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16 Attorneys for Plaintiffs
17

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 CITY AND COUNTY OF SAN FRANCISCO
20

21 MARIANNE RAMIREZ and WENDY
22 CAMPBELL, individually, and on behalf of
other members of the general public similarly
23 situated,

24 Plaintiffs,

25 v.

26 DELTA DENTAL OF CALIFORNIA, a
California Corporation; and DOES 1 through
27 100, inclusive,

28 Defendants.

Case No. CGC-21-589648

**JOINT STIPULATION OF CLASS AND
PAGA ACTION SETTLEMENT AND
RELEASE**

1
2 **CLASS AND PAGA ACTION SETTLEMENT AGREEMENT**

3 This Joint Stipulation of Class and PAGA Action Settlement and Release (“Settlement
4 Agreement,” “Settlement,” or “Agreement”) is made and entered into between Marianne Ramirez
5 and Wendy Campbell (collectively, “Plaintiffs”), individually and as representatives of the Class
6 Members and Aggrieved Employees, and Defendant Delta Dental of California (“Defendant”)
7 and is subject to the terms and conditions herein and the approval of the Court. Plaintiffs and
8 Defendant are referenced collectively herein as “the Parties.”

9 **I. CONDITIONAL NATURE OF SETTLEMENT**

10 This Agreement is made for the sole purpose of settling the above-captioned action on a
11 class and representative basis. This Settlement is made in compromise of disputed claims as set
12 forth in the case entitled *Ramirez, et al. v. Delta Dental of California*, Case No. CGC-21-589648,
13 pending in the Superior Court of California, County of San Francisco. This action will be referred
14 to herein as “the Action.” The Settling Parties (as defined in Section 2 of this Agreement) enter
15 into this Agreement on a conditional basis.

16 Furthermore, in the event that the Court does not enter the Final Approval Order, or a
17 Judgment is not entered in the Action, or the conditions precedent are not met for any reason, this
18 Settlement shall be deemed void *ab initio*, it shall be of no force or effect whatsoever, it shall not
19 be referred to or utilized for any purpose whatsoever, and the negotiations, terms, and entry of the
20 Agreement shall remain subject to the provision of California Evidence Code §§ 1119 and 1152
21 and any other analogous rules of evidence that might apply.

22 Defendant denies all claims as to liability, damages, penalties, interest, fees, restitution,
23 injunctive relief, and all other forms of relief as well as the representative allegations asserted in
24 the Action. Defendant has agreed to resolve the Action through this Settlement, but to the extent
25 this Settlement is deemed void, Defendant does not waive, but rather expressly reserves, all rights
26 to challenge all such claims and allegations in the Action upon all procedural and factual grounds,
27 including without limitation the ability to challenge class or representative action treatment on
28 any grounds, as well as asserting any and all other potential defenses or privileges. The Plaintiffs

1 and Plaintiffs' Counsel agree that Defendant retains and reserves these rights. Specifically, the
2 Plaintiffs and Plaintiffs' Counsel agree not to argue or present any argument that, in the event this
3 Settlement is not approved in full, Defendant could not file a later motion or opposition that
4 contests the certifiability or manageability of the claims of this Action if it proceeds on a class or
5 representative basis or assert any and all other potential defenses and privileges if this Action
6 were to proceed. The Plaintiffs and Plaintiffs' Counsel hereby waive such arguments and agree
7 they will not take a position contrary to this provision. The Parties intend this Agreement to fully,
8 finally, and forever resolve, discharge, and settled the Released Claims upon and subject to the
9 terms and conditions hereof.

10 **II. DEFINITIONS**

- 11 1. "Action" means the case entitled *Ramirez, et al. v. Delta Dental of California*, Case
12 No. CGC-21-589648, pending in the Superior Court of California, County of San
13 Francisco.
- 14 2. "Agreement" means this agreement entered into by the Parties to effectuate the terms
15 of the Settlement.
- 16 3. "Aggrieved Employees" means all current and former hourly-paid or non-exempt
17 employees employed by Defendant within the State of California at any time during
18 the PAGA Period.
- 19 4. "Attorneys' Fees and Litigation Expenses" means the fees awarded to Class Counsel
20 in connection with this Action, as approved by the Court, and actual litigation
21 expenses for work performed by Class Counsel that are approved for reimbursement
22 by the Court as set forth in Section 7.3 of this Agreement.
- 23 5. "Class" means all current and former hourly-paid or non-exempt employees who are
24 or were employed by Defendant during the Class Period.
- 25 6. "Class Counsel" means:

26 DOUGLAS HAN (SBN 232858)
27 SHUNT TATAVOS-GHARAJEH (SBN 272164)
28 CHRISTOPHER PETERSEN (SBN 260631)
LIZETTE RODRIGUEZ (SBN 335182)
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7. “Class Notice” means the Court-approved Class Notice, included here as Exhibit A, which notifies Class Members of the lawsuit and of their estimated share of the Settlement and the number of Eligible Workweeks he/she worked during the Class Period.
8. “Class Period” means from August 10, 2016, through February 8, 2023.
9. “Class Released Claims” means all claims, demands, rights, liabilities, penalties, fees, and causes of action that were or could have been asserted based on the facts alleged in the Action (whether in tort, contract, statute, or otherwise) during the Class Period, including, but not limited to, for alleged violations of Labor Code sections 201–204, 226, 226.7, 510, 512, 1194, 1197, 1198, 2800, or 2802, or any claims based on the following allegations: failure to pay all wages owed, including minimum, straight, and overtime wages; failure to properly calculate the regular rate of pay; failure to provide compliant meal periods or rest breaks or to pay meal period or rest break premiums; failure to provide accurate and/or compliant wage statements; failure to reimburse all reasonable and necessary business expenses; failure to timely pay wages during employment or upon separation; or violation of Cal. Bus. & Prof. Code section 17200 et seq. by engaging in the foregoing conduct. Class Released Claims include all claims for unpaid wages, overtime wages, statutory penalties, civil penalties, damages of any kind, interest, attorneys’ fees, costs, injunctive relief, restitution, and any other equitable relief under California statute, ordinance, regulation, common law, or other source of law, including but not limited to the California Labor Code, California

Business & Professions Code, California Civil Code, and California Industrial Welfare Commission Wage Orders.

10. "Court" means the Superior Court of the State of California, County of San Francisco.

11. "Cy Pres Recipient" means Legal Aid At Work, whom the Parties have selected to receive any funds remaining in the QSF after Settlement Class Members and Aggrieved Employees have had 180 days to cash or otherwise negotiate their Settlement Checks and failed to do so, and after those funds have been redistributed to participating Class Members who cashed their checks.

12. "Defendant" means Delta Dental of California.

13. "Defendant's Counsel" means:

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14. "Eligible Workweek" means any workweek in which work was performed by a Settlement Class Member during the Class Period or PAGA Period.

15. "Employee Settlement Data" means records for each Class Member including: (1) name, (2) social security number, (3) last known residential address, (4) last known telephone number, and (5) number of Eligible Workweeks worked during the Class Period; and records for each Aggrieved Employee including: (1) name, (2) social security number, (3) last known residential address, (4) last known telephone number, and (5) number of Eligible Workweeks worked during the PAGA Period.

