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SOPHIA SCHOENBERG, and all others similarly situated

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF SANTA CLARA**

10 **(UNLIMITED JURISDICTION)**

11
12 SOPHIA SCHOENBERG, on behalf of herself
13 and all others similarly situated, and the general
14 public, and as an “Aggrieved Employee” on
behalf of other “Aggrieved Employees” under the
Private Attorneys General Act of 2004,

15 *Plaintiff,*

16 vs.

17 PM ENTERTAINMENT CORP., a California
corporation; PMP GROUP INC., a California
18 corporation; and DOES 2–50, inclusive,

19 *Defendant(s).*

Case No. 22CV402316

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

Action filed: August 24, 2022
Dept: 19, The Hon. Theodore C.
Zayner

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Attorneys for Defendant(s),
PM ENTERTAINMENT CORP., and PMP GROUP INC.

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between Plaintiff, Sophia Schoenberg (“Plaintiff”) and Defendants PM Entertainment Corp. and
3 PMP Group Inc. (collectively “Defendants”). The Agreement refers to Plaintiff and Defendants
4 collectively as “Parties,” or individually as “Party.”

5 **1. DEFINITIONS.**

6 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against
7 PM Entertainment Corp. and PMP Group Inc. captioned “Sophia Schoenberg, on behalf of
8 herself, and all others similarly situated, and the general public, and as an ‘Aggrieved Employee’
9 on behalf of other ‘Aggrieved Employees’ under the Labor Code Private Attorneys General Act
10 of 2004, *Plaintiff*, vs. PM Entertainment Corp., a California corporation; PMP Group Inc., a
11 California corporation, and DOES 2 through 50, inclusive, *Defendant(s)*,” Case No. 22CV402316
initiated on August 24, 2022 and pending in Superior Court of the State of California, County of
Santa Clara.

12 1.2. “Administrator” means Phoenix Settlement Administrators, the neutral entity the
13 Parties have agreed to appoint to administer the Settlement.

14 1.3. “Administration Expenses Payment” means the amount the Administrator will be
15 paid from the Gross Settlement Amount not to exceed \$10,000.00 to reimburse its reasonable fees
16 and expenses submitted to the Court in connection with Preliminary Approval of the Settlement.

17 1.4. “Aggrieved Employee” means a person employed by Defendants in California and
18 classified as an hourly, non-exempt employee who worked for Defendants during the PAGA
Period.

19 1.5. “Class” means Class Defendants’ California hourly, non-exempt employees who
20 worked at Pure Nightclub during the period of August 24, 2018 to the date of preliminary court
21 approval of the Class Action Settlement or some earlier date if elected by Defendants in
22 accordance with the Escalator clause.

23 1.6. “Class Counsel” means David Glenn Spivak of The Spivak Law Firm and Walter
L. Haines of United Employees Law Group.

24 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”
25 mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
26 expenses, respectively, incurred to prosecute the Action.

27 1.8. “Class Data” means Class Member identifying information in Defendants’
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possession including the Class Member's name, last-known mailing address, Social Security number, and number of Class Period Work Weeks and PAGA Pay Periods.

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

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

1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English attached as Exhibit A and incorporated by reference into this Agreement.

1.12. "Class Period" means the period from August 24, 2018 to the date of preliminary court approval of the Class Action Settlement or some earlier date if elected by Defendants in accordance with the Escalator clause.

1.13. "Class representative" means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as Class Representative.

1.14. "Class Representative Service Payment" means the payment of not more than \$10,000 to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. "Court" means the Superior Court of California, County of Santa Clara.

1.16. "Defendants" means named Defendants PM Entertainment Corp., a California corporation, and PMP Group Inc., a California corporation.

1.17. "Defense Counsel" means Elisa Nadeau, Don H. Nguyen, and Rebecca Schach of Littler Mendelson, P.C.

1.18. "Effective Date" means the date by which all of the following events have occurred: (i) this Agreement has been executed by Plaintiff, Defendant, Class Counsel and Defendant's Counsel; (ii) the Court has given preliminary approval to the Settlement; (iii) the Notice has been sent to the Class Members, providing them the opportunity to object to the Settlement, and the opportunity to opt out of the Settlement; (iv) the Notice has been sent to the

1 LWDA; (v) the Court has held a formal fairness hearing and entered the Court's Final Order and
2 Judgment; and (vi) either (a) sixty five (65) calendar days after final approval of the Settlement
3 and entry of a Final Judgment without any appeal, writ, or other appellate proceeding having been
4 filed therefrom; or (b) if any appeal, writ, or other appellate proceeding opposing Final Approval
5 has been filed within sixty five (65) calendar days after entry of Final Judgment, the Effective
6 Date shall be five (5) business days after any appeal, writ, or other appellate proceedings opposing
7 the Settlement have been finally and conclusively dismissed and the Settlement has been upheld
8 with no right to pursue further remedies or relief. If the Court declines to approve the Settlement,
the entire Agreement is deemed void and null.

