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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

CATHERINE ELIZABETH ADAMS,
individually, and on behalf of all others
similarly situated,

Plaintiff,

vs.

LAKEPHARMA, INC., a California
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 22-CIV-02126

CLASS ACTION

[Hon. Nicole S. Healy]

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

Complaint filed: May 26, 2022
Trial date: Not set

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Catherine Elizabeth Adams (“Plaintiff”) and defendant LakePharma, Inc. (“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 *Catherine Elizabeth Adams v. LakePharma, Inc.*, Case Number 22-CIV-02126, initiated on May 26, 2022 and pending in Superior Court of the State of California, County of San Mateo
- 1.2. “Administrator” means Phoenix Class Action Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means a person employed by Defendant in California and classified as an hourly, non-exempt employee who worked for Defendant during the PAGA Period. “Aggrieved Employees” as used in this Agreement means all individuals who qualify as an Aggrieved Employee, collectively.
- 1.5. “Class” means all persons employed by Defendant in California and classified as hourly, non-exempt employees who worked for Defendant during the Class Period.
- 1.6. “Class Counsel” means 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 earlier of 60 days after the execution of this agreement or the date of preliminary approval of the Settlement.

1.13. “Class Representative” means the named Plaintiff, Catherine Elizabeth Adams, in the Operative Complaint 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 San Mateo

1.16. “Defendant” means named Defendant LakePharma, Inc.

1.17. “Defense Counsel” means Duane Morris 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 is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, 30 days after the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

1.20. “Final Approval Hearing” means the Court’s hearing on the motion for final approval of the Settlement.

1.21. “Gross Settlement Amount” means \$125,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraphs 3.1 and 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, and the Administration Expenses Payment.

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

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

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

1.25. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled under Labor Code § 2699(i).

1.26. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code § 2699(i).

1.27. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA

PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

- 1.28. “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.
- 1.29. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.30. “PAGA Period” means the period from May 21, 2021 to the earlier of 60 days after the execution of this agreement or the date of preliminary approval of the Settlement.
- 1.31. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.32. “PAGA Notice” means Plaintiff’s May 21, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3(a).
- 1.33. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and 75% to the LWDA in settlement of PAGA claims.
- 1.34. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Class portion of the Settlement.
- 1.35. “Plaintiff” means Catherine Elizabeth Adams, the named plaintiff in the Action.
- 1.36. “Preliminary Approval” means the hearing of the motion seeking preliminary approval of the Class portion of the Settlement.
- 1.37. “Preliminary Approval Order” means the order granting preliminary approval of the Class portion of the Settlement.
- 1.38. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.39. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.40. “Released Parties” means: Defendant, its predecessors, its successors (including but not

limited to Curia Global, Inc.), and each of its predecessors, and its successors former and present directors, officers, shareholders, owners, former and present managing employees, members, attorneys, agents, insurers, predecessors, successors, and assigns.

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

1.42. "Response Deadline" means 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 14 calendar days beyond the original Response Deadline.

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

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

2. RECITALS.

2.1. On 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, and unfair business practices. On August 17, 2022, Plaintiff filed a First Amended Complaint alleging an additional cause of action against Defendant for civil penalties under the Private Attorneys General Act (“PAGA”). The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint.”) Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for

the causes of action alleged.

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

2.3. The Parties negotiated this settlement, without the use of a private mediator, and were able to reach an Agreement to settle the Action.

2.4. Prior to negotiating the Settlement, Plaintiff obtained, through informal discovery, policy documents, a sampling of Class Members' time and payroll records, and other relevant data points and information. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) ("*Dunk/Kullar*").

2.5. The Court has not granted class certification.

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

3. **MONETARY TERMS.**

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$125,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the

Court in the Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$7,500.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder 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 taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 1/3 of the Gross Settlement Amount, which is currently estimated to be \$ 41,666.67, and a Class Counsel Litigation Expenses Payment of not more than \$20,000.00. 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 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel 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 any of these Payments.