- 1 16. "Enhancement Award" means a payment to named Plaintiffs out of the Gross
2 Settlement Amount of up to Ten Thousand Dollars (\$10,000) each, or a lesser amount
3 if ordered by the Court, which will be paid to Plaintiffs for serving as representatives
4 in this case and in exchange for a general release of claims and California Civil Code
5 section 1542 waiver. Plaintiffs will also be eligible for Individual Class Settlement
6 Payments and PAGA Settlement Payments.
- 7 17. "Effective Date" means the date that the Court's Judgment in the Action becomes
8 final. For purposes of this Settlement Agreement, the Judgment "becomes final" upon
9 the last to occur of the following: (i) the day immediately after the last day by which a
10 Notice of Appeal of Judgment may be timely filed with the California Court of Appeal
11 (i.e., the sixty-first calendar day following entry of Judgment), and no such appeal
12 being filed; (ii) if an appeal is filed and is finally disposed of by ruling, dismissal,
13 denial, or otherwise, the day after the last date for filing a request for further review of
14 the Court of Appeal's decision passes and no further review is requested; (iii) if an
15 appeal is filed and there is a final disposition by ruling, dismissal, denial, or otherwise
16 by the Court of Appeal, and further review of the Court of Appeal's decision is
17 requested, the day after the request for review is denied with prejudice and/or no
18 further review of the order can be requested; or (iv) if review is accepted, the day the
19 Supreme Court of the State of California affirms the Settlement.
- 20 18. "Final Approval" means an Order granting final approval of the Settlement of this
21 Action.
- 22 19. "Gross Settlement Amount" or "GSA" shall mean the total of Eight Million Five
23 Hundred Thousand Dollars (\$8,500,000). The Gross Settlement Amount will be used
24 to pay Settlement Administration Costs, Class Counsel's attorneys' fees and costs,
25 Plaintiffs' Enhancement Payments, the Individual Class Settlement Payments, the
26 PAGA Settlement Payments, and the PAGA Penalties to be paid to the Labor
27 Workforce Development Agency ("LWDA"). Defendant's corporate payroll tax
28 obligation shall be paid separately from the GSA.

- 1 20. "Individual Class Settlement Payments" means the *pro rata* amount payable from the
2 Net Settlement Amount to each of the Settlement Class Members based on each
3 Settlement Class Member's number of Eligible Workweeks during the Class Period.
4 Individual Class Settlement Payments will be paid to Settlement Class Members in the
5 form of a check and the Settlement Administrator will make all required withholdings.
6 Individual Settlement Payments will be treated as follows: 50% as wages, reportable
7 on RIS Form W-2 and subject to withholdings; 50% as interest and penalties
8 reportable on IRS Form 1099.
- 9 21. "Individual PAGA Payments" means the *pro rata* amount payable from the 25%
10 portion of PAGA Penalties that will be paid to Aggrieved Employees based on each
11 Aggrieved Employee's number of Eligible Workweeks during the PAGA Period.
12 Individual PAGA Payments will be paid to Aggrieved Employees in the form of a
13 check, and Aggrieved Employees will be issued an IRS Form 1099 for their Individual
14 PAGA Payments. Individual PAGA Payments will be treated 100% as penalties.
- 15 22. "Judgment" means a judgment entered by the Court following entry of the Final
16 Approval order.
- 17 23. "LWDA" means the California Labor Workforce Development Agency.
- 18 24. "LWDA Payment" means the 75% portion of the PAGA Penalties that will be paid to
19 the LWDA pursuant to California Labor Code § 2699(i).
- 20 25. "Net Settlement Amount" or "NSA" means the amount remaining after Class
21 Counsel's attorneys' fees and costs, Plaintiffs' Enhancement Payments, the PAGA
22 Penalties, and Settlement Administration Costs, have been deducted from the GSA,
23 from which the Individual Class Settlement Payments will be paid.
- 24 26. "PAGA" means the California Labor Code Private Attorneys General Act, California
25 Labor Code §§ 2698, *et seq.*
- 26 27. "PAGA Notice" means the notice that Plaintiffs provided to the Department of
27 Industrial Relations, dated June 28, 2022, that informed the PAGA Administrator of
28 the alleged violations of the Labor Code that are at issue in this Action (LWDA-CM-

891853-22).

28. “PAGA Penalties” means the \$850,000 of the GSA that the Parties have allocated to settlement of Plaintiffs’ PAGA claim, 75% of which will be paid to the LWDA (the “LWDA Payment”) and 25% of which will be distributed to Aggrieved Employees as Individual PAGA Payments.

29. “PAGA Period” means the time period of November 9, 2019, through February 8, 2023.

30. “PAGA Released Claims” means all claims, demands, rights, liabilities, penalties, fees, and causes of action under PAGA during the PAGA Period based on the factual allegations and legal assertions made in the operative complaint or PAGA Notice, including claims based on any alleged failure to pay all wages owed, including minimum, straight, and overtime wages; failure to properly calculate the regular rate of pay; failure to provide compliant meal periods or rest breaks or to pay meal period and rest break premiums; failure to provide accurate and/or compliant wage statements; failure to reimburse all reasonable and necessary business expenses; or failure to timely pay wages during employment or upon separation.

31. “QSF” means the Qualified Settlement Fund established by the Settlement Administrator for the benefit of the Settlement Class Members and Aggrieved Employees and from which the Individual Class Settlement Payments and Individual PAGA Payments and, if applicable, payroll taxes shall be paid.

32. “Reasonable Address Verification Measure” means utilization of the National Change of Address Database maintained by the United States Postal Service prior to the initial mailing of the Settlement Checks and skip-tracing of bad addresses upon the return of undelivered Settlement Checks.

33. “Released Parties” means Defendant and its past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, attorneys, consultants, insurers, and their respective successors and predecessors in interest, assigns, subsidiaries, affiliates, and parents in their individual

and corporate capacities.

34. “Response Deadline” means 45 days after the mailing of the Class Notice during which time Class Members may opt out of the non-PAGA portion of the Settlement, object to the non-PAGA portion of the Settlement, or dispute the number of Eligible Workweeks that they worked during the Class Period.

35. “Settlement Administrator” means CPT Group, who the Parties have selected to administer this Settlement.

36. “Settlement Administration Costs” means the reasonable costs and fees incurred by the Settlement Administrator, as approved by the Court, to administer the Settlement in accordance with this Agreement, which will be paid from the GSA and is expected not to exceed Twenty-Nine Thousand Dollars (\$29,000).

37. “Settlement Check” means a check mailed by the Settlement Administrator to a Settlement Class Member or Aggrieved Employee with that individual’s Individual Class Settlement Payment and/or Individual PAGA Payment.

38. “Settlement Class Member” means a Class Member who did not timely opt out of the non-PAGA portion of the Settlement by submitting an opt-out request to the Settlement Administrator by the opt-out deadline.

39. “Updated Address” means a mailing address that was updated via a Reasonable Address Verification Measure, or an updated mailing address provided by the United States Postal Service, a Class Member, or any other valid source.

III. PROCEDURAL BACKGROUND

On February 4, 2021, Plaintiff Marianne Ramirez filed a class action lawsuit in San Francisco County Superior Court, Case No. CGC-21-589648, on behalf of herself and all other Class Members. In the Complaint, Plaintiff alleged various wage and hour violations under California law, including claims for: (1) unpaid overtime wages; (2) unpaid meal period premiums; (3) unpaid rest period premiums; (4) unpaid minimum wages; (5) waiting time penalties; (6) non-compliant wage statements; (7) unreimbursed business expenses; and (8) unfair business practices.

1 On May 10, 2022, the Parties attempted to resolve the matter in mediation with Jeff
2 Krivis, *Esq.* but were unsuccessful.

3 On October 4, 2022, Plaintiffs Marianne Ramirez and Wendy Campbell filed a First
4 Amended Complaint, adding Wendy Campbell as a named Plaintiff and adding a claim for civil
5 penalties under PAGA based on the underlying Labor Code violations alleged in the initial
6 Complaint and in the PAGA Notice.

7 The Parties agreed to attend mediation with Jeff Ross, *Esq.*, and participated in formal and
8 informal discovery in advance of mediation. The Parties exchanged relevant documents and data,
9 including documents regarding policies and/or practices that are at issue in this lawsuit, records
10 kept by Defendant regarding Plaintiffs' employment with Defendant, exemplar wage statement
11 samples, and detailed time and earnings data for approximately 20% of the putative class.