9 1.19. "Final Approval" means the Court's order granting final approval of the
10 Settlement.

11 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final
Approval of the Settlement.

12 1.21. "Final Judgment" means the Judgment Entered by the Court upon Granting Final
13 Approval of the Settlement. A proposed Final Judgment form is attached as Exhibit F.

14 1.22. "Gross Settlement Amount" means \$200,000.00, which is the total amount
15 Defendants agree to pay under the Settlement except as provided in Paragraph 9 below. The Gross
16 Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments,
17 the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses
Payment, Class Representative Service Payment, and the Administration Expenses Payment.

18 1.23. "Individual Class Payment" means each Participating Class Member's pro rata
19 share of the Net Settlement Amount calculated according to the number of Work Weeks worked
20 during the Class Period.

21 1.24. "Individual PAGA Payment" means each Aggrieved Employee's pro rata share of
22 25% of the PAGA Penalties calculated according to the number of pay periods worked during the
PAGA Period.

23 1.25. "Judgment" means the judgment entered by the Court based upon the Final
24 Approval.

25 1.26. "LWDA" means the California Labor and Workforce Development Agency.

26 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the
27 LWDA under Labor Code section 2699, subd. (i).

1 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
2 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
3 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
4 Litigation Expenses Payment, and the Administration Expenses Payment.

5 1.29. “Non-Participating Class Member” means any Class Member who opts out of the
6 Settlement by submitting a valid and timely Request for Exclusion from the Settlement to the
7 Administrator.

8 1.30. “Notice Packet” means the Class Notice (Exhibit A), the Election Not to
9 Participate in Settlement form (Exhibit B), the Work Week Dispute form (Exhibit C), and the
10 Objection form (Exhibit D) in English.

11 1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee
12 worked for Defendants for at least one day during the PAGA Period.

13 1.32. “PAGA Period” means the period from August 24, 2021 to the date of preliminary
14 court approval of the Class Action Settlement or some earlier date if elected by Defendants
15 pursuant to the Escalator clause.

16 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698, *et seq.*).

17 1.34. “PAGA Notice” means Plaintiff’s August 24, 2022 letter to the LWDA providing
18 notice pursuant to Labor Code section 2699.3, subd. (a).

19 1.35. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from
20 the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000.00) and the
21 75% to LWDA (\$15,000.00) in settlement of PAGA claims.

22 1.36. “Participating Class Member” means a Class Member who does not submit a valid
23 and timely Request for Exclusion from the Settlement.

24 1.37. “Plaintiff” means Sophia Schoenberg, the named Plaintiff in the Action.

25 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval
26 of the Settlement.

27 1.39. “Preliminary Approval Order” means the proposed Order Granting Preliminary
28 Approval and Approval of PAGA Settlement. A proposed Preliminary Approval Order form is
attached as Exhibit E.

1.40. “Released Class Claims” means the claims being released as described in
Paragraph 6.2 below.

1.41. “Released PAGA Claims” means the claims being released as described in Paragraph 6.3 below.

1.42. “Released Parties” means: Defendants and each of their respective successors and predecessors in interest, subsidiaries, affiliates, and parents; and their past or present officers, directors, shareholders, employees, agents, principals, partners, owners, heirs, representatives, accountants, auditors, consultants, attorneys, insurers and reinsurers.

1.43. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member. An Election Not to Participate in Settlement form is attached as Exhibit B.

1.44. “Response Deadline” means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom 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.

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

1.46. “Work Week” means any week during which a Class Member worked for Defendants for at least one day, during the Class Period.

2. RECITALS.

2.1. On August 24, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant PM Entertainment Corp. for failure to pay wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to issue proper wage statements, failure to timely pay wages, unfair competition, and related claims. On November 04, 2022, Plaintiff filed a First Amended Complaint adding the PAGA cause of action. The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint”). On January 30, 2023, Plaintiff filed an amendment to her Operative Complaint to name PMP Group Inc. as a Defendant. Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in the Operative Complaint and deny any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written

1 notice to Defendants and the LWDA by sending the PAGA Notice.