3.2.3. To the Administrator: An Administration Expenses Payment not to exceed \$10,000.00 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 \$10,000.00, 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. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any 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.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$12,500 to be paid from the Gross Settlement Amount, with 75% allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

3.2.5.1. Calculation of PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility 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 Data. Not later than 15 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.

4.2. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

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

4.3.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will 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.

- 1 4.3.2. The Administrator must conduct a Class Member Address Search for all other
2 Class Members whose checks are returned undelivered without a United States
3 Postal Service (“USPS”) forwarding address. Within 7 days of receiving a
4 returned check the Administrator must re-mail checks to the USPS forwarding
5 address provided or to an address ascertained through the Class Member Address
6 Search. The Administrator need not take further steps to deliver checks to Class
7 Members whose re-mailed checks are returned as undelivered. The Administrator
8 shall promptly send a replacement check to any Class Member whose original
9 check was lost or misplaced, requested by the Class Member prior to the void date.
- 10 4.3.3. For any Class Member whose Individual Class Payment check or Individual
11 PAGA Payment check is uncashed and cancelled after the void date, the
12 Administrator shall transmit the funds represented by such checks to the California
13 Controller's Unclaimed Property Fund in the name of the Class Member thereby
14 leaving no "unpaid residue" subject to the requirements of California Code of Civil
15 Procedure § 384(b).
- 16 4.3.4. The payment of Individual Class Payments and Individual PAGA Payments shall
17 not obligate Defendant to confer any additional benefits or make any additional
18 payments to Class Members (such as 401(k) contributions or bonuses) beyond
19 those specified in this Agreement.

20

21 **5. RELEASES OF CLAIMS.**

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

25 5.1. Plaintiff's Release.

- 26 5.1.1. Scope of Plaintiff's Release. Plaintiff and her respective former and present
27 spouses, representatives, agents, attorneys, heirs, administrators, successors, and
28 assigns generally, release and discharge Released Parties from all claims,

1 transactions, or occurrences that occurred during the Class Period, including, but
2 not limited to: (a) all claims that were, or reasonably could have been, alleged,
3 based on the facts contained, in the Operative Complaint and (b) all PAGA claims
4 that were, or reasonably could have been, alleged based on facts contained in the
5 Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action
6 and released under 5.2, below. ("Plaintiff's Release.") Plaintiff's Release does not
7 extend to any claims or actions to enforce this Agreement, or to any claims for
8 vested benefits, unemployment benefits, disability benefits, social security benefits,
9 workers' compensation benefits that arose at any time, or based on occurrences
10 outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts
11 or law different from, or in addition to, the facts or law that Plaintiff now knows or
12 believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and
13 remain effective in all respects, notwithstanding such different or additional facts or
14 Plaintiff's discovery of them.

15 5.1.2. Plaintiff's Waiver of Rights Under California Civil Code § 1542. For purposes of
16 Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions,
17 rights, and benefits, if any, of Section 1542 of the California Civil Code, which
18 reads:

19 **A general release does not extend to claims that the creditor or**
20 **releasing party does not know or suspect to exist in his or her favor**
21 **at the time of executing the release, and that if known by him or her**
would have materially affected his or her settlement with the debtor
or Released Party.

22 5.2. Release by Participating Class Members: All Participating Class Members, on behalf of
23 themselves and their respective former and present representatives, agents, attorneys, heirs,
24 administrators, successors, and assigns, release Released Parties from (i) all claims that
25 were alleged, or reasonably could have been alleged, based on the Class Period facts stated
26 in the Operative Complaint. Excluded from this portion of the release are claims for PAGA
27 penalties that were alleged, or reasonably could have been alleged, based on the PAGA
28 Period facts stated in the Operative Complaint, and the PAGA Notice. Except as set forth

1 in Section 5.3 of this Agreement, Participating Class Members do not release any other
2 claims, including claims for vested benefits, wrongful termination, violation of the Fair
3 Employment and Housing Act, unemployment insurance, disability, social security,
4 workers' compensation, or claims based on facts that were not alleged and could not have
5 reasonably been alleged in the Operative Complaint.