12 The Parties have engaged in arm's length negotiations, including a mediation session on
13 February 8, 2023, facilitated by Jeff Ross, *Esq.*, who has extensive experience in labor and
14 employment litigation, which generated a Memorandum of Understanding that summarizes the
15 key terms of the Settlement detailed in this Agreement. The Parties and their counsel are
16 sufficiently familiar with the facts of this Action and the applicable laws to make an informed
17 judgment as to the fairness of the Settlement, the respective strengths and weaknesses of the
18 claims brought by the group that Plaintiff sought to represent, and the risks of proceeding in
19 litigation. The Parties are represented by competent counsel and have had the opportunity to
20 consult with counsel prior to the signing of this Agreement.

21 **IV. DEFENDANT'S DENIAL OF LIABILITY**

22 Defendant specifically and generally denies any and all liability or wrongdoing of any sort
23 with respect to any of the claims alleged in the Action and makes no concessions or admissions of
24 liability of any sort. Defendant maintains that for any purpose other than settlement, the Action is
25 not appropriate for class or representative treatment and that, had this matter proceeded through
26 litigation, it would be uncertifiable and unmanageable. Nonetheless, Defendant has concluded
27 that further litigation would be protracted, distracting, and expensive, and that it is desirable that
28 the Action be fully and finally settled in the manner and upon the terms and conditions set forth in

1 this Agreement. Defendant has also taken into account the uncertainty and risks inherent in any
2 litigation. Defendant has therefore determined that it is desirable and beneficial to settle the
3 Action in the manner and upon the terms and conditions set forth in this Agreement.

4 The Parties agree there is a bona fide dispute as to the claims in the alleged Action, and
5 neither this Agreement, nor the Settlement-related documents, nor the Settlement itself shall be
6 construed as an admission of either fact or law on any issue by any Party.

7 **V. PLAINTIFFS' CLAIMS AND BENEFITS OF SETTLEMENT**

8 Plaintiffs and Class Counsel believe that the claims asserted in the Action have merit and
9 that evidence developed to date supports the claims. However, Plaintiffs and Class Counsel
10 recognize and acknowledge the significant expense, resources, and time required to prosecute the
11 Action against Defendant through trial and through appeals. Plaintiffs and Class Counsel have
12 also taken into account the uncertain outcome and the risks of litigation, the difficulties and
13 delays inherent in this and similar litigation, the challenges of proving certifiability and
14 manageability throughout the Action, and the problems of proving liability and rebutting possible
15 defenses to the claims alleged in the Complaint. Based upon their evaluation, Plaintiffs and Class
16 Counsel have determined that the settlement set forth in this Agreement is fair, reasonable,
17 adequate, and in the interests of Plaintiffs, Class Members, and Aggrieved Employees. Both Class
18 Counsel and the Plaintiffs believe that the settlement set forth in this Agreement confers
19 substantial benefits upon all Class Members and Aggrieved Employees.

20 **VI. CONDITIONS PRECEDENT TO EFFECTIVENESS OF AGREEMENT**

21 6.1 The Parties enter into this Agreement and the Settlement on a conditional basis.
22 This Agreement and Settlement will become final and effective only upon the occurrence of all of
23 the following events:

24 6.1.1 The Court enters a Final Approval Order and Judgment; and

25 6.1.2. The Effective Date occurs, and any challenge to the Settlement, whether by
26 objection or appeal, is resolved in favor of enforcement of the Settlement.

27 6.2 Unless the Court orders otherwise or agreed in writing by the Parties, this
28 Agreement shall be deemed null and void *ab initio* upon the failure of any of these conditions to

1 occur.

2 **VII. SETTLEMENT CONSIDERATION—NO CLAIM FORM REQUIRED;**
3 **DEDUCTIONS FROM THE GROSS SETTLEMENT AMOUNT; CALCULATION**
4 **OF PAYMENTS FROM THE NET SETTLEMENT AMOUNT**

5 This shall be an all-in Settlement without a reversion.

6 7.1 **Payment of the Gross Settlement Amount:** Defendant will pay the Gross
7 Settlement Amount in full and final settlement of the Action. The Gross Settlement Amount will
8 constitute adequate consideration for this Settlement. Since any uncashed settlement check funds
9 will be distributed pursuant to the *cy pres* doctrine, this Agreement and the associated Judgment do
10 not and will not create any unpaid residue or unpaid residual, and no distribution of such shall be
11 required.

12 7.2 **Escalator Clause:** The Settlement is based on the understanding that there are
13 approximately 268,709 workweeks in the Class Period. In the event the total number of workweeks
14 in the Class Period exceeds 268,709 by more than 10%, *either* the GSA will increase by the same
15 percentage above 10% by which the total workweeks exceeds 268,709 (e.g., if the actual total
16 number of workweeks as of February 8, 2023, exceeds 268,709 by 12%, the GSA would increase
17 by 2%), *or*, at Defendant's option, the Class Period will end as of the date the total workweeks
18 exceeded 268,709 by more than 10%.

19 7.3 **Attorneys' Fees and Litigation Expenses:** Class Counsel will submit an
20 application for: (a) an award of Attorneys' Fees of no more than 1/3 of the Gross Settlement
21 Amount, or \$2,833,333.33, unless otherwise increased by the Escalator Clause included in Section
22 7.2 of this Settlement in which case Class Counsel's attorney fee award will be increased by the
23 same percentage amount; and (b) an award of Class Counsel's actual Litigation Expenses (as
24 documented on an itemized cost sheet with appropriate support), estimated to be approximately
25 \$38,000, both of which shall be paid out of the Gross Settlement Amount as approved by the Court.
26 The Attorneys' Fees and Litigation Expenses set forth in this Section, as approved by the Court,
27 will constitute complete consideration for all work performed and expenses incurred to date and
28 for all work to be performed and expenses to be incurred through the completion of the Action,
its settlement, and the effort to secure a Final Approval Order and Judgment by Class Counsel. The

1 Attorneys' Fees and Litigation Expenses, as approved by the Court, shall constitute full satisfaction
2 of any claim for fees or costs.

3 7.3.1 In the event that the Court (or any appellate court) awards less than the
4 amount requested for Attorneys' Fees or Litigation Expenses, only the awarded amounts shall be
5 paid and shall constitute satisfaction of those obligations and full payment thereunder, and any
6 remaining or unawarded portion of the requested Attorneys' Fees or Litigation Expenses shall be
7 made a part of the Net Settlement Amount. To the extent the Court does not approve any or all of
8 the Attorneys' Fees or Litigation Expenses requested, the Settlement shall remain binding except
9 as otherwise provided, and this will not be a justification for Plaintiff or Settlement Class Members
10 to withdraw from the Settlement.

11 7.3.2 Class Counsel agrees to be solely responsible for any claims, liens or other
12 demands from persons or entities who previously represented Plaintiffs and may seek to be
13 compensated out of the Gross Settlement Amount for attorneys' fees and/or legal costs arising from
14 prosecution of the Action against Defendant.

15 7.4 **Settlement Administration Costs:** From the Gross Settlement Amount,
16 Settlement Administration Costs shall be paid in an amount expected not to exceed Twenty-Nine
17 Thousand Dollars (\$29,000.00), subject to approval from the Court.

18 7.5 **Enhancement Payments to Plaintiffs:** From the Gross Settlement Amount,
19 Defendant agrees to pay to each Plaintiff, subject to Court approval, an Enhancement Payment of
20 up to Ten Thousand Dollars (\$10,000.00). Plaintiffs shall be issued an Internal Revenue Service
21 Form 1099 for any Enhancement Payment approved by the Court. Plaintiffs hereby acknowledge
22 that they have obtained no tax advice from Defendant and that neither Defendant nor its attorneys
23 have made any representation concerning tax consequences, if any, of the Enhancement
24 Payments. Plaintiffs agree that they are solely responsible for the tax consequences of the
25 Enhancement Payments.

26 7.5.1 In the event that the Court (or any appellate court) awards less than the
27 amount requested for the Enhancement Payments, only the awarded amount shall be paid and
28 shall constitute satisfaction of those obligations and full payment thereunder, and any remaining

1 or unawarded portion of the requested Enhancement Payments shall be made a part of the Net
2 Settlement Amount.

3 7.5.2 The Enhancement Payment, if approved by the Court, is in addition to the
4 Plaintiffs' Individual Class Settlement Payments and Individual PAGA Payments.