2 2.3. On October 03, 2023, the Parties participated in an all-day mediation presided
3 over by Ann Kotlarski, Esq., which led to this Agreement to settle the Action.

4 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, the number of
5 comparable employees, the number of workweeks, the number of pay periods, average rates of
6 pay, sample time records, sample payroll records, written policies, financial records, and related
7 information. In addition, following the mediation, Defendants provided Plaintiff with additional
8 financial records. Plaintiff's investigation was sufficient to satisfy the criteria for court approval
9 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*").

10 2.5. The Court has not granted class certification.

11 2.6. The Parties, Class Counsel, and Defense Counsel represent that they are not
12 aware of any other pending matter or action asserting claims that will be extinguished or affected
13 by the Settlement.

14 2.7. Plaintiff represents that she only worked with Defendants a few hours per week,
15 is and has been fully employed in full time work since she separated her employment with
16 Defendant. Plaintiff further represents that she will be compensated for any potential claims for
unpaid wages during employment with Defendants as part of this Agreement.

17 **3. MONETARY TERMS.**

18 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below,
19 Defendants promise to pay \$200,000.00. Defendants agree to separately pay any and all employer
20 payroll taxes owed as a result of payments made from the Gross Settlement Amount. Defendants
21 have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline
22 stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross
23 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 Defendants.

24 3.2. Payments from the Gross Settlement Amount. The Administrator will make and
25 deduct the following payments from the Gross Settlement Amount, in the amounts specified by
26 the Court in the Final Approval:

27 3.2.1. To Plaintiff: Class Representative Service Payment to the Class
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1 Representative of not more than \$10,000.00 (in addition to any Individual Class Payments and
2 any Individual PAGA Payment the Class Representative is entitled to receive as a Participating
3 Class Member). Defendants will not oppose Plaintiff's request for a Class Representative Service
4 Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment
5 and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
6 Representative Service Payment no later than 16 court days prior to the Final Approval Hearing.
7 If the Court approves a Class Representative Service Payment less than the amount requested, the
8 Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will
9 pay and report the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes
10 full responsibility and liability for taxes owed on the Class Representative Service Payment. This
11 Settlement expressly excludes Plaintiff's individual claims in the case of *Sophia Schoenberg vs.*
PM Entertainment Corp., et al. (Case No. 23CV410521), which are subject to a separate
settlement agreement.

12 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than
13 33.33%, which is currently estimated to be \$66,666.00 and a Class Counsel Litigation Expenses
14 Payment of not more than \$15,000.00. Defendants will not oppose requests for these payments
15 provided that do not exceed these amounts. Class Counsel will file a motion for Class Counsel
16 Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the
17 Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class
18 Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will
19 allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability
20 arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel
21 Litigation Expenses Payment. The Administrator will pay and report the Class Counsel Fees
22 Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel
23 assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and
24 the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies
Defendants, from any dispute or controversy regarding any division or sharing of any of these
Payments.

25 3.2.3. To the Administrator: An Administration Expenses Payment not to exceed
26 \$10,000.00, except for a showing of good cause and as approved by the Court. To the extent the
27 Administration Expenses are less or the Court approves payment less than \$10,000.00, the
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1 Administrator will allocate the remainder to the Net Settlement Amount.

2 3.2.4. To Each Participating Class Member: An Individual Class Payment
3 calculated by (a) dividing the Net Settlement Amount by the total number of Work Weeks worked
4 by all Participating Class Members during the Class Period and (b) multiplying the result by each
5 Participating Class Member's Work Weeks.

6 3.2.4.1. Tax Allocation of Individual Class Payments. 33.33% of
7 each Participating Class Member's Individual Class Payment will be allocated to settlement of
8 wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be
9 reported on an IRS W-2 Form. The 66.67% of each Participating Class Member's Individual
10 Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage
11 Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported by
12 the Administrator on IRS 1099 Forms. Participating Class Members assume full responsibility
13 and liability for any employee taxes owed on their Individual Class Payment.

14 3.2.4.2. Effect of Non-Participating Class Members on Calculation
15 of Individual Class Payments. Non-Participating Class Members will not receive any Individual
16 Class Payments. The Administrator will allocate amounts equal to their Individual Class
17 Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro
18 rata basis.

