

1 **BLUMENTHAL NORDREHAUG BHOWMIK**
2 **DE BLOUW LLP**

3 Norman B. Blumenthal (State Bar #068687)

4 Kyle R. Nordrehaug (State Bar #205975)

5 Aparajit Bhowmik (State Bar #248066)

6 2255 Calle Clara

7 La Jolla, CA 92037

8 Telephone: (858)551-1223

9 Facsimile: (858) 551-1232

10 Email: Kyle@bamlawca.com

11 Website: www.bamlawca.com

12 Attorneys for Plaintiffs

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **IN AND FOR THE COUNTY OF PLACER**

15 MONICA CUTHBERT, SHERRI MAYER,
16 BELA CRISPIN, CORRINE
17 SALAZAR-ROSE, individuals, on behalf of
18 themselves and on behalf of all persons
19 similarly situated,

20 Plaintiffs,

21 vs.

22 AMERICAN PACIFIC MORTGAGE
23 CORPORATION, a California Corporation;
24 and DOES 1 through 50, inclusive,

25 Defendants.

CASE NO.: **S-CV-0049369**

**DECLARATION OF KYLE NORDREHAUG
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT**

Hearing Date: July 23, 2024

Hearing Time: 8:30 a.m.

Judge: Hon. Trisha Hirashima

Department: 42

Action Filed: October 27, 2022

Trial Date: Not set

1 I, Kyle Nordrehaug, declare as follows:

2 1. I am a partner of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP,
3 counsel for Plaintiffs Monica Cuthbert, Bela Crispin, Sherri Mayer, and Corrine Salazar-Rose
4 (“Plaintiffs”) in this matter. As such, I am fully familiar with the facts, pleadings and history of this
5 matter. The following facts are within my own personal knowledge, and if called as a witness, I
6 could testify competently to the matters stated herein.

7 2. This declaration is being submitted in support of Plaintiffs’ unopposed motion for
8 preliminary approval of the proposed class action settlement with Defendant American Pacific
9 Mortgage Corporation (“Defendant”), which motion seeks entry of an order: (1) preliminarily
10 approving the proposed settlement of this class action with Defendant; (2) for settlement purposes
11 only, conditionally certifying the Class, which is comprised of “all individuals who were employed
12 by Defendant in California and classified as a non-exempt employee at any time during the Class
13 Period who did not sign an arbitration agreement, and excluding non-exempt employees who were
14 employed by Defendant as loan officer assistants or processors, or who performed equivalent duties
15 to loan officer assistants and processors, up to February 18, 2020”; (3) provisionally appointing
16 Plaintiffs as the representatives of the Class; (4) provisionally appointing Norman B. Blumenthal,
17 Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche,
18 and Trevor G. Moran of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel; (5)
19 approving the form and method for providing class-wide notice; (6) directing that notice of the
20 proposed settlement be given to the class; (7) appointing Apex Class Action as Administrator, and
21 (8) scheduling a final approval hearing date, proposed for December 3, 2024 to consider Plaintiffs’
22 motion for final approval of the settlement and for approval of attorneys’ fees and expenses.
23 Attached hereto as Exhibit #1 is a copy of the fully executed Class Action and PAGA Settlement
24 Agreement (“Agreement”) along with exhibits thereto. The form of the Agreement is based upon
25 the Los Angeles County Superior Court model form for a class and PAGA settlement. This
26 Declaration incorporates by reference the definitions in the Agreement, and all terms defined therein
27 shall have the same meaning as set forth in the Agreement.
28

1 Fairness of Settlement

2 3. As consideration for this Settlement, the non-reversionary Gross Settlement Amount
3 of Six Hundred Thousand Dollars (\$600,000.00) (the “Gross Settlement Amount”) is to be paid by
4 Defendant, as set forth in the Agreement. The Gross Settlement Amount will settle all issues
5 pending in the Action between the Parties and will be made in full and final settlement of the
6 Released Class Claims in exchange for the payments to Participating Class Members from the Net
7 Settlement Amount, and includes (a) the costs of administration of the settlement, (b) all attorneys'
8 fees and costs, (c) Class Representative Service Payments, and (d) the PAGA Penalties payment
9 allocated 75% to the LWDA and 25% to the Aggrieved Employees. (Agreement at ¶ 1.24.) The
10 following is a table of the key Settlement terms and the proposed deductions:

11 **\$600,000** (Gross Settlement Amount)

- 12 - \$50,000 (Plaintiffs’ proposed service awards not to exceed \$12,500 each)
13 - \$25,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
14 - \$200,000 (Class Counsel Fees Payment - not to exceed 1/3 of settlement)
15 - \$50,000 (PAGA Payment - 75% to LWDA / 25% to Aggrieved Employees)
16 - \$20,000 (Administration Expenses Payment - not to exceed amount)

17 **\$255,000** (Net Settlement Amount)

18 4. The relief provided in the Settlement will benefit all members of the Class. The
19 Settlement does not grant preferential treatment to Plaintiffs or segments of the Class in any way.
20 Payments to the Class Members are all determined under a neutral methodology. Each Participating
21 Class Member will receive the same opportunity to participate in and receive payment through a
22 neutral formula that is based upon the weeks worked for that individual.

23 5. On August 15, 2023, the Parties participated in an all-day mediation with Tripper
24 Ortman, a respected and experienced mediator of wage and hour class actions. In preparation for the
25 mediation, Defendant provided Class Counsel with payroll, time and employment data, along with
26 other information regarding the Class Members, various internal documents, and other
27 compensation and employment-related materials. Class Counsel analyzed the data with the
28 assistance of damages expert Berger Consulting and prepared and submitted a mediation brief to the
mediator. The final settlement terms were negotiated and set forth in the Agreement now presented
for this Court’s approval. Importantly, Plaintiffs and Class Counsel believe that this Settlement is
fair, reasonable and adequate.

1 6. Based upon 310 Class Members who worked an estimated 25,000 work weeks
2 (Agreement at ¶ 4.1), the Gross Settlement Amount provides an average value of \$1,935 per Class
3 Member and \$24 per workweek and after deductions the Net Settlement Amount provides an
4 average recovery of \$822.58 per Class Member and a recovery of \$10.20 per workweek. The
5 calculations to compensate for the amount due for the Class at the time of the mediation were
6 calculated by Berger Consulting, Plaintiffs' damage expert. As to the Class whose claims are at
7 issue in this Action, Plaintiffs used the expert to analyze the data and determine the potential unpaid
8 wages for the employees. The maximum potential damages were calculated to be \$261,906 for
9 alleged reporting time wages, \$779,538 for the alleged unpaid wages for off-the-clock work at one
10 hour per week, \$84,038 for the alleged unpaid wages due to miscalculation of the regular rate when
11 paying wages, \$105,152 for the alleged underpayment of sick pay, \$1,570,836 for alleged meal
12 period damages based upon a 41.7% potential violation rate for all shifts worked, \$1,662,265 for
13 alleged rest period damages based upon the same 41.7% potential violation rate for shifts worked,
14 \$26,450 for alleged unreimbursed business expenses at \$5 per month. Decl. Nordrehaug, ¶6. As a
15 result, the total damage valuation was calculated that Defendants were subject to a maximum
16 damage claim in the amount of \$6,228,280. As to potential penalties, Plaintiffs calculated that
17 potential waiting time penalties were a maximum of between \$745,929 and \$1,030,092, and
18 potential maximum wage statement penalties were \$569,700.¹ Defendant vigorously disputed
19 Plaintiffs' calculations and exposure theories. Consequently, the Gross Settlement Amount of
20 \$600,000 represents more than 14% of the maximum value of the alleged damages at issue in this
21 case at the time this Settlement was negotiated.² Importantly, the recent decision that good faith

23 ¹ While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
24 226, at mediation Plaintiffs recognized that these claims were subject to additional, separate
25 defenses asserted by Defendant, including, a good faith dispute defense as to whether any premium
26 wages for meal or rest periods or other wages were owed given Defendant's position that Plaintiffs
27 and Class Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App.
28 4th 576, 584 (2010) ("There is no willful failure to pay wages if the employer and employee have a
good faith dispute as to whether and when the wages were due.").

² Because the PAGA claim is not a class claim and primarily is paid to the State of California,
Plaintiffs have not included the PAGA claim in this discussion of the value of the class claims. The

1 belief of compliance by the employer in *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056,
2 1065 (2024), could completely negate the claims for waiting time and wage statement penalties,
3 even if wages were owed to the class. The above maximum calculations should then be realistically
4 risk adjusted in consideration for both the risk of class certification and the risk of establishing
5 class-wide liability on all claims. Given the amount of the settlement as compared to the potential
6 value of claims in this case and the defenses asserted by Defendant, this settlement is fair and
7 reasonable.

8
9 Procedural History of the Litigation

10 7. On July 14, 2022, Plaintiff Cuthbert filed with the LWDA and served on Defendant a
11 notice under Labor Code section 2699.3 identifying the alleged Labor Code violations to recover
12 civil penalties on behalf of Aggrieved Employees for various Labor Code violations. The PAGA
13 Notice by Plaintiff Cuthbert is attached hereto as Exhibit #3 for the Court's reference.

14 8. On October 27, 2022, Plaintiff Cuthbert filed a class action Complaint against
15 Defendant in the Superior Court of the State of California, County of Placer. This class action
16 Complaint asserted class claims against Defendants for: (1) unfair competition in violation of Cal.
17 Bus & Prof. Code §§ 17200, et seq.; (2) failure to to pay minimum wages in violation of California
18 Labor Code §§ 1194, 1197, and 1197.1; (3) failure to pay overtime wages in violation of California
19 Labor Code §§ 510, 1194 & 1198; (4) failure to provide required meal periods in violation of Cal.
20 Labor Code §§ 226.7 and 512; (5) failure to provide required rest periods in violation of Cal. Labor
21 Code §§ 226.7 and 512; (6) failure to provide accurate itemized wage statements in violation of
22 California Labor Code § 226; (7) failure to reimburse employees for required expenses in violation
23 of California Labor Code § 2802; (8) failure to provide wages when due in violation of California
24 Labor Code §§ 201, 202 and 203; and (9) failure to pay sick pay wages in violation of California
25 Labor Code §§ 201-204, 233, and 246. On December 9, 2022, Plaintiff Cuthbert filed a separate
26 Representative Action Complaint against Defendants (the "PAGA Action"). Plaintiff Vincent's

27 _____
28 PAGA claim is addressed in the Decl. Nordrehaug at ¶33.

1 Representative Action Complaint asserted one cause of action against Defendants for Civil Penalties
2 Pursuant to Labor Code §§ 2699, et seq. for violations of Labor Code §§ 201, 202, 203, 204 et seq.,
3 210, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California
4 Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the Applicable Wage
5 Orders.

6 9. As part of the Settlement, the Parties stipulated to Plaintiffs filing a First Amended
7 Class and Representative Action Complaint in the Class Action that added the claims and parties
8 from the PAGA Action into the first-filed Class Action, and also added Plaintiffs Crispin, Mayer
9 and Salazar-Rose as named plaintiffs and class representatives. The First Amended Class and
10 Representative Action Complaint is the operative complaint in the Action (the “Operative
11 Complaint”).

12 10. Over the course of litigation, the Parties engaged in the investigation of the claims,
13 including informal discovery and the production of documents, class data, and other information,
14 allowing for the full and complete analysis of liabilities and defenses to the claims in the Action.
15 The information for mediation obtained by Plaintiffs included: (1) data concerning the class; (2)
16 payroll data and time punch data for the Class covering 108,123 shifts and 21,427 workweeks; (3)
17 Defendant’s wage and hour policies; (4) the employment files for the Plaintiffs; and, (5) samples of
18 wage statements provided by Defendant. As such, Class Counsel received the data and information
19 for the Class, which was sufficient for Plaintiffs’ expert to prepare the valuations of the claims for
20 the Class.

21 11. Class Counsel has extensive experience in litigating wage and hour class actions in
22 California. The Parties have vigorously litigated the Action since inception. During the course of
23 litigation, the Parties each performed analysis of the merits and value of the claims. Plaintiffs and
24 Defendant have engaged in significant research and investigation in connection with the Action.
25 Class Counsel has thoroughly analyzed the value of the claims during the prosecution of this Action
26 and utilized an expert to perform an analysis of the data and valuation of the claims.

27 12. Plaintiffs and Defendant agreed to discuss resolution of the Action through a
28

1 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of
2 documents and information in connection with the Action. On August 15, 2023, the Parties
3 participated in an all-day mediation presided over by Tripper Ortman, a respected and experienced
4 mediator of wage and hour class actions. Following the mediation, the Parties agreed to settle the
5 Action based upon a mediator's proposal which was memorialized in the form of a Memorandum of
6 Understanding. The Parties then negotiated the final terms of the settlement as set forth in the
7 Agreement. At all times, the negotiations were arm's length and contentious.

8 13. Although a settlement has been reached, Defendant denies any liability or
9 wrongdoing of any kind associated with the claims alleged in the Action and further denies that, for
10 any purpose other than settlement, the Action is appropriate for class and/or representative
11 treatment. Defendant contends, among other things, that it has complied at all times with the
12 California Labor Code, applicable Wage Order, and all other laws and regulations. Further,
13 Defendant contends that class certification is inappropriate for any reason other than for settlement.
14 Plaintiffs contend that Defendant violated California wage and hour laws. Plaintiffs further contend
15 that the Action is appropriate for class certification on the basis that the claims meet the requisites
16 for class certification. Without admitting that class certification is proper, Defendant has stipulated
17 that the above Class may be certified for settlement purposes only. (Agreement at ¶ 2.7.) The
18 Parties agree that certification for settlement purposes is not an admission that class certification is
19 proper. Further, the Agreement is not admissible in this or any other proceeding as evidence that the
20 Class could be certified absent a settlement. Solely for purposes of settling the Action, the Parties
21 stipulate and agree that the requisites for establishing class certification with respect to the Class are
22 satisfied.

23 14. Class Counsel has conducted an investigation into the facts of the class action.
24 informal discovery was obtained, which included the production of relevant documents and data.
25 Class Counsel engaged in a thorough review and analysis of the relevant documents and data with
26 the assistance of an expert. Accordingly, the agreement to settle did not occur until Class Counsel
27 possessed sufficient information to make an informed judgment regarding the likelihood of success
28 on the merits and the results that could be obtained through further litigation. In addition, Class

1 Counsel previously negotiated settlements with other employers in actions involving nearly identical
2 issues and analogous defenses. Based on the foregoing data and their own independent
3 investigation, evaluation and experience, Class Counsel believes that the settlement with Defendant
4 on the terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of
5 the Class in light of all known facts and circumstances, including the risk of significant delay,
6 defenses asserted by Defendant, and potential appellate issues.