6 5.3. Release by Class Members Who Are Aggrieved Employees: All Class Members who are
7 Aggrieved Employees are deemed to release, on behalf of themselves and their respective
8 former and present representatives, agents, attorneys, heirs, administrators, successors, and
9 assigns, the Released Parties from all claims for PAGA penalties that were alleged, or
10 reasonably could have been alleged, based on the PAGA Period facts stated in the
11 Operative Complaint, and the PAGA Notice.
12

13 **6. MOTION FOR PRELIMINARY APPROVAL.**

14 The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary
15 Approval") that complies with the Court's current checklist for preliminary approvals, to the extent the
16 Court maintains such a checklist.

17 6.1. Defendant's Declaration in Support of Preliminary Approval. Within 15 days of the full
18 execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed
19 declaration from Defendant and/or Defense Counsel disclosing all facts relevant to any
20 actual or potential conflicts of interest with the Administrator, *if any such actual or*
21 *potential conflicts exist* (no declaration is required in the absence of any actual or potential
22 conflicts). Similarly, if any other pending matter or action asserting claims will be
23 extinguished or adversely affected by the Settlement, Defendant shall prepare and deliver
24 to Class Counsel a signed declaration from Defendant and/or Defense Counsel identifying
25 any other pending matter or action asserting claims that will be extinguished or adversely
26 affected by the Settlement. Alternatively, if such other actions are filed between the
27 execution of this Agreement and the filing of the Motion for Preliminary Approval and
28 become known to Defendant and/or Defense Counsel, Defense Counsel will advise Class

Counsel.

- 6.2. 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 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, or the Administrator; 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; and, all facts relevant to any actual or potential conflict of interest with Class Members, and the Administrator. Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement 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.
- 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and 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.

6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, 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

1 Administrator shall notify Class Counsel that the list has been received and state
2 the number of Class Members, Aggrieved Employees, Workweeks, and Pay
3 Periods in the Class Data.

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

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

22 7.4.4. The deadlines for Class Members' written objections, challenges to Workweeks
23 and/or pay periods, and Requests for Exclusion will be extended an additional 14
24 days beyond the 60 days otherwise provided in the Class Notice for all Class
25 Members whose notices are re-mailed. The Administrator will inform the Class
26 Member of the extended deadline with the re-mailed Class Notice.

27 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise
28 discovers any persons who believe they should have been included in the Class

1 Data and should have received Class Notice, the Parties will expeditiously meet
2 and confer in person or by telephone, and in good faith in an effort to agree on
3 whether to include them as Class Members. If the Parties agree, such persons will
4 be Class Members entitled to the same rights as other Class Members, and the
5 Administrator will send, via email or overnight delivery, a Class Notice requiring
6 them to exercise options under this Agreement not later than 14 days after receipt
7 of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8 7.5. Requests for Exclusion (Opt-Outs).

9 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class portion of
10 the Settlement must send the Administrator, by fax, email, or mail, a signed written
11 Request for Exclusion not later than 60 days after the Administrator mails the Class
12 Notice (plus an additional 14 days for Class Members whose Class Notice is re-
13 mailed). A Request for Exclusion is a letter from a Class Member or his/her
14 authorized representative that reasonably communicates the Class Member's
15 election to be excluded from the Class portion of the Settlement and includes the
16 Class Member's name, address and email address or telephone number. To be
17 valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the
18 Response Deadline.