19 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the
20 amount of \$20,000.00 to be paid from the Gross Settlement Amount, with 75% (\$15,000.00)
21 allocated to the LWDA PAGA Payment and 25% (\$5,000.00) allocated to the Individual PAGA
22 Payments.

23 3.2.5.1. The Administrator will calculate each Individual PAGA
24 Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties,
25 \$5,000.00, by the total number of PAGA Pay Periods worked by all Aggrieved Employees during
26 the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay
27 Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their
28 Individual PAGA Payment.

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

1 **4. SETTLEMENT FUNDING AND PAYMENTS.**

2 4.1. Class Work Weeks and Aggrieved Employee Pay Periods. Based on a review of
3 their records through November 22, 2022, Defendants estimate there are 164 Class Members who
4 collectively worked a total of 5,692 Work Weeks, and 87 of Aggrieved Employees who worked
5 a total 1,230 of PAGA Pay Periods.

6 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of
7 the Settlement, Defendants will deliver the Class Data to the Administrator, in the form directed
8 by the Administrator. To protect Class Members' privacy rights, the Administrator must maintain
9 the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no
10 other purpose, and restrict access to the Class Data to Administrator employees who need access
11 to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty
12 to immediately notify Class Counsel if they discover that the Class Data omitted class member
13 identifying information and to provide corrected or updated Class Data as soon as reasonably
14 feasible. Without any extension of the deadline by which Defendants must send the Class Data to
15 the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith,
16 to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

17 4.3. Funding of Gross Settlement Amount. Defendants shall fund the Gross
18 Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll
19 taxes by transmitting the funds to the Administrator within twenty-four (24) months of the
20 Effective Date as follows. The first installment payment of \$50,000 will be made within 30 days
21 of the Effective Date, the subsequent installments will be paid in quarterly installments of
22 \$18,750.00 starting the next calendar quarter after the payment of the first installment payment.

23 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants
24 completely fund the Gross Settlement Amount, the Administrator will mail checks for all
25 Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the
26 Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation
27 Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class
28 Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class
Representative Service Payment shall not precede disbursement of Individual Class Payments
and Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments

1 and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail,
2 postage prepaid. The face of each check shall prominently state the date (not less than 180 days
3 after the date of mailing) when the check will be voided. The Administrator will cancel all checks
4 not cashed by the void date. The Administrator will send checks for Individual Settlement
5 Payments to all Participating Class Members (including those for whom Notice Packet was
6 returned undelivered). The Administrator will send checks for Individual PAGA Payments to all
7 Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved
8 Employees (including those for whom Notice Packet was returned undelivered). The
9 Administrator may send Participating Class Members a single check combining the Individual
10 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.

11 4.4.2. The Administrator must conduct a Class Member Address Search for all
12 other Class Members whose checks are returned undelivered without USPS forwarding address.
13 Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS
14 forwarding address provided or to an address ascertained through the Class Member Address
15 Search. The Administrator need not take further steps to deliver checks to Class Members whose
16 re-mailed checks are returned as undelivered. The Administrator shall promptly send a
17 replacement check to any Class Member whose original check was lost or misplaced, requested
18 by the Class Member prior to the void date.

19 4.4.3. For any Class Member whose Individual Class Payment check or
20 Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator
21 shall transmit the funds represented by such checks to the California Controller's Unclaimed
22 Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to
23 the requirements of California Code of Civil Procedure Section 384, subd. (b).

24 4.4.4. The payment of Individual Class Payments and Individual PAGA
25 Payments shall not obligate Defendants to confer any additional benefits or make any additional
26 payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in
27 this Agreement.

28 **5. [OMITTED]**

6. RELEASES OF CLAIMS. Effective on the date when Defendants fully fund the Gross
Settlement Amount and fund all employer payroll taxes owed, Plaintiff, Class Members, and

1 Class Counsel will release claims against all Released Parties as follows:

2 6.1 Plaintiff's Release. Plaintiff and her respective former and present spouses,
3 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally,
4 releases and discharges Released Parties from all claims, transactions, or occurrences that
5 occurred during the Class Period, including, but not limited to: (a) all claims that were, or
6 reasonably could have been, alleged, based on the facts contained, in the Operative Complaint
7 and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts
8 contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action
9 and released under paragraph 6.2, below. ("Plaintiff's Release") Plaintiff's Release does not
10 extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits,
11 unemployment benefits, disability benefits, social security benefits, workers' compensation
12 benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff
13 acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts
14 or law that Plaintiff now know or believe to be true but agrees, nonetheless, that Plaintiff's Release
15 shall be and remain effective in all respects, notwithstanding such different or additional facts or
16 Plaintiff's discovery of them. However, this release expressly excludes Plaintiff's individual
17 claims and remedies sought in the case of *Sophia Schoenberg vs. PM Entertainment Corp., et al.*
18 (Case No. 23CV410521), which are subject to a separate settlement agreement.

