 fax, email or mail. The Administrator must encourage the challenging Class Member to
16 submit supporting documentation. In the absence of any contrary documentation, the
17 Administrator is entitled to presume that the Workweeks contained in the Class Notice are
18 correct so long as they are consistent with the Class Data. The Administrator's determination
19 of each Class Member's allocation of Workweeks and/or PAGA Pay Periods shall be final
20 as to the Parties (although Defendant shall retain the right to correct erroneous Class Data if
21 subsequently discovered), but a Class Member whose Workweek and/or Pay Period
22 challenge is rejected by the Administrator may present the same evidence supporting the
23 Workweek and/or Pay Period challenge to the Court for review. The Administrator shall
24 promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay
25 Periods to Defense Counsel and Class Counsel and the Administrator's determination of the
26 challenges.

27 7.7. Objections to Settlement.

28 7.7.1. Only Participating Class Members may object to the class action components of the

1 Settlement and/or this Agreement, including contesting the fairness of the
2 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
3 Counsel Litigation Expenses Payment and/or Class Representative Service
4 Payment.

5 7.7.2. Participating Class Members may send written objections to the Administrator, by
6 fax, email, or mail. In the alternative, Participating Class Members may appear in
7 Court (or hire an attorney to appear in Court) to present verbal objections at the Final
8 Approval Hearing. A Participating Class Member who elects to send a written
9 objection to the Administrator must do so not later than sixty (60) days after the
10 Administrator's mailing of the Class Notice (plus an additional fourteen (14) days
11 for Class Members whose Class Notice was re-mailed).

12 7.7.3. Non-Participating Class Members have no right to object to any of the class action
13 components of the Settlement.

14 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
15 performed or observed by the Administrator contained in this Agreement or otherwise.

16 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish
17 and maintain and use an internet website to post information of interest to Class
18 Members including the date, time and location for the Final Approval Hearing and
19 copies of the Settlement Agreement, Motion for Preliminary Approval, the
20 Preliminary Approval Order, the Class Notice, the motion for final approval, the
21 Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses
22 Payment and Class Representative Service Payment, the Final approval Order and
23 the Judgment. The Administrator will also maintain and monitor an email address
24 and a toll-free telephone number to receive Class Member calls, faxes and emails.

25 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
26 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
27 Not later than five (5) days after the expiration of the deadline for submitting
28 Requests for Exclusion, the Administrator shall email a list to Class Counsel and

1 Defense Counsel containing (a) the names and other identifying information of Class
2 Members who have timely submitted valid Requests for Exclusion (“**Exclusion**
3 **List**”); (b) the names and other identifying information of Class Members who have
4 submitted invalid Requests for Exclusion; and (c) copies of all Requests for
5 Exclusion from Settlement submitted (whether valid or invalid).

6 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports
7 to Class Counsel and Defense Counsel that, among other things, tally the number of:
8 Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
9 Exclusion (whether valid or invalid) received, objections received, and challenges to
10 Workweeks and/or PAGA Pay Periods received and/or resolved (“**Weekly Report**”).
11 The Weekly Reports must include the Administrator’s assessment of the validity of
12 Requests for Exclusion and attach copies of all Requests for Exclusion and
13 objections received. In addition to the Weekly Reports, the Administrator shall
14 report to the Parties when it has completed the initial distribution of the Individual
15 Class Payments and Individual PAGA Payments to all individuals with valid
16 addresses.

17 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
18 address and make decisions consistent with the terms of this Agreement on all Class
19 Member challenges over the calculation of Workweeks and/or PAGA Pay Periods.
20 The Administrator’s determination of each Class Member’s allocation of
21 Workweeks and/or PAGA Pay Periods shall be final as to the Parties (although
22 Defendant shall retain the right to correct erroneous Class Data if subsequently
23 discovered), but a Class Member whose Workweek and/or Pay Period challenge is
24 rejected by the Administrator may present the same evidence supporting the
25 Workweek and/or Pay Period challenge to the Court for review.

26 7.8.5. Administrator’s Declaration. Not later than fourteen (14) days before the date by
27 which Plaintiff is required to file the Motion for Final Approval of the Settlement,
28 the Administrator will provide to Class Counsel and Defense Counsel, a signed

1 declaration suitable for filing in Court attesting to its due diligence and compliance
2 with all of its obligations under this Agreement, including, but not limited to, its
3 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of
4 Class Notices, attempts to locate Class Members, the total number of Requests for
5 Exclusion from Settlement it received (both valid or invalid), the number of written
6 objections and attach the Exclusion List. The Administrator will supplement its
7 declaration as needed or requested by the Parties and/or the Court. Class Counsel is
8 responsible for filing the Administrator's declaration(s) in Court.