19 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
20 fails to contain all the information specified in the Class Notice. The Administrator
21 shall accept any Request for Exclusion as valid if the Administrator can reasonably
22 ascertain the identity of the person as a Class Member and the Class Member's
23 desire to be excluded. The Administrator's determination shall be final and not
24 appealable or otherwise susceptible to challenge. If the Administrator has reason to
25 question the authenticity of a Request for Exclusion, the Administrator may
26 demand additional proof of the Class Member's identity. The Administrator's
27 determination of authenticity shall be final as to the Parties, but a Class Member
28 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 Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because the PAGA claims settled as part of this Agreement are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or PAGA Pay Periods shall be final as to the Parties (although Defendant shall retain the right to correct erroneous Class Data if subsequently discovered), but a Class Member whose Workweek and/or Pay Period challenge is rejected by the Administrator may present the same

evidence supporting the Workweek and/or Pay Period challenge to the Court for review. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Settlement.

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

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

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

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

7.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval Order, the Class Notice, the motion for final approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final approval Order and

the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

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

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

7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or PAGA Pay Periods. The Administrator’s determination of each Class Member’s allocation of Workweeks and/or PAGA Pay Periods shall be final as to the Parties (although Defendant shall retain the right to correct erroneous Class Data if subsequently

discovered), but a Class Member whose Workweek and/or Pay Period challenge is rejected by the Administrator may present the same evidence supporting the Workweek and/or Pay Period challenge to the Court for review.

7.8.5. Administrator's Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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

8. CLASS SIZE ESTIMATES

Based on a review of its records to date, Defendant estimates there are 38 Class Members who collectively worked a total of 3,188 Workweeks, and 31 Aggrieved Employees who worked a total of 755 PAGA Pay Periods.

1 **9. DEFENDANT’S RIGHT TO WITHDRAW.**

2 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all
3 Class Members, Defendant may, but is not obligated to, withdraw from the Settlement. The Parties agree
4 that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and
5 that neither Party will have any further obligation to perform under this Agreement; provided, however,
6 Defendant will remain responsible for paying all Settlement administration expenses incurred to that point.
7 Defendant must notify Class Counsel and the Court of its election to withdraw not later than [seven] days
8 after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no
9 effect.

10
11 **10. MOTION FOR FINAL APPROVAL.**

12 Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a
13 motion for final approval of the Settlement that includes a request for approval of the PAGA settlement
14 under Labor Code § 2699(I), a Proposed final approval order and a proposed Judgment (collectively
15 “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not
16 later than one week prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will
17 expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements
18 concerning the Motion for Final Approval.

19 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by
20 a Participating Class Member, including the right to file responsive documents in Court no
21 later than five court days prior to the Final Approval Hearing, or as otherwise ordered or
22 accepted by the Court.

23 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
24 Approval on any material change to the Settlement (including, but not limited to, the scope
25 of release to be granted by Class Members), the Parties will expeditiously work together in
26 good faith to address the Court’s concerns by revising the Agreement as necessary to
27 obtain Final Approval. The Court’s decision to award less than the amounts requested for
28 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.

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

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

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

Settlement Amount remains unchanged.

11. AMENDED JUDGMENT.

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

12. ADDITIONAL PROVISIONS.

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

12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement

confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, 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.

12.3. 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.

12.4. 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.

12.5. 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.

12.6. 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

1 and authorities as requested by the Court. In the event the Parties are unable to agree upon
2 the form or content of any document necessary to implement the Settlement, or on any
3 modification of the Agreement that may become necessary to implement the Settlement,
4 the Parties will seek the assistance of a mediator and/or the Court for resolution.

5 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not
6 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
7 encumber to any person or entity and portion of any liability, claim, demand, action, cause
8 of action, or right released and discharged by the Party in this Settlement.

9 12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are
10 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be
11 relied upon as such within the meaning of United States Treasury Department Circular 230
12 (31 CFR Part 10, as amended) or otherwise.

13 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
14 modified, changed, or waived only by an express written instrument signed by all Parties
15 or their representatives, and approved by the Court.

16 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the
17 benefit of, the successors of each of the Parties.

18 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
19 governed by and interpreted according to the internal laws of the state of California,
20 without regard to conflict of law principles.