19 6.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
20 purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights,
21 and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

26 However, this waiver expressly excludes Plaintiff's individual claims and remedies sought in the
27 case of *Sophia Schoenberg vs. PM Entertainment Corp., et al.* (Case No. 23CV410521), which
28 are subject to a separate settlement agreement.

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 of any and all claims,

1 causes of action, rights, demands, liabilities, and causes of action, known or unknown, suspected
2 or unsuspected, that each Class Member had, now has, or may hereafter claim to have against the
3 Released Parties that were asserted in the Complaint, or that could have been asserted in the
4 Complaint based on any of the facts, circumstances, transactions, events, occurrences, acts,
5 disclosures, statements, omissions or failures to act alleged in the Complaint, regardless of
6 whether such claims arise under federal, state and/or local law, statute, ordinance, regulation,
7 common law, or other source of law August 24, 2018 through December 31, 2022 (“the Released
8 Claims”). The Released Claims specifically include all claims for: (i) unpaid minimum and
9 overtime wages, however asserted or accrued, including but not limited to failing to properly
10 calculate the regular rate for overtime, working off-the-clock through meal or rest breaks, and
11 working off-the-clock due to time spent donning or doffing a company uniform; (ii) failing to
12 provide meal or rest breaks; (iii) failing to pay meal or rest break premiums or properly calculate
13 the rate for meal and rest break premium pay; (iv) wage statement violations; (v) failing to timely
14 pay wages upon termination, regardless of the nature or type of wages allegedly unpaid; and (vi)
15 incorporated or related claims asserted through California Business & Professions Code §§
16 17200, et. seq. and/or California Labor Code §§ 2698, et seq. Except as set forth in Section 6.3 of
17 this Agreement, Participating Class Members do not release any other claims, including claims
18 for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
19 unemployment insurance, disability, social security, workers’ compensation, or claims based on
20 facts occurring outside the Class Period.

21 6.3 Release of PAGA Claim. Plaintiff, the PAGA Members, and the State of
22 California and its LWDA will fully and finally release and discharge Released Parties from all
23 claims under the California Labor Code Private Attorneys General Act of 2004 for civil penalties
24 that arose during the PAGA Period and which could have been premised on the facts alleged in
25 the PAGA Letter to the LWDA and/or in the operative complaint in in the Action including but
26 not limited to penalties that could have been awarded pursuant to Labor Code sections 210, 226.3,
27 1197.1, 558, and 2699. The Released Claims expressly exclude all claims by PAGA Members for
28 individual wage claims, vested benefits, wrongful termination, unemployment insurance,
disability, social security, workers’ compensation, claims while classified as exempt, and claims
outside of the PAGA Period. In light of the binding nature of a PAGA judgment on non-party
employees pursuant to *Arias v. Sup. Ct. (Angelo Dairy)*, 46 Cal.4th 969 (2009), and *Cardenas v.*

1 *McLane Foodservice, Inc.* (2011) 796 F.Supp.2d 1246, individuals otherwise meeting the
2 definition of a PAGA Member who are eligible to receive a PAGA Payment Share shall be
3 deemed to have released their Released Claims regardless of whether the check is cashed or not.

4 **7. MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and
5 file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with
6 the Court’s current checklist for Preliminary Approvals. A Preliminary Approval Order form is
attached as Exhibit E.

7 7.1 Defendants’ Declaration in Support of Preliminary Approval. Within ten (10)
8 days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel
9 a signed Declaration from Defendants and Defense Counsel disclosing all facts relevant to any
10 actual or potential conflicts of interest with the Administrator. In their Declarations, Defense
11 Counsel and Defendants 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.