5 7.6 **PAGA Penalties; LWDA Payment; Net Settlement Amount:** The PAGA
6 Penalties are the \$850,000 that the Parties have allocated for settlement of Plaintiffs' PAGA
7 Claim.

8 7.6.1 Pursuant to California Labor Code § 2699(i), 75% of the PAGA Penalties
9 will be paid to the LWDA as the "LWDA Payment."

10 7.6.2 The remaining 25% of the PAGA Penalties will be the fund from which
11 Individual PAGA Payments are made.

12 7.6.3 Individual PAGA Payments will be calculated *pro rata* based on the
13 number of Eligible Workweeks each Aggrieved Employee has during the PAGA Period
14 according to Defendant's records. Individual PAGA Payments will be paid to Aggrieved
15 Employees in the form of a Settlement Check.

16 7.7 **Taxes on Individual PAGA Payments:** Individual PAGA Payments will be
17 treated as non-wage penalties and interest, reportable to the Internal Revenue Service on Form
18 1099. Defendant shall not be responsible for tax payments on any portion of the Gross Settlement
19 Amount. The Parties further understand that the Plaintiffs and any Aggrieved Employee who
20 receives any Individual PAGA Payment pursuant to this Agreement shall be solely responsible
21 for any and all tax obligations associated with such receipt.

22 7.8 **Calculation of Defendant's Corporate Payroll Obligations:** Defendant's
23 corporate payroll tax obligation shall be calculated by the Settlement Administrator and paid in
24 addition to the GSA. Defendant's corporate payroll taxes are estimated to be approximately
25 \$358,332.

26 7.9 **Payment of Individual Class Settlement Payments:** Individual Class Settlement
27 Payments will be made from the Net Settlement Amount. Individual Class Settlement Payments
28 will be calculated *pro rata* based on the number of Eligible Workweeks each Settlement Class

1 Member has during the Class Period according to Defendant's records. Individual Class
2 Settlement Payments will be paid to Settlement Class Members in the form of a Settlement
3 Check.

4 7.10 **Taxes on Individual Class Settlement Payments:** Individual Class Settlement
5 Payments will be treated 50% as wages, reportable to the Internal Revenue Service on Form W-2
6 and subject to withholdings, and 50% as interest and penalties, reportable to the Internal Revenue
7 Service on Form 1099. Defendant shall not be responsible for tax payments on any portion of the
8 Gross Settlement Amount. The Parties further understand that the Plaintiffs and any Settlement
9 Class Member who receives any Individual Class Settlement Payment pursuant to this Agreement
10 shall be solely responsible for any and all tax obligations associated with such receipt.

11 **VIII. ADMINISTRATION OF THE SETTLEMENT**

12 8.1 **Motion for Preliminary Approval of Settlement Agreement:** Class Counsel has
13 agreed to draft and file the Motion for Preliminary Approval and Motion for Final Approval no
14 later than May 1, 2023. At least five (5) Court days before the filing deadline for the Motion for
15 Preliminary Approval, Plaintiffs will provide drafts of the Memorandum of Points and Authorities
16 and supporting documents to Defendant so that Defendant has an opportunity to review and
17 provide commentary. Defendant will provide commentary or any feedback within five (5)
18 calendar days of receiving the draft of the Motion for Preliminary Approval and supporting
19 documents. If Defendant does not provide commentary by that time, Defendant will have waived
20 the right to review and comment.

21 8.2 **Motion for Final Approval of Settlement Agreement:** At least five (5) Court
22 days before the filing deadline for the Motion for Final Approval, Plaintiffs will provide drafts of
23 the Memorandum of Points and Authorities and supporting documents to Defendant so that
24 Defendant has an opportunity to review and provide commentary. Defendant will provide
25 commentary or any feedback within five (5) calendar days of receiving the draft of the Motion for
26 Final Approval and supporting documents. If Defendant does not provide commentary by that
27 time, Defendant will have waived the right to review and comment.

28 8.3 **Settlement Administrator:** The Parties agree to jointly utilize a third-party

1 Settlement Administrator to distribute the Gross Settlement Amount as outlined in this
2 Agreement. The Parties have selected CPT Group to administer the Settlement, but may jointly
3 select a different settlement administrator subject to the approval of the Court. Settlement
4 Administration Costs are expected not to exceed Twenty-Nine Thousand Dollars (\$29,000). If the
5 actual cost of settlement administration is less than the amount approved by the Court, the
6 remaining amount shall be added to the Net Settlement Amount and distributed accordingly.
7 Settlement Administration Costs as approved by the Court shall come out of the Gross Settlement
8 Amount. The Settlement Administrator's duties shall include the following: distribute payments
9 for Attorneys' Fees and Litigation Expenses to Class Counsel; distribute Plaintiffs' Enhancement
10 Payments to Plaintiffs; make payment to the LWDA for its 75% share of the PAGA Penalties;
11 update addresses for Class Members via the USPS National Change of Address database and
12 perform a skip tracing process to determine the best, most recent address prior to distribution of
13 any Settlement Checks; calculate Defendant's corporate payroll tax obligation; determine
14 Individual Class Settlement Payment amounts for each Settlement Class Member; determine
15 Individual PAGA Payment amounts for each Aggrieved Employee; mail Settlement Checks; re-
16 mail undeliverable Settlement Checks; redistribute funds from uncashed settlement checks to
17 participating Class Members who cashed their checks; pay to the Cy Pres Recipient any funds
18 remaining in the QSF; and perform related tax, accounting, and administration services.

19 8.4 **Establishment and Funding of the QSF**: The Parties agree that the QSF is
20 intended to be a "Qualified Settlement Fund" under Section 468B of the Internal Revenue Code
21 and Treasury Regulation § 1.468B-1 (26 C.F.R. § 1.468B-1 *et seq.*) and will be administered by
22 the Settlement Administrator as such. With respect to the QSF, the Settlement Administrator
23 shall: (1) open and administer a settlement account in such a manner as to qualify and maintain
24 the qualification of the QSF as a "Qualified Settlement Fund" under Section 468B of the Internal
25 Revenue Code and Treasury Regulation § 1.468B-1; (2) satisfy all federal, state and local income
26 and other tax reporting, return, and filing requirements with respect to the QSF; (3) calculate,
27 withhold, remit and report each Settlement Class Member's share of applicable payroll taxes
28 (including, without limitation, federal, state, and local income tax withholding, FICA, Medicare,

1 and any state or local employment taxes); and (4) satisfy out of the QSF all fees, expenses and
2 costs, including the employer's share of applicable federal, state, and local employment taxes on
3 applicable settlement payments incurred in connection with the opening and administration of the
4 QSF and the performance of its duties and functions as described in this Agreement. The
5 aforementioned taxes, fees, expenses, and costs shall be treated as and included in the costs of
6 administering the QSF and as Settlement Administration Costs. The Parties and the Settlement
7 Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the
8 earliest date permitted as set forth in 26 C.F.R. § 1.468B-1(j)(2)(i), and such election statement
9 shall be attached to the appropriate returns as required by 26 C.F.R. § 1.468B-1(j)(2)(ii). The
10 Parties agree to cooperate with the Settlement Administrator and one another to the extent
11 reasonably necessary to carry out the provisions of this section of the Agreement.

12 8.5 **Employee Settlement Data:** For each Class Member, Defendant will provide the
13 Settlement Administrator with the following data from its records, to the extent available: (1)
14 name, (2) social security number, (3) last known residential address, (4) last known telephone
15 number, and (5) number of Eligible Workweeks worked during the Class Period. For each
16 Aggrieved Employee, Defendant will provide the Settlement Administrator with the following
17 data from its records, to the extent available: (1) name, (2) social security number, (3) last known
18 residential address, (4) last known telephone number, and (5) number of Eligible Workweeks
19 worked during the PAGA Period. Defendant will provide, in Microsoft Excel or Microsoft Word
20 form, the Employee Settlement Data to the Settlement Administrator within 10 calendar days (or,
21 if that date falls on a weekend or holiday, the next business day thereafter) after the Court enters
22 an order granting preliminary approval of the Settlement. The Settlement Administrator shall
23 utilize Reasonable Address Verification Measures which may include running the mailing
24 addresses provided through the National Change of Address database and using Updated
25 Addresses for each Class Member when mailing Class Notices.