9 7.8.6. Final Report by Settlement Administrator. Within ten (10) days after the
10 Administrator disburses all funds in the Gross Settlement Amount, the Administrator
11 will provide Class Counsel and Defense Counsel with a final report detailing its
12 disbursements by employee identification number only of all payments made under
13 this Agreement. At least fifteen (15) days before any deadline set by the Court, the
14 Administrator will prepare, and submit to Class Counsel and Defense Counsel, a
15 signed declaration suitable for filing in Court attesting to its disbursement of all
16 payments required under this Agreement. Class Counsel is responsible for filing the
17 Administrator's declaration in Court.

18 CLASS SIZE ESTIMATES. Based on its records, Defendant estimates that, as of February 29,
19 2024, (a) there are 649 Class Members and 30,850 Total Workweeks from May 26, 2018 to February 29,
20 2024, and (b) there were 481 Aggrieved Employees who worked 20,138 Pay Periods during the from May
21 26, 2021 to February 29, 2024.
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8. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds Five Percent (5%) of the total of all Class Members, Defendant may, but is not obligated to, withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement administration expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

9. **MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code § 2699(I), a Proposed final approval order and a proposed Judgment (collectively, "*Motion for Final Approval*"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

modification to the Agreement within the meaning of this paragraph.

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

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

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

1 **10. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil
2 Procedure § 384, the Parties will work together in good faith to jointly submit and a proposed
3 amended judgment.

4 **11. ADDITIONAL PROVISIONS.**

5 11.1. No Admission of Liability, Class Certification or Representative Manageability for Other
6 Purposes. This Agreement represents a compromise and settlement of highly disputed
7 claims. Nothing in this Agreement is intended or should be construed as an admission by
8 Defendant that any of the allegations in the Operative Complaint have merit or that
9 Defendant has any liability for any claims asserted; nor should it be intended or construed
10 as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties
11 agree that class certification and representative treatment is for purposes of this Settlement
12 only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or
13 enter Judgment, Defendant reserves the right to contest certification of any class for any
14 reasons, and Defendant reserves all available defenses to the claims in the Action, and
15 Plaintiff reserves the right to move for class certification on any grounds available and to
16 contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to
17 settle the Action will have no bearing on, and will not be admissible in connection with, any
18 litigation (except for proceedings to enforce or effectuate the Settlement and this
19 Agreement).

20 11.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant, and
21 Defense Counsel separately agree that, until the Motion for Preliminary Approval of
22 Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or
23 cause or permit another person to disclose, disseminate or publicize, any of the terms of the
24 Agreement directly or indirectly, specifically or generally, to any person, corporation,
25 association, government agency, or other entity except: (1) to the Parties' attorneys,
26 accountants, or spouses, all of whom will be instructed to keep this Agreement confidential;
27 (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate
28 taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an

inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

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

11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any

modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

11.7. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

11.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

11.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code § 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose,

and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.

11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

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

11.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

MOON LAW GROUP, PC
Kane Moon
H. Scott Leviant
Mariam Ghazaryan
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
kmoon@moonlawgroup.com
hsleviant@moonlawgroup.com
mghazaryan@moonlawgroup.com

To Defendant:

SCHERER SMITH & KENNY LLP
Denis S. Kenny
John B. Lough, Jr.
140 Geary Street, Seventh Floor
San Francisco, CA 94108

Email: denis@sfcounsel.com
Email: john@sfcounsel.com

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

11.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement pursuant to Code of Civil Procedure § 583.330 to extend the date to bring a case to trial under Code of Civil Procedure § 583.310 for the entire period of this settlement process.

12. ESTIMATED TIMELINE

Event	Timing
Defendant provides Class Data to the Administrator: (a) Class Member's name, (b) Class Member's last-known mailing address, (c) Class Member's Social Security Number, (d) number of Class Period Workweeks, and (e) number of PAGA Pay Periods.	Within 30 days after the Court enters Preliminary Approval Order. (See Para. 4.2.)
Administrator mails Class Notice to Class Members.	Within 14 days after receiving Class Data. (See Para. 7.4.2.)

