

Larry W. Lee (State Bar No. 228175)
Kristen M. Agnew (State Bar No. 247656)
Nicholas Rosenthal (State Bar No. 268297)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554s facsimile
lwlee@diversitylaw.com
kagnew@diversitylaw.com
nrosenthal@diversitylaw.com

William L. Marder (State Bar No. 170131)
POLARIS LAW GROUP
501 San Benito Street, Suite 200
Hollister, CA 95023
Telephone: (831) 531-4214
Facsimile: (831) 634-0333
bill@polarislawgroup.com

Attorneys for Plaintiff and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

CAROLYN SCHMIDT-GUNTHNER, as
an individual and on behalf of all others
similarly situated,

Plaintiff,

vs.

THE HIGH DESERT 'PARTNERSHIP
IN ACADEMIC EXCELLENCE'
FOUNDATION, INCORPORATED, a
California nonprofit corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: CIVSB2213906

[Assigned for all purposes to the Hon. David Cohn,
Dept. S-26]

**DECLARATION OF KRISTEN M. AGNEW IN
SUPPORT OF PLAINTIFF'S MOTION TO
APPROVE SETTLEMENT AGREEMENT
PURSUANT TO THE PRIVATE ATTORNEYS
GENERAL ACT**

Date: August 31, 2023
Time: 9:00 a.m.
Dept: S-26

Complaint Filed: July 6, 2022
Trial Date: None

1 I, Kristen M. Agnew, declare as follows:

2 1. I am an attorney at law, duly licensed to practice before all Courts in the State of
3 California, and am with the law firm Diversity Law Group, P.C., counsel of record for Plaintiff
4 Carolyn Schmidt-Gunthner (“Plaintiff”). I have personal knowledge of the facts set forth below
5 and if called to testify I could and would do so competently.

6 **PROCEDURAL HISTORY**

7 2. From the inception of the case, Plaintiff’s Counsel has zealously represented the
8 interests of the Aggrieved Employees.

9 3. On May 2, 2022, Plaintiff submitted written notice under Labor Code section
10 2699.3 (the “PAGA Notice”) to the California Labor and Workforce Development Agency
11 (“LWDA”) and The High Desert ‘Partnership in Academic Excellence’ Foundation,
12 Incorporated (“Defendant”), alleging that Defendant violated Labor Code section 204. Pursuant
13 to Labor Code section 204(d), all earned wages must be paid by the seventh day following the
14 close of the pay period. Plaintiff contends that Defendant had a consistent policy of paying
15 wages to employees more than ten days following the close of the pay period. Attached hereto as
16 **Exhibit 1** is a true and correct copy of the PAGA Notice.

17 4. On July 6, 2022, Plaintiff filed a complaint against Defendant in the Superior
18 Court of the State of California, County of San Bernardino (“Complaint”). Plaintiff asserts a
19 single cause of action for violation of California Labor Code section 2698, et seq., the Private
20 Attorneys General Act (“PAGA”), predicated on Defendant’s alleged violation of Labor Code
21 section 204. Plaintiff seeks civil penalties under PAGA, as well as attorneys’ fees, and costs.

22 5. Defendant disputes and denies Plaintiff’s allegations and claims asserted in the
23 operative Complaint.

24 **DISCOVERY**

25 6. On November 18, 2022, Plaintiffs propounded written discovery, including
26 Special Interrogatories (Set One) and Requests for Production of Documents (Set One). The
27 discovery required Defendants to provide documents and information relevant to the number of
28 alleged aggrieved employees, the number of pay periods in which wages were paid more than

seven days after the close of the pay period, and Defendant’s policies pertaining to its payroll calendar.

7. Defendant provided fulsome and substantive responses to the discovery requests. As part of the discovery responses, Defendant confirmed that it altered its payroll practices relative to the entirety of Plaintiff’s allegations on or before June 29, 2022.

SETTLEMENT NEGOTIATIONS

8. Following the initial round of written discovery, and in light of the narrow claims at issue, the Parties agreed to redirect their resource to exploring the possibility of an early settlement through direct settlement negotiations.

9. The Parties engaged in arm’s length negotiations over the course of several months. As part of the negotiations, Defendant provided the number of potential Aggrieved Employees and the aggregate number of pay periods in which wages were paid during the period of July 6, 2021, to June 30, 2022 (“PAGA Period”). In total, 217 Aggrieved Employees received the payment of wages in 3,261 pay periods during the PAGA Period. Using the data provided by Defendant, Plaintiff’s Counsel performed a comprehensive penalty analysis.

10. On or about July 7, 2023, the Parties reach a settlement in principle of the entire action. The Parties thereafter worked to memorialize the terms of the settlement in a long-form settlement agreement.

11. On or about August 8, 2023, the Parties fully executed the PAGA Settlement Agreement (the “Settlement Agreement” or “Agreement”). A true and correct copy of the Settlement Agreement is attached hereto as **Exhibit 2**.

MONETARY TERMS OF SETTLEMENT

12. As defined by the Agreement, “Aggrieved Employees” means all current and former California employees of Defendant who were paid wages by Defendant any time during July 6, 2021, through June 30, 2022 (“PAGA Period”). *See* Settlement Agreement (“SA”) §§ I-A, I-N. Based on Defendant’s records, there are 217 Aggrieved Employees. These individuals received the payment of wages in 3,261 pay periods during the PAGA Period. *See* SA §§ SA II-E.

1 13. The Settlement Agreement requires Defendant to pay the gross amount of Ninety
2 Seven Thousand Five Hundred Dollars (\$97,500.00) (the “Total Settlement Amount”). *See* SA §
3 II-A. Based on the Total Settlement Amount, Defendant will pay approximately \$29.89 per pay
4 period to resolve the claims in this case.

5 14. The balance of the Total Settlement Amount remaining after deduction of the
6 approved attorneys’ fees and litigation costs to Plaintiff’s counsel, Settlement Administrator’s
7 costs, and Plaintiff’s Release Payment (the “Net Settlement Amount”), will be available for
8 distribution to the LWDA and Aggrieved Employees. *See id.* at § I-J.

9 15. Seventy-five percent (75%) of the Net Settlement Amount will be paid to the
10 LWDA for PAGA penalties (“LWDA Payment”). *See* SA § III-E. The remaining twenty-five
11 percent (25%) will be distributed to Aggrieved Employees. *See* SA § III-E.