26 8.6 **Distribution of Class Notice:** Within ten (10) calendar days of receiving the
27 Employee Settlement Data, the Settlement Administrator will send Class Members, by first-class
28 mail, at their last known address, the Court-approved Class Notice, notifying them of the lawsuit

1 and of their estimated share of the Settlement and the number of Eligible Workweeks they
2 worked during the Class Period. The Settlement Administrator will take reasonable steps to
3 ensure that the Class Notice packet is received by as many Class Members as possible, including
4 by use of the National Change of Address Database and skip tracing to review the accuracy of
5 and (if possible and as needed) updating mailing addresses.

6 8.7 **Opting Out, Objecting, Disputing Workweeks:** Class Members will have forty-
7 five (45) calendar days from the mailing of the Class Notice to opt out of or object to the non-
8 PAGA portion of the Settlement, or to dispute their Eligible Workweeks, unless extended by the
9 Court (the “Response Deadline”). Class Members may dispute their workweeks by timely
10 submitting information to the Settlement Administrator, and may notify the Settlement
11 Administrator of any objections to the Settlement. The Settlement Administrator will certify
12 jointly to Class Counsel and Defense Counsel any opt-outs or objections received. In the event of
13 a dispute over a Class Member’s Eligible Workweeks, Defendant shall make the final decision as
14 to which dates should be applied based on its records and any evidence submitted by the Class
15 Member. Aggrieved Employees may not opt out of the PAGA portion of this Settlement. **Under**
16 **no circumstances should a Class Member file anything with the Court directly.**

17 8.8 **Distribution of Gross Settlement Amount:**

18 8.8.1 No later than five (5) business days after the Effective Date has passed, the
19 Settlement Administrator shall prepare a final list of all Settlement Class Members and Aggrieved
20 Employees. For each person on this list, the Settlement Administrator will calculate the amounts
21 due to each Settlement Class Member and Aggrieved Employee using the methodology set forth in
22 this Agreement.

23 8.8.2 No later than ten (10) calendar days after the Effective Date has passed (or,
24 if that date falls on a weekend or holiday, the next business day thereafter), Defendant shall transfer
25 to the Settlement Administrator the Gross Settlement Amount of \$8,500,000.00. Defendant will
26 wire the funds requested by the Settlement Administrator into the QSF set up and controlled by the
27 Settlement Administrator.

28 8.8.3 No later than ten (10) calendar days after receipt of the Gross Settlement

1 Amount from Defendant, the Settlement Administrator will (1) pay from the Gross Settlement
2 Amount the Settlement Administration Costs, as approved by the Court; (2) pay from the Gross
3 Settlement Amount to Class Counsel the Attorneys' Fees and Litigation Expenses, as approved by
4 the Court; (3) pay from the Gross Settlement Amount to Plaintiffs the Enhancement Payments, as
5 approved by the Court; (4) pay from the Gross Settlement Amount the LWDA Payment; (5) pay
6 from the Gross Settlement Amount the Individual PAGA Payments; and (6) pay from the Gross
7 Settlement Amount the Individual Class Settlement Payments, less applicable deductions and
8 withholdings.

9 8.8.4 Settlement Checks will remain negotiable for one hundred eighty (180)
10 calendar days from the original date of mailing. Any checks returned as non-deliverable on or
11 before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the
12 forwarding address affixed thereto. If no forwarding address is provided, the Settlement
13 Administrator will promptly utilize Reasonable Address Verification Measures to attempt to
14 determine the correct address using a skip-trace, or other search using the name, address, or Social
15 Security number of the Settlement Class Member or Aggrieved Employee involved and will then
16 perform a single re-mailing using an Updated Address, if available. The Settlement Administrator
17 shall mail a check-cashing reminder postcard to those recipients who have not negotiated their
18 Settlement Checks within ninety (90) days of mailing. Funds represented by Settlement Checks
19 returned as undeliverable and those settlement checks remaining uncashed for more than 180 days
20 after the original date of mailing shall be redistributed to participating Class Members who cashed
21 their checks. Funds represented by these redistributed Settlement Checks that remain uncashed for
22 more than 180 days after the redistribution date shall be paid to Legal Aid At Work. Both Plaintiff
23 and Defendant, and their respective Counsel represent that they do not have any relationship or
24 involvement with Legal Aid At Work.

25 8.6 After the Settlement Checks have been mailed and any payment to the Cy Pres
26 Recipient has been made, the Settlement Administrator will provide an accounting in a signed
27 declaration to the Parties of all amounts paid out in connection with this Settlement.
28

1 **IX. RELEASED CLAIMS**

2 9.1 **Release by Settlement Class Members:** When the Court's final approval order
3 and judgment becomes final and upon funding of the Gross Settlement Amount, the Settlement
4 Class Members shall release the Released Parties from the Class Released Claims.

5 9.2 **Release by Aggrieved Employees:** When the Court's final approval order and
6 judgment becomes final and upon funding of the Gross Settlement Amount, the Aggrieved
7 Employees shall release and be barred from acting as a proxy of the State of California to allege
8 any of the PAGA Released Claims against the Released Parties.

9 9.3 **Agreement As Evidence of Res Judicata:** Any Party to this Settlement
10 Agreement may use the Settlement Agreement to assert that this Settlement Agreement and the
11 Judgment to be entered by the Court following Final Approval of this Settlement Agreement bar
12 any later-filed action asserting any Class Released Claims or PAGA Released Claims against any
13 of the Released Parties. The provisions of this paragraph apply regardless of whether Plaintiffs,
14 Settlement Class Members, and/or Aggrieved Employees cash their Settlement Checks.

15 9.4 **General Release by Plaintiffs:** As consideration for the Enhancement Payments,
16 upon the Effective Date, Plaintiffs, on behalf of themselves and each of their respective heirs,
17 representatives, successors, assigns, and attorneys, shall be deemed to have, and by operation of
18 the Judgment shall have, fully, finally, and forever released, relinquished, and discharged the
19 Released Parties from all claims or causes of action of any type whatsoever, whether known or
20 unknown, arising out of or related to the Action or Plaintiffs' employment with or separation of
21 employment from Defendant, including but not limited to any and all claims for wrongful
22 discharge; termination in violation of public policy; discrimination; harassment; retaliation; failure
23 to provide reasonable accommodation; failure to engage in a good faith interactive process; breach
24 of contract, both express and implied; breach of covenant of good faith and fair dealing, both
25 express and implied; promissory estoppel; negligent or intentional infliction of emotional distress;
26 fraud; negligent or intentional misrepresentation; negligent or intentional interference with contract
27 or prospective economic advantage; unfair business practices; defamation; libel; slander;
28 negligence; personal injury; assault; battery; invasion of privacy; false imprisonment; conversion;