21 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
22 this Agreement. This Agreement will not be construed against any Party on the basis that
23 the Party was the drafter or participated in the drafting.

24 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
25 during Action and in this Agreement relating to the confidentiality of information shall
26 survive the execution of this Agreement.

27 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to
28 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 destructions, of Class Data.

12.15. 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.

12.16. 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.

12.17. 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:

Kane Moon (SBN 249834)
kmoon@moonlawgroup.com
H. Scott Leviant (SBN 200834)
hsleviant@moonlawgroup.com
Mariam Ghazaryan (SBN 341119)
mghazaryan@moonlawgroup.com
MOON LAW GROUP, PC
725 S. Figueroa St., 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

To Defendant:

James S. Brown (SBN 135810)
jamesbrown@duanemorris.com
Jesse D. Sutz (SBN 338412)
jdsutz@duanemorris.com
DUANE MORRIS LLP
Spear Tower
One Market Plaza, Suite 2200
San Francisco, CA 94105-1127
Telephone: 415.957.3000
Facsimile: 415.957.3001

Antonio Caldarone
acaldarone@lanermuchin.com
LANER MUCHIN
515 North State Street, Suite 2800
Chicago, Illinois 60654
Telephone: 312.467.9800
Facsimile: 312.467.9479

12.18. 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.

12.19. 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 that 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.

Plaintiff & Class Representative:

11/19/2024

Dated: November __, 2024

By:

Signed by:



CATHERINE ELIZABETH ADAMS

Plaintiff's Counsel:

Dated: November 19, 2024

MOON LAW GROUP, PC

By: _____

Kane Moon
H. Scott Leviant
Mariam Ghazaryan

Attorneys for Plaintiff

Defendant:

Dated: November __, 2024

LAKEPHARMA, INC

By: _____

Print Name

Signature

Title

Defendant's Counsel:

Dated: November __, 2024

DUANE MORRIS, LLP

By: _____

Jim Brown
Jesse D. Sutz

Attorneys for Defendant LakePharma, Inc.

LANER MUCHIN
Antonio Calderone

Attorneys for Defendant LakePharma, Inc.

1 **Plaintiff's Counsel:**

2 Dated: November __, 2024

MOON LAW GROUP, PC

3
4 By: _____

5 Kane Moon
6 H. Scott Leviant
7 Mariam Ghazaryan

8 Attorneys for Plaintiff

9 **Defendant:**

10 Dated: November __, 2024

LAKEPHARMA, INC

11 By: _____

12 Print Name

13 _____
14 Signature

15 _____
16 Title

17 **Defendant's Counsel:**

18 Dated: November 21, 2024

DUANE MORRIS, LLP

19 By: Jim S Brown

20 Jim Brown
21 Jesse D. Sutz

22 Attorneys for Defendant LakePharma, Inc.

23 LANER MUCHIN
24 Antonio Calderone

25 Attorneys for Defendant LakePharma, Inc.

Exhibit “A”

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

Adams v. LakePharma, Inc. Case No. 22-CIV-02126
San Mateo County Superior Court

*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 defendant LakePharma, Inc. (“LakePharma” or “Defendant”) for alleged wage and hour violations. The Action was filed by former LakePharma employee Catherine Elizabeth Adams and seeks payment of (1) back wages and other relief for a class of hourly employees (“Class Members” or “Class Member”) who worked for LakePharma during the “Class Period” (May 26, 2018 through earlier of 60 days after the execution of the long-form settlement agreement or the date of preliminary approval of the Settlement, and, (2) penalties under the California Private Attorney General Act (“PAGA”) for all hourly employees who worked for LakePharma during the “PAGA Period” (May 21, 2021 to the earlier of 60 days after the execution of the long-form settlement agreement or the date of preliminary approval of the Settlement.) (“Aggrieved Employees” or “Aggrieved Employee”).