7
8 Settlement Terms and Plan of Allocation

9 15. The Gross Settlement Amount is Six Hundred Thousand Dollars (\$600,000).
10 (Agreement at ¶ 1.24.) Under the Settlement, the Gross Settlement Amount consists of the
11 following elements: (1) payment of the Individual Class Payments to the Participating Class
12 Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3)
13 Administration Expenses Payment; (4) the Class Representative Service Payments to the Plaintiffs;
14 and (5) the PAGA Penalties payment. (Agreement at ¶ 1.22.) The Gross Settlement Amount does
15 not include Defendant's share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement
16 Amount shall be all-in with no reversion to Defendant. (Agreement at ¶ 3.1.)

17 16. Within twenty-one (21) days of the Effective Date, Defendant shall deposit the
18 Gross Settlement Amount with the Administrator. (Agreement at ¶ 4.3.) The distribution of
19 Individual Class Payments to Participating Class Members along with the other Court-approved
20 distributions shall be made by the Administrator within fourteen (14) days after Defendant funds the
21 Gross Settlement Amount. (Agreement at ¶ 5.1.)

22 17. The amount remaining in the Gross Settlement Amount after the deduction of
23 Court-approved amounts for Individual PAGA Payments, the LWDA PAGA Payment, the Class
24 Representative Service Payments, the Class Counsel Fees Payment, the Class Counsel Litigation
25 Expenses Payment, and the Administration Expenses Payment (called the "Net Settlement
26 Amount") shall be allocated to Class Members as their Individual Class Payments. (Agreement at
27 ¶¶ 1.28 and 3.2.) From the Net Settlement Amount, the Individual Class Payment for each
28 Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the

1 total number of Workweeks worked by all Participating Class Members during the Class Period and
2 (b) multiplying the result by each Participating Class Member's Workweeks. (Agreement at ¶
3 3.2(e).) Workweeks will initially be based on Defendant's records, however, Class Members will
4 have the right to challenge the number of Workweeks.

5 18. Class Members may choose to opt-out of the Settlement by following the directions
6 in the Class Notice. (Agreement at ¶ 8.5, Ex. A.) The Class Notice provides that Class Members
7 shall have sixty (60) days from the date that the Class Notice is mailed to them (the "Response
8 Deadline") to request exclusion (opt-out) or to submit a written objection. (Agreement at ¶¶ 1.46,
9 8.5, 8.7.) All Class Members who do not "opt out" will be deemed Participating Class Members
10 who will be bound by the Settlement and will be entitled to receive an Individual Class Payment.
11 (Agreement at ¶ 8.5(c).) All Aggrieved Employees, including those who submit an opt-out request,
12 will still be paid their allocation of the PAGA Penalties and will remain subject to the release of the
13 Released PAGA Claims regardless of their request for exclusion. (Agreement at ¶¶ 6.3 and 8.5(d).)
14 Finally, the Class Notice advises the Class Members of their right to object to the Settlement and/or
15 dispute their Workweeks. (Agreement at ¶¶ 8.6 and 8.7, Ex. A.)

16 19. A Participating Class Member must cash his or her Individual Class Payment check
17 within 180 days after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within
18 180 days will be voided and any funds represented by such checks sent to the California Controller's
19 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue"
20 subject to the requirements of C.C.P. § 384(b). (Agreement at ¶ 5.4.)

21 20. Subject to Court approval, the Parties have agreed on Apex Class Action to
22 administer the settlement in this action ("Administrator"). (Agreement at ¶ 1.2.) The Administrator
23 will be paid for settlement administration in an amount not to exceed \$20,000. (Agreement at ¶
24 3.2(c).) Apex Class Action provided an estimate of \$15,500 for administration expenses.

25 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded
26 a sum not to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment.
27 (Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of
28 Class Counsel Litigation Expenses Payment in an amount not to exceed \$25,000. (Agreement at ¶

3.2(b).) Subject to Court approval, the Agreement provides for a payment of no more than \$12,500 each to the Plaintiffs as the Class Representative Service Payments. (Agreement at ¶ 3.2(a).)

22. Subject to Court approval, the PAGA Penalties will be paid from the Gross Settlement Amount for PAGA penalties under the California Private Attorneys General Act, Cal. Labor Code Section 2698, *et seq.* ("PAGA"). The PAGA Penalties are \$50,000, to be allocated into PAGA Penalties 1 in the amount of \$11,000 and PAGA Penalties 2 in the amount of \$39,000. (Agreement at ¶ 3.2(d).) Pursuant to the express requirements of Labor Code § 2699(i), the PAGA Penalties 1 and PAGA Penalties 2 shall be allocated as follows: 75% shall be allocated to the Labor Workforce Development Agency ("LWDA") as its share of the civil penalties and 25% allocated to the Individual PAGA Payments to be distributed to tAggrieved Employees Group 1 and Aggrieved Employees Group 2, respectively, based on the number of their respective PAGA Pay Periods. (Agreement at ¶ 3.2(d).) As set forth in the accompanying proof of service, the LWDA has been served with this motion and the Agreement.

Risks of Continued Litigation and Standards for Approval

23. Plaintiffs and Class Counsel recognize the expense and length of continuing to litigate and trying this Action against Defendant through possible appeals which could take several years. Class Counsel has also taken into account the uncertain outcome and risk of litigation, especially in complex class actions such as this Action. Class Counsel is also mindful of and recognize the inherent problems of proof under, and alleged defenses to, the claims asserted in the Action. Based upon their evaluation, Plaintiffs and Class Counsel have determined that the Settlement set forth in the Agreement is in the best interest of the Class Members.

24. Here, a number of defenses asserted by Defendant present serious threats to the claims of the Plaintiffs and the other Class Members. Defendant asserted that Defendant's practices complied with all applicable Labor laws. Defendant argued that Class Members were paid for all time worked and that all work time was properly recorded. Defendant maintained there was no miscalculation of the regular rate when paying wages to the Plaintiffs and the Class. Defendant contend that their meal and rest period policies fully complied with California law and that

1 Defendant did not fail to provide the opportunity for legally required meal and rest breaks.
2 Defendant contends that there was no failure to pay for business expenses and any cell phone usage
3 was merely convenient and voluntary such that reimbursement was not legally required. Finally,
4 Defendant could argue that the Supreme Court decision in *Brinker v. Superior Court*, 53 Cal. 4th
5 1004 (2012), weakened Plaintiffs' claims, on liability, value, and class certifiability as to the meal
6 and rest period claims. Defendant also argues that based on its facially lawful practices, Defendant
7 acted in good faith and without willfulness, which if accepted would negate the claims for waiting
8 time penalties and/or inaccurate wage statements. See e.g. *Naranjo v. Spectrum Sec. Servs., Inc.*, 15
9 Cal. 5th 1056, 1065 (2024) ("if an employer reasonably and in good faith believed it was providing
10 a complete and accurate wage statement in compliance with the requirements of section 226, then it
11 has not knowingly and intentionally failed to comply with the wage statement law.") If successful,
12 Defendant's defenses could eliminate or substantially reduce any recovery to the Class. While
13 Plaintiffs believe that these defenses could be overcome, Defendant maintains these defenses have
14 merit and therefore present a serious risk to recovery by the Class.

15 25. There was also a significant risk that, if the Action was not settled, Plaintiffs would
16 be unable to obtain a certified class and maintain the certified class through trial, and thereby not
17 recover on behalf of any employees other than themselves. At the time of the mediation, Defendant
18 forcefully opposed the propriety of class certification, arguing that individual issues precluded class
19 certification. Further, as demonstrated by the California Supreme Court decision in *Duran v. U.S.*
20 *Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-wide
21 recovery even where the class has been certified. While other cases have approved class
22 certification in wage and hour claims, class certification in this action was hotly disputed and the
23 maintenance of a certified class through trial was by no means a foregone conclusion.

24 26. This settlement is therefore certainly entitled to preliminary approval. Were this
25 case to go to trial, the Plaintiffs and the other class members would need to prove, among other
26 things, that wages were owed on a class-wide basis. This was and is a substantial risk.

27 27. Plaintiffs will apply to the Court for Class Representative Service Payments in
28

1 consideration for their service and for the risks undertaken on behalf of the Class. (Agreement at ¶
2 3.2(a).) Plaintiffs performed their duties admirably by working with Class Counsel over the course
3 of litigation. The Declaration of the Plaintiffs will be submitted in support. At this stage, the
4 requested service award is within the accepted range of awards for purposes of preliminary
5 approval. *See e.g. Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11
6 (C.D. Cal. 2022) (finding that the requested service awards of \$15,000 each are appropriate);
7 *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at *19 (N.D. Cal. 2019)
8 (granting request for \$12,500 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist.
9 LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment was
10 \$351); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL 4473183, *7 (S.D. Cal. Oct. 06,
11 2008) (awarding \$25,000 service award to each of six plaintiffs in overtime class action); *Glass v.*
12 *UBS Fin. Servs.*, 2007 WL 221862, *16-17 (N.D. Cal. 2007) (awarding \$25,000 service award in
13 overtime class action and a pool of \$100,000 in enhancements).

14 28. The stage of the proceedings at which this Settlement was reached also militates in
15 favor of preliminary approval and ultimately, final approval of the Settlement. Class Counsel has
16 conducted a thorough investigation into the facts of the class action. Class Counsel began
17 investigating the Class Members' claims before the Action were filed, and during the course of
18 litigation, and Class Counsel and engaged in sufficient discovery to obtain necessary information.
19 Class Counsel conducted a review and analysis of the relevant documents and data. Class Counsel
20 was also experienced with these claims, as Class Counsel previously litigated and settled similar
21 claims in other actions. Accordingly, the agreement to settle did not occur until Class Counsel
22 possessed sufficient information to make an informed judgment regarding the likelihood of success
23 on the merits and the results that could be obtained through further litigation.

24 29. Based on the foregoing data and their own independent investigation and evaluation,
25 Class Counsel is of the opinion that the Settlement with Defendants for the consideration and on the
26 terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the
27 Class in light of all known facts and circumstances, including the risk of significant delay, defenses
28 asserted by Defendants, and numerous potential appellate issues. There can be no doubt that

1 Counsel for both parties possessed sufficient information to make an informed judgment regarding
2 the likelihood of success on the merits and the results that could be obtained through further
3 litigation.

4
5 Class Certification Issues

6 30. Plaintiffs contend that the proposed settlement meet all of the requirements for class
7 certification under California Code of Civil Procedure § 382 as demonstrated below, and therefore,
8 the Court may appropriately approve the Class as defined in the Agreement. This Court should
9 conditionally certify the Class for settlement purposes only, defined as follows:

10 All individuals who were employed by Defendant in California and classified as a
11 non-exempt employee at any time during the Class Period who did not sign an
12 arbitration agreement, and excluding non-exempt employees who were employed by
Defendant as loan officer assistants or processors, or who performed equivalent
duties to loan officer assistants and processors, up to February 18, 2020.

13 (Agreement at ¶ 1.5.)

14 The Class Period is from October 27, 2023 through December 1, 2023. (Agreement at ¶ 1.15).

15 a. **Numerosity** - Here, Plaintiffs assert that the 310 current and former
16 employees that comprise the Class can be identified based on Defendant's records and are
17 sufficiently numerous for class certification.

18 b. **Common Issues Predominate** - Here, Plaintiffs contend that common
19 questions of law and fact are present, specifically the common questions of whether Defendant's
20 employment practices were lawful, whether Defendant failed to provide meal and rest periods to
21 Class Members, whether Class members were lawfully compensated for all hours worked, whether
22 Defendants miscalculated the regular rate when paying Class Member overtime and/or sick pay,
23 whether Defendant failed to provide required expense reimbursement, and whether Class Members
24 are entitled to damages and penalties as a result of these practices. Plaintiffs contend that
25 certification of this Class is appropriate because Defendant allegedly engaged in uniform practices
26 with respect to the Class Members. As a result, these common questions of liability could be
27 answered on a class wide basis.

28 c. **Typicality** - In this Action, Plaintiffs contend that the typicality requirement

1 is fully satisfied. Plaintiffs, like every other member of the Class, were employed by Defendant as
2 non-exempt employees, and, like every other member of the Class, were subject to the same
3 employment practices. Plaintiffs, like every other member of the Class, also claim owed
4 compensation as a result of the Defendant's uniform company policies and practices. Thus, the
5 claims of Plaintiffs and the members of the Class arise from the same course of conduct by
6 Defendant, involve the same issues, and are based on the same legal theories.

7 d. **Adequacy** - Plaintiffs contend that the Class Members are adequately
8 represented here because Plaintiffs and representing counsel (a) do not have any conflicts of interest
9 with other class members, and (b) will prosecute the case vigorously on behalf of the class. This
10 requirement is met here. First, Plaintiffs are well aware of their duties as the representatives of the
11 Class and have actively participated in the prosecution of this case to date. Plaintiffs effectively
12 communicated with Class Counsel, provided documents and information to Class Counsel, and
13 participated in the investigation and resolution of the Action. The personal involvement of the
14 Plaintiffs was essential to the prosecution of the Action and the monetary settlement reached.
15 Second, Plaintiffs retained competent counsel who are experienced in employment class actions and
16 who have no conflicts. Third, there is no antagonism between the interests of the Plaintiffs and
17 those of the Class. Both the Plaintiffs and the Class Members seek monetary relief under the same
18 set of facts and legal theories.

19 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal
20 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can
21 competently represent the Class. Other lawyers at my firm and I have extensive class litigation
22 experience. We have handled a number of class actions and complex cases and have acted both as
23 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully
24 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits
25 involving complex issues of law and fact. My firm is particularly experienced in wage and hour
26 employment law class actions, including claims for misclassification, overtime, expense
27 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal
28 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage

1 and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be
2 adequate counsel by the courts throughout California. We have been approved as experienced class
3 counsel by both state and federal courts in California in contested class certification proceedings. A
4 true and correct copy of the resume of my firm is attached hereto as Exhibit #2. The Class in this
5 settlement is defined as “all individuals who were employed by Defendant in California and
6 classified as a non-exempt employee at any time during the Class Period who did not sign an
7 arbitration agreement, and excluding non-exempt employees who were employed by Defendant as
8 loan officer assistants or processors, or who performed equivalent duties to loan officer assistants
9 and processors, up to February 18, 2020.” I have reviewed my firm’s cases and representation of
10 other plaintiffs and there is no conflict or representation which would prevent my firm from
11 representing the interests of the Class this case. My firm only represents employees, and not
12 employers. My firm has never represented Defendant nor any affiliate of the Defendant. My firm’s
13 only interest in the subject matter of this litigation is to ensure a recovery to the Class and to
14 maximize that recovery. Finally, our allegiance to the Class and the claims of the Class is not
15 inconsistent with our allegiance to pursue the claims on behalf of other employees and classes as the
16 claims are all against different and distinct employers. I can think of no conflict that would arise in
17 our representation of the Class and our adequate representation of the Class is evidenced by the
18 successful prosecution of the class claims to reach an excellent recovery for the Class. Moreover,
19 neither the Plaintiffs nor Class Counsel have any affiliation with the proposed Administrator for this
20 settlement. Thus, the adequacy requirement for my firm is satisfied.