1 and disability benefits; any and all claims for violation of any federal, state, or municipal statute,
2 including, but not limited to, Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991;
3 Section 1981 of U.S.C. Title 42; the Rehabilitation Act of 1973; the Americans with Disabilities
4 Act of 1990; the Equal Pay Act; the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 216 et seq.,
5 except as prohibited by law; the Fair Credit Reporting Act; the Employee Retirement Income
6 Security Act of 1974 (regarding unvested benefits); the Worker Adjustment and Retraining
7 Notification Act; the Family and Medical Leave Act, except as prohibited by law; the Sarbanes-
8 Oxley Act of 2002; the National Labor Relations Act; the Uniform Services Employment and
9 Reemployment Rights Act; the Genetic Information Nondiscrimination Act; the Immigration
10 Reform and Control Act; the California Family Rights Act; the California Labor Code; the
11 California Industrial Welfare Commission Wage Orders; the California Business & Professions
12 Code; and the California Fair Employment and Housing Act; any and all claims for violation of the
13 federal, or any state, constitution; any and all claims arising out of any other laws and regulations
14 relating to employment or employment discrimination, harassment or retaliation; any and all claims
15 for monetary recovery and personal or individual relief, except as prohibited by law; and any
16 premiums, penalties, interest, punitive damages, costs, attorneys’ fees, injunctive relief, declaratory
17 relief, or accounting based on the claims (the “Plaintiffs Released Claims”). Nothing in this
18 Agreement shall be construed to prohibit Plaintiffs from (i) filing a charge or complaint with the
19 Equal Employment Opportunity Commission or any other federal, state or local administrative or
20 regulatory agency, or (ii) participating in any investigation or proceedings conducted by the Equal
21 Employment Opportunity Commission or any other federal, state or local administrative or
22 regulatory agency. However, Plaintiffs expressly waive the right to any relief of any kind in the
23 event that the Equal Employment Opportunity Commission or any other federal, state or local
24 administrative or regulatory agency pursues any claim on Plaintiffs’ behalf that Plaintiffs have
25 released in this Agreement. Furthermore, this general release of claims excludes, and Plaintiffs do
26 not waive, release or discharge any unwaivable rights Plaintiffs may have under the California
27 Labor Code, claims under state workers’ compensation or unemployment laws or indemnification
28 rights Plaintiffs have against Released Parties and/or any claims by Plaintiffs that cannot be released

1 by a private settlement agreement.

2 9.3 With regard to the Plaintiffs' Released Claims, Plaintiffs expressly waive all rights
3 under California Civil Code section 1542, which states:

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

8 Plaintiffs may hereafter discover facts in addition to or different from those which they
9 now know or believe to be true with respect to the subject matter of the Plaintiffs Released
10 Claims, but they shall be deemed to have, and by operation of the Judgment shall have, fully,
11 finally, and forever settled and released any and all Plaintiffs Released Claims, known or
12 unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or
13 hidden, which then exist, or heretofore have existed upon any theory of law or equity now
14 existing, including, but not limited to, conduct which is negligent, intentional, with or without
15 malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or
16 existence of such different or additional facts.

16 **X. RIGHT TO REVOKE**

17 10.1 **Right to Revoke:** Defendant has the right in its sole and exclusive discretion to
18 terminate this Agreement and withdraw from the Settlement at any time prior to date the Court
19 enters the Final Approval Order on this Settlement if: (a) the Settlement is construed in such a
20 fashion that Defendant is required to pay more than the Gross Settlement Amount, except as
21 pursuant to the Escalator Clause in Section 8.2; (b) any court, following the signing of this
22 Agreement but before the Court enters the Final Approval Order, certifies, whether on a
23 conditional basis or not, a class, collective, or representative action involving a claim described in
24 the Action by potential Class Members or Aggrieved Employees covered by this Settlement; or
25 (c) 7.5% or more of the Class Members opt out of the Settlement. If for any reason the Settlement
26 does not become final, or if Defendant withdraws from the Settlement for any of the reasons set
27 forth in this section, this Agreement and any related settlement documents shall be null and void.
28 In such an event, neither the Agreement, nor the settlement documents, nor the negotiations

1 leading to the Settlement may be used as evidence for any purpose, and Defendant shall retain the
2 right to challenge all claims and allegations in the Action, to assert all applicable defenses, and to
3 dispute the propriety of class or representative treatment on all applicable grounds.

4 **10.2 Non-Approval of Settlement Agreement:** Because settlement of the Action requires
5 Court approval, the Settlement Agreement is conditional and contingent upon approval and entry
6 of the Final Approval Order and Judgment. If the conditions of the Settlement set forth in this
7 Agreement are not satisfied, or if Defendant terminates and withdraws from the Agreement, or if
8 the Court does not enter the Final Approval Order and Judgment, or if appellate review is sought
9 and on such review the Court's Final Approval Order is materially modified or reversed, then this
10 Settlement shall be canceled, terminated, and shall have no force or effect. If the Effective Date
11 does not occur (due to the failure of the Court to grant approval or otherwise), or if this
12 Settlement is terminated, revoked, or canceled pursuant to its terms, the Parties to this Settlement
13 shall be deemed to have reverted to their respective status as of the date and time immediately
14 prior to the execution of this Settlement. A reduction by the Court or on appeal as to the amount
15 of Attorneys' Fees and Litigation Expenses, and/or to the amount of Plaintiff's Enhancement
16 Payments does not provide a basis for terminating this Settlement.

17 **XI. COOPERATION**

18 11.1 The Parties shall cooperate fully with one another in seeking the Court's approval
19 of this Agreement and to use their respective best efforts to consummate the Settlement and cause
20 the Final Approval Order and Judgment to be entered and to become final. The Parties therefore
21 agree to cooperate in good faith to promptly prepare, execute and finalize all Settlement-related
22 documents, seek all necessary Court approvals, and do all other things necessary to consummate
23 the Settlement.

24 11.2 No Party to this Agreement shall seek to evade his, her, or its good faith
25 obligations to seek approval and implementation of this Settlement by virtue of any ruling, order,
26 governmental report, or other development, whether in the Action, in any other litigation, or
27 otherwise, that hereafter might occur and might be deemed to alter the relative strengths of the
28 Parties with respect to any claims or defenses or their relative bargaining power with respect to

1 negotiating.

2 11.3 Plaintiffs, Class Counsel, Settlement Class Members, the LWDA, and Aggrieved
3 Employees hereby waive appeals of an order granting approval of this Settlement or entering
4 Judgment in the Action as to Defendant so long as such order is consistent with the material terms
5 of this Agreement.

6 11.4 Plaintiffs and Class Counsel agree not to issue a press release or otherwise notify
7 the media about the terms of the Settlement or advertise or market any of the terms of the
8 Settlement, including, but not limited to, through written, recorded, or electronic communications.
9 Plaintiffs and Class Counsel further agree that if contacted regarding this case, they will state only
10 that the Action exists and has been resolved. This provision is not intended to, and does not, limit
11 Class Counsel from responding to questions from and providing advice to Class Members and/or
12 Aggrieved Employees regarding the settlement after preliminary approval is granted.

13 **XII. MISCELLANEOUS PROVISIONS**

14 12.1 All of the Parties have been represented by counsel throughout all negotiations that
15 preceded the execution of this Agreement, and this Agreement is made with the consent and
16 advice of counsel.

17 12.2 This Agreement may not be modified or amended, except in a writing that is
18 signed by the respective counsel of record for the Parties and approved by the Court.

19 12.3 This Agreement and Exhibit A (Class Notice) attached hereto constitute the entire
20 agreement between the Parties concerning the subject matter hereof, and supersede and replace all
21 prior negotiations, understandings, memoranda of understanding and proposed agreements,
22 written and oral, relating thereto. No extrinsic oral or written representations or terms shall
23 modify, vary, or contradict the terms of the Agreement unless made in writing, signed by duly
24 authorized representatives of all Parties, and approved in writing by a final order of the Court. No
25 waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise,
26 in any one or more instance shall be deemed to be or construed as a further or continuing waiver
27 of any such term, provision or condition.

28 12.4 This Agreement shall be subject to, governed by, construed, enforced, and

1 administered in accordance with the laws of the State of California, without giving effect to the
2 principles of conflict of laws, both in its procedural and substantive aspects, and shall be subject
3 to the continuing jurisdiction of the Court. This Agreement shall be construed as a whole
4 according to its fair meaning and intent, and not strictly for or against any party, regardless of
5 who drafted (or was principally responsible for drafting) this Agreement or any specific term or
6 condition thereof. In any construction to be made of the Agreement, the Agreement shall not be
7 construed against any party and the canon of contract interpretation set forth in California Civil
8 Code section 1654 shall not be applied.

9 12.5 The Settlement shall be binding upon and inure to the benefit of the settling
10 Parties' respective successors, assigns, heirs, spouses, marital communities, executors,
11 administrators and legal representatives.