12 7.2 Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel
13 all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice,
14 and memorandum in support, of the Motion for Preliminary Approval that includes an analysis
15 of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under
16 Labor Code Section 2699, subd. (f)(2); (ii) a draft proposed Order Granting Preliminary Approval
17 and Approval of PAGA Settlement; (iii) a draft proposed Notice Packet; (iv) a signed declaration
18 from the Administrator attaching its “not to exceed” bid for administering the Settlement and
19 attesting to its willingness to serve; competency; operative procedures for protecting the security
20 of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other
21 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
22 and the nature and extent of any financial relationship with Plaintiff’s, Class Counsel or Defense
23 Counsel; (vi) a signed declaration from Plaintiff confirming willingness and competency to serve
24 and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members,
25 and/or the Administrator; (vii) a signed declaration from each Class Counsel firm attesting to its
26 competency to represent the Class Members; its timely transmission to the LWDA of all necessary
27 PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
28 Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699,
subd. (l)(2)); (viii) a redlined version of the parties’ Agreement showing all modifications made

1 to the Model Agreement ready for filing with the Court; and (ix) all facts relevant to any actual
2 or potential conflict of interest with Class Members, the Administrator. In their Declarations,
3 Plaintiff and Class Counsel shall aver that they are not aware of any other pending matter or action
4 asserting claims that will be extinguished or adversely affected by the Settlement.

5 7.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly
6 responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later
7 than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the
8 Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion
9 for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary
Approval to the Administrator.

10 7.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion
11 for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
12 Defense Counsel will expeditiously work together on behalf of the Parties by conferring by
13 telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
14 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
15 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
16 conferring by telephone, and in good faith, to modify the Agreement and otherwise satisfy the
Court's concerns.

17 **8. SETTLEMENT ADMINISTRATION.**

18 8.1 Selection of Administrator. The Parties have jointly selected Phoenix Settlement
19 Administrators to serve as the Administrator and verified that, as a condition of appointment,
20 Phoenix Settlement Administrators agrees to be bound by this Agreement and to perform, as a
21 fiduciary, all duties specified in this Agreement in exchange for payment of Administration
22 Expenses. The Parties and their Counsel represent that they have no interest or relationship,
financial or otherwise, with the Administrator other than a professional relationship arising out of
prior experiences administering settlements.

23 8.2 Employer Identification Number. The Administrator shall have and use its own
24 Employer Identification Number for purposes of calculating payroll tax withholdings and
25 providing reports state and federal tax authorities.

26 8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund
27 that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury
28

1 Regulation section 468B-1.

2 8.4 Notice to Class Members.

3 8.4.1 No later than three (3) business days after receipt of the Class Data, the
4 Administrator shall notify Class Counsel that the list has been received and state the number of
5 Class Members, PAGA Members, Work Weeks, and Pay Periods in the Class Data.

6 8.4.2 Using best efforts to perform as soon as possible, and in no event later than
7 14 days after receiving the Class Data, the Administrator will send to all Class Members identified
8 in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Notice Packet,
9 substantially in the forms attached to this Agreement as **Exhibits A, B, C, and D**. Before mailing
10 Notice Packets, the Administrator shall update Class Member addresses using the National
11 Change of Address database.

12 8.4.3 Not later than 3 business days after the Administrator’s receipt of any
13 Notice Packet returned by the USPS as undelivered, the Administrator shall re-mail the Notice
14 Packet using any forwarding address provided by the USPS. If the USPS does not provide a
15 forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail
16 the Notice Packet to the most current address obtained. The Administrator has no obligation to
17 make further attempts to locate or send Notice Packet to Class Members whose Notice Packet is
18 returned by the USPS a second time.

19 8.4.4 The deadlines for Class Members’ written objections, Challenges to
20 Calculation of Work Weeks or Pay Periods, and Requests for Exclusion will be extended an
21 additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class
22 Members whose notice is re-mailed. The Administrator will inform the Class Member of the
23 extended deadline with the re-mailed Notice Packet.

24 8.4.5 If the Administrator, Defendants, or Class Counsel are contacted by or
25 otherwise discover any persons who believe they should have been included in the Class Data
26 and should have received Notice Packet, the Parties will expeditiously meet and confer by
27 telephone, and in good faith, in an effort to agree on whether to include them as Class Members.
28 If the Parties agree, such persons will be Class Members entitled to the same rights as other Class
Members, and the Administrator will send 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.

1 8.5 Requests for Exclusion (Opt-Outs).

2 8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class
3 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for
4 Exclusion not later than 60 days after the Administrator mails the Notice Packet (plus an
5 additional 14 days for Class Members whose Notice Packet is re-mailed). A Request for
6 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates
7 the Class Member's election to be excluded from the Settlement and includes the Class Member's
8 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.