12 16. As part of the Settlement, Defendant does not object to Plaintiff’s Counsel’s
13 request for attorneys’ fees of approximately one-third of the Total Settlement Amount, *i.e.*,
14 Thirty-Two Thousand Five Hundred Dollars (\$32,500.00), and reimbursement for litigation costs
15 in an amount up to Five Thousand Dollars (\$5,000.00), subject to the Court finally approving
16 this Settlement. *See* SA § III-C. Plaintiff’s Counsel’s anticipated actual litigation costs total
17 \$2,728.62. Any portion of the requested attorneys’ fees and/or costs not approved by the Court
18 shall be added to the Net Settlement Amount. *See id.*

19 17. Defendant has also agreed to not object to Plaintiff’s request for a Release
20 Payment to Plaintiff in an amount not to exceed Seven Thousand Dollars (\$7,000.00). *See* SA §
21 III-D. Any portion of the Release Payment to Plaintiff that is not approved by the Court shall
22 become part of the Net Settlement Amount. *See id.*

23 18. Finally, the Settlement Agreement provides for the payment of the fees and
24 expenses reasonably incurred by the Settlement Administrator. *See* SA § III-G. The Parties have
25 agreed to utilize Phoenix Settlement Administrators to administer the settlement, with the
26 administration costs estimated to be Three Thousand Two Hundred Fifty Dollars (\$3,250.00).
27 *See id.* at §§ I-V, III-G.

1 **PAYMENTS TO AGGRIEVED EMPLOYEES AND THE LWDA**

2 19. Assuming that the Court approves the Release Payment to Plaintiff (\$7,000),
3 attorney's fees (\$32,500.00), actual litigation costs (\$2,728.62) and the Settlement
4 Administrator's costs (\$3,250.00), I estimate that the Net Settlement Amount will total
5 \$52,021.38. Seventy-Five percent of the Net Settlement Amount (approximately \$39,016.03)
6 will be paid to the LWDA for PAGA penalties. The remaining twenty-five percent
7 (approximately \$13,005.35) will be distributed to Aggrieved Employees.

8 20. The individual Settlement Shares to each Aggrieved Employee will be based on
9 the total number of pay periods in which the employee received the payment of wages during the
10 PAGA Period. *See* SA § III-F. This is fair, as it directly allocates greater penalties to individual
11 Aggrieved Employees who have allegedly suffered greater harm.

12 21. Based on the number of Aggrieved Employees, employees will be entitled to
13 recover, on average, up to approximately \$59.93 each. The amount any particular Aggrieved
14 Employee will be entitled to recover will be greater or lower than this average depending on the
15 number of pay periods in which the employee received the payment of wages during the PAGA
16 Period, with some entitled to receive more, and others less. The individual Settlement Shares to
17 Aggrieved Employees shall be categorized as penalties and interest for tax purposes. *See* SA §
18 III-F.

19 22. If any checks from the Settlement remain uncashed after 180 days, the Settlement
20 Administrator will distribute the funds represented by the uncashed checks to the following *cy*
21 *pres* recipient: Millionaire Minds, a 501(c)(3) non-profit organization that operates STEM camps
22 and other outreach for underserved students within the High Desert community. *See* SA § III-O.
23 The Parties warrant and represent that they do not have a relationship, financial or otherwise,
24 with the *cy pres* recipient. *See id.*

25 **POTENTIAL CIVIL PENALTIES**

26 23. The maximum potential PAGA penalties are \$326,100. There are 3,261 pay
27 periods in which Aggrieved Employees received the payment of wages during the PAGA Period.
28 I applied the \$100 penalty per violation, given that there had been no prior finding that

1 Defendants' practices had caused a violation of the Labor Code.

2 24. However, in order to recover any PAGA penalties, Plaintiff would be required at
3 trial to prove each of the underlying Labor Code violations. Here, Plaintiff would need to prove
4 that each Aggrieved Employee suffered a violation for each period the employee worked in
5 relation to the failure to pay earned wages in a timely manner. Defendants, however, maintain
6 that Plaintiff and the Aggrieved Employees were properly compensated, and that they did not
7 violate the Labor Code. Defendants may have sought summary judgment on this issue or
8 proceeded to trial. Should Defendants have prevailed, the State of California and Aggrieved
9 Employees would have been left with zero recovery.

10 25. Assuming that Plaintiff prevailed on liability, under the facts of this case, I
11 appreciate the substantial risk that the Court could exercise its discretion under PAGA to reduce
12 the maximum allowable PAGA penalties or decide not to award PAGA penalties at all.
13 Defendants, for example, have argued that even if the Court ultimately found that their payroll
14 practices violate Labor Code section 204, the alleged violation is a technical one and did not
15 result in the underpayment of wages. Defendant further contends that it made a good faith effort
16 to comply with the law. As argued by Defendant, in deciding whether to award the maximum
17 penalty amount, courts may focus on whether the employer made a good faith effort to follow
18 the law.

19 26. I am also aware that Courts routinely award far less than the statutory maximum
20 amount of civil penalties, even where an underlying violation of the Labor Code is found. For
21 example, as shown in the Court of Appeal's decision in *Carrington v. Starbucks Corp.*, while the
22 plaintiff prevailed on his PAGA claim upon trial, the trial court reduced the maximum PAGA
23 penalty amount by 90%, citing the employer's good faith attempt at complying with the law. 30
24 Cal. App. 5th 504, 517 (2018). Similarly, in the matter of *Magadia v. Wal-Mart Assocs. et al.*,
25 2019 U.S. Dist. Lexis 91792, while the trial court imposed substantial PAGA penalties upon the
26 defendant, such amount still represented reductions of 67% and 80% of the potential PAGA
27 penalties at issue. *Id.* at *87-*100. Moreover, this was only after the plaintiff in *Magadia* had
28 prevailed after trial.

1 27. In this case, Defendant asserted that a substantial reduction in potential PAGA
2 penalties was warranted because: (1) the alleged violations were inadvertent; (2) after Defendant
3 received Plaintiff's pre-filing LWDA notice, it changed its payroll system to pay wages within
4 seven days of the close of the pay periods; and (3) Aggrieved Employees did not suffer any
5 economic harm as a result of the alleged violations of Labor Code section 204. Thus, Defendant
6 contends that no PAGA penalties were needed to punish or deter Defendant for its inadvertent
7 behavior, much less to deter it from committing any future violations that were completely
8 foreclosed by its new payroll practices. *See id.*

9 **FAIRNESS OF THE SETTLEMENT**

10 28. As noted above, I estimate that the maximum potential PAGA penalties are
11 \$326,100. Thus, the Total Settlement Amount is approximately 29.89% of the maximum amount
12 of penalties at issue, if the Court awarded \$100 per pay period in which wages were untimely
13 paid. Settlement for this reduced value allows for the distribution of penalties in an amount
14 which accounts for the risk of continued litigation, and Defendant's likely arguments that higher
15 penalties would have been confiscatory.