12 12.6 Consistent with Section 664.6 of the California Code of Civil Procedure and Rule
13 3.769(h) of the California Rules of Court, the Parties agree the Court shall retain jurisdiction with
14 respect to the interpretation, implementation and enforcement of the terms of the Agreement, and
15 all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and
16 enforcing the terms of the Agreement. Before raising an issue before the Court with respect to
17 interpretation of the Agreement, the Parties agree to attempt to resolve the issue first by
18 consulting with mediator Jeff Ross.

19 12.7 This Agreement may be executed in one or more counterparts, each of which shall
20 be deemed an original and together shall constitute one and the same instrument. When each of
21 the Parties has signed at least one such counterpart, this Agreement shall become binding as to all
22 of the Parties as of the day and year last executed. Fax and/or electronically scanned signatures
23 shall be deemed as effective as originals.

24 12.8 The Parties hereto represent, covenant, and warrant that they have not directly or
25 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
26 person or entity any portion of any liability, claim, demand, action, cause of action or rights
27 herein released and discharged except as set forth herein.

28 12.9 Each individual signing this Agreement warrants that he or she has the authority

1 and is expressly authorized to enter into this Agreement on behalf of the party(ies) for which that
2 individual signs.

3 12.10 Any notices or other documents that must or may be transmitted to Class Counsel
4 and/or Defendant's Counsel, pursuant to any section of this Agreement, shall be transmitted to the
5 addresses set forth in the definitions of Class Counsel and Defendant's Counsel, respectively, set
6 forth above.

7 12.11 The Parties and all counsel acknowledge and agree that for the purposes of any
8 claims, actions, and/or proceedings arising out of this Agreement, notice provided to Class
9 Counsel shall be deemed to be notice to the Plaintiffs.

10 12.12 The Parties believe this Settlement Agreement is a fair, adequate, and reasonable
11 settlement of the Actions, acknowledging that the Court "may award a lesser amount than the
12 maximum civil penalty amount specified by "PAGA" if, based on the facts and circumstances of
13 the particular case, to do otherwise would result in an award that is unjust, arbitrary and
14 oppressive, or confiscatory." Lab. Code § 2699(e)(2). The Parties have arrived at this Settlement
15 Agreement after arm's-length negotiations by experienced counsel. The Parties further
16 acknowledge that they are each represented by competent counsel and that they have had an
17 opportunity to consult with their counsel regarding the fairness and reasonableness of this
18 Settlement Agreement.

19 IN WITNESS THEREOF, the Parties each acknowledge that they have read the
20 foregoing Settlement Agreement, accept and agrees to the provisions contained in this Settlement
21 Agreement, and hereby execute it voluntarily and with full understanding of its consequences.

22 07/11/2023
23 Dated: June __, 2023



24 Marianne Ramirez, Plaintiff

25 07/11/2023
26 Dated: June __, 2023



27 Wendy Campbell, Plaintiff
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6/29/2023
Dated: June __, 2023

Delta Dental of California

By: Mike Castro

Mike Castro
Chief Executive Officer
Delta Dental of California

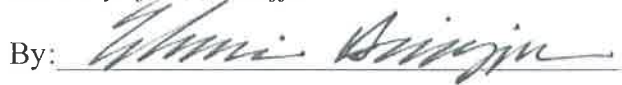
APPROVED AS TO FORM AND CONTENT:

Dated: June 29, 2023

By: 

Douglas Han, Esq.
Shunt Tatavos-Gharajeh, Esq.
Justice Law Corporation
Attorneys for Plaintiffs

Dated: June 29, 2023

By: 

Edwin Aiwanian, Esq.
Arby Aiwanian, Esq.
Lawyers for Justice, PC
Attorneys for Plaintiffs

6/28/2023
Dated: June __, 2023


By: _____

Erin Connell, Esq.
Alexandra Stathopoulos, Esq.
Kayla Grundy, Esq.
Scott Morrison, Esq.
Orrick, Herrington & Sutcliffe, LLP
Attorneys for Defendant

EXHIBIT A

Marianne Ramirez, et al. v. Delta Dental of California, Case No. CGC-21-589648
Superior Court of the State of California, for the County of San Francisco
Notice of Class and PAGA Action Settlement And Release

You are not being sued. This notice affects your rights. Please read it carefully.

To: All current and former hourly-paid or non-exempt employees of Defendant Delta Dental of California (“Defendant”) in the State of California who worked at any time from August 10, 2016, through February 8, 2023 (“Class Members”).

All current and former hourly-paid or non-exempt employees of Defendant in the State of California who worked at any time from November 9, 2019, through February 8, 2023 (“PAGA Members”).

On [REDACTED], the Honorable Andrew Y.S. Cheng of the San Francisco County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendant’s records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at [REDACTED] : [REDACTED] .m. on [REDACTED], 2023 in Department 613 of the San Francisco County Superior Court, located at the 400 McAllister St., San Francisco, CA 94102.

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

Summary of the Litigation

Plaintiffs Marianne Ramirez and Wendy Campbell, on their behalf and of other current and former hourly paid or non-exempt employees, allege the following claims against Defendant: (1) unpaid overtime; (2) unpaid meal period premiums; (3) unpaid rest period premiums; (4) unpaid minimum wages; (5) final wages not timely paid; (6) non-compliant wage statements; (7) unreimbursed business expenses; (8) unfair business practices; and (9) civil penalties for violations of the Labor Code under California’s Private Attorneys General Act (“PAGA”). Defendant denies these allegations.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On February 8, 2023, the parties participated in a mediation with Jeff Ross, Esq., an experienced and well-respected class action mediator. With Mr. Ross’s guidance, the parties were able to negotiate a complete settlement of Plaintiffs’ claims.

Counsel for Plaintiff, who has been appointed by the Court to represent the class for the purposes of this Settlement—Justice Law Corporation (“Class Counsel”)—has investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believes that the claims alleged in this lawsuit have merit, Class Counsel also recognizes that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Questions? Contact the Settlement Administrator toll free at 1-[REDACTED]

Defendant has denied, and continues to deny, the factual and legal allegations in the case and believes that it has valid defenses to Plaintiffs' claims. By agreeing to settle, Defendant is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Defendant has agreed to settle the case as part of a compromise with Plaintiffs.

Summary of the Proposed Settlement Terms

Plaintiffs and Defendant have agreed to settle the underlying class claims in exchange for a Gross Settlement Amount of \$8,500,000. This amount is inclusive of: (1) individual settlement payments to all Settlement Class Members; (2) an Enhancement Award of \$10,000 each to Marianne Ramirez and Wendy Campbell for their services on behalf of the class, and for a release of all claims arising out of their employment with Defendant; (3) up to \$2,833,333.33 in attorneys' fees and up to \$38,000.00 in litigation costs and expenses; (4) a \$850,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), inclusive of a \$637,500 payment to the California Labor and Workforce Development Agency ("LWDA") in connection with the PAGA, and a \$212,500 payment (the "PAGA Settlement Amount") to PAGA Members; and (5) reasonable Settlement Administrator's fees and expenses currently estimated at \$29,000. After deducting the above payments, a total of approximately \$[REDACTED] will be allocated to Class Members who do not opt out of the Settlement Class ("Net Settlement Amount"). Additionally, all PAGA Members will receive a proportional share of the \$212,500 PAGA Settlement Amount, regardless of whether they opt out of the Settlement Class.

Payments from Net Settlement Amount. Defendant will calculate the total aggregate number of Eligible Workweeks from August 10, 2016, through February 8, 2023 ("Class Period") and each Class Member's total number of Eligible Workweeks during the Class Period. To determine each Class Member's estimated share of the Net Settlement Amount, the Settlement Administrator will use the following formula: The Net Settlement Amount will be divided by the aggregate total number of Eligible Workweeks, resulting in the "Class Workweek Value." Each Class Member's share of the Net Settlement Amount will be calculated by multiplying each individual Class Member's total number of Eligible Workweeks by the Class Workweek Value. The Individual Class Settlement Payment will be reduced by any required deductions for each Class Member as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, or if there are any successful Workweek Disputes, the Settlement Administrator shall proportionately increase or decrease each Settlement Class Member's share of the Net Settlement Amount according to the number of Eligible Workweeks, so that the amount distributed to the Settlement Class Members equals 100% of the Net Settlement Amount.