Event	Timing
Request for Exclusion (Opt-outs) or Objection deadline.	Within 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). (See Paras. 7.5.1, 7.7.2.) <i>("Exclusion/Objection Deadline")</i>
Administrator notifies Class Counsel and Defense Counsel of the Exclusion List.	Within 5 days after the Exclusion/Objection Deadline. (See Para. 7.8.2; see also Para. 7.8.3 [weekly reports].)
Defendant's deadline to elect to withdraw.	Within 7 days after the Administrator sends the final Exclusion List. (See Para. 9.)
Administrator provides declaration of due diligence and compliance with all obligations under the Agreement to Class Counsel and Defense Counsel.	No later than 14 days before the date when Plaintiff is required to file the Motion for Final Approval of the Settlement. (See Para. 7.8.5.)
Administrator provides Counsel a final report detailing distributions.	Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount. (See Para. 7.8.6.)
Final Approval Hearing	TBD
Defendant transmits the first half (\$105,000.00) of the Maximum Settlement Amount to the Administrator.	Within 65 days after Final Approval. (See Para. 4.3.1.)
Defendant transmits the second half (\$100,000.00) of the Gross Settlement Amount to the Administrator.	Within 12 months of Final Approval. (See Para. 4.3.2.)

Event	Timing
Defendant transmits employer's share of payroll taxes for the Wage Portion to the Administrator.	Within 30 days after the Administrator has calculated and informed Defendant of the employer's share of payroll taxes. (See Para. 4.3.3.)

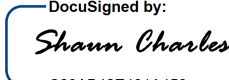
13. EXECUTION BY PARTIES

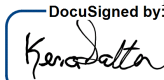
"Defendant"

"Plaintiff"

Beacon Home Care Group Inc.,
a California corporation

Kera Salter, individually and as
"Class" representative and "PAGA Group"
representative

By: 
C29AB42E401A458...
Shaun Charles, Chief Executive Officer


83D1928A7C4C4D0...
Kera Salter

Date: 6/7/2024

Date: 6/7/2024

Approved as to form


9B3DE763F2C5451...
Denis S. Kenny
John B. Lough, Jr.
Scherer Smith & Kenny LLP
Counsel for Beacon Home Care Group Inc.

Date: 6/7/2024


Kane Moon
H. Scott Leviant
Mariam Ghazaryan
Moon Law Group, PC
Counsel for Plaintiff Kera Salter, individually and
as "Class" representative and "PAGA Group"
representative

Date: _____

Exhibit A

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

Kera Salter, et al v. Beacon Home Care Group Inc.
Alameda County Superior Court Case No. 22CV011847

The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit (“**Action**”) against Beacon Home Care Group Inc, a California corporation (“**Defendant**” or “**Beacon**”) for alleged wage and hour violations. The Action was filed by a former Beacon employee Kera Salter (“**Plaintiff**”) and seeks payment for (a) (1) failure to pay minimum wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime compensation (Cal. Lab. Code §§ 1194, 1198); (3) failure to provide meal periods (Cal. Lab. Code §§ 226.7, 512); (4) failure to authorize and permit rest breaks (Cal. Lab. Code § 226.7); (5) failure to indemnify necessary business expenses (Cal. Lab. Code § 2802); (6) failure to pay final wages at termination (Cal. Lab. Code §§ 201–203); (7) failure to provide accurate itemized wage statements (Cal. Lab. Code § 226); (8) unfair business practices (Cal. Bus. & Prof. Code §§ 17200 et seq.); and (9) civil penalties under Private Attorneys General Act (Cal. Lab. Code §§ 2699 et seq.) for a class of hourly employees (“**Class Members**”) who worked for Defendant during the Class Period (May 26, 2018, to <<the date the Court grants Preliminary Approval or August 15, 2024, whichever is earlier>>); and (b) penalties under the California Private Attorneys General Act (“**PAGA**”) for all hourly employees who worked for Defendant during the PAGA Period (May 26, 2021, to the date the Court grants Final Approval) (“**Aggrieved Employees**”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Beacon to fund Individual Class Payments, and (2) a PAGA Settlement requiring Beacon to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“**LWDA**”).