16 29. Even though I strongly believe that Plaintiff can prevail at trial, given Defendant's
17 potential defenses to the alleged violations at issue, the risks and costs of continued litigation, I
18 believe that the Settlement is fair and reasonable. After taking into account sharply disputed
19 factual and legal issues involved in this litigation, the merits of Defendant's potential defenses,
20 and the significant delay and potential appellate issues inherent to litigation, I have concluded
21 that settlement on the terms set forth in the Settlement Agreement is appropriate and in the best
22 interests of Plaintiff and the Aggrieved Employees.

23 **ATTORNEY EXPERIENCE**

24 30. Diversity Law Group has a great deal of experience in wage and hour class action
25 litigation and has been approved as class counsel in a number of class actions.

26 31. My qualifications are as follows: I was the 2003 recipient of the Spelman
27 Presidential Scholarship to Emory University School of Law. During law school, I was a summer
28 associate at the law firm of Sonnenschein, Nath and Rosenthal, and clerked with the Atlanta

1 office of the Equal Employment Opportunity Commission. I received my J.D. from Emory
2 University in 2006 and was admitted to the California Bar in December 2006. Following law
3 school, I was an associate at Sonnenschein from September 2006 to May 2009.

4 32. Since 2009, my primary area of practice has been employment litigation. I have
5 practiced law at two preeminent employment defense firms. From May 2009 to June 2011, I was
6 an associate at Ogletree, Deakins, Nash, Smoak & Stewart, P.C. I was also an associate, and then
7 senior associate, in the labor and employment practice group of Seyfarth Shaw, LLP from June
8 2011 to May 2016. At both Ogletree and Seyfarth, I represented a wide array of fortune 500
9 companies in employment litigation in both state and federal courts, as well as before
10 government agencies, including the California Department of Labor. My practice included the
11 defense of single plaintiff and multi-plaintiff lawsuits involving claims under the California Fair
12 Employment and Housing Act, the California Labor Code and the Fair Labor Standards Act. I
13 also handled a number of wage and hour class actions.

14 33. While at Ogletree and Seyfarth, I served as the lead associate on a number of
15 wage and hour class actions, including *Martha Cardenas v. Gold's Gym*, Los Angeles County
16 Superior Court Case No. BC445112; *Nathaniel Werner v. Crown Equipment Corporation*, Los
17 Angeles County Superior Court Case No. BC439428; *Christopher Williams v. Allstate Insurance*
18 *Co.*, Los Angeles County Superior Court Case No. BC382577; *Hwang v. Caltech*, Los Angeles
19 County Superior Court Case No. BC464894; *Melissa Roberts v. Zale Delaware, Inc.*, Los
20 Angeles Superior Court Case No. BC523610; *Michael Oliver v. Konica Minolta Business*
21 *Solutions U.S.A., Inc.*, Santa Clara County Superior Court Case No. 114-CV-263183; *Tessa*
22 *Hodge v. Zale Delaware, Inc., d/b/a Piercing Pagoda*, San Bernardino Superior Court Case No
23 CIVVS1301632; *Warren v. Paychex, Inc.*, N.D. Cal. Case No. 3:10-cv-02006; *Tapia v. Zale*
24 *Delaware Inc. et al*, S.D. Cal. Case No. 3:13-cv-01565; and *Benjamin Burgess et al v. Tesoro*
25 *Refining and Marketing Company et al*, C.D. Cal. Case No. 2:10-cv-05870.

26 34. In June 2016, I joined Diversity Law Group, P.C. where I spend most of my time
27 handling employment cases. I primarily represent employees.

28 35. I have been approved as class counsel in numerous other wage/hour class actions

1 that have been granted class certification and final approval, including: *Antonio Becerra-Mata v.*
2 *PSC Industrial Outsourcing, LP*, San Benito County Superior Court Case No. CU-15-00030;
3 *Kosal So v. Owens-Brockway Glass Container, Inc.*, Los Angeles County Superior Court Case
4 No. BC608609; *Sarah Rodriguez v. Manpower, Inc.*, Santa Clara County Superior Court Case
5 No. 1-16-CV-294904; *Shannon Sanchez v. American Para Professional Systems, Inc.*, Santa
6 Clara County Superior Court Case No. 17CV306751; *Foaad Hanna v. Equinix, LLC*, Santa Clara
7 County Superior Court Case No. 18CV339365; *Alicia Harris v. 24 Seven LLC*, Los Angeles
8 County Superior Court Case No. BC720144; *Mary Della Maggiora v. Watsonville Community*
9 *Hospital*, Santa Cruz Superior Court Case No. 18CV00191; *Michael Randolph v. Pacific Racing*
10 *Association*, Alameda County Superior Court Case No. RG18908139; *Cody Wirbick v. Sundt*
11 *Construction, Inc.*, U.S. District Court for the Eastern District of California Case No. 2:19-cv-
12 02067-MCE-CKD; *Jose Vasquez Ruiz v. Perdue Foods, LLC*, Sonoma County Superior Court
13 Case No. SCV 264649; *Delmer Wood III v. Reeve Trucking Company Inc.*, San Joaquin
14 Superior Court Case No. STK-CV-UOE-2018-0004414; *Eric Chavez v. Converse, Inc.*, U.S.
15 District Court for the Northern District of California Case No. 15-cv-03746-NC; *Jharett Siron v.*
16 *Raypak, Inc.*, Ventura County Superior Court Case No. 56-2019-00527959-CU-OE-VTA;
17 *Prexxie Pascual and Arturo Fonseca v. Satellite Healthcare, Inc.*, Santa Clara Superior Court
18 Case No. 19CV345211; and *Markham v. Quik Stop Markets, Inc.*, Santa Clara Superior Court
19 Case No. 19CV341582.

20 36. I also second chaired two jury trials where I represented the prevailing defendant.
21 Both cases involved employees who brought claims against their former employers pursuant to
22 the Fair Employment & Housing Act. The cases are: *Jeff Cowell v. Eaton Aerospace LLC et al*,
23 Los Angeles County Superior Court Case No. BC401543; and *Richard Gulden v. Pratt &*
24 *Whitney Rocketdyne Inc. et al.*, Los Angeles County Superior Court Case No. BC468909. More
25 recently, I was lead trial counsel on a PAGA bench trial, in which the plaintiff was the prevailing
26 party.
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