21 32. The Class Notice, drafted jointly and agreed upon by the Parties through their
22 respective counsel and to be approved by the Court, includes all relevant information. (See Exhibit
23 “A” to the Agreement.) In accordance with the Agreement, Defendant will provide to the
24 Administrator a confidential electronic spreadsheet containing the Class Data. (Agreement at ¶ 4.2.)
25 Within 14 days after receiving the Class Data, the Administrator will mail the Class Notice to all
26 Class Members via first-class U.S. Mail using the most current mailing address information
27 available. (Agreement at ¶ 8.4(b).) The Class Notice will include, among other information: (i)
28 information regarding the Action; (ii) the impact on the rights of the Class Members if they do not

1 opt out, including a description of the applicable release; (iii) information to the Class Members
2 regarding how to opt out and how to object to the Settlement; (iv) the estimated Individual Class
3 Payment for each of the Class Members; (iii) the amount of attorneys' fees and expenses to be
4 sought; (v) the amount of the Plaintiffs' service award request; and (vi) the anticipated expenses of
5 the Administrator. The Class Notice will state that the Class Members shall have sixty (60) days
6 from the date that the Class Notice is mailed to them (the "Response Deadline") to request
7 exclusion (opt-out) or to submit a written objection. (Agreement at ¶¶ 1.46, 8.5, 8.7.) Class
8 Members shall be given the opportunity to object to the Settlement and the request for attorneys'
9 fees and expenses, and to appear at the Final Approval Hearing. (Agreement at ¶ 8.7.) Class
10 Members who do not submit a timely and proper request to opt-out will automatically receive a
11 payment of their Individual Class Payment. This notice program was designed to meaningfully
12 reach the Class Members and it advises them of all pertinent information concerning the Settlement.

13
14 33. The PAGA Claim -

15 a. **Approval of PAGA Settlements.** The decision in *O'Connor v. Uber*, 201
16 F.Supp.3d 1110, 1133 (N.D. Cal. 2016), and the LWDA's Response therein is illustrative. The
17 LWDA first states that "when viewing the monetary relief allocated to PAGA claims under a
18 settlement, the LWDA recognizes that the PAGA sum need not necessarily be viewed through the
19 same lens as the relief obtained by absent class members on other claims (i.e., the percentage of
20 recovery-to-exposure on the PAGA claims need not necessarily equal the percentage of recovery on
21 the other claims)." (LWDA Response at p.3). The LWDA also indicated that the payment of
22 money to the aggrieved employees furthers the purposes of PAGA and that the Court considers that
23 primary consideration. "The LWDA recognizes that this Court does not review the PAGA
24 allocation in isolation, but rather reviews the settlement as a whole, to determine whether it is
25 fundamentally fair, reasonable and adequate, with primary consideration for the interests of absent
26 class members." (LWDA Response at p.4).

27 b. **Valuation of the PAGA Claim.** For mediation, Plaintiff calculated the
28

1 value of the alleged PAGA claim as to Aggrieved Employees for civil penalties to be between
2 \$1,500,000 and \$3,000,000 for a single violation in every one of the 30,000 pay periods at issue in
3 the PAGA Period, depending on whether the violation was \$50 per pay period as in the case of
4 Labor Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor Code
5 § 1198. This valuation assumed that PAGA civil penalties would be awarded at the maximum rate
6 per pay period but without stacking.³ The PAGA allocation in the Settlement is the amount of
7 \$50,000. This allocation is justified by several important considerations. First, the PAGA claim
8 was subject to the same risks as the underlying class claims. Second, Defendant asserted additional
9 defenses to the PAGA claim, not only as to liability but also as to the amount of the penalties.
10 Defendant argued that significant PAGA penalties would be unlikely and would be reduced under
11 such particular “circumstances” under Cal. Labor Code §2699(e)(2) and/or “would result in an
12 award that is unjust, arbitrary and oppressive, or confiscatory” under Cal. Labor Code §2699(e)(2).
13 Defendant could also argue that no penalties prior to the PAGA notification should be awarded, and
14 I am aware of one trial court which has so ruled. These additional defenses present a risk to the
15 PAGA claim and the potential that some or all of the PAGA penalties sought may not be awarded.
16 Third, in *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the court affirmed a judgment
17 which only provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA
18 penalties awarded could be significantly less than Plaintiffs’ calculation even where Plaintiff
19 prevailed on the PAGA claim. Even if we assume that violations for all 30,000 pay periods were
20 established, using the valuation from *Carrington* results in a potential recovery of only \$150,000
21 under PAGA. This means that the PAGA allocation in the Agreement is a reasonable percentage of
22 this potential PAGA recovery. Fourth, the interests of PAGA are also served by the Class recovery
23 under the reasoning of the LWDA in *O'Connor v. Uber*.

24 c. **Comparable PAGA Settlements.** In reaching the settlement of the PAGA

25
26 ³ Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.
27 The valuation of between \$1,500,000 and \$3,000,000 is the civil penalty amount without stacking.
28 If stacking is permitted, then the valuation increases with each additional penalty added to each pay
period. Plaintiffs, however, are not aware of any PAGA award which permitted stacking and in the
cases cited herein, only one penalty per pay period was assessed.

1 claim, Class Counsel was also aware of what allocations other Courts have approved for similar
2 PAGA settlements as compared to the total settlement amount. A class settlement that allocates
3 approximately 8% of the total settlement value to resolve the PAGA claims applicable to the class is
4 also supported by what has been approved in other wage-and-hour class settlements. Indeed, Courts
5 typically approve PAGA settlement amounts in the range of between 0.27 to 2 percent of the total
6 settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015) (PAGA
7 Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated Logistics, Inc.*,
8 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for PAGA on a \$1.5
9 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637 (N.D. Cal. 2015)
10 (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs, Inc.*, 2014 U.S. Dist
11 Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA for PAGA out of
12 \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, *1 (N.D.
13 Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9 million common-fund
14 settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, *13 (E.D. Cal. 2012)
15 (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million common-fund settlement);
16 *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *9 (N.D. Cal. 2009) (approving PAGA allocation
17 that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon Trucking, Inc.*,
18 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement of \$3,700,000,
19 with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*, CV 10-02420
20 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount of \$8.25
21 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay*, 8:10-cv-00112-DOC
22 (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000 allocated to PAGA);
23 *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as PAGA penalties
24 or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive Educational Services Inc.*,
25 Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000 allotted as PAGA penalties or
26 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell Banker Residential Brokerage*
27 *Company*, Los Angeles Superior Court Case No. BC495767 (2016) (\$10,000 allotted as PAGA
28 penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los Robles Medical Center*, No.

1 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.40% of \$3,775,000
2 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441 (E.D. Cal. 2017)
3 (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount); *Nehrlich v. RPM*
4 *Mortgage Inc.*, Orange County Superior Court Case No. 30-2013-00666783-CU-OE-CXC (2017)
5 (\$10,000 allotted as PAGA penalties or 0.40% of \$2,500,000 settlement amount); *Rubio v. KTI*
6 *Incorporated*, San Bernardino Superior Court Case No. CIVDS-14-06132 (2015) (\$1,000 allotted as
7 PAGA penalties or 0.18% of \$550,000 settlement amount); *Gray v. Mountain View Child Care Inc.*,
8 San Bernardino Superior Court Case No. CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA
9 penalties or 0.37% of \$675,000 settlement amount); *Perez v. West Coast Liquidators Inc. d/b/a Big*
10 *Lots*, San Bernardino Superior Court Case No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA
11 penalties or 0.33% of \$900,000 settlement amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles
12 Superior Court No. BC471369 (2013) (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000
13 settlement amount); *Mejia v. DHL Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000
14 allotted as PAGA penalties or 0.34% of \$1,450,000 settlement amount).

15
16 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the
17 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and
18 reasonable, and at the time of final approval, my firm will present lodestar to further support the
19 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees
20 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some
21 of the class action awards obtained by Class Counsel in similar employment actions throughout the
22 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total
23 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles
24 Superior Court, Case No. JCCP 4919) Judge Carolyn Kuhl awarded Class Counsel a one-third fee
25 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*
26 *Cases* (San Mateo Superior Court, Case No. JCCP 4945) Judge Marie Weiner awarded Class
27 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*
28 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307) Judge Edward Weil

1 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December
2 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.
3 BC672235) Judge William Highberger awarded Class Counsel a one-third fee award in a wage and
4 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange
5 County Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-
6 third award in a wage and hour class settlement. On December 3, 2020, in *Blackshear v. California*
7 *Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-00245842) Judge Christopher
8 Krueger awarded BNBD a one-third fee award in a wage and hour class settlement. On June 2,
9 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case No. BC709666), Judge Amy
10 D. Hogue awarded Class Counsel a one-third fee award in a wage and hour class settlement. On
11 November 8, 2021, in *Securitas Wage and Hour Cases* (Los Angeles Superior Court Case No.
12 JCCP4837) Judge David Cunningham awarded a one-third fee award in a wage and hour class
13 settlement. On March 17, 2022, in *See's Candies Wage and Hour Cases* (Los Angeles Superior
14 Court Case No. JCCP5004) Judge Maren Nelson awarded a one-third fee award in a wage and hour
15 class action settlement. On April 12, 2022, in *O'Donnell v. Okta, Inc.*, (San Francisco Superior
16 Court Case No. CGC-20-587665) Judge Richard Ulmer awarded a one-third fee award in a wage
17 and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v. Prometric LLC* (Los
18 Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson awarded a one-third fee
19 award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D Carwash Management*
20 *LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge Christopher E. Krueger
21 awarded a one-third fee award in a wage and hour class action settlement. On August 10, 2022, in
22 *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court Case No. 34-2017-
23 00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee award in a wage
24 and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v. Kone, Inc.*, (San
25 Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr. awarded a one-
26 third fee award in a wage and hour class action settlement. On November 4, 2022, in *Infinity Energy*
27 *Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge Keri Katz awarded
28 a one-third fee award in a wage and hour class action settlement. On February 1, 2023, in *Hogan v.*

1 *AECOM Technical Services, Inc.* (Los Angeles Superior Court Case No. 19STCV40072), Judge
2 Stuart Rice awarded a one-third fee award in a wage and hour class settlement. On February 28,
3 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior Court Case No. CGC-21-
4 591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class action
5 settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings County Superior Court Case
6 No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee award in a wage and hour class
7 settlement. On June 20, 2023, in *Gonzalez v. Pacific Western Bank* (San Bernardino County
8 Superior Court Case No. CIVSB2127657) Judge David Cohn awarded a one-third fee award in a
9 wage and hour class settlement, On June 30, 2023, in *Aguirre v. Headlands Ventures* (Sacramento
10 County Superior Court Case No. 34-2021-00297290), Judge Jill Talley approved a one-third fee
11 award in a wage and hour class settlement. On August 5, 2023, in *Correia v. Gallo Glass Company*
12 (Stanislaus County Superior Court Case No. CV-21-006459) Judge Sonny Sandhu approved a one-
13 third fee award in a wage and hour class settlement. On September 15, 2023, in *Moran v. Sharp*
14 *Healtcare* (San Diego County Superior Court Case No. 37-2019-00050203), Judge Richard Whitney
15 awarded a one-third fee award in a wage and hour class settlement. On October 10, 2023, in *Arango*
16 *v. Schlumberger Technology*, (Orange County Case No. 30-2019-01056839-CU- OE-CXC), Judge
17 William Claster approved a one-third fee award in a wage and hour class action. On October 16,
18 2023, in *Flores v. Walmart*, (San Bernardino County Superior Court Case No. CIVDS2023061)
19 Judge Joseph T. Ortiz awarded a one-third fee award in a wage and hour class settlement. On
20 October 20, 2023, in *Pond v. Glen Ivy Hot Springs* (Riverside County Superior Court Case No.
21 CVRI2104986), Judge Harold W. Hopp awarded a one-third fee award in a wage and hour class
22 settlement. On November 17, 2023, in *Silva v. Woodward HRT* (Los Angeles County Superior
23 Court Case No. 21STCV42692), Judge Maren Nelson awarded a one-third fee award in a wage and
24 hour class settlement. On November 20, 2023, in *Steele v. Legoland California* (San Diego County
25 Superior Court Case No. 37-2021-00052868), Judge Carolyn M. Caietti awarded a one-third fee
26 award in a wage and hour class settlement. On November 29, 2023, in *Ochoa-Andrade v. See's*
27 *Candies* (San Mateo County Superior Court Case no. 22-CIV-02481), Judge Marie Weiner
28 approved a one-third fee award in a wage and hour class settlement. A fee award equal to one-third

1 of the common fund is therefore reasonable in light of the fees that have been awarded in other
2 similar cases.

3
4 35. Class Representative Service Payments - The reasonableness of the requested service
5 award is also established by reference to the amounts that other California courts have found to be
6 reasonable in wage and hour class action settlements: *Zamora v. Balboa Life & Casualty, LLC*,
7 Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding \$25,000 service
8 award); *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx)(C.D. Cal. Mar. 17,
9 2011)(awarding \$14,767 service award); *Magee v. American Residential Services, LLC*, Case No.
10 BC423798, Los Angeles County Superior Court (Apr. 21, 2011)(awarding \$15,000 service award);
11 *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County
12 Superior Court (June 24, 2010)(awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*,
13 Case No. BC438654, L.A. County Superior Court (Dec. 12, 2012)(awarding \$10,000 service awards
14 to three named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No. BC417335,
15 Los Angeles County Superior Court (Mar. 21, 2011)(awarding \$10,000 service award); *Buckmire v.*
16 *Jo-Ann Stores, Inc.*, Case No. BC394795, Los Angeles County Superior Court (June, 11,
17 2010)(awarding \$10,000 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No.
18 BC429042, Los Angeles County Superior Court (Oct. 3, 2013)(awarding \$10,000 service award);
19 *Ethridge v. Universal Health Services, Inc.*, Case No. BC391958, Los Angeles County Superior
20 Court (May 27, 2011)(awarding \$10,000 service award); *Hickson v. South Coast Auto Ins.*
21 *Marketing, Inc.*, Case No. BC390395, Los Angeles County Superior Court (Mar. 27,
22 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*, Case No. BC422934, Los
23 Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service award); *Kambamba v.*
24 *Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County Superior Court, (Aug. 19,
25 2011)(awarding \$10,000 service award together with additional compensation for their general
26 release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los Angeles County Superior Court
27 (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose Hills Mortuary, L.P.*, Case No.
28 BC386500, Los Angeles County Superior Court, (Mar. 19, 2010)(awarding \$10,000 service award);

1 *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior
2 Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*,
3 Case No. BC408054, Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000
4 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case No. BC422202, Los
5 Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser*
6 *Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court (Dec. 28,
7 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335, Santa
8 Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v.*
9 *Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22,
10 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS
11 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award);
12 *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding
13 \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside
14 County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security*
15 *Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000 service
16 award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange County
17 Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security*
18 *Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23,
19 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior
20 Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The*
21 *Industrial Company*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug. 1,
22 2018) (awarding \$10,000 service award).