Based on Beacon’s records, and the Parties’ current assumptions, your Individual Class Payment is estimated to be \$ [insert pro-rata share of class payment] (less withholding) and your Individual PAGA Payment is estimated to be \$ [insert pro-rata share of PAGA payment]. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Beacon’s records, you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Beacon’s records showing that **you worked [insert number] workweeks** during the Class Period and **you worked [insert number] workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“**Class Counsel**”). The Court will also decide whether to enter a judgment that requires Beacon to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Beacon.

If you worked for Beacon during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Beacon.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If

you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Beacon, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Beacon will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Beacon that are covered by this Settlement, that is, Released Class Claims and Released PAGA Claims, if applicable (defined below).
You Can Opt Out of the Class Settlement but not the PAGA Settlement The Opt-Out Deadline is [insert date]	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Beacon must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written Objections must be submitted by [insert date].	All Class Members who do not opt-out (<i>"Participating Class Members"</i>) can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the [insert date] Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [insert date]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods. Written Challenges Must be Submitted by [insert date].	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Beacon's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [insert date]. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former Beacon employee. The Action accuses Beacon of violating California labor laws by failing to pay minimum wages, including overtime, wages due upon termination, reimbursable expenses, and accrued and unused vacation pay; and failing to provide meal periods, rest periods, and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“*PAGA*”). Plaintiff is represented by attorneys in the Action: Kane Moon, H. Scott Leviant, and Mariam Ghazarayan of Moon Law Group, PC (“*Class Counsel*”).

Beacon strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Beacon or Plaintiff is correct on the merits. In the meantime, Plaintiff and Beacon hired a neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“*Agreement*”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Beacon have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Beacon does not admit any violations or concede the merit of any claims. Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Beacon has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Beacon Will Pay \$205,000.00 as the Maximum Settlement Amount (“*Maximum Settlement*”). Defendant has agreed to deposit the Maximum Settlement into an account controlled by the Administrator of the Settlement as follows: (a) within sixty-five (65) days of the Court granting the motion for final approval, the first part of the Maximum Settlement Amount (\$105,000.00) and (b) within 12 months of the Court granting the motion for final approval, the remaining balance of the Maximum Settlement Amount (\$100,000.00). The Administrator will use the Maximum Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Plaintiff Settlement Payment, Class Counsel’s attorneys’ fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“*LWDA*”). Assuming the Court grants Final Approval, the Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed. The Maximum Settlement, minus the \$5,000 allocated to an individual settlement of all other claims by Plaintiff, is the “Gross Settlement.”
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$66,666.67 (33 1/3% of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$26,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$15,000.00.00 to the Administrator for services administering the Settlement.
 - C. Up to \$16,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay

Periods.

D. Up to \$7,500 to the named plaintiff Kera Salter for service to the Action.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions from the Gross Settlement in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement Amount”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Beacon are asking the Court to approve an allocation of 10% of each Individual Class Payment to taxable wages (“**Wage Portion**”) and 90% to interest and penalties (“**Non-Wage Portion**”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Beacon will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Beacon have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the Administrator shall transmit the funds represented by your check to the Court-approved nonprofit organization that will receive any money from uncashed checks, the State Bar Justice Gap Fund (“Cy Pres Recipient”). If the monies represented by your check are sent to the Cy Pres Recipient, you will no longer be entitled to receive that money, but the release of claims will still apply to you, so please cash your check as soon as you receive it.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [insert date], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [insert date] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Beacon.

You cannot opt out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Beacon based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Beacon have agreed that, in either case, the Settlement will be void: Beacon will not pay any money and Class Members will not release any claims against Beacon.

8. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the “**Administrator**”), to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 (“How Can I Get More Information?”) of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and Beacon has fully funded the Gross Settlement and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Beacon or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement. The Participating Class Members will be bound by the following release (defined as “**Released Class Claims**”):

All Participating Class Members, on behalf of themselves and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, including any and all claims for (1) failure to pay minimum wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime compensation (Cal. Lab. Code §§ 1194, 1198); (3) failure to provide meal periods (Cal. Lab. Code §§ 226.7, 512); (4) failure to authorize and permit rest breaks (Cal. Lab. Code § 226.7); (5) failure to indemnify necessary business expenses (Cal. Lab. Code § 2802); (6) failure to pay final wages at termination (Cal. Lab. Code §§ 201–203); (7) failure to provide accurate itemized wage statements (Cal. Lab. Code § 226); and (8) unfair business practices (Cal. Bus. & Prof. Code §§ 17200 et seq.).