According to Defendant's records, you have a total of [REDACTED] Eligible Workweeks during the Class Period. Accordingly, your estimated payment from the Net Settlement Amount is approximately \$[REDACTED].

Payments from PAGA Settlement Amount. Defendant will calculate the total aggregate number of Eligible Workweeks from November 9, 2019, through February 8, 2023 ("PAGA Period") and the each PAGA Member's total number of Eligible Workweeks during the PAGA Period. To determine each PAGA Member's estimated share of the PAGA Settlement Amount, the Settlement Administrator will use the following formula: The PAGA Member's share of the PAGA Settlement Amount (\$212,500) will be divided by the aggregate total number of Eligible Workweeks, resulting in the "PAGA Workweek Value." Each PAGA Member's share of the PAGA Settlement Amount will be calculated by multiplying each individual Participating PAGA Member's total number of Eligible Workweeks by the "PAGA Workweek Value." A Request for Exclusion does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, et seq. and the PAGA Member will receive their portion of the PAGA Settlement Amount even if he or she submits a valid Request for Exclusion. If there are any successful Workweek Disputes, the Settlement

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Administrator shall proportionately increase or decrease each PAGA Member's share of the PAGA Settlement Amount according to the number of Eligible Workweeks, so that the amount distributed to the PAGA Members equals 100% of the PAGA Settlement Amount.

According to Defendant's records, you have a total of [REDACTED] Eligible Workweeks during the PAGA Period. Accordingly, your estimated payment from the PAGA Settlement Amount is approximately \$ [REDACTED].

Your Estimated Payment: Based on the above, your estimated payment from the Settlement is approximately \$ [REDACTED]. If you believe the information regarding Eligible Workweeks during the Class Period or PAGA Period provided above is incorrect, please contact the Settlement Administrator to dispute the information. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked or faxed on or before [insert date of Response Deadline] and must be sent to:

[Name]

CPT GROUP

c/o [REDACTED]

[Mailing Address]

Fax No. [REDACTED]

If you dispute the information stated above, Defendant's records will control unless you are able to provide documentation that establishes otherwise.

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to Settlement Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Settlement Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 50% of Individual Class Settlement Payments will be allocated as wages for which IRS Forms W-2 will be issued, and 50% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued. For purposes of this settlement, 100% of Individual PAGA Settlement Payments shall be allocated as non-wage penalties for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If want to participate in the Settlement, then no further action is required on your part. You will automatically receive your Settlement Check from the Settlement Administrator if and when the settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a Settlement Check for your share of the Settlement Amount. In addition, you will be deemed to have released or waived the Released Class Claims and Released PAGA Claims:

Released Class Claims: Any and all claims, demands, rights, liabilities, penalties, fees, and causes of action that were or could have been asserted based on the facts alleged in the Action (whether in tort, contract, statute, or otherwise) during the Class Period, including, but not limited to, for alleged violations of Labor Code sections 201–204, 226, 226.7, 510, 512, 1194, 1197, 1198, 2800, or 2802, or any claims based on the following allegations: failure to pay all wages owed, including minimum, straight, and overtime wages; failure to properly calculate the regular rate of pay; failure to provide compliant meal periods or rest breaks or to pay meal period or rest break premiums;

Questions? Contact the Settlement Administrator toll free at 1-[REDACTED]

failure to provide accurate and/or compliant wage statements; failure to reimburse all reasonable and necessary business expenses; failure to timely pay wages during employment or upon separation; or violation of Cal. Bus. & Prof. Code section 17200 et seq. by engaging in the foregoing conduct. Class Released Claims include all claims for unpaid wages, overtime wages, statutory penalties, civil penalties, damages of any kind, interest, attorneys' fees, costs, injunctive relief, restitution, and any other equitable relief under California statute, ordinance, regulation, common law, or other source of law, including but not limited to the California Labor Code, California Business & Professions Code, California Civil Code, and California Industrial Welfare Commission Wage Orders.

Released PAGA Claims: All claims, demands, rights, liabilities, penalties, fees, and causes of action under PAGA during the PAGA Period based on the factual allegations and legal assertions made in the operative complaint or PAGA Notice, including claims based on any alleged failure to pay all wages owed, including minimum, straight, and overtime wages; failure to properly calculate the regular rate of pay; failure to provide compliant meal periods or rest breaks or to pay meal period and rest break premiums; failure to provide accurate and/or compliant wage statements; failure to reimburse all reasonable and necessary business expenses; or failure to timely pay wages during employment or upon separation.

Option 2 – Request Exclusion From the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class and PAGA Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written Request for Exclusion must include your name, signature, address, and telephone number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

[Name]

CPT Group

c/o

[Mailing Address]

Fax No.

The Request for Exclusion must be postmarked or faxed not later than [REDACTED], 2023. If you submit a Request for Exclusion which is not postmarked or faxed by [REDACTED], 2023, your Request for Exclusion will be rejected, and you will be included in the Settlement Class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not receive a payment from the Net Settlement Amount.
- Not release the Released Class Claims.
- You will still release the Released PAGA Claims and will receive payment from the PAGA Settlement Amount if you are a PAGA Member.

Option 3 – Object to the Settlement

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

If you decide to object to the settlement because you find it unfair or unreasonable, you may submit a written objection stating why you object to the settlement, or you may instead appear at the Final Approval Hearing to object to the Settlement. Written objections must provide: (1) this case's name and case number; (2) your full name, address, and telephone number; (3) a written statement of all grounds for the objection; (4) copies of any papers, briefs, or other documents upon which the objection is based, if any; (5) a statement whether you intend to appear at the Final Approval hearing; and (6) your signature. The objection must be mailed to the administrator at:

[Name]
CPT Group
c/o _____

[Mailing Address]
Fax No. _____

All written objections must be received by the administrator not later than _____, 2023. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for _____ at _____ a.m./p.m. in Department 613 of the San Francisco County Superior Court located at 400 McAllister St., San Francisco, CA 94102, and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Class Claims (in addition to the Released PAGA Claims).

Additional Information

This Notice of Class and PAGA Action Settlement is only a summary of the case and the settlement. For the complete terms and conditions of the Settlement, you are referred to the detailed Joint Stipulation of Class and PAGA Action Settlement and Release (the "Settlement Agreement"), which is on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of San Francisco's Electronic Filing and Service Website at <https://www.sfsuperiorcourt.org/online-services>, or (b) in person at Superior Court of California, County of San Francisco, 400 McAllister St., San Francisco, CA 94102, between the hours of 7:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures.

All other inquiries by Class Members regarding this Class Notice and/or the settlement can be directed to the Settlement Administrator. In addition, contact information for Settlement Class Counsel, as well as Defendant's attorneys, are as follows:

<u>Class Counsel</u> Douglas Han Justice Law Corporation 751 N. Fair Oaks Avenue, Suite 101 Pasadena, California 91103	<u>Counsel for Defendant Delta Dental of California</u> Erin Connell Orrick, Herrington & Sutcliffe LLP 405 Howard Street San Francisco, CA 94105-2669
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Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Telephone: 818-230-7502 Edwin Aiwarzian Lawyers for Justice, PC 410 West Arden Avenue Glendale, California 91023 Telephone: 818-265-1020	Telephone: 415-773-5700
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PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE, WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is manderson@justicelawcorp.com

On August 1, 2023, I served the foregoing document described as

JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT AND RELEASE

for the following case: LWDA/Court Case No.:	Ramirez, et al. v. Delta Dental of California LWDA Case No.: CM- 891853-22 Court Case No.: CGC-21-589648 San Francisco County Superior Court
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on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

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

Executed on August 1, 2023, at Pasadena, California.

Maike Andauer

Mariah Anderson