23
24 36. Potentially Related Other Actions - I am not aware of any other pending matter or
25 action asserting claims that will be extinguished or affected by the Settlement. (Agreement at ¶
26 2.13.) The Declaration of Douglas Leach is attached hereto as Exhibit #4 which confirms that
27 Defendant is also unaware of any other matter which would be extinguished or adversely affected by
28 the Settlement, along with other issues required by paragraph 7.1 of the Agreement

1
2 37. Administration - After seeking bids from qualified administrators, the estimate from
3 Apex Class Action is was selected, as it provided for an estimate of \$15,500 to perform the
4 settlement administration for up to 1,308 individuals, with any difference between the actual
5 expenses and the budget of \$20,000 to be retained in the Net Settlement Amount for distribution to
6 the Class. I have used Apex Class Action successfully as the administrator in more than twenty
7 class settlements in the last couple years and know them to be competent and experienced. My firm
8 has no relationship or connection with Apex Class Action, and thus no conflict of interest exists.
9 Submitted herewith is the Declaration of Sean Hartranft of Apex which includes the estimate for
10 administration from Apex Class Action for this matter.
11

12 Service on the LWDA:

13 38. At the same time as the filing and service of this declaration, I am also serving the
14 LWDA with the entire motion for preliminary approval which includes the Class Action and PAGA
15 Settlement Agreement. This service is verified by the accompanying proof of service.
16

17 I declare under penalty of perjury under the laws of the State of California that the foregoing
18 is true and correct. Executed this 26th day of June, 2024, at La Jolla, California.
19

20 By: /s/ Kyle Nordrehaug
21 Kyle R. Nordrehaug, Esq.
22 Attorney for Plaintiffs
23
24
25
26
27
28

EXHIBIT #1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Monica Cuthbert, Bela Crispin, Sherri Mayer, and Corrine Salazar-Rose (“Plaintiffs”) and defendant American Pacific Mortgage Corporation (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as the “Parties,” or individually as “Party.”

1. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- 1.1. “Action” collectively means the Plaintiffs’ lawsuits alleging wage and hour violations against Defendant captioned: (1) *Monica Cuthbert vs. American Pacific Mortgage Corporation*, Case No. S-CV-0049369, filed on October 27, 2022 and pending in Superior Court of the State of California, County of Placer, with the First Amended Class Action and Representative Action Complaint, filed on October 30, 2023; and (2) *Monica Cuthbert vs. American Pacific Mortgage Corporation*, Case No. S-CV-0049559, filed on December 9, 2022 and pending in Superior Court of the State of California, County of Placer.
- 1.2. “Administrator” means Apex Class Action Administration, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval.
- 1.4. “Aggrieved Employees” collectively means the “Aggrieved Employees Group 1” and the “Aggrieved Employees Group 2.”
- 1.5. “Aggrieved Employees Group 1” means all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period who did not sign an arbitration agreement.
- 1.6. “Aggrieved Employees Group 2” means all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period who signed an arbitration agreement.
- 1.7. “Class” means all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the Class Period who did not sign an arbitration agreement, and excluding non-exempt employees who were employed by Defendant as loan officer assistants or processors, or who performed equivalent duties to loan officer assistants and processors, up to February 18, 2020.

- 1.8. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche, and Trevor G. Moran of Blumenthal Nordrehaug Bhowmik De Blouw LLP.
- 1.9. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.
- 1.10. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s first and last name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of Workweeks and PAGA Pay Periods.
- 1.11. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.12. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook.
- 1.13. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.14. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).
- 1.15. “Class Period” means the period of time from October 27, 2018 through the earlier of preliminary approval or December 1, 2023.
- 1.16. “Class Representative” means the named Plaintiffs in the Action or Operative Complaints in the Action seeking Court approval to serve as a Class Representative.
- 1.17. “Class Representative Service Payment” means the service payment made to the Plaintiffs as Class Representative in order to compensate for initiating the Action,

performing work in support of the Action, undertaking the risk of liability for Defendant's expenses, and for the general release of all claims by the Plaintiffs.

1.18. "Court" means the Superior Court of California, County of Placer.

1.19. "Defendant" means American Pacific Mortgage Corporation.

1.20. "Defense Counsel" means Alexander M. Medina and Douglas R. Leach of Medina McKelvey LLP.

1.21. "Effective Date" means the date by when both of the following have occurred the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.22. "Final Approval" means the Court's order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.

1.23. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.

1.24. "Gross Settlement Amount" means Six Hundred Thousand Dollars (\$600,000.00) which is the total amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer-side payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.

1.25. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

- 1.26. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.27. “Judgment” means the judgment entered by the Court based upon Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.28. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.29. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.30. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.31. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.32. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least on day during the PAGA Period and recorded time worked in Defendant’s timekeeping system of record.
- 1.33. “PAGA Period” means the period of time from December 9, 2021 through the earlier of preliminary approval or December 1, 2023.
- 1.34. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.35. “PAGA Notice” means Plaintiff Cuthbert’s July 14, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.36. “PAGA Penalties” collectively means “PAGA Penalties 1” and “PAGA Penalties 2.”
- 1.37. “PAGA Penalties 1” the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees Group 1 (\$2,750) and the 75% to LWDA (\$8,250) in settlement of PAGA claims.

- 1.38. "PAGA Penalties 2" the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees Group 2 (\$9,750) and the 75% to LWDA (\$29,250) in settlement of PAGA claims.
- 1.39. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.40. "Plaintiffs" collectively mean Monica Cuthbert, Bela Crispin, Sherri Mayer, and Corrine Salazar-Rose., the named plaintiffs in the Action.
- 1.41. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
- 1.42. "Released Class Claims" means all claims that were alleged, or reasonably could have been alleged, based facts stated in the Action or Operative Complaints which occurred during the Class Period. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or Class claims based on facts occurring outside the Class Period.
- 1.43. "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Action or Operative Complaint and the PAGA Notice, which occurred during the PAGA Period. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation,, and PAGA claims outside of the PAGA Period.
- 1.44. "Released Parties" means: Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.
- 1.45. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.46. "Response Deadline" means sixty (60) calendar days after the Administrator mails Class Notice Packet to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her Objection to the Settlement. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.47. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.

1.48. “Workweek” means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day and was paid for time worked as recorded in Defendant’s timekeeping system of record. Time paid, but not worked, such as for vacation or sick leave, shall not be included in calculating unique workweeks.

2. RECITALS

The Class Action

2.1. On October 27, 2022, Plaintiff Cuthbert commenced this Action by filing a Complaint against Defendant in the Superior Court of the State of California, County of Placer (the “Class Action”). Plaintiff Cuthbert’s Complaint asserted claims that Defendant:

- (a) Violated California Business and Professions Code §§ 17200 *et seq.*;
- (b) Failed to pay minimum wages in violation of Labor Code §§ 1194, 1197 & 1197.1;
- (c) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*;
- (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (f) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
- (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802;
- (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203; and,
- (i) Failed to pay sick pay wages in violation of California Labor Code §§ 201-204, 233, 346.

The PAGA Action

2.2. On December 9, 2022, Plaintiff Cuthbert filed a separate Representative Action Complaint against Defendant in the Superior Court of the State of California, County of Placer (the “PAGA Action”), alleging one cause of action for Civil Penalties Pursuant to Labor Code § 2699, *et seq.* for violations of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the Applicable Wage Orders.

Pleading Amendment

- 2.3. As part of this Settlement Agreement, the parties agree to stipulate to the filing of a First Amended Class Action and Representative Action Complaint that adds the claims and parties from the PAGA Action into the first-filed Class Action, and also adds Plaintiffs Crispin, Mayer and Salazar-Rose as named plaintiffs and class representatives. The First Amended Class Action and Representative Action Complaint, which was filed on October 30, 2023, shall be the operative complaint in the Action (the “Operative Complaint”)
- 2.4. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

Mediation and Settlement

- 2.5. On August 15, 2023, the Parties participated in an all-day mediation presided over by Tripper Ortman, Esq., a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based upon a mediator’s proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.
- 2.6. Prior to mediation, Plaintiffs obtained sufficient documents and information to sufficiently investigate the claims such that Plaintiffs’ investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.7. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiffs or the Class have merit or that Defendant bears any liability to Plaintiffs or the Class on those claims or any other claims, or as an admission by Plaintiffs that Defendant’s defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.
- 2.8. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$600,000.00 and no more as the Gross Settlement Amount. This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant. As further discussed below, the Gross Settlement Amount does not compensate Plaintiff Cuthbert for any of her individual discrimination claims, which are not released in connection with this settlement.
- 3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval.
- (a) To Plaintiffs: Class Representative Service Payments to the Class Representatives of not more than \$12,500 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member) each. Defendant will not oppose Plaintiffs' request for Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payment.
- (b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$200,000, and a Class Counsel Litigation Expenses Payment of not more than \$25,000. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other

Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.

- (c) To the Administrator: An Administration Expenses Payment not to exceed \$20,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$20,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$50,000 to be paid from the Gross Settlement Amount, to be allocated into PAGA Penalties 1 in the amount of \$11,000 and PAGA Penalties 2 in the amount of \$39,000, with 75% (\$37,500) allocated to the LWDA PAGA Payment and 25% (\$12,500) allocated to the Individual PAGA Payments.
 - i. PAGA Penalties 1: 75% of PAGA Penalties 1 will be allocated to the LWDA PAGA Payment and 25% will be allocated to the Individual PAGA Payments to Aggrieved Employees Group 1. The Administrator will calculate each Individual PAGA Payment for the Aggrieved Employees Group 1 by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties 1 (\$2,750) by the total number of PAGA Pay Periods worked by all Aggrieved Employees Group 1 during the PAGA Period and (b) multiplying the result by each Aggrieved Employee Group 1's PAGA Pay Periods.
 - ii. PAGA Penalties 2: 75% of PAGA Penalties 2 will be allocated to the LWDA PAGA Payment and 25% will be allocated to the Individual PAGA Payments to Aggrieved Employees Group 2. The Administrator will calculate each Individual PAGA Payment for the Aggrieved Employees Group 2 by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties 2 (\$9,750) by the total number of PAGA Pay Periods worked by all Aggrieved Employees Group 2 during the PAGA Period and (b) multiplying the result by each Aggrieved Employee Group 2's PAGA Pay Periods.
 - iii. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

- iv. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: An Individual Class Payment calculated by
 - (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
 - i. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
 - ii. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

4. SETTLEMENT FUNDING

- 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on its records, Defendant has represented that the Class consists of an estimated 310 Class Members who collectively worked a total of an estimated 25,000 Workweeks during the Class Period through the date of mediation, and 1,017 Aggrieved Employees who worked a total of 30,000 PAGA Pay Periods, an estimated 6,000 Pay Periods of which were worked by Aggrieved Employee Group 1 through the date of mediation.
- 4.2. Class Data. Not later than 21 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably

feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

- 4.3. Funding of the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 21 days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 5.1. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.
- 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the "void date", which is 180 days after the date of mailing, when the check will be voided. Before checks are mailed, the Administrator shall update address information through the National Change of Address database. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the National Change of Address Database. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 120 days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing him or her that unless the check is cashed by the void date, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.
- 5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The

Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

5.4. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

6. RELEASE OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer-side payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Participating Class Members, Aggrieved Employees and the LWDA will release claims against all Released Parties as follows:

6.1. Plaintiffs Crispin, Mayer, and Salazar-Rose's Release. Plaintiffs Crispin, Mayer, and Salazar-Rose, and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Action or Operative Complaint, though Plaintiff Cuthbert expressly does not release her individual discrimination claims as explained further below in paragraph 6.1(b), and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Action or Operative Complaint, Plaintiffs' PAGA Notice ("Plaintiffs Crispin, Mayer, and Salazar-Rose's Release"). Plaintiffs Crispin, Mayer, and Salazar-Rose's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs Crispin, Mayer, and Salazar-Rose acknowledge that Plaintiffs Crispin, Mayer, and Salazar-Rose may discover facts or law different from, or in addition to, the facts or law that Plaintiffs Crispin, Mayer, and Salazar-Rose now know or believe to be true but agrees, nonetheless, that Plaintiffs Crispin, Mayer, and Salazar-Rose's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs Crispin, Mayer, and Salazar-Rose's discovery of them.

(a) Plaintiffs Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiffs' Release, with the exception of Plaintiff Cuthbert's individual

discrimination claims as explained further below in paragraph 6.1(b). Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

(b) Plaintiff Cuthbert's Unreleased Individual Claims. Plaintiff Cuthbert does not provide any release of any individual claims that Plaintiff Cuthbert could allege, other than the same Released Class Claims and Released PAGA Claims released by all Class Members as described in this paragraph, based on her former employment relationship with Defendant. Specifically, Plaintiff Cuthbert does not provide a release of any claims related to her complaint of discrimination filed with the Civil Rights Department (CRD) pursuant to the California Fair Employment and Housing Act, Government Code §§ 12900, *et seq*, CRD Matter Number: 202308-21700921.

6.2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.

6.3. Release of PAGA Claims. All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.

7. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's procedures and instructions.

7.1. Defendant's Responsibilities. Within 21 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In the Declaration, Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. In this Declaration, Defendant shall also aver as to the number of Class Members and the number of Workweeks for the Class during the Class Period.

7.2. Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of

the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator. In their Declarations, Plaintiffs and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement

7.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

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

8. SETTLEMENT ADMINISTRATION

8.1. Selection of Administrator. The Parties have jointly selected Apex Class Action Administration to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action Administration agrees to be bound by this Agreement

and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

8.4. Notice to Class Members.

- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

- (c) Not later than 7 days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- (d) The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- (b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand

additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

- (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of the Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.6. Challenges to Calculation of Workweeks. Each Class Member shall have until the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination as to the challenges.

8.7. Objections to Settlement.

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

- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
 - (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted, and the objection will be void.
- 8.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.
- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
 - (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 7 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
 - (c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

(d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

(e) Administrator’s Declaration. Not later than 7 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

(f) Final Report by Administrator. Within 10 days after the Administrator disburses all funds of the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE. Based on its records, Defendant provided figures as to the Class size as set forth in paragraph 4.1 above. In regard hereto, Defendant is providing a declaration as set forth in paragraph 7.1 above. Should the qualifying workweeks worked by the Class Members during the Class Period or the pay periods worked during the PAGA Period ultimately increase by more than 10% (i.e., if the workweeks exceed 27,750 or PAGA pay periods exceed 33,000) of the amounts set forth in paragraph 4.1, Defendant, at its option, can either choose to: (1) cut off the end date for the Class Period or PAGA Period as of the date on which the number of workweeks reaches 27,750 or 33,000 PAGA pay periods, or (2) increase the Gross Settlement Amount

on a proportional basis equal to the percentage increase in number of workweeks worked by the Class Members above the 10% or increase the Gross Settlement amount on a proportional basis equal to the percentage increase in the number of pay periods worked by the Aggrieved Employees above the 10% (i.e., if there was 11% increase in the number workweeks during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%).