Excluded from this portion of the release are claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the PAGA Notice, including any and all PAGA penalties for (1) failure to pay minimum wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime compensation (Cal. Lab. Code §§ 1194, 1198); (3) failure to provide meal periods (Cal. Lab. Code §§ 226.7, 512); (4) failure to authorize and permit rest breaks (Cal. Lab. Code § 226.7); (5) failure to indemnify necessary business expenses (Cal. Lab. Code § 2802); (6) failure to pay final wages at termination (Cal. Lab. Code §§ 201–203); (7) failure to provide accurate itemized wage statements (Cal. Lab. Code § 226); and, (8) civil penalties under Private Attorneys General Act (Cal. Lab. Code § 2699 et seq.).

Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Defendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement. The Aggrieved Employees’ Releases for Participating and Non-Participating Class Members are as follows (defined as “**Released PAGA Claims**”):

All Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties

that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the PAGA Notice, including nay and all PAGA penalties for (1) failure to pay minimum wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime compensation (Cal. Lab. Code §§ 1194, 1198); (3) failure to provide meal periods (Cal. Lab. Code §§ 226.7, 512); (4) failure to authorize and permit rest breaks (Cal. Lab. Code § 226.7); (5) failure to indemnify necessary business expenses (Cal. Lab. Code § 2802); (6) failure to pay final wages at termination (Cal. Lab. Code §§ 201–203); (7) failure to provide accurate itemized wage statements (Cal. Lab. Code § 226); and, (8) civil penalties under Private Attorneys General Act (Cal. Lab. Code §§ 2699 et seq.).

11. Plaintiff's Individual Settlement. As part of the complete settlement with Defendant, Plaintiff has entered into an individual settlement agreement with Defendant. Under that individual settlement agreement, Plaintiff is releasing all possible claims against Defendant, whether known or unknown. The Class Members are not affected by the terms of that individual release, which only applies to Plaintiff. In exchange for that general release of all claims, Plaintiff will receive a settlement payment of \$5,000.00. Plaintiff's individual settlement agreement will not be effective unless the Court approves this Settlement.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$4,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Beacon's records, are stated in the first page of this Notice. You have until [insert date] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 ("How Can I Get More Information?") of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Beacon's calculation of Workweeks and/or Pay Periods based on Beacon's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Beacon's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to identify the Action clearly in your Request for Exclusion (*Kera Salter v. Beacon Home Care Group Inc.*, Alameda County Superior Court Case No. 22CV011847). **The Administrator must be sent your request to be excluded by [insert date], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Beacon are asking the Court to approve. At least 16 days before the [insert date] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [insert url] or the Court's website <https://portal.alameda.courts.ca.gov/>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [insert date].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action, *Kera Salter v. Beacon Home Care Group Inc.* (Alameda County Superior Court Case No. 22CV011847), and include your name, current address, telephone number, and approximate dates of employment for Beacon, and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [insert date] at [insert time] in Department 23 of the Alameda County Superior Court, located at Rene C. Davidson Courthouse, 1225 Fallon Street, Oakland, CA 94612. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) personally. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [insert url] beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Beacon and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Phoenix Settlement

Administrators's website at [insert url]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website. The pleadings and other records in this litigation may be examined online on the Alameda County Superior Court's website, known as "eCourt Public Portal," at <https://eportal.alameda.courts.ca.gov>. After arriving at the website, click the "Search" tab at the top of the page, then select the Document Downloads link, enter the case number (here, "22CV011847") and click "Submit." Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings. To view the Register of Actions, go to the "Search" tab at the top of the page, then select the "Search by Case Number" enter the case number (here, "22CV011847"), select "Search" and click the link to the case name. You will be see the Register of Actions and more.

**DO NOT TELEPHONE THE SUPERIOR COURT TO
OBTAIN INFORMATION ABOUT THE SETTLEMENT.**

Class Counsel:

MOON LAW GROUP, PC
Kane Moon, Esq. (kmoon@moonlawgroup.com)
H. Scott Leviant, Esq. (hsleviant@moonlawgroup.com)
Mariam Ghazaryan, Esq. (mghazaryan@moonlawgroup.com)
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128

Settlement Administrator:

Phoenix Settlement Administrators
Mailing Address: [insert address]
Telephone: [insert telephone number]
Fax Number: [insert fax number]

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the California Controller's Unclaimed Property Fund (https://www.sco.ca.gov/search_upd.html) for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

Exhibit “2”