40. The total lodestar for my hours will be approximately \$29,330 based on an hourly rate of \$700.00 per hour. Since at least 2017, I have been approved at an hourly rate of \$650.00 per hour by various Courts, in a number of matters, including: *Antonio Becerra-Mata v. PSC Industrial Outsourcing, LP*, San Benito County Superior Court Case No. CU-15-00030; *Kosal So v. Owens-Brockway Glass Container, Inc.*, Los Angeles County Superior Court Case No. BC608609; *Sarah Rodriguez v. Manpower, Inc.*, Santa Clara County Superior Court Case No. 1-16-CV-294904; *Shannon Sanchez v. American Para Professional Systems, Inc.*, Santa Clara County Superior Court Case No. 17CV306751. More recently, I have been approved at an hourly rate of \$700.00 per hour by the following courts: *Foaad Hanna v. Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Alicia Harris v. 24 Seven LLC*, Los Angeles County Superior Court Case No. BC720144; *Mary Della Maggiora v. Watsonville Community Hospital*, Santa Cruz Superior Court Case No. 18CV00191; and *Michael Randolph v. Pacific Racing Association*, Alameda County Superior Court Case No. RG18908139.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Kristen M. Agnew

**DECLARATION OF KRISTEN M. AGNEW IN SUPPORT OF PLAINTIFF'S MOTION TO APPROVE
SETTLEMENT AGREEMENT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT**

EXHIBIT 1

CAROLYN SCHMIDT

c/o DIVERSITY LAW GROUP, P.C.
515 S. FIGUEROA STREET, SUITE 1250
LOS ANGELES, CALIFORNIA 90071
TELEPHONE (213) 488-6555
FACSIMILE (213) 488-6554

April 11, 2022

VIA ON-LINE FILING WITH LWDA AND CERTIFIED MAIL, RETURN RECEIPT
REQUESTED TO EMPLOYER

California Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
PAGA@dir.ca.gov

Re: Schmidt v. The High Desert 'Partnership in Academic Excellence' Foundation,
Inc.

To Whom It May Concern:

This correspondence shall constitute written notice under Labor Code section 2699.3 of the claims asserted on behalf of myself and all similarly situated aggrieved employees against my employer, The High Desert 'Partnership in Academic Excellence' Foundation, Inc. (the "Company"). I allege that the Company:

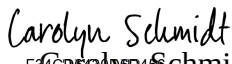
1. Violated Labor Code § 204 by failing to pay all similarly situated employees, including myself, their earned wages in a timely manner. For example, for the pay period of February 1, 2022 through February 15, 2022, the wages earned during such pay period were not paid until February 28, 2022, which is more than 10 days after the end of the pay period.

The address for the Company is as follows:

The High Desert 'Partnership in Academic Excellence' Foundation, Inc.
17500 Mana Road
Apple Valley, CA 92307

As part of this Notice, I also demand that the Company cure all violations and pay all applicable penalties. Please contact my attorney Larry W. Lee at the above address/phone number if you have any questions regarding this matter.

Sincerely,

DocuSigned by:

Carolyn Schmidt

cc: The High Desert 'Partnership in Academic Excellence' Foundation, Inc. (via certified mail)

EXHIBIT 2

PAGA SETTLEMENT AGREEMENT

This Settlement Agreement is made by and between: (a) Plaintiff Carolyn Schmidt-Gunthner (“Plaintiff”), on behalf of herself, other aggrieved employees, and the State of California, on the one hand, and (b) The High Desert ‘Partnership in Academic Excellence’ Foundation, Incorporated on the other hand (“Defendant”), subject to the approval of the Court in accordance with California Labor Code section 2699(1)(2), and subject to the following terms and conditions.

I. DEFINITIONS

Unless otherwise defined in this Agreement, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- A. “Aggrieved Employees” means all current and former California employees of Defendant who were paid wages by Defendant any time during the PAGA Period.
- B. “Agreement” or “Settlement” means this PAGA Settlement Agreement.
- C. “Complaint” means the Complaint filed in the PAGA Action, the merits of which Defendant disputes.
- D. “Court” means the Superior Court for the State of California, County of San Bernardino.
- E. “Covered Pay Periods” means any pay periods during the PAGA Period that Aggrieved Employees were paid wages by Defendant.
- F. “Defendant” means The High Desert ‘Partnership in Academic Excellence’ Foundation, Incorporated.
- G. “Defendant’s Counsel” means the law firm of Jackson Lewis P.C.
- H. “LWDA” means the California Labor and Workforce Development Agency.
- I. “LWDA Payment” means the portion of the payment from the Net Settlement Amount to be paid to the LWDA under the Settlement.
- J. “Net Settlement Amount” means the amount from the Total Settlement Amount that is available for distribution to the LWDA and Aggrieved Employees after deducting (1) Plaintiff’s Counsel’s attorney’s fees and costs (the amount of which is subject to Court approval); (2) Payment to the Settlement Administrator for its fees and expenses; and (3) Plaintiff’s Release Payment (the amount of which is subject to Court approval). The Net Settlement Amount will be distributed to the LWDA and Aggrieved Employees in payment of PAGA penalties.
- K. “Order” means the Court’s Order Granting Approval of Settlement.
- L. “PAGA” means California’s Labor Code Private Attorneys General Act, California Labor Code section 2699, *et seq.*

- M. “PAGA Action” means the civil action titled *Carolyn Schmidt-Gunthner v. The High Desert ‘Partnership in Academic Excellence’ Foundation, Incorporated*, filed in the Superior Court of the State of California, County of San Bernardino, Case No. CIVSB2213906.
- N. “PAGA Period” means the period of time from July 6, 2021, to June 30, 2022.
- O. “PAGA Notice”, the merits of which Defendant disputes, means the letter sent by Plaintiff’s Counsel to the LWDA on May 2, 2022, to advise the LWDA of Plaintiff’s intent to file a civil action seeking penalties under PAGA on behalf of herself and other allegedly “aggrieved employees” based on Defendant’s alleged violation of the California Labor Code.
- P. “PAGA Released Claims” means all claims for penalties under PAGA, including costs and attorneys’ fees related thereto, predicated on the violation of Labor Code section 204 arising from or reasonably related to the facts alleged in the Complaint and PAGA Notice that accrued during the PAGA Period. It is understood and agreed that this Agreement neither releases the Released Parties from liability, if any, to Aggrieved Employees for violations of any predicate statutes other than PAGA, nor effects a waiver of claims by Aggrieved Employees against the Released Parties for any individual wage and hour claims.
- Q. “Parties” means Plaintiff and Defendant, collectively.
- R. “Plaintiff” means Plaintiff Carolyn Schmidt-Gunthner.
- S. “Plaintiff’s Counsel” means Diversity Law Group, APC.
- T. “Released Parties” means Defendant and any of its present and former parent corporations, members, affiliates, subsidiaries, divisions, predecessors, insurers, successors and assigns, and all current and former employees, attorneys, officers, directors and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries and insurers of such plans and programs.
- U. “Release Payment” means the payment to Plaintiff in addition to that which Plaintiff is otherwise entitled to as an Aggrieved Employee.
- V. “Settlement Administrator” means Phoenix Settlement Administrators.
- W. “Settlement Share” means the portion of the Net Settlement Amount allocable to each Aggrieved Employee, as provided by this Agreement.
- X. “Total Settlement Amount” means the total amount to be paid by Defendant as provided by this Agreement.