10. DEFENDANT’S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Administration Expenses incurred as of the date Defendant makes this election to withdraw. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.

11. MOTION FOR FINAL APPROVAL. Unless otherwise ordered by the Court, not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

11.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement under C.C.P. section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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

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

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

13. ADDITIONAL PROVISIONS

13.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment

is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 13.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this

Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

- 13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 13.7. Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8. Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement

negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendant.

- 13.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 13.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs and the Class:

Norman B. Blumenthal
Kyle R. Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: norm@bamlawca.com
kyle@bamlawca.com

To Defendant:

Alexander M. Medina
Douglas R. Leach
Medina McKelvey LLP
925 Highland Pointe Drive
Roseville, California 95678
Tel.: (916) 960-2211
Fax: (916) 742-5488
E-Mail: alex@medinamckelvey.com
doug@medinamckelvey.com

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

13.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for a period of not less than one (1) year starting from the date of the signing of the Memorandum of Understanding by all parties until the entry of the final approval order and judgment or if not entered the date until the earlier of the Effective Date or the date this Agreement shall no longer be of any force or effect.

13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: Nov 28, 2023


Monica Cuthbert (Nov 28, 2023 18:28 PST)

Plaintiff Monica Cuthbert

Dated: Nov 28, 2023


Bela Crispin (Nov 28, 2023 16:38 PST)

Plaintiff Bela Crispin

Dated: Nov 28, 2023


SHERRI L MAYER (Nov 28, 2023 17:13 PST)

Plaintiff Sherri Mayer

Dated: Nov 28, 2023


Corrine Salazar-Rose (Nov 28, 2023 16:29 PST)

Plaintiff Corrine Salazar-Rose

Dated: _____

[name]
For Defendant American Pacific Mortgage

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

13.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for a period of not less than one (1) year starting from the date of the signing of the Memorandum of Understanding by all parties until the entry of the final approval order and judgment or if not entered the date until the earlier of the Effective Date or the date this Agreement shall no longer be of any force or effect.

13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

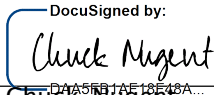
The Parties and their counsel hereby execute this Agreement.

Dated: _____
Plaintiff Monica Cuthbert

Dated: _____
Plaintiff Bela Crispin

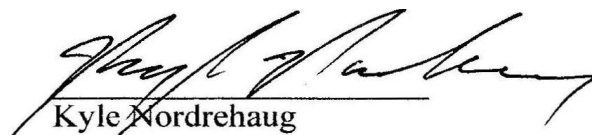
Dated: _____
Plaintiff Sherri Mayer

Dated: _____
Plaintiff Corrine Salazar-Rose

Dated: 12/12/2023


 Chuck Nugent [name]
 For Defendant American Pacific Mortgage

Dated: 12/19/23



Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

Dated: 12/12/2023



Alexander M. Medina

Douglas R. Leach
Medina McKelvey LLP
Attorney for Defendant

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]

EXHIBIT “A”

**NOTICE OF PROPOSED SETTLEMENT OF CLASS AND REPRESENTATIVE
ACTION
AND HEARING DATE FOR FINAL COURT APPROVAL**

Cuthbert vs. American Pacific Mortgage Corporation,
Superior Court of the State of California, County of Placer, Case No. S-CV-0049369, which
incorporated Case No. S-CV-0049559

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

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT
ACT. PLEASE READ THIS NOTICE CAREFULLY.**

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Defendant American Pacific Mortgage Corporation (“Defendant”) for alleged wage and hour violations. The Action was filed by Plaintiffs Monica Cuthbert, Bela Crispin, Sherri Mayer, and Corrine Salazar-Rose (“Plaintiffs”) and seeks payment of (1) wages and other relief for the Class of all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the Class Period (October 27, 2018 through December 1, 2023) who did not sign an arbitration agreement, and excluding non-exempt employees who were employed by Defendant as loan officer assistants or processors, or who performed equivalent duties to loan officer assistants and processors, up to February 18, 2020 (“Class Members”), and (2) civil penalties under the California Private Attorney General Act (“PAGA”) for all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period which is December 9, 2021 through December 1, 2023 (“Aggrieved Employees”). Aggrieved Employees who did not sign an arbitration agreement are in “Aggrieved Employees Group 1” and Aggrieved Employees who signed an arbitration agreement are in “Aggrieved Employees Group 2”.

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

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be <<\$_____>> (less withholding) and your share of the PAGA Penalties is estimated to be <<\$_____>>.** The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your share of the PAGA Penalties, then according to Defendant’s records you are not eligible for share of the PAGA Penalties under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Defendant’s records showing that **you worked <<_____>> workweeks** during the Class Period and **you worked <<_____>> pay**

periods during the PAGA Period. If you believe that you worked more workweeks and/or pay periods during either period, you can submit a challenge by the deadline date. See Section 5 of this Class Notice below.

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

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

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and a share of the PAGA Penalties if eligible. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims against Defendant as described below in Section 4 below.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment, however you will preserve your right to personally pursue Class Period wage claims against Defendant. If you are an Aggrieved Employee, you remain eligible for a share of the PAGA Penalties. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and a share of the PAGA Penalties (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Class Claims). Additional information is set forth below.
You Can Opt-out of the Class Settlement but not the PAGA Settlement	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. If you request exclusion, you will receive no money from the Class Settlement and you will not be bound by the Class Settlement. Once excluded, you will be a

The Response Deadline is _____.	Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 7 of this Class Notice. However, you cannot opt-out of the PAGA portion of the proposed Settlement. If you are an Aggrieved Employee and exclude yourself, you will still be paid your share of the PAGA Penalties and will remain subject to the release of the Released PAGA Claims regardless of whether you submit a request for exclusion.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by the Response Deadline (_____)	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 8 of this Class Notice.
You Can Participate in the Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the Placer County Superior Court, located at 10820 Justice Center Drive, Roseville, CA 95678, in Department _____ before Judge _____. This hearing may change as explained below in Section 9. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 9 of this Class Notice.
You Can Challenge the Calculation of Your Workweeks / Pay Periods Written Challenges Must be Submitted by the Response Deadline (_____)	The amount of your Individual Class Payment and your share of the PAGA Penalties (if any) depend on how many workweeks you worked at least one day during the Class Period and how many pay periods you worked at least one day during the PAGA Period, respectively. The number of Class Period workweeks and number of PAGA Period pay periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 5 of this Class Notice.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of the above-captioned action pending in the Superior Court of the State of California, in and for the County of Placer (the “Court”), has been reached between Plaintiffs and Defendant and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement.

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the Class Period who did not sign an arbitration agreement, and excluding non-exempt employees who were employed by Defendant as loan officer assistants or processors, or who performed equivalent duties to loan officer assistants and processors, up to February 18, 2020.

The “Class Period” is October 27, 2018 through December 1, 2023.

2. What is this class action lawsuit about?

On October 27, 2022, Plaintiff Cuthbert filed a class action complaint against Defendant in the Superior Court of the State of California, County of Placer. Plaintiff Cuthbert asserted the following class claims against Defendants: unfair competition (Business and Professions Code §§ 172000 *et seq.*), failure to pay minimum wages (Labor Code §§ 1194, 1197, & 1197.1), failure to pay overtime wages (Labor Code §§ 510, *et seq.*), failure to provide required meal periods (Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order), failure to provide required rest periods (Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order), failure to provide accurate itemized wage statements (Labor Code § 226), failure to reimburse employees for required expenses (Labor Code § 2802), failure to provide wages when due (Labor Code §§ 201, 202, & 203), and failure to pay sick wages (Labor Code §§ 201-204, 233, & 346).

On December 9, 2022, Plaintiff Cuthbert filed a separate representative action complaint against Defendant in the Superior Court of the State of California, County of Placer, asserting a single cause of action for violation of the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*) (“PAGA”) alleging violations of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the Applicable Wage Orders.

As part of this Settlement Agreement, the Parties agree to stipulate to the filing of a First Amended Class Action and Representative Action Complaint in the Action which added the claims and parties from the PAGA Action and also added Plaintiffs Crispin, Mayer and Salazar-Rose as named plaintiffs and class representatives. The First Amended Class Action and Representative Action Complaint, which was filed on October 30, 2023 is the operative complaint in Case No. S-CV-0049369 and is referred to as the “Operative Complaint”.

Defendant denies that it has done anything wrong and disputes all the claims in the Action. Specifically, Defendant contends that Plaintiffs and the Class Members were, at all times, properly compensated for wages under California law; that Plaintiffs and the Class Members

were provided with meal and rest periods in compliance with California law; that Defendant did not fail to pay to Plaintiffs or any Class Members any wages allegedly due at the time of their termination; the Defendant did not fail to reimburse Class Members for required expenses; that Defendant complied with California wage statement requirements; that Defendant did not violate California Business and Professions Code section 17200 *et seq.*; that Defendant is not liable for any of the penalties sought or that could be sought in the Action; and that this Action cannot be maintained as a class or representative action.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiffs to serve as the Class Representatives, and the law firm Blumenthal Nordrehaug Bhowmik De Blouw LLP to serve as Class Counsel.

The Court has not ruled on the merits of Plaintiffs' claims. However, to avoid additional expense, inconvenience, and interference with the business operations of Defendant, the Parties concluded that it is in their best interests and the interests of the Class to settle the Action now on the terms summarized in this Class Notice. The Settlement was reached after mediation and arm's-length negotiations between the Parties. The Plaintiffs and Class Counsel think the settlement is in the best interest of all Class Members.

Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, who expressly deny all liability.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an "all in" amount of Six Hundred Thousand Dollars (\$600,000.00) (the "Gross Settlement Amount") to fund the settlement of the Action. The Gross Settlement Amount includes all payments of Individual Class Payments to Class Members, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, the Administration Expenses Payment, and the PAGA Penalties for civil penalties under PAGA. Any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages shall be separately paid by Defendant. Defendant shall fully fund the Gross Settlement Amount within 21 days of the Effective Date. The "Effective Date" is the date the Judgment is entered, or if there are objections or any appeal, the date the Judgment is no longer subject to appeal. Within 14 days after Defendants fully fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments.

Court Approved Deductions from Gross Settlement Amount. The proposed payments, subject to Court approval, will be deducted from the Gross Settlement Amount before payments of Individual Class Payments are made to Class Members who do not request exclusion ("Participating Class Members"). At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

- Administration Expenses Payment. Payment to the Administrator, estimated not to exceed \$20,000, for expenses, including expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing settlement checks and tax forms.
- Attorneys' Fees and Costs. Payment to Class Counsel of reasonable attorneys' fees not to exceed one-third (1/3) of the Gross Settlement Amount, which presently equals \$200,000, and an additional amount to reimburse actual litigation costs incurred by the Plaintiffs not to exceed \$25,000. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. The amounts stated are what Class Counsel will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.
- Class Representative Service Payments. Class Representative Service Payments in an amount not more than \$12,500 each to Plaintiffs, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Class in initiating and prosecuting the Action, and for the risks Plaintiffs undertook. The amount stated is what Plaintiffs will be requesting and the final amount to be paid will be decided at the Final Approval Hearing.
- PAGA Penalties. A payment of \$50,000 relating to Plaintiffs' claim under PAGA, \$37,500 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA"). The remaining \$12,500 will be distributed to the Aggrieved Employees as Individual PAGA Payments. PAGA Penalties 1: The Administrator will calculate each Individual PAGA Payment for the Aggrieved Employees Group 1 by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties 1 (\$2,750) by the total number of PAGA Pay Periods worked by all Aggrieved Employees Group 1 during the PAGA Period and (b) multiplying the result by each Aggrieved Employee Group 1's PAGA Pay Periods. "Aggrieved Employees Group 1" means all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period who did not sign an arbitration agreement. PAGA Penalties 2: The Administrator will calculate each Individual PAGA Payment for the Aggrieved Employees Group 2 by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties 2 (\$9,750) by the total number of PAGA Pay Periods worked by all Aggrieved Employees Group 2 during the PAGA Period and (b) multiplying the result by each Aggrieved Employee Group 2's PAGA Pay Periods. "Aggrieved Employees Group 2" means all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period who signed an arbitration agreement. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period (December 9, 2021 through December 1, 2023).

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

Calculation of Payments to Class Members. After all of the payments of the court-approved Attorneys' Fees and Costs, the Class Representative Service Payments, the PAGA Penalties, and

the Administration Expenses Payment are deducted from the Gross Settlement Amount, the remaining portion, the “Net Settlement Amount”, shall be distributed as Individual Class Payments to the Participating Class Members. The Net Settlement Amount is estimated to be at least \$255,000. The Administrator will pay an Individual Class Payment from the Net Settlement Amount to each Participating Class Member. The Individual Class Payment for each Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member’s Workweeks. “Workweek” means any week during the Class Period in which a Class Member worked for Defendants as a Class Member for at least one day. The number of Workweeks will be based on Defendant’s records, however, Class Members may challenge the number of Workweeks as explained below.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Individual Class Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Twenty Percent (20%) of each Participating Class Member’s Individual Class Payment is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Eighty Percent (80%) of each Participating Class Member’s Individual Class Payment is in settlement of claims for non-wages, expense reimbursement, interest and penalties allegedly due to employees (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members. Neither Class Counsel nor Defendant’s Counsel intend anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement and your receipt of the Individual Class Payment is conditioned upon the Court entering an order granting final approval of the Settlement and entering Judgment.

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

Need to Promptly Cash Payment Checks. The front of every check issued will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the funds represented by such checks will be sent to the California Controller's Unclaimed Property Fund in the name of the individual who failed to cash their check.

4. What Do I Release Under the Settlement?

Released Class Claims. As of the Effective Date and upon full finding of the Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments by Defendant, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims. The “Released Class Claims” are all claims that were alleged, or reasonably could have been alleged, based facts stated in the Action or Operative Complaints which occurred during the Class Period. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or Class claims based on facts occurring outside the Class Period.

This means that, if you do not timely and formally exclude yourself from the Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or any other Released Party about the Released Class Claims resolved by this Settlement. It also means that all of the Court’s orders in the Actions will apply to you and legally bind you.

Released PAGA Claims. As of the Effective Date and upon full funding of the Gross Settlement Amount all employer payroll taxes owed on the Wage Portion of the Individual Class Payments by Defendants, all Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims. The “Released PAGA Claims” are all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Action or Operative Complaint and the PAGA Notice, which occurred during the PAGA Period. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, and PAGA claims outside of the PAGA Period.

Released Parties. The Released Parties are: Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.