The proposed settlement (the “Settlement”) has two main parts: (1) a “Class Settlement” requiring LakePharma to fund individual settlement payments to Class Members (“Individual Class Payments”), and (2) a “PAGA Settlement” requiring LakePharma to fund individual settlement payments to Aggrieved Employees (“Individual PAGA Payments”) and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]. (If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records, you are not eligible for such a payment under the Settlement because you didn’t work during the covered period commencing May 21, 2021.)

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

The court has 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, depending on whether you take action or do nothing in response to this Notice. 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 LakePharma to make payments under the Settlement and requires Class Members and the LWDA to give up their rights to assert certain claims against LakePharma. The final approval hearing is scheduled to be held on _____ at _____ in Department 28, Courtroom I of the San Mateo Superior Court, located at 800 North Humboldt St, San Mateo, CA 94401.

If you worked for LakePharma 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 as a Class Member and/or an Individual PAGA Payment as an Aggrieved Employee. As a Class Member, though, you will give up your right to assert Class Period wage claims against LakePharma. You will have the right to object to any part of the proposed Settlement if you do not exclude yourself from the Class Settlement.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting a Request for Exclusion to the Administrator, 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 LakePharma, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment in the Action. You cannot opt-out of the PAGA portion of the proposed Settlement.

LakePharma 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 participant in the Settlement, 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 LakePharma that are covered by this Settlement ("Released Claims").
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is	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. LakePharma must pay individual PAGA Settlement payments to all Aggrieved Employees, and the LWDA and Plaintiff 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	All Class Members who do not opt-out ("Participating Class Members") 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 Final Approval Hearing	The court's Final Approval Hearing is scheduled to take place on . 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 remote appearance options. 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	The amount of your Individual Class Payment and Individual 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 LakePharma's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by . See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former LakePharma employee. Plaintiff accuses LakePharma of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks, 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: Moon Law Group, PC ("Class Counsel.")

LakePharma 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 LakePharma or Plaintiff are correct on the merits. In the meantime, Plaintiff and LakePharma (the "Parties") in an effort to resolve the Action, negotiated the claims and terms in order 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 LakePharma 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, LakePharma 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) LakePharma 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. LakePharma will pay \$125,000.00 as the Gross Settlement Amount ("Gross Settlement"). LakePharma has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsels' attorney's 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, LakePharma will make the settlement payment to the Administrator in two payments. LakePharma will fund the Gross Settlement 15 days after the judgement entered by the court becomes final. 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.

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 \$41,666.67 (One Third of the Gross Settlement Amount) to Class Counsel for attorneys' fees and up to \$20,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$7,500.00 for the class representative service award for filing the Action, working with Class Counsel and representing the Class. A class representative award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment, and any Individual PAGA Payment.

C. Up to an estimated \$10,000.00 to the Administrator for services administering the Settlement.

D. \$12,500.00 for PAGA penalties, allocated 75% to the LWDA and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period pay periods.

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 in amounts approved by the court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") 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 LakePharma are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. LakePharma 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 LakePharma 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 monies will be redirected to the California Controller's Unclaimed Property Fund.

6. Requests for exclusion from the Class Settlement ("Opt-Outs"). You will be treated as a Settlement Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to Opt-Out. The easiest way to notify the Administrator is to send in a Request for Exclusion by the [REDACTED] response deadline. The Request for Exclusion should be signed. 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 LakePharma.

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 in the Action but are required to give up their right to assert PAGA claims against LakePharma 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 to enter a judgment. It is also possible the court will enter a judgment that is reversed on appeal. Plaintiff and LakePharma have agreed that, in either case, the Settlement will be void: LakePharma will not pay any money and Class Members will not release any claims against LakePharma.

8. Administrator. The court has appointed a neutral company, [REDACTED] (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 and/or pay periods, 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 of this Notice.