II. FACTUAL BACKGROUND

- A. Plaintiff is a former employee of Defendant. Plaintiff's employment with Defendant commenced on April 6, 2007, and ended on March 9, 2023.
- B. On May 2, 2022, Plaintiff sent the PAGA Notice to the LWDA to notify the LWDA of alleged Labor Code violations committed by Defendant and Plaintiff's intention to file a civil action unless the LWDA elected to investigate the allegations on its own. The LWDA did not indicate an intention to investigate the allegations on its own within the applicable statutory time period.
- C. On July 6, 2022, Plaintiff filed this PAGA Action against Defendant, which is pending as *Schmidt-Gunthner v. The High Desert 'Partnership in Academic Excellence' Foundation, Incorporated*, San Bernardino County Superior Court (Case No. CIVSB 2213906). Plaintiff's Complaint includes one cause of action, seeking civil penalties under PAGA.
- D. On October 7, 2022, Defendant filed an Answer to Plaintiff's Complaint, which included a general denial of the claim and set forth various affirmative defenses.
- E. The Parties have conducted an informal exchange of information through which they ascertained the number of Aggrieved Employees and the number of Covered Pay periods (3,261 pay periods) worked by them during the applicable statutory period to ascertain the total potential value of Plaintiff's causes of action under PAGA.
- F. Following the informal exchange, the Parties participated in informal settlement negotiations between counsel and subsequently reached an agreement in principle that would resolve all claims asserted by Plaintiff in the PAGA Action, including Plaintiff's causes of action under PAGA, and her individual claims.
- G. This Agreement represents a full compromise and settlement of a highly disputed PAGA claim and any and all of Plaintiff's actual or potential individual claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that Plaintiff's claim in the PAGA Action has merit or that Defendant has any liability to Plaintiff or any of the Aggrieved Employees. Nor is this Agreement an admission by Plaintiff that Defendant's defenses in the PAGA Action have merit.

III. SETTLEMENT TERMS AND CONDITIONS

- A. **Total Settlement Amount.** The Total Settlement Amount is NINETY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$97,500.00). The Total Settlement Amount will cover: (a) all payments to Aggrieved Employees pursuant to the Settlement (described in Section III.E-F); (b) the LWDA Payment (described in Section III.H); (c) Plaintiff's attorneys' fees, costs, and expenses, which includes all such fees and costs incurred to date, as well as all such fees and costs incurred in documenting the settlement, securing Court approval of the Settlement including any and all motions related thereto, and obtaining a dismissal of the claims

encompassed by this Agreement (described in Section III.C); (d) the Release Payment to Plaintiff (described in Section III.D); and (e) the Settlement Administrator's fees and expenses (described in Section III.G and I).

- B. **Escalator Clause.** The Total Settlement Amount was calculated with, and is premised on, Defendant's representation that Aggrieved Employees received the payment of wage in 3,261 pay periods during the PAGA Period. Should the number of Covered Pay Periods exceed this amount by more than ten (10) percent (i.e., 3,588 or more pay periods), the amount of the Total Settlement Amount shall increase in proportion to the increase in pay periods above ten (10) percent only.
- C. **Attorneys' Fees and Litigation Costs.** Defendant will not oppose an application by Plaintiff for attorneys' fees in an amount that does not exceed one-third (33.33%) of the Total Settlement Amount. Plaintiff's Counsel will also ask the Court to award reasonable litigation costs incurred in an amount up to FIVE THOUSAND DOLLARS (\$5,000.00) from the Total Settlement Amount. Defendant will also not oppose an application by Plaintiff for reasonable litigation costs. IRS Forms 1099 and state and local equivalents will be issued to Plaintiff's Counsel for any awarded attorneys' fees and costs. Plaintiff's Counsel will not seek or be entitled to any attorneys' fees and/or expenses related to the claims and allegations in this PAGA Action, other than those specified in this Agreement. If the Court awards a lesser amount of attorneys' fees and/or costs, any portion of the requested attorneys' fees and/or litigation costs not approved shall become part of the Net Settlement Amount.
- D. **Release Payment.** Plaintiff will request, and Defendant will not oppose, a Release Payment to Plaintiff from the Total Settlement Amount in an amount not to exceed SEVEN THOUSAND DOLLARS (\$7,000.00). This Release Payment shall be in addition to whatever payment Plaintiff is otherwise entitled to as an Aggrieved Employee. Plaintiff will be issued an IRS Form 1099 and its state and local equivalents for any court-approved Release Payment amount received under the Settlement. Any portion of the Release Payment to Plaintiff that is not approved by the Court shall become part of the Net Settlement Amount.
- E. **Allocation of Net Settlement Amount.** Subject to the terms and conditions of this Agreement, twenty-five percent (25%) of the Net Settlement Amount shall be paid to all Aggrieved Employees; the remaining seventy-five percent (75%) of the Net Settlement Amount shall be paid to the LWDA as the LWDA Payment.
- F. **Distribution of Settlement Shares.** After deducting the LWDA Payment, the remainder of the Net Settlement Amount shall be paid as Settlement Shares to each Aggrieved Employee, with each Aggrieved Employee receiving a pro-rata amount based on the number of Covered Pay Periods in which the employee received the payment of wages during the PAGA Period. All Aggrieved Employees will be entitled to payment for at least one pay period. The Settlement Share is intended to settle claims for PAGA civil penalties. Accordingly, the payments to Aggrieved Employees will not be reduced by payroll tax withholding and deductions; instead,

the Settlement Administrator will issue to the Aggrieved Employees IRS Form 1099s and their state and local equivalents with respect to the payments.