5. How much will my payment be?

Defendant’s records reflect that you worked << _____ >> Workweeks during the Class Period (October 27, 2018 through December 1, 2023).

Based on this information, your estimated Individual Class Payment from the Net Settlement Amount is << _____ >>.

[Defendant’s records reflect that you worked << _____ >> PAGA Pay Periods during the during the PAGA Period (December 9, 2021 through December 1, 2023). Based on this information your estimated Individual PAGA Payment is << _____ >>.]

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Class Notice no later than the Response Deadline, which is _____ [sixty (60) days after the mailing of the Class Notice or an additional 14 days in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than the Response Deadline. Any dispute should include credible written evidence and will be resolved by the Administrator.

6. How can I get a payment?

To get money from the Settlement, you do not have to do anything. A check for your Individual Class Payment will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, you must notify the Administrator. The Administrator is: Apex Class Action Administration _____ (800) _____.

The Court will hold a Final Approval Hearing on _____ at _____ to decide whether to approve the Settlement and fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payment to Plaintiffs. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately two months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Class portion of the Settlement or "opt out." **If you opt out, you will not receive an Individual Class Payment from the Settlement, and you will not be bound by its terms, which means you will retain the right to sue Defendants for the Released Class Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Penalties and will remain subject to the release of the Released PAGA Claims regardless of whether they submit a request for exclusion.

To opt out, you must submit to the Administrator a written, signed and dated request to opt-out postmarked no later than the Response Deadline which is _____. You may also fax your request to opt out to _____ or email the dispute to _____ by no later than the Response Deadline. The request to opt-out should state in substance that you wish to be excluded from the class settlement in the *Cuthbert vs. American Pacific Mortgage* lawsuit. The request to opt-out should state the Class Member's full name, address and email address or telephone number. Please include the name and number of the case, which is *Cuthbert vs. American Pacific Mortgage*, Case No. S-CV-0049369. The request to opt-out must be completed and signed by you. No other person may opt-out for a living member of the Class.

The address for the Administrator is _____. Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I Object to the Settlement?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendant are asking the Court to approve. At least sixteen (16) court days before the Final Approval Hearing, scheduled for _____, Class Counsel and Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and the amount Class Counsel is requesting for attorneys' fees and litigation expenses and the amount Plaintiff is requesting as a Class Representative Service Payments. Upon reasonable request, Class Counsel (whose contact information is below) will send you copies of these documents at no cost to you. You can also view them on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Cuthbert vs. American Pacific Mortgage* or on the Online Portal page for the California Superior Court for the County of Placer (<https://webportal.placerco.org/eCourtPublic/>) and entering the Case No. S-CV-0049369.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and for Attorneys' Fees, Litigation Expenses and Service Awards may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The Response Deadline for sending written objections to the Administrator is _____** [sixty (60) days after the date of the Notice or an additional 14 days after the Notice in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than this Response Deadline. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action, *Cuthbert vs. American Pacific Mortgage*, Case No. S-CV-0049369, and include your name, current address, email or telephone number, and approximate dates of employment with Defendant and sign the objection. The Administrator's contact information is as follows:

Administrator:

Name of Company: Apex Class Action Administration

Email Address: _____

Mailing Address: _____

Telephone Number: _____

Fax Number: _____

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. You also have the option to appear at the hearing remotely through the Court's procedure at <http://www.placer.courts.ca.gov/RAS-civil-appearance.shtml>. Check the Court's website for the most current information. See Section 9 of this Notice (immediately below) for specifics regarding the Final Approval Hearing

The addresses for Parties' counsel are as follows:

CLASS COUNSEL:

Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik DeBlouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: kyle@bamlawca.com

COUNSEL FOR DEFENDANT:

Alexander M. Medina
Douglas R. Leach
Medina McKelvey LLP
925 Highland Pointe Drive
Roseville, California 95678

9. Can I Attend the Final Approval Hearing?

The Court will hold a Final Approval Hearing at _____ (Pacific Standard Time) on _____, in Department _____ of the Superior Court of California, County of Placer County Superior Court, located at 10820 Justice Center Drive, Roseville, CA 95678, before Judge _____. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payment to Plaintiffs. If there are objections, the Court will consider them. **You are not required to attend** the Final Approval Hearing. The hearing may be attended remotely. Instructions and scheduling for a remote appearance are located at: <http://www.placer.courts.ca.gov/RAS-civil-appearance.shtml>. Check the Court's website for the most current information. Class Counsel can assist you if you would like to appear at the hearing.

It is possible the Court will reschedule the Final Approval Hearing. If the hearing is continued, notice will be posted on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Cuthbert vs. American Pacific Mortgage*. In addition, hearing dates are posted on the internet via the Online Portal page for the California Superior Court for the County of Placer (<https://webportal.placerco.org/eCourtPublic/>) and entering the Case No. S-CV-0049369 and the filing date of October 27, 2022.

10. How Can I Get More Information?

You may call the Administrator at _____ or write to *Cuthbert vs. American Pacific Mortgage* Administrator, c/o _____.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Agreement, the Judgment, the motion for attorneys' fees, costs and service awards, the motion for final approval or other Settlement documents by going to Class Counsel's website at www.bamlawca.com under "Class Notices" for *Cuthbert vs. American Pacific Mortgage*. You may get more details by examining the Court's file on the Internet via the Case Query page for the California Superior Court for the County of Placer

(<https://webportal.placerco.org/eCourtPublic/>) and entering the Case No. S-CV-0049369 and the filing date of October 27, 2022. If you wish to view the Court files in person, you should go to the Clerk's Office located at 10820 Justice Center Drive, Roseville, CA 95678.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- **What if Your Address Changes** - To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.
- **What if You Fail to Cash a Check** - Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date is printed on the check. In such events, the Administrator shall direct all unclaimed funds to be paid to the California Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check. The funds may be claimed at https://www.sco.ca.gov/upd_msg.html.
- **What if You Lose Your Check** - If your check is lost or misplaced, you should contact the Administrator immediately to request a replacement.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL]

EXHIBIT "B"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF PLACER

MONICA CUTHBERT, SHERRI MAYER,
BELA CRISPIN, CORRINE SALAZAR-
ROSE, individuals, on behalf of themselves
and on behalf of all persons similarly situated,

Plaintiff,

vs.

AMERICAN PACIFIC MORTGAGE
CORPORATION, a California Corporation;
and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: S-CV-0049369

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: _____
Hearing Time: _____

Judge: Hon.
Dept:

Date Filed: October 27, 2022
Trial Date: Not set

This matter came before the Honorable _____ of the Superior Court of the State of California, in and for the County of Placer, on _____[DATE], for hearing on the unopposed motion by Plaintiffs Monica Cuthbert, Bela Crispin, Sherri Mayer, and Corrine Salazar-Rose ("Plaintiffs") for preliminary approval of the Settlement with Defendant American Pacific Mortgage Corporation ("Defendant"). The Court, having considered the briefs, argument of counsel and all

PRELIMINARY APPROVAL ORDER

1 matters presented to the Court and good cause appearing, hereby GRANTS Plaintiffs' Motion for
2 Preliminary Approval of Class Action Settlement.

3 **IT IS HEREBY ORDERED:**

4 1. The Court preliminarily approves the Class Action and PAGA Settlement Agreement
5 ("Agreement") attached as Exhibit ____ to the Declaration of Kyle Nordrehaug in Support of
6 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement. This is based on the
7 Court's determination that the Settlement set forth in the Agreement is within the range of possible
8 final approval, pursuant to the provisions of Section 382 of the California Code of Civil Procedure
9 and California Rules of Court, rule 3.769.

10 2. This Order incorporates by reference the definitions in the Agreement, and all terms
11 defined therein shall have the same meaning in this Order as set forth in the Agreement.

12 3. The Gross Settlement Amount that Defendant shall pay is Six Hundred Thousand
13 Dollars (\$600,000.00). It appears that investigation and research have been conducted such that
14 counsel for the Parties are able to reasonably evaluate their respective positions. It further appears
15 to the Court that the Settlement will avoid substantial additional costs by all Parties, as well as avoid
16 the delay and risks that would be presented by the further prosecution of the Action. It further
17 appears that the Settlement has been reached as the result of serious and non-collusive, arms-length
18 negotiations.

19 4. The Court preliminarily finds that the Settlement appears to be within the range of
20 reasonableness of a settlement that could ultimately be given final approval by this Court. The
21 Court has reviewed the monetary recovery that is being granted as part of the Settlement and
22 preliminarily finds that the monetary settlement awards made available to the Class is fair, adequate,
23 and reasonable when balanced against the probable outcome of further litigation and the significant
24 risks relating to certification, liability, and damages issues.

25 5. The Agreement provides for an attorneys' fees award not to exceed one-third of the
26 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$25,000, and
27 proposed Class Representative Service Payments to Plaintiffs in an amount not to exceed \$12,500
28

1 each. The Court will not approve the amount of attorneys' fees and costs, nor the amount of any
2 service award, until the Final Approval Hearing. Plaintiffs will be required to present evidence
3 supporting these requests, including lodestar, prior to final approval.

4 6. The Court recognizes that Plaintiffs and Defendant stipulate and agree to
5 representative treatment and certification of a class for settlement purposes only. This stipulation
6 will not be deemed admissible in this or any other proceeding should this Settlement not become
7 final. For settlement purposes only, the Court conditionally certifies the Class which consists of “all
8 individuals who were employed by Defendant in California and classified as a non-exempt
9 employee at any time during the Class Period who did not sign an arbitration agreement, and
10 excluding non-exempt employees who were employed by Defendant as loan officer assistants or
11 processors, or who performed equivalent duties to loan officer assistants and processors, up to
12 February 18, 2020.” The “Class Period” is October 27, 2018 through December 1, 2023.

13 7. The Court concludes that, for settlement purposes only, the Class meets the
14 requirements for certification under section 382 of the California Code of Civil Procedure in that: (a)
15 the Class is ascertainable and so numerous that joinder of all members of the Class is impracticable;
16 (b) common questions of law and fact predominate, and there is a well-defined community of
17 interest amongst the members of the Class with respect to the subject matter of the litigation; (c) the
18 claims of Plaintiffs are typical of the claims of the members of the Class; (d) Plaintiffs will fairly
19 and adequately protect the interests of the members of the Class; (e) a class action is superior to
20 other available methods for the efficient adjudication of this controversy; and (f) counsel for the
21 Class is qualified to act as counsel for the Class and Plaintiffs are adequate representatives of the
22 Class.

23 8. The Court provisionally appoints Plaintiffs as the representatives of the Class. The
24 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,
25 Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche, and Trevor G. Moran of Blumenthal
26 Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

1 9. The Agreement provides for \$50,000 PAGA Penalties out of the Gross Settlement
2 Amount, of which \$37,500 shall be allocated to the Labor & Workforce Development Agency
3 (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this Agreement
4 pursuant to the PAGA and \$12,500 shall be allocated as the Individual PAGA Payments to the
5 Aggrieved Employees Group I and Aggrieved Employees Group II. “Aggrieved Employees Group
6 1” means all individuals who were employed by Defendant in California and classified as a non-
7 exempt employee at any time during the PAGA Period who did not sign an arbitration agreement.
8 “Aggrieved Employees Group 2” means all individuals who were employed by Defendant in
9 California and classified as a non-exempt employee at any time during the PAGA Period who
10 signed an arbitration agreement. The PAGA Period is December 9, 2021 through December 1,
11 2023. Pursuant to Labor Code section 2699, subdivision (1)(2), the LWDA will be provided notice
12 of the Agreement and these settlement terms. The Court preliminarily finds the PAGA Penalties to
13 be reasonable.

14 10. The Court hereby approves, as to form and content, the Class Notice attached to the
15 Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and accurately
16 inform the Class of all material elements of the proposed Settlement, of the Class Members’ right to
17 be excluded from the Class by submitting a written opt-out request, and of each member’s right and
18 opportunity to object to the Settlement. The Court further finds that the distribution of the Class
19 Notice substantially in the manner and form set forth in the Agreement and this Order meets the
20 requirements of due process, is the best notice practicable under the circumstances, and shall
21 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
22 the Class Notice by first class mail pursuant to the terms set forth in the Agreement. If a Class
23 Notice Packet is returned because of an incorrect address, the Administrator will promptly search for
24 a more current address for the Class Member and re-mail the Class Notice Packet to any new
25 address for the Class Member no later than seven (7) days after the receipt of the undelivered Class
26 Notice.

1 11. The Court hereby appoints Apex Class Action Administration as the Administrator.
2 No later than 21 days after this Order, Defendant will provide the Class Data to the Administrator.
3 The Defendant shall also provide the Class Data with respect to all Aggrieved Employees. The
4 Administrator will perform address updates and verifications as necessary prior to the first mailing.
5 Using best efforts to mail it as soon as possible, and in no event later than fourteen (14) days after
6 receiving the Class Data, the Administrator will mail the Class Notice Packet to all Class Members
7 via first-class regular U.S. Mail to their last known address.

8 12. The Court hereby preliminarily approves the proposed procedure for exclusion from
9 the Settlement. Any Class Member may individually choose to opt out of and be excluded from the
10 Class as provided in the Class Notice by following the instructions for requesting exclusion from the
11 Class that are set forth in the Class Notice. All requests for exclusion must be postmarked or
12 received no later than sixty (60) calendar days after the date of the mailing of the Class Notice
13 (“Response Deadline”). If a Class Notice Packet is re-mailed, the Response Deadline for requests
14 for exclusion will be extended an additional fourteen (14) days. A Request for Exclusion may also
15 be faxed or emailed to the Administrator as indicated in the Class Notice. Any such person who
16 chooses to opt out of and be excluded from the Class will not be entitled to any recovery under the
17 Class Settlement and will not be bound by the Class Settlement or have any right to object, appeal,
18 or comment thereon. Class Members who have not requested exclusion shall be bound by all
19 determinations of the Court, the Agreement, and the Judgment. A request for exclusion may only
20 opt out that particular individual, and any attempt to affect an opt out of a group, class, or subclass
21 of individuals is not permitted and will be deemed invalid.

22 13. Any Class Member who has not opted out may appear at the final approval hearing
23 and may object or express the Member’s views regarding the Settlement and may present evidence
24 and file briefs or other papers that may be proper and relevant to the issues to be heard and
25 determined by the Court as provided in the Class Notice. Class Members will have until the
26 Response Deadline to submit their written objections to the Administrator. Written objections may
27 also be faxed or emailed to the Administrator as indicated in the Class Notice. If a Class Notice
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1 Packet is re-mailed, the Response Deadline for written objections will be extended an additional
2 fourteen (14) days. Alternatively, Class Members may appear at the Final Approval Hearing to
3 make an oral objection.