9. Participating Class Members’ release. After the judgment is final and LakePharma 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 another lawsuit against LakePharma 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 “Released Parties” are LakePharma, its predecessors, its successors (including but not limited to Curia Global, Inc.), and each of its predecessors, and its successors former and present directors, officers, shareholders, owners, former and present managing employees, members, attorneys, agents, insurers, predecessors, successors, and assigns.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were pled in the operative complaint, or which were asserted in the litigation, or which could have been pled in any of the complaints in the Action or PAGA notice submitted by Plaintiff with the Labor Workforce Development Agency based on the factual allegations therein, that arose during the Class Period, including:

- a. Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197];
- b. Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
- c. Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];
- d. Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
- e. Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code §§ 2800, 2802];
- f. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201- 203];
- g. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and
- h. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.].

10. The PAGA release. After the court’s judgment is final, and LakePharma has paid the Gross Settlement (and separately paid the employer-side payroll taxes), Plaintiff and the LWDA will release the PAGA claim for violations identified in Plaintiff’s PAGA Notice to the LWDA.

The PAGA Release is as follows:

All Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the PAGA Notice.

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 the individual PAGA amount by the total number of PAGA Period 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 Period workweeks you worked during the Class Period and the number of PAGA pay periods you worked during the PAGA Period, as recorded in LakePharma's records, are stated in the first page of this Notice. You have until [REDACTED] 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 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 LakePharma's calculation of workweeks and/or pay periods based on LakePharma'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 Class Members) and LakePharma's Counsel.

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 all Class Members who qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment, if any.

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 who is eligible as an Aggrieved Employee).

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?

Send in a Request for Exclusion to the Administrator. 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. The Administrator will exclude you based on any writing communicating your request to be excluded. Be sure to identify the Action in a way that is clear (include the case name and case number). The Administrator must receive your request to be excluded by [REDACTED], or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

If you wish to opt-out of the Class Settlement, DO NOT send in a written objection.

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 LakePharma are asking the court to approve. At least 16 court days before the [REDACTED] final approval hearing, Class Counsel and/or Plaintiff will file in court a motion for final approval that includes, among other things, the reasons why the proposed Settlement is fair, and a request for awards of fees, litigation expenses and a 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.

A Participating Class Member who disagrees with any aspect of the Settlement, the motion for final approval and for awards of 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 [REDACTED]. Be sure to tell the Administrator in your written objection what you object to, why you object, and any facts that support your objection. If you submit a written objection, make sure you identify the Action (by including the case name and case number) and print your name, address and email address or telephone number and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally hire 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 (below) for specifics regarding the final approval hearing.

If you wish to object in writing or in person, DO NOT send in a Request for Exclusion.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the final approval hearing on [redacted] at [redacted] in Department 28, Courtroom I of the San Mateo Superior Court, located at 800 North Humboldt St, San Mateo, CA 94401. At the hearing, the court 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) either personally or telephonically.

It's possible the court will reschedule the final approval hearing. You should contact Class Counsel to verify the date and time of the final approval hearing if you are planning to attend the hearing or have your own lawyer attend.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything LakePharma and Plaintiff have promised to do under the proposed Settlement. The easiest way to obtain and read the Agreement or any other Settlement document is to go to the Administrator's website at [redacted]. 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 by going to <https://sanmateo.courts.ca.gov/online-services/online-case-access>, selecting the case number search and entering the case number for the Action, 22-CIV-02126, as instructed on the web form.

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

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Settlement Administrator:

Name of Company: [redacted]
Email Address:
Mailing Address:
Telephone:

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.

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.

12. WHAT IS A PAGA PENALTY?

The Net Settlement is money paid to settle claims for Participating Class Members. But the PAGA claim is different. PAGA penalties were originally penalties that only the State of California could collect through an enforcement action brought by the State against an employer. In 2004, the State enacted PAGA, a law that allows employees to try to recover those penalties for the State. Under PAGA, the State agrees to share 25% of its penalties with the affected employees (here, the Aggrieved Employees). The PAGA settlement proposed as part of this Settlement is a settlement of the State's PAGA claim.