- G. **Payments to Settlement Administrator.** The Settlement Administrator will pay itself out of the Total Settlement Amount its reasonable fees and expenses, as approved by the Court. The Settlement Administrator's reasonable fees and expenses shall not exceed \$3,250.
- H. **LWDA Payment.** The Settlement Administrator shall pay seventy-five percent (75%) of the Net Settlement Amount to the LWDA as its share of the Settlement attributable to civil penalties under PAGA.
- I. **Appointment of Settlement Administrator.** The Settlement Administrator, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator's duties will include preparing, printing, and mailing the notice letter to the Aggrieved Employees; conducting a National Change of Address search and using Accurant and other reasonable and cost-effective skip trace methods to locate any Aggrieved Employee whose letter or Settlement Share was returned by the U.S. Postal Service as non-deliverable, and re-mailing the letter and Settlement Share to the Aggrieved Employee's new address; issuing the checks to effectuate the payments due under the Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Settlement Administrator's reasonable fees and expenses, including the cost of printing and mailing the letter, will be paid out of the Total Settlement Amount.
- J. **Procedure for Approving Settlement.**
 - 1. Motion Approving the Settlement.
 - a. Within thirty (30) calendar days of execution of this Agreement, Plaintiff will endeavor to prepare and file a motion for settlement approval; or, if the Court permits, it, a Joint Stipulation Approving Settlement. As part of this motion (or Stipulation, if applicable), Plaintiff shall submit a proposed order which approves the settlement in the PAGA Action in accordance with the terms of the Settlement and retains jurisdiction over the PAGA Action for the purpose of enforcing the terms of the Settlement.
 - b. To permit judicial review and approval of the Settlement, as required by Labor Code Section 2698, *et seq.*, Plaintiff's Counsel will file the Settlement with the Court and submit the Settlement to the LWDA as part of the Parties' seeking Court approval of the Settlement, pursuant to Lab. Code § 2699(l)(2).
 - c. The Parties will cooperate in seeking approval of the Settlement. The proposed order and judgment shall be mutually agreed to by the Parties prior to Plaintiff submitting the proposed order and judgment

to the Court. Plaintiff will also provide Defendant with the opportunity to review and comment upon drafts of all other pleadings to be filed in connection with the motion for settlement approval, or stipulation, at least five (5) days prior to filing the motion with the Court.

- d. If the Court does not grant the motion for settlement approval (or stipulation) and issue an order approving the Settlement, under the specific terms requested, the Parties agree to meet and confer to address the Court's concerns in good faith and determine whether resolution of the claims encompassed by the Settlement can be obtained in a manner consistent with the Court's concerns.
- e. If the Court does not grant approval of the Settlement, or if the Court's approval of the Settlement is reversed or materially modified on appellate review, then the Settlement will become null and void. A modification of amounts payable in attorneys' fees or expenses, amounts payable as part of Plaintiff's Release Payment or amounts paid to the Settlement Administrator for its fees and expenses shall not be deemed a material modification of the Settlement.

K. **Notice and Payment of Settlement Shares to Aggrieved Employees.** After the Court enters its order approving the Settlement, every PAGA Aggrieved Employee will be provided with a letter concerning the Settlement (see Exhibit A) and payment of the Aggrieved Employee's Settlement Share.

- 1. Consistent with the timeframes set forth in Section III.N the Settlement Administrator shall send each Aggrieved Employee the letter and payment of their Settlement Share. The Settlement Administrator will mail the letters and Settlement Share payments to all identified Aggrieved Employees, using the mailing address information provided by Defendant, unless modified by any updated address information that the Settlement Administrator obtains during the course of administration of the Settlement.
- 2. In the event of returned or non-deliverable letters and Settlement Share payments, the Settlement Administrator will make reasonable efforts to locate Aggrieved Employees and re-send the letters and Settlement Share payments. The Settlement Administrator will promptly, and not later than fifteen (15) calendar days from receipt of the returned packet and payment, search for a more current address for the Aggrieved Employee using Accurint and other reasonable and cost-effective skip trace methods, and re-mail the letter and Settlement Share payment to the PAGA Settlement Member. The Settlement Administrator will use the Aggrieved Employees' data and otherwise work with Defendant to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, court orders, and fee, as agreed to with Plaintiff's Counsel and according to the following deadlines, to trace the mailing address of any

PAGA Settlement Member for whom a letter or Settlement Share payment is returned by the U.S. Postal Service as undeliverable. These reasonable steps will include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Aggrieved Employees for whom new addresses are found. If the letter and Settlement Share payment is re-mailed, the Settlement Administrator will note the information for its own records. The Settlement Administrator will also notify Plaintiff's Counsel and Defendant's Counsel of the number and date of any such remailings as part of a weekly status report provided to the Parties.

- L. **Submission of Order.** Plaintiff shall submit a copy of the order providing for or denying an award of civil penalties to the LWDA within ten (10) calendar days after entry of the dismissal and/or Order, in compliance with Section 2699(1)(3) of the California Labor Code. Plaintiff also will submit a copy of the approval to LWDA within ten (10) calendar days after entry of the dismissal and/or Order, in compliance with Section 2699(1)(3) of the California Labor Code.
- M. **Waiver of Right to Appeal.** Provided that the Court's approval of this Settlement is consistent with the material terms of this Agreement, Plaintiff, Defendant, and their respective counsel hereby waive any and all rights to appeal the approval of the Settlement, and the Order therefore will become non-appealable at the time it is entered. If, for any reason an appeal is taken, the time for consummating the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved and the Order becomes Final, as defined in this Agreement.
- N. **Timing of Settlement Payments and Receipt of Contact Information.** Within fifteen (15) calendar days of a fully executed Settlement Agreement, Defendant shall deliver/transfer the Total Settlement Amount to the Settlement Administrator. Also, within fifteen (15) calendar days after the Settlement Agreement is fully executed, Defendant shall provide to the Settlement Administrator the names, last known addresses, telephone numbers, and Social Security numbers of all Aggrieved Employees, along with the dates and/or number of Covered Pay Periods in which each Aggrieved Employee received the payment of wages during the PAGA Period. This information shall remain confidential and shall not be disclosed to anyone, except in order to carry out the reasonable efforts described in Section III.N, or pursuant to Defendant's express written authorization or by order of the Court. If economically feasible, payment shall be made to an interest-bearing account, and all interest accrued shall be payable to the State of California and the Aggrieved Employees and added to the Net Settlement Amount.

Within ten (10) calendar days of entry of the Order, the Settlement Administrator shall make the following payments under the Settlement Agreement: (a) the Settlement Share payments to Aggrieved Employees; (b) the LWDA Payment to the LWDA; (c) the Release Payment to Plaintiff; and (d) Plaintiff's Counsel's attorneys' fees and costs.