4 14. A final approval hearing shall be held before this Court on _____
5 _____ at _____ in Department ____ at the Placer County Superior Court to hear the
6 motion for final approval and the motion for attorneys' fees and costs, and to determine all
7 necessary matters concerning the Settlement, including: whether the proposed settlement of the
8 Action on the terms and conditions provided for in the Agreement is fair, adequate and reasonable
9 and should be finally approved by the Court; whether the Final Approval Order and Judgment
10 should be entered herein; whether the plan of allocation contained in the Agreement should be
11 approved as fair, adequate and reasonable to the Class Members; and to finally approve attorneys'
12 fees and costs, service award, and the fees and expenses of the Administrator. All papers in support
13 of the motion for final approval and for attorneys' fees, costs and service awards shall be filed with
14 the Court and served on all counsel no later than sixteen (16) court days before the hearing and the
15 motion shall be heard at this final approval hearing.

16 15. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder
17 shall be construed as a concession or admission by Defendant in any way that the claims asserted
18 have any merit or that this Action was properly brought as a class or representative action, and shall
19 not be used as evidence of, or used against Defendant as, an admission or indication in any way,
20 including with respect to any claim of any liability, wrongdoing, fault or omission by Defendant or
21 with respect to the truth of any allegation asserted by any person. Whether or not the Settlement is
22 finally approved, neither the Settlement, nor any exhibit, document, statement, proceeding or
23 conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be
24 construed as, offered or admitted in evidence as, received as or deemed to be evidence for any
25 purpose adverse to the Defendant, including, but not limited to, evidence of a presumption,
26 concession, indication or admission by Defendant of any liability, fault, wrongdoing, omission,
27 concession or damage.

1 16. In the event the Settlement does not become effective in accordance with the terms of
2 the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
3 become effective for any reason, this Order shall be rendered null and void and shall be vacated, and
4 the Parties shall revert to their respective positions as of before entering into the Agreement, and
5 expressly reserve their respective rights regarding the prosecution and defense of this Action,
6 including all available defenses and affirmative defenses, and arguments that any claim in the
7 Action could not be certified as a class action and/or managed as a representative action. In such an
8 event, the Court's orders regarding the Settlement, including this Order, shall not be used or referred
9 to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the
10 Agreement with respect to the effect of the Agreement if it is not approved.

11 17. The Court reserves the right to adjourn or continue the date of the final approval
12 hearing and all dates provided for in the Agreement without further notice to Class Members and
13 retains jurisdiction to consider all further applications arising out of or connected with the proposed
14 Settlement.

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16 **IT IS SO ORDERED.**

17 Dated: _____

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HON.
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA

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PRELIMINARY APPROVAL ORDER

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF PLACER

MONICA CUTHBERT, SHERRI MAYER,
BELA CRISPIN, CORRINE SALAZAR-
ROSE, individuals, on behalf of themselves
and on behalf of all persons similarly situated,

Plaintiff,

vs.

AMERICAN PACIFIC MORTGAGE
CORPORATION, a California Corporation;
and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: S-CV-0049369

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: _____
Hearing Time: _____

Judge: Hon.
Dept:

Date Filed: October 27, 2022
Trial Date: Not set

FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiffs Monica Cuthbert, Bela Crispin, Sherri Mayer, and
2 Corrine Salazar-Rose (“Plaintiffs”) for an order finally approving the Class Action and PAGA
3 Settlement Agreement (“Agreement”) with Defendant American Pacific Mortgage Corporation
4 (“Defendant”), attorneys’ fees and costs, service payments, and the expenses of the Administrator
5 duly came on for hearing on _____ before the Honorable _____.

6 **I.**

7 **FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the
9 motion, the Court makes the following findings:

- 10 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 11 2. This Court has jurisdiction over the subject matter of this litigation pending before
12 the Superior Court for the State of California, in and for the County of Placer, and over all Parties to
13 this litigation, including the Class.
- 14 3. Based on a review of the papers submitted by Plaintiffs and a review of the
15 applicable law, the Court finds that the Gross Settlement Amount of Six Hundred Thousand Dollars
16 (\$600,000) and the terms set forth in the Agreement are fair, reasonable, and adequate.
- 17 4. The Court further finds that the Settlement was the result of arm’s length negotiations
18 conducted after Class Counsel had adequately investigated the claims and became familiar with the
19 strengths and weaknesses of those claims. In particular, the amount of the Settlement, and the
20 assistance of an experienced mediator in the settlement process, among other factors, support the
21 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

22 **Preliminary Approval of the Settlement**

- 23 5. On _____, the Court granted preliminary approval of the Settlement. At the
24 same time, the Court approved conditional certification of the Class for settlement purposes only.

25 **Notice to the Class**

- 26 6. In compliance with the Preliminary Approval Order, the Court-approved Class
27 Notice was mailed by first class mail to members of the Class at their last-known addresses on or
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1 about _____. Mailing of the Class Notice to their last-known addresses was the best
2 notice practicable under the circumstances and was reasonably calculated to communicate actual
3 notice of the litigation and the proposed settlement to the Class. The Class Notice given to the Class
4 Members fully and accurately informed the Class Members of all material elements of the proposed
5 Settlement and of their opportunity to object to or comment thereon or to seek exclusion from the
6 Settlement; was valid, due, and sufficient notice to all Class Members; and complied fully with the
7 laws of the State of California, the United States Constitution, due process and other applicable law.
8 The Class Notice fairly and adequately described the Settlement and provided Class Members
9 adequate instructions and a variety of means to obtain additional information.

10 7. The Response Deadline for opting out or submitting written objections to the
11 Settlement was _____, which for re-mailings was extended by fourteen (14) days. There
12 was an adequate interval between notice and the deadline to permit Class Members to choose what
13 to do and to act on their decision. A full and fair opportunity has been afforded to the Class
14 Members to participate in this hearing, and all Class Members and other persons wishing to be heard
15 have had a full and fair opportunity to be heard. Class Members also have had a full and fair
16 opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the Court
17 determines that all Class Members who did not timely and properly submit a request for exclusion
18 are bound by the Settlement and this Final Approval Order and Judgment.

19 **Fairness of the Settlement**

20 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.* 48
21 Cal.App.4th 1794, 1801 (1996).

22 a. The settlement was reached through arm's-length bargaining between the
23 Parties during an all-day mediation before Tripper Ortman, a respected and experienced mediator of
24 wage and hour class actions. There has been no collusion between the Parties in reaching the
25 Settlement.

26 b. Plaintiffs' and their counsel's investigation and discovery have been
27 sufficient to allow the Court and counsel to act intelligently.

1 c. Counsel for all Parties are experienced in similar employment class action
2 litigation. Class Counsel recommended approval of the Agreement.

3 d. The percentage of objectors and requests for exclusion is small. ____
4 objections were received. ____ requests for exclusion were received.

5 e. The participation rate was high. ____ Class Members will be mailed a
6 settlement payment, representing ____ % of the overall Class.

7 9. The consideration to be given to the Class Members under the terms of the
8 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the claims
9 asserted in this action and is fair, reasonable, and adequate compensation for the release of Class
10 Members' claims, given the uncertainties and significant risks of the litigation and the delays which
11 would ensue from continued prosecution of the action.

12 10. The Agreement is approved as fair, adequate, and reasonable and in the best interests
13 of the Class Members.

14 **Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment**

15 11. An award of \$ _____ for attorneys' fees, representing one-third of the Gross
16 Settlement Amount, and \$ _____ for litigation costs and expenses, is reasonable, in light
17 of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
18 achieved by Class Counsel. The requested award has been supported by Class Counsel's lodestar
19 and billing statement.

20 **Class Representative Service Payments**

21 12. The Agreement provides for Class Representative Service Payments of not more than
22 \$12,500 to each Plaintiff, subject to the Court's approval. The Court finds that Class Representative
23 Service Payments in the amount of \$ _____ to each of the Plaintiffs is reasonable in light of
24 the risks and burdens undertaken by Plaintiffs in this litigation, for their time and effort in bringing
25 and prosecuting this matter on behalf of the Class, and for their execution of a general release.

1 **Administration Expenses Payment**

2 13. The Administrator shall calculate and administer the payment to be made to the Class
3 Members, transmit payment for attorneys’ fees and costs to Class Counsel, transmit the Class
4 Representative Service Payments to Plaintiffs, issue all required tax reporting forms, calculate
5 withholdings and perform the other remaining duties set forth in the Agreement. The Administrator
6 has documented \$ _____ in fees and expenses, and this amount is reasonable considering the
7 work performed by the Administrator.

8 **PAGA Penalties**

9 14. The Agreement provides for PAGA Penalties of \$50,000 out of the Gross
10 Settlement Amount, \$37,500 of which shall be allocated to the Labor & Workforce Development
11 Agency (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this
12 Agreement pursuant to the PAGA and \$12,500 to be distributed as the Individual PAGA Payments
13 to the Aggrieved Employees Group I and Aggrieved Employees Group II. The Administrator will
14 calculate each Individual PAGA Payment for the Aggrieved Employees Group 1 by (a) dividing the
15 amount of the Aggrieved Employees’ 25% share of PAGA Penalties 1 (\$2,750) by the total number
16 of PAGA Pay Periods worked by all Aggrieved Employees Group 1 during the PAGA Period and
17 (b) multiplying the result by each Aggrieved Employee Group 1’s PAGA Pay Periods. “Aggrieved
18 Employees Group 1” means all individuals who were employed by Defendant in California and
19 classified as a non-exempt employee at any time during the PAGA Period who did not sign an
20 arbitration agreement. The Administrator will calculate each Individual PAGA Payment for the
21 Aggrieved Employees Group 2 by (a) dividing the amount of the Aggrieved Employees’ 25% share
22 of PAGA Penalties 2 (\$9,750) by the total number of PAGA Pay Periods worked by all Aggrieved
23 Employees Group 2 during the PAGA Period and (b) multiplying the result by each Aggrieved
24 Employee Group 2’s PAGA Pay Periods. “Aggrieved Employees Group 2” means all individuals
25 who were employed by Defendant in California and classified as a non-exempt employee at any
26 time during the PAGA Period who signed an arbitration agreement. The PAGA Period is December
27 9, 2021 through December 1, 2023. Pursuant to Labor Code section 2699, subdivision (l)(2), the
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1 LWDA was provided notice of the Agreement and these settlement terms and has not indicated any
2 objection thereto. The Court finds the PAGA Penalties to be reasonable.

3 **II.**

4 **ORDERS**

5 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

6 15. The Class is certified for the purposes of settlement only. The Class is defined as
7 follows:

8 All individuals who were employed by Defendant in California and classified as a
9 non-exempt employee at any time during the Class Period who did not sign an
10 arbitration agreement, and excluding non-exempt employees who were employed by
11 Defendant as loan officer assistants or processors, or who performed equivalent
12 duties to loan officer assistants and processors, up to February 18, 2020.

13 The Class Period is October 27, 2018 through December 1, 2023.

14 16. All persons who meet the foregoing definition are members of the Class, except for
15 those individuals who filed a valid request for exclusion (“opt out”) from the Class. [INSERT
16 REFERENCE TO IDENTIFY ANY OPT OUTS].

17 17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
18 best interest of the Class. Defendant shall fully fund the Gross Settlement Amount, and also fund
19 the amounts necessary to fully pay Defendant’s share of payroll taxes in accordance with the
20 Agreement, by transmitting the funds to the Administrator no later than 21 days after the Effective
21 Date.

22 18. Class Counsel are awarded attorneys’ fees in the amount of \$_____ and costs
23 in the amount of \$_____. Class Counsel shall not seek or obtain any other compensation or
24 reimbursement from Defendants, Plaintiffs or members of the Class.

25 19. The payment of Class Representative Service Payments in the amount of \$_____ to each of the Plaintiffs is approved.

26 20. The payment of \$_____ to the Administrator for its fees and expenses is
27 approved.

1 21. The PAGA Penalties of \$50,000 is approved and is to be distributed in accordance
2 with the Agreement.

3 22. Pursuant to Labor Code section 2699, subdivision (l)(2), Class Counsel shall submit a
4 copy of this Final Approval Order and Judgment to the LWDA within 10 days after its entry.

5 23. Neither the Agreement nor this Settlement is an admission by Defendant, nor is this
6 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
7 wrongdoing by Defendant or that this Action is appropriate for class or representative treatment
8 (other than for settlement purposes). Neither this Final Approval Order and Judgment, the
9 Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement is,
10 may be construed as, or may be used as an admission by or against Defendant of any fault,
11 wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any
12 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be
13 evidence of, an admission, or concession with regard to the denials or defenses by Defendant.
14 Notwithstanding these restrictions, Defendant may file in the Action or in any other proceeding this
15 Final Approval Order and Judgment, the Agreement, or any other papers and records on file in the
16 Action as evidence of the Settlement to support a defense of *res judicata*, collateral estoppel,
17 release, or other theory of claim or issue preclusion or similar defense as to the Released Class
18 Claims and/or Released PAGA Claims.

19 24. Notice of entry of this Final Approval Order and Judgment shall be given to all
20 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order
21 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
22 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment to
23 individual Class Members.

24 25. If the Agreement does not become final and effective in accordance with the terms of
25 the Agreement, then this Final Approval Order and Judgment, and all orders entered in connection
26 herewith, shall be rendered null and void and shall be vacated, and the Parties shall revert to their
27 respective positions as of before entering into the Agreement, and expressly reserve their respective
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1 rights regarding the prosecution and defense of this Action, including all available defenses and
2 affirmative defenses, and arguments that any claim in the Action could not be certified as a class
3 action and/or managed as a representative action.

4 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

5 26. Except as set forth in the Agreement and this Final Approval Order and Judgment,
6 Plaintiffs, and all members of the Class, shall take nothing in the Action.

7 27. All Parties shall bear their own attorneys' fees and costs, except as otherwise
8 provided in the Agreement and in this Final Approval Order and Judgment.

9 28. Effective on the date when Defendant fully funds the entire Gross Settlement
10 Amount and funds all employer-side payroll taxes owed on the Wage Portion of the Individual Class
11 Payments, the Plaintiffs, Participating Class Members, Aggrieved Employees and the LWDA will
12 release claims against all Released Parties as follows:

13 (a) All Participating Class Members, on behalf of themselves and their respective
14 former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns,
15 release Released Parties from the Released Class Claims. The "Released Class Claims" are all
16 claims that were alleged, or reasonably could have been alleged, based facts stated in the Action or
17 Operative Complaints which occurred during the Class Period. Except as expressly set forth in this
18 Agreement, Participating Class Members do not release any other claims, including claims for
19 vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
20 unemployment insurance, disability, social security, workers' compensation, or Class claims based
21 on facts occurring outside the Class Period.

22 (b) All Aggrieved Employees and the LWDA are deemed to release, on behalf of
23 themselves and their respective former and present representatives, agents, attorneys, heirs,
24 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims. The
25 "Released PAGA Claims" are all claims for PAGA penalties that were alleged, or reasonably could
26 have been alleged, based on the facts stated in the Action or Operative Complaint and the PAGA
27 Notice, which occurred during the PAGA Period. The Released PAGA Claims do not include other
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1 PAGA claims, underlying wage and hour claims, vested benefits, wrongful termination, violation of
2 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
3 workers' compensation, and PAGA claims outside of the PAGA Period.