Date	Description	Charge
5/24/2022	LWDA PAGA Notice	\$ 75.00
5/27/2022	Complaint fee	\$ 1,484.55
5/27/2022	Administrative Case Database Initiation Fee	\$ 750.00
6/15/2022	Ace - Attorney Service	\$ 161.15
7/25/2022	Alameda SC - Service Charge	\$ 2.00
8/11/2022	Alameda SC - Service Charge	\$ 10.09
9/21/2022	Alameda SC - Service Charge	\$ 30.64
9/30/2022	Ace - Attorney Service	\$ 63.00
9/19/2022	Alameda SC - Service Charge	\$ 10.09
9/19/2022	Alameda SC - Service Charge	\$ 2.00
11/18/2022	Ace - Attorney Service	\$ 163.00
11/9/2022	One Legal - Attorney Service	\$ 18.74
3/6/2023	Mediation fee (plaintiff-side share)	\$ 12,500.00
5/5/2023	Alameda SC - Service Charge	\$ 10.09
6/9/2023	Berger Consulting Group - Data Analysis	\$ 6,990.00
1/30/2023	Alameda SC - Service Charge	\$ 10.09
11/8/2022	One Legal - Attorney Service	\$ 18.74
6/23/2023	One Legal - Attorney Service	\$ 19.15
8/8/2023	Creal & Creal - Accounting	\$ 1,789.25
8/17/2023	Alameda SC - Service Charge	\$ 10.09
9/6/2023	Creal & Creal Accounting	\$ 386.75
10/23/2023	Alameda SC - Service Charge	\$ 10.09
1/9/2024	One Legal - Attorney Service	\$ 20.24
2/5/2024	Creal & Creal - Accounting	\$ 280.00
4/1/2024	Alameda SC - Service Charge	\$ 10.09
4/25/2024	One Legal - Attorney Service	\$ 69.49
4/24/2024	One Legal - Attorney Service	\$ 82.01
6/21/2024	Alameda SC - Service Charge	\$ 7.00
6/7/2024	Ace - Attorney Service	\$ 116.65
		\$ 25,099.99

Future Charges

One Legal - Attorney Service (Filing Fees)	\$ 225.00
Motion Filing Charge (Filing Fees)	\$ 60.00
	\$ 285.00

Total: **\$ 25,384.99**

Exhibit “3”

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party
4 to the within suit; my business address is 1055 W. 7th Street, Suite 1880, Los Angeles, CA 90017.

5 On the date indicated below, I served the document described as: **DECLARATION OF H. SCOTT**
6 **LEVIAINT IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS AND**
7 **REPRESENTATIVE ACTION SETTLEMENT** on the interested parties in this action by sending ☐ the
8 original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service
9 list:

10 Denis S. Kenny
11 Email: denis@sfcounsel.com
12 John B. Lough, Jr.
13 Email: john@sfcounsel.com
14 SCHERER SMITH & KENNY, LLP
15 140 Geary Street, Seventh Floor
16 San Francisco, California 94108
17 Facsimile: (415) 433-9434

18 *Counsel for Defendant*

19 ☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in
20 the ordinary course of business at Los Angeles, California. I am "readily familiar" with this firm's
21 practice of collection and processing correspondence for mailing. Under that practice, sealed
22 envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business
23 with postage thereon fully prepaid at Los Angeles, California.

24 ☒ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail
25 delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in
26 this action.

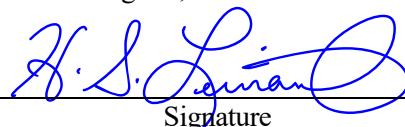
27 ☐ **BY ELECTRONIC SERVICE:** Pursuant to the Court's Order directing Electronic Service, the
28 above-named document(s) has (have) been electronically served on counsel of record by an approved
electronic service provider. The transmission of these documents was reported complete and a copy of
the service confirmation will be maintained, along with the original document(s) and proof of service
in our office.

☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the
offices of the addressee(s) named herein.

☐ **BY OVERNIGHT DELIVERY:** I am "readily familiar" with this firm's practice of collection and
processing correspondence for overnight delivery. Under that practice, overnight packages are
enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are
picked up by the carrier at our offices or delivered by our office to a designated collection site.

25 I declare under penalty of perjury under the laws of the State of California and the United States that the
26 foregoing is true and correct. Executed this **November 24, 2024** at Los Angeles, California.

27 H. Scott Leviant
28 Type or Print Name


Signature