- O. **Uncashed Settlement Share Checks.** An Aggrieved Employee must cash or deposit his or her Settlement Share payment or check within 180 calendar days after the check is mailed to him or her. If a check is returned to the Settlement Administrator, the Settlement Administrator will make all reasonable efforts to re-mail it to the PAGA Settlement Member at his or her correct address in accordance with the procedures set forth in Section III.N. If an Aggrieved Employee cannot be located using the procedures set forth in Section III.N, or if an Aggrieved Employee fails to cash or deposit the check for his or her Settlement Share within 180 days after it is mailed to him or her, the Settlement Administrator will distribute the funds represented by the uncashed checks to unclaimed funds to the following *cy pres* recipient: Millionaire Minds, a 501(c)(3) non-profit organization that operates STEM camps and other outreach for underserved students within the High Desert community. The Parties warrant and represent that they do not have a relationship, financial or otherwise, with the *cy pres* recipient. The absence of a relationship with the *cy pres* is a material term of the Agreement.
- P. **Aggrieved Employees' Release.** In consideration for the LWDA Payment and the Aggrieved Employees' awarded Settlement Shares, as of the date the Settlement becomes Final, the LWDA and Aggrieved Employees release the Released Parties from the PAGA Released Claims.
- Q. **No Effect on Other Benefits.** The Settlement Share payments will not result in any additional benefit payments (including but not limited to 401(k) or bonus) beyond those provided by this Agreement to Plaintiff or the Aggrieved Employees. It is expressly understood and agreed that the receipt of Settlement Share payments will not entitle any Settlement Member to additional compensation or benefits under any Defendant company bonus, contest or other compensation or benefit plan or agreement, including but not limited to, any collective bargaining agreement or related benefit agreement, in place during the period covered by this Settlement, nor will it entitle any Settlement Member to any increased retirement fund, 401K benefits or matching benefits, benefit plan or deferred compensation benefits. It is the intent of this Settlement that the Settlement Shares are the sole payments to be made by Defendant to the Settlement Members, and that the Settlement Members are not entitled to any new or additional compensation or benefits as a result of having received the Settlement Shares (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).
- R. **Confidentiality Preceding Approval.** Prior to filing the motion for approval of the Settlement (or Joint Stipulation regarding same, if applicable), the Parties and their attorneys will not issue any press or other media releases or have any communication with the press or media or anyone other than family members, clients, Aggrieved Employees, financial advisors, retained experts, and vendors related to settlement administration, regarding the Settlement. Information regarding the Settlement may be disclosed to the Court if requested or in response to information disclosed by Defendant. At no time shall Plaintiff or her attorneys

issue any press, media releases, or advertising that identifies Defendant concerning this Settlement or PAGA Action, unless approved in advance by Defendant.

S. **General Release, Claims Not Released and Related Provisions.**

General Release of Claims. Plaintiff agrees that the consideration set forth in this Settlement, represents full settlement of all claims that were or could have been raised against Defendant, its present and former parent companies, subsidiaries, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be jointly liable with Defendant and their respective present and former parent companies, subsidiaries, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns.

Plaintiff, individually and on behalf of her respective heirs, representatives, successors, assigns, and attorneys, hereby compromise, release, resolve, relinquish, discharge and settle any and all claims of any nature whatsoever they have or may have for any acts occurring on or before the date of preliminary approval of the Settlement against Defendant and its present and former parent companies, subsidiaries, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be jointly liable with Defendant and their respective present and former parent companies, subsidiaries, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and they agree that they will not institute any action or cause of action (in law, in equity or administratively), suits, debts, liens, or claims, known or unknown, fixed or contingent, which they may have or claim to have in state or federal court, or with any state, federal or local government agency, except the EEOC or DFEH, or with any administrative or advisory body arising from or attributable to the Released Parties.

Claims Not Released. Plaintiff is not waiving any rights Plaintiff may have to: (i) Plaintiff's own vested accrued employee benefits under Defendant's health, welfare, or retirement benefits plans as of the date of execution of this Settlement Agreement; (ii) benefits or rights to seek benefits under applicable workers' compensation (except as to claims under Labor Code sections 132a and 4553) or unemployment insurance or indemnification statutes; (iii) pursue claims which by law cannot be waived by signing this Settlement Agreement; (iv) enforce this Settlement Agreement; or (v) challenge the validity of this Settlement Agreement.

Waiver of California Civil Code section 1542. Plaintiff specifically acknowledges that she is aware of and familiar with the provisions of California Civil Code § 1542, which provides as follows:

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

the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Plaintiff, being aware of this section, hereby expressly waives and relinquishes all rights and benefits she may have under this section as well as any other statutes or common law principles of a similar effect. Plaintiff may hereafter discover facts in addition to or different from those which she now knows or believes to be true, but she stipulates and agrees that, upon the Effective Date, Plaintiff shall and hereby does fully, finally and forever settle and release any and all claims against Defendant, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity and without regard to the subsequent discovery or existence of such different or additional facts..

T. Miscellaneous Terms.

1. No Admission of Liability.

- a. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, or has any liability to anyone under the claims asserted in the PAGA Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Defendant, or an admission by Plaintiff that any of their claims were non-meritorious or any defense asserted by Defendant was meritorious.
- b. Whether or not the Order approving the Settlement becomes Final, nothing in this Agreement, any document, statement, proceeding or conduct related to the Settlement, or any reports or accounting of those matters, will be construed as, offered or admitted in evidence as, received as, or deemed to be evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage.
- c. Nothing in this Agreement or the settlement of the claims released by it shall in any way limit, restrict, or modify Defendant's rights to pursue indemnity, reimbursement, or insurance for any payments, costs, expenses, or obligations from any other entities or third parties, and Defendant expressly reserves all such rights.
- d. This Section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings to enforce any or all terms of this Agreement, or in defense of any claims released or barred by this Agreement.

2. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibit will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibit other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibit.
3. **Attorney Authorization.** Plaintiff's Counsel and Defendant's Counsel 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 required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court or mediator, and in all cases all such documents, supplemental provisions and assistance of the court will be consistent with this Agreement.
4. **Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their successors-in-interest.
5. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
6. **Applicable Law.** All terms and conditions of this Agreement and its exhibit will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
7. **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.
8. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the PAGA Action and have arrived at this Agreement through an informed analysis of the uncertainties associated with Defendant's alleged potential liability and arms-length negotiations, taking into account all relevant factors, current and potential.