4 (c) Plaintiffs Crispin, Mayer, and Salazar-Rose, and their respective former and
5 present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns
6 generally, release and discharge Released Parties from all claims, transactions, or occurrences that
7 occurred during the Class Period, including, but not limited to: (a) all claims that were, or
8 reasonably could have been, alleged, based on the facts contained, in the Action or Operative
9 Complaint, though Plaintiff Cuthbert expressly does not release her individual discrimination claims
10 as explained further below in paragraph 6.1(b), and (b) all PAGA claims that were, or reasonably
11 could have been, alleged based on facts contained in the Action or Operative Complaint, as fully set
12 forth in the Agreement. Plaintiff Cuthbert does not provide any release of any individual claims that
13 Plaintiff Cuthbert could allege, other than the same Released Class Claims and Released PAGA
14 Claims released by all Class Members as described in this paragraph, based on her former
15 employment relationship with Defendant. Specifically, Plaintiff Cuthbert does not provide a release
16 of any claims related to her complaint of discrimination filed with the Civil Rights Department
17 (CRD) pursuant to the California Fair Employment and Housing Act, Government Code §§ 12900,
18 *et seq*, CRD Matter Number: 202308-21700921

19 29. For any Class Member or Aggrieved Employee whose Individual Class Payment
20 check or Individual PAGA Payment check is uncashed and cancelled after the void date, the
21 Administrator shall transmit the funds represented by such checks to the California Controller's
22 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue"
23 subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

24 30. The Court hereby enters judgment in the entire Action as of the filing date of this
25 Order and Judgment, pursuant to the terms set forth in the Settlement. Without affecting the finality
26 of this Order and Judgment in any way, the Court hereby retains continuing jurisdiction over the
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1 interpretation, implementation, and enforcement of the Settlement and all orders entered in
2 connection therewith pursuant to California Code of Civil Procedure section 664.6.

3 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

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5 Dated: _____

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HON.
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA

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FINAL APPROVAL ORDER AND JUDGMENT

EXHIBIT #2

Blumenthal Nordrehaug Bhowmik De Blouw LLP

2255 Calle Clara, La Jolla, California 92037

Tel: (858) 551-1223

Fax: (858) 551-1232

FIRM RESUME

Areas of Practice: Employee, Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation, Business Litigation.

ATTORNEY BIOGRAPHIES

Norman B. Blumenthal

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Action, Civil Litigation, Wage and Hour Class Actions, Transactional Law

Admitted: 1973, Illinois; 1976, California

Biography: Law Clerk to Justice Thomas J. Moran, Illinois Supreme Court, 1973-1975, while on Illinois Court of Appeals. Instructor, Oil and Gas Law: California Western School of Law, 1981; University of San Diego School of Law, 1983. Sole Practitioner 1976-1987. Partner, Blumenthal & Ostroff, 1988-1995. Partner, Blumenthal, Ostroff & Markham, 1995-2001. Partner, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2018. Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP, 2018 - present.

Member: San Diego County, Illinois State and American Bar Associations; State Bar of California.

Educated: University of Wisconsin (B.A., 1970); Loyola University of Chicago (J.D., 1973);

Summer Intern (1971) with Harvard Voluntary Defenders

Kyle R. Nordrehaug

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation

Admitted: 1999, California

Biography: Associate, Blumenthal, Ostroff & Markham, 1999-2001. Associate, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Member: State Bar of California, Ninth Circuit Court of Appeals, Third Circuit Court of Appeals

Educated: University of California at Berkeley (B.A., 1994); University of San Diego School of Law (J.D. 1999)

Awards: Top Labor & Employment Attorney 2016; Top Appellate Reversal - Daily Journal 2015; Super Lawyer 2015-2018

Aparajit Bhowmik

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2006, California

Educated: University of California at San Diego (B.A., 2002); University of San Diego School of Law (J.D. 2006)

Biography: Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Awards: Rising Star 2015

Nicholas J. De Blouw

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: Wayne State University (B.A. 2008); California Western School of Law (J.D. 2011)

Piya Mukherjee

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2010, California

Educated: University of California, San Diego (B.S. 2006); University of Southern California, Gould School of Law (J.D. 2010)

Victoria Rivapalacio

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: University of California at San Diego (B.A., 2003); George Washington University Law School (J.D. 2010)

Ricardo Ehmann

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2018, California; 2004, Nevada

Educated: University of California, San Diego (B.A. 1998); Loyola Law School (J.D. 2001)

Jeffrey S. Herman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2011, California; 2016 Arizona

Educated: University of Michigan (B.A. 2008); California Western School of Law (J.D. 2011)

Charlotte James

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: San Diego State University; California Western School of Law

Christine Levu

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2012, California

Educated: University of California, Irvine; California Western School of Law

Andrew Ronan

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: Arizona State University; University of San Diego School of Law

Scott Blumenthal

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, New Mexico

Educated: University of Southern California; California Western School of Law

Sergio Julian Puche

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2013, California

Educated: University of California, Irvine; California Western School of Law

Trevor Moran

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, California

Educated: University of Rhode Island; California Western School of Law

Adolfo Sanchez Contreras

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2024, California; 2014, Mexico

Educated: The Juarez University

REPORTED CASES

Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9th Cir. 2015) (The panel reversed the district court's order granting Luxottica Retail North America, Inc.'s motion to compel arbitration of claims and dismissing plaintiff's first amended complaint, in a putative class action raising class employment-related claims and a non-class representative claim for civil penalties under the Private Attorney General Act.);

Securitas Security Services USA, Inc. v. Superior Court, 234 Cal. App. 4th 1109 (Cal. Feb. 27, 2015) (Court of Appeal concluded the trial court correctly ruled that *Iskanian* rendered the PAGA waiver within the parties' dispute resolution agreement unenforceable. However, the Court of Appeal then ruled the trial court erred by failing to invalidate the non-severable class action waiver from the agreement and remanded the entire complaint, including class action and PAGA claims, be litigated in the Superior Court);

Sussex v. United States Dist. Court for the Dist. of Nev., 781 F.3d 1065 (9th Cir. 2015) (The panel determined that the district court clearly erred in holding that its decision to intervene mid-arbitration was justified under *Aerojet-General*. Specifically, the panel held that the district court erred in predicting that an award issued by the arbitrator would likely be vacated because of his "evident partiality" under 9 U.S.C. § 10(a)(2).);

Provost v. YourMechanic, Inc., 2020 Cal. App. Lexis 955 (Oct. 15, 2020) (Court of Appeals affirmed denial of arbitration of PAGA claim, and held in a case of first impression, that there was no additional standing rules for PAGA claim brought by independent contractor);

In re Tobacco Cases II, 41 Cal. 4th 1257 (2007); Washington Mutual Bank v. Superior Court, 24 Cal. 4th 906 (2001); Rocker v. KPMG LLP, 148 P.3d 703; 122 Nev. 1185 (2006); PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, 150 Cal. App. 4th 384 (2007); Hall v. County of Los Angeles, 148 Cal. App. 4th 318 (2007); Coshov v. City of Escondido, 132 Cal. App. 4th 687 (2005); Daniels v. Philip Morris, 18 F.Supp 2d 1110 (S.D. Cal.1998); Gibson v. World Savings & Loan Asso., 103 Cal. App. 4th 1291 (2003); Jordan v. Department of Motor Vehicles,

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Hometown Heart – San Francisco County Superior Court, Case No. CGC-20-582454; Lopez v. Hy0Lang Electric California, Inc. – San Diego County Superior Court, Case No. 37-2020-00012543-CU-OE-CTL; Heuklom v. Clara Medical Group, P.C. – San Francisco County Superior Court, Case No. CGC-20-585918; Dominguez v. Lifesafer of Northern California – Monterey County Superior Court, Case No. 20CV002586; Kiseleva v. Totalmed Staffing Inc. – U.S. District Court, California Northern District, Case No. 5:19-cv-06480; Vires v. Sweetgreen, Inc. – Santa Clara County Superior Court, Case No. 20CV365918; Kim v. Wireless Vision, LLC – San Bernardino County Superior Court, Case No. CIVDS2000074; Senoren v. Air Canada Corporation – Los Angeles County Superior Court, Case No. 20STCV13942; Clark v. Quest Diagnostics Incorporated – San Bernardino County Superior Court, Case No. CIVDS2018707; Green v. Shipt, Inc. – Los Angeles County Superior Court, Case No. 20STCV01001; Respass v. The Scion Group LLC – Sacramento County Superior County, Case No. 34-2020-00285265; Jackson v. Decathlon USA LLC – Alameda County Superior Court, Case No. RG2003024; Avacena v. FTG Aerospace Inc. – Los Angeles County Superior Court, Case No. 20STCV28767; Perez v. Butler America, LLC – Los Angeles County Superior Court, Case No. 20STCV20218; Christensen v. Carter’s Retail, Inc. – Orange County Superior Court, Case No. 30-2020-01138792-CU-OE-CXC; Astudillo v. Torrance Health Association, Inc. – Los Angeles County Superior Court, Case No. 20STCV18424; Hansen v. Holiday AI Management Sub LLC – Contra Costa County Superior Court, Case No. CIVMSC20-00779; Almahdi v. Vitamin Shoppe Industries Inc – Santa Clara County Superior Court, Case No. 20CV365150; Krisinda v. Loyal Source Government Services LLC – U.S. District Court, California Southern District, Case No. 3:20-cv-879-LAB-NLS; Ettedgui v. WB Studio Enterprises Inc – U.S. District Court, California Central District, Case No. 2:20-CV-08053-MCS (MAAx); Fernandez v. Nuvision Federal Credit Union – Orange County Superior Court, Case No. 30-2020-01161691-CU-OE-CJC; Aviles v. UPS Supply Chain Solutions, Inc. – Riverside County Superior Court, Case No. RIC2000727; Alcocer v. DSV Solutions, LLC – San Bernardino Superior Court, Case No. CIVDS2010345; Wilson v. Wholesome Harvest Baking, LLC – U.S. District Court, California Northern District, Case No. 4:20-cv-05186-YGR; Gregory v. Verio Healthcare, Inc. – Los Angeles County Superior Court, Case No. 20STCV37254; Rose v. Impact Group, LLC – Orange County Superior Court, Case No. 30-2020-01141107-CU-OE-CXC; Monasterio v. Citibank, N.A. – San Mateo County Superior Court, Case No. 20-CIV-03650; Martinez-Lopez v. Medamerica, Inc. – San Diego County Superior Court, Case No. 37-2020-00034393-CU-OE-CTL; Cox v. PRB Management, LLC – Solano County Superior Court, Case No. FCS055514; Nash v. K. Hovnanian Companies, LLC – Riverside County Superior Court, Case No. RIC2003319; Kyler v. Harbor Freight Tools USA, Inc. – San Diego County Superior Court, Case No. 37-2020-00015828-CU-OE-CTL; Roberts v. Solantic Corporation – Los Angeles County Superior Court, Case No. 20STCV41117; Price v. Mistras Group, Inc. – Los Angeles County Superior Court, Case No. 20STCV22485; Macias v. ABM Electrical & Lighting Solutions, Inc. – San Diego County Superior Court, Case No. 37-2020-00024997-CU-OE-CTL; Basu-Kesselman v. Garuda Labs, Inc. – San Francisco County Superior Court, Case No. CGC-20-585229; Armstrong v. Prometric LLC – Los Angeles County Superior Court, Case No. 20STCV29967; Ashlock v. Advantis Medical Staffing, LLC – San Diego County Superior Court, Case No. 37-2020-00022305-CU-OE-CTL; Wilson v. WXI Global Solutions, LLC – Los Angeles County Superior Court, Case No. 20STCV25007; Gandhale v. Select Rehabilitation, LLC – Monterey County Superior Court, Case No. 20CV002240; Starvoice v. G4S Secure Solutions (USA) Inc. – San Diego County Superior Court, Case No. 37-2020-00029421-CU-OE-CTL; Mbise v. Axlehire, Inc. – Alameda County Superior Court, Case No. RG20067350; Points v. C&J Services, Inc. – Kern County Superior Court, Case No. BCV-20-102483; Marshall v. PHI Air Medical, LLC – Lassen County Superior Court, Case No. 62973; Jauregui v. Cyctec Engineered Materials, Inc. – Orange County Superior Court, Case No. 30-2020-01164932-CU-OE-CXC

EXHIBIT #3

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

Nick@bamlawca.com

WRITERS EXT:

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July 14, 2022

CA2687

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

American Pacific Mortgage Corporation
Certified Mail #70220410000153343775
CSC - LAWYERS INCORPORATING
SERVICE
2710 GATEWAY OAKS DR STE 150N
SACRAMENTO, CA 95833

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by American Pacific Mortgage Corporation in California, including any employees staffed with American Pacific Mortgage Corporation by a third party, and classified as non-exempt employees during the time period of July 14, 2021 until a date as determined by the Court. Our offices represent Plaintiff Monica Cuthbert (“Plaintiff”) and other Aggrieved Employees in a lawsuit against American Pacific Mortgage Corporation (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from September of 2019 to June 13, 2022 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest

periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Plaintiff further contends that Defendant failed to provide accurate wage statements to Plaintiff, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, Plaintiff and the Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to Plaintiff and the Aggrieved Employees failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Further, Defendant failed to list the correct name of the legal entity that was the employer of Plaintiff and other Aggrieved Employees in violation of Cal. Lab. Code Section 226(a)(8). Also, Defendant failed to list the hours worked and the hourly rate for the “Retro” wage payments in violation of Cal. Lab. Code Section 226(a)(9). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency’s reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

EXHIBIT #4

Alexander M. Medina (SBN 222015)
E-mail: alex@medinamckelvey.com
Douglas R. Leach (SBN 325955)
E-mail: doug@medinackelvey.com
MEDINA McKELVEY LLP
925 Highland Pointe Drive
Roseville, California 95678
Telephone: (916) 960-2211
Facsimile: (916) 742-5488

Attorneys for Defendant
AMERICAN PACIFIC MORTGAGE
CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF PLACER

MONICA CUTHBERT, an individual, on behalf
of herself and on behalf of all persons similarly
situated,

Plaintiff,

v.

AMERICAN PACIFIC MORTGAGE
CORPORATION, a California Corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. S-CV-0049369

**DECLARATION OF DOUGLAS R.
LEACH REGARDING PLAINTIFF'S
MOTION FOR PRELIMINARY
APPROVAL OF SETTLEMENT**

Action Filed: October 27, 2022
Trial Date: Not Yet Assigned

1 I declare under penalty of perjury under the laws of the State of California that the foregoing
2 is true and correct to the best of my knowledge.

3 Executed this 24th day of June 2024, at Roseville, California.

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6 DOUGLAS R. LEACH
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