9 8.5.2 The Administrator may not reject a Request for Exclusion as invalid
10 because it fails to contain all the information specified in the Class Notice. The Administrator
11 shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the
12 identity of the person as a Class Member and the Class Member's desire to be excluded. The
13 Administrator's determination shall be final and not appealable or otherwise susceptible to
14 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.

15 8.5.3 Every Class Member who does not submit a timely and valid Request for
16 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
17 benefits and bound by all terms and conditions of the Settlement, including the Participating Class
18 Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless of whether the
Participating Class Member actually receives the Class Notice or objects to the Settlement.

19 8.5.4 Every Class Member who submits a valid and timely Request for
20 Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment
21 or have the right to object to the class action components of the Settlement. Aggrieved Employees
22 are eligible for an Individual PAGA Payment.

23 8.6 Challenges to Calculation of Work Weeks. Each Class Member shall have 60
24 days after the Administrator mails the Notice Packet (plus an additional 14 days for Class
25 Members whose Notice Packet is re-mailed) to challenge the number of Class Work Weeks and
26 PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. This is also known
27 as a dispute. The Class Member may challenge the allocation by submitting a Work Week Dispute
28 form, attached as Exhibit C, to the Administrator via fax, email, or mail. The Administrator will

1 direct the challenging Class Member to submit supporting documentation. In the absence of any
2 contrary documentation, the Administrator is entitled to presume that the Work Weeks contained
3 in the Class Notice are correct so long as they are consistent with the Class Data. The
4 Administrator's determination of each Class Member's allocation of Work Weeks and/or Pay
5 Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator
6 shall promptly provide copies of all challenges to calculation of Work Weeks and/or Pay Periods
to Defense Counsel and Class Counsel and the Administrator's determination of the challenges.

7 8.7 Objections to Settlement.

8 8.7.1 Only Participating Class Members may object to the class action
9 components of the Settlement and/or this Agreement, including contesting the fairness of the
10 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel
Litigation Expenses Payment, and/or Class Representative Service Payment.

11 8.7.2 Participating Class Members may send written objections to the
12 Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear
13 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
14 Hearing. A Participating Class Member who elects to send a written objection to the
15 Administrator must submit the Objection form, attached as Exhibit D, not later than 60 days after
16 the Administrator's mailing of the Notice Packet (plus an additional 14 days for Class Members
whose Notice Packet was re-mailed).

17 8.7.3 Non-Participating Class Members have no right to object to any of the class
18 action components of the Settlement.

19 8.8 Administrator Duties. The Administrator has a duty to perform or observe all
20 tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

21 8.8.1 Website, Email Address, and Toll-Free Number. The Administrator will
22 establish, maintain, and use an internet website to post information of interest to Class Members
23 including the date, time, and location for the Final Approval Hearing and copies of the Settlement
24 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Notice Packet, the
25 Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation
26 Expenses Payment, and Class Representative Service Payment, the Final Approval, and the
27 Judgment. The Administrator will also maintain and monitor an email address and a toll-free
28 telephone number to receive Class Member calls, faxes, and emails.

1 8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator
2 will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later
3 than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the
4 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names
5 and other identifying information of Class Members who have timely submitted valid Requests
6 for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class
7 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
8 Exclusion from Settlement submitted (whether valid or invalid).

9 8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide
10 written reports to Class Counsel and Defense Counsel that, among other things, tally the number
11 of: Notice Packets mailed or re-mailed, Notice Packets returned undelivered, Requests for
12 Exclusion (whether valid or invalid) received, objections received, challenges to Work Weeks
13 and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments
14 and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide
15 the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all
16 Requests for Exclusion and objections received.

17 8.8.4 Administrator’s Declaration. Not later than 14 days before the date by
18 which Plaintiff is required to file the Motion for Final Approval of the Settlement, the
19 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
20 for filing in Court attesting to its due diligence and compliance with all of its obligations under
21 this Agreement, including, but not limited to, its mailing of the Notice Packets, the Notice Packets
22 returned as undelivered, the re-mailing of Notice Packets, attempts to locate Class Members, the
23 total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
24 number of written objections, and attach the Exclusion List. The Administrator will supplement
25 its declaration as needed or requested by the Parties and/or the Court. Class Counsel are
26 responsible for filing the Administrator’s declaration(s) in Court.

27 8.8.5 Final Report by Administrator. Within 10 days after the Administrator
28 disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel
and Defense Counsel with a final report detailing its disbursements by employee identification
number only of all payments made under this Agreement. At least 15 days before any deadline
set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense

Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel are responsible for filing the Administrator's declaration in Court.

9. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE. Based on their records, Defendants estimate that, as of November 22, 2022, (1) there are 164 Class Members and 5,692 Total Work Weeks during the Class period, and (2) there were 87 Aggrieved Employees who worked 1,230 Pay Periods during the PAGA Period. If the Workweeks as of the date the Court preliminarily approves the Class Action settlement exceed the Class Workweeks by more than 10%, meaning there are more than 6,262 Workweeks, at Defendants' sole election, Defendants will either (a) increase the Gross Settlement Amount, including the Class Counsel Fees Payment, the Class Representative Service Payment, and the PAGA Penalties, proportionally according to the number of additional Workweeks over 6,262 (e.g., if the numbers increase by 11%, the Gross Settlement Fund shall increase by 1%) or (b) elect to set the end date for the Class Period on the date when the total Workweeks for the Class Period would be no more than 6,262 workweeks.

10. DEFENDANTS' RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10.00% of the total of all Class Members, Defendants may, but are not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, 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, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of their election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

11. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a Proposed Judgment (collectively "Motion for Final Approval"). Plaintiff will 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 in person, via e-mail or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

1 11.1 Response to Objections. Each Party retains the right to respond to any objection
2 raised by a Participating Class Member, including the right to file responsive documents in Court
3 no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
4 by the Court.

5 11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
6 Approval on any material change to the Settlement (including, but not limited to, the scope of
7 release to be granted by Class Members), the Parties will expeditiously work together in good
8 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final
9 Approval. The Court's decision to award less than the amounts requested for the Class
10 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
11 Expenses Payment, and/or Administration Expenses Payment shall not constitute a material
12 modification to the Agreement within the meaning of this paragraph.

13 11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of
14 Judgment, the Court will retain jurisdiction pursuant to Rule 3.769 of the California Rules of
15 Court and Section 664.6 of the California Code of Civil Procedure over the Parties, Action, and
16 the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment (ii) addressing
17 settlement administration matters, and (iii) addressing such post-Judgment matters as are
18 permitted by law.

19 11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms
20 and conditions of this Agreement, specifically including the Class Counsel Fees Payment and
21 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
22 respective counsel, and all Participating Class Members who did not object to the Settlement as
23 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
24 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
25 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
26 of the right to oppose such motions, writs, or appeals. If an objector appeals the Judgment, the
27 Parties' obligations to perform under this Agreement will be suspended until such time as the
28 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

1 material modification of this Agreement (including, but not limited to, the scope of release to be
2 granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
3 expeditiously work together in good faith to address the appellate court's concerns and to obtain
4 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
5 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
6 the Court's award of the Class Representative Service Payment or any payment to Class Counsel
7 shall not constitute a material modification of the Judgment within the meaning of this paragraph,
8 as long as the Gross Settlement Amount remains unchanged.

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

12 **13. ADDITIONAL PROVISIONS.**

13 13.1 No Admission of Liability, Class Certification, or Representative Manageability
14 for Other Purposes. This Agreement represents a compromise and settlement of highly disputed
15 claims. Nothing in this Agreement is intended or should be construed as an admission by
16 Defendants that any of the allegations in the Operative Complaint have merit or that Defendants
17 have any liability for any claims asserted; nor should it be intended or construed as an admission
18 by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class
19 certification and representative treatment is for purposes of this Settlement only. If, for any reason
20 the Court does grant Preliminary Approval, Final Approval, or enter Judgment, Defendants
21 reserve the right to contest certification of any class for any reasons, and Defendants reserve all
22 available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
23 certification on any grounds available and to contest Defendants' defenses. The Settlement, this
24 Agreement, and Parties' willingness to settle the Action will have no bearing on, and will not be
25 admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
26 Settlement and this Agreement).

27 13.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel,
28 Defendants, 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,

1 association, government agency, or other entity except: (1) to the Parties' attorneys, accountants,
2 or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a
3 related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4)
4 in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a
5 state or federal government agency.

6 Each Party agrees to immediately notify each other Party of any judicial or agency
7 order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants, and
8 Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other
9 communication, before the filing of the Motion for Preliminary Approval, any with third party
10 regarding this Agreement or the matters giving rise to this Agreement except to respond only that
11 "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's
12 communications with Class Members in accordance with Class Counsel's ethical obligations
13 owed to Class Members.