9. **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.
10. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the day it is sent via email or as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and the Aggrieved Employees:

Larry W. Lee, Esq.
Kristen M. Agnew, Esq.
Nicholas Rosenthal, Esq.
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, California 90071
Email: lwlee@diversitylaw.com
kagnew@diversitylaw.com
norsenthal@diversitylaw.com

To Defendant:

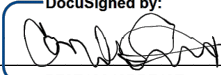
Nicole M. Shaffer, Esq.
Christopher M. Carrillo, Esq.
JACKSON LEWIS, P.C.
3390 University Avenue, Suite 110
Riverside, California 92501
Email: nicole.shaffer@jacksonlewis.com
christopher.carrillo@jacksonlewis.com

11. **Execution in Counterpart.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures will be accepted if the original signature is provided within seven days. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 7/28/2023

DocuSigned by:

CAROLYN SCHMIDT-GUNTNER

Dated:

THE HIGH DESERT 'PARTNERSHIP IN
ACADEMIC EXCELLENCE' FOUNDATION,
INCORPORATED

Name: _____

Position: _____

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated:

CAROLYN SCHMIDT-GUNTHNER

Dated: 8/8/2023



THE HIGH DESERT 'PARTNERSHIP IN
ACADEMIC EXCELLENCE' FOUNDATION,
INCORPORATED

Name: Lisa Lamb
Position: President/CEO

EXHIBIT A

EXHIBIT A

<<DATE>>

<<FIRST NAME>> <<LAST NAME>>
<<ADDRESS>>

Re: *Carolyn Schmidt-Gunthner v. The High Desert 'Partnership in Academic Excellence' Foundation, Incorporated*

Dear <<FIRST NAME>> <<LAST NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit entitled *Carolyn Schmidt-Gunthner v. The High Desert 'Partnership in Academic Excellence' Foundation, Incorporated*, San Bernardino County Superior Court, Case No. CIVSB2213906 (the "PAGA Action").

The PAGA Action was filed against The High Desert 'Partnership in Academic Excellence' Foundation, Incorporated (the "Company") pursuant to the California Private Attorneys General Act of 2004, California Labor Code section 2698 *et seq.* ("PAGA"). The plaintiff in the PAGA Action claimed that the Company paid wages beyond the time period allowed by Labor Code section 204. The Company denies all such allegations.

The Company denies that it violated the law and contends its pay practices complied with California law. The Court has not ruled on the merits of the lawsuit, but it has approved the settlement amount the parties agreed to. A portion of the settlement amount goes to the State of California's Labor and Workforce Development Agency. Another portion of the settlement amount goes to the current and former California employees of the Company who were paid wages at any time from May 2, 2021, to June 30, 2022.

Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties. You are not a party to this lawsuit, but you and the government will be bound by the judgment in this matter as to civil penalties.

Sincerely,

[NAME AND TITLE OF SIGNATORY]

EXHIBIT 3

8/4/2023
8:56 AM

DIVERSITY LAW GROUP
Slip Listing

Page 1

Selection Criteria

Slip.Classification Open
Client (hand select) Include: Schmidt, Carolyn v. The High D
Slip.Transaction Ty 2 - 2

Rate Info - identifies rate source and level

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
71615	EXP	Mariana Becerra	1	75.00	75.00
5/2/2022		Court fees			
WIP		Schmidt, Carolyn v. The High			
LWDA					
72076	EXP	Olympia	1	0.25	0.25
5/31/2022		Photocopies			
WIP		Schmidt, Carolyn v. The High			
Photocopies					
72077	EXP	Olympia	1	6.13	6.13
5/31/2022		Postage			
WIP		Schmidt, Carolyn v. The High			
Postage					
72646	EXP	Erika Mejia	1	1662.71	1662.71
7/6/2022		Atty Service			
WIP		Schmidt, Carolyn v. The High			
Attorney Service - Complaint					
73266	EXP	Erika Mejia	1	158.50	158.50
9/2/2022		Atty Service			
WIP		Schmidt, Carolyn v. The High			
Attorney Service - Complaint Service					
73317	EXP	Erika Mejia	1	68.27	68.27
9/27/2022		Atty Service			
WIP		Schmidt, Carolyn v. The High			
Attorney Service - POS					
73809	EXP	Erika Mejia	1	74.38	74.38
11/3/2022		Atty Service			
WIP		Schmidt, Carolyn v. The High			
Attorney Service - Joint Report					
73541	EXP	Christine S. Lee	1	94.00	94.00
11/9/2022		Court fees			
WIP		Schmidt, Carolyn v. The High			
Courtcall					

8/4/2023
8:56 AM

DIVERSITY LAW GROUP
Slip Listing

Page 2

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
75427	EXP	Erika Mejia	1	73.38	73.38
5/4/2023		Atty Service			
WIP		Schmidt, Carolyn v. The High			
Attorney Service - Joint Report					
75108	EXP	Kristen Agnew	1	72.00	72.00
5/9/2023		Court fees			
WIP		Schmidt, Carolyn v. The High			
Courtcall					
75626	EXP	Kristen Agnew	1	72.00	72.00
7/7/2023		Court fees			
WIP		Schmidt, Carolyn v. The High			
Courtcall					
75805	EXP	Kristen Agnew	1	300.00	300.00
8/4/2023		Court fees			
WIP		Schmidt, Carolyn v. The High			
Est Filing Fees					
75804	EXP	Kristen Agnew	1	72.00	72.00
8/31/2023		Court fees			
WIP		Schmidt, Carolyn v. The High			
Courtcall					
Grand Total					
			Billable	0.00	2728.62
			Unbillable	0.00	0.00
			Total	0.00	2728.62

EXHIBIT 4

Carolyn Schmidt-Gunthner v. The High Desert 'Partnership in Academic Excellence' Foundation, Incorporated.

San Bernardino County Superior Court Case No. CIVSB2213906

Kristen Agnew Time and Task Chart

Hours	Description of Work
3.60	Review client intake notes; analysis and research re theories of liability; draft memorandum to file re same; conference with co-counsel re same
1.90	Draft PAGA Notice and Representative Action Complaint.
2.70	Meet and confer with defense counsel re November 9, 2022 case management conference; draft joint report re status of litigation and discovery plan; review and respond to correspondence with defense counsel re revisions to joint report; confer with co-counsel re case management conference.
2.10	Draft Requests for Production of Documents (Set One) and Special Interrogatories (Set One).
4.50	Review Defendant's responses to Requests for Production of Documents (Set One) and Special Interrogatories (Set One); review and summarize Defendant's document production; draft meet and confer correspondence re Defendant's responses; conduct legal research re same; conference calls with defense counsel re adequacy of the responses and document production.
1.80	Draft deposition notice for Defendant's person most knowledgeable; draft and respond to correspondence re topics of deposition.
1.40	Analysis, strategy, and research re information required from defendant to negotiate settlement; prepare data requests for settlement; confer with co-counsel re same.
1.00	Confer with defense counsel re settlement negotiations; review and respond to correspondence re same; confer with co-counsel re same.
3.30	Analyze and review policies and data provided by Defendant to evaluate liability; research re settlement ranges for Labor Code section 204 violations; prepare penalties calculations; confer with co-counsel re same.
8.80	Review and revise PAGA Settlement Agreement; review and respond to correspondence with defense counsel re revisions to Settlement Agreement; meet and confer with defense counsel re same; conference with co-counsel regarding same.
1.60	Review terms of settlement agreement with client.
7.20	Prepare Motion for Approval of PAGA Settlement and supporting declarations.
39.90	TOTAL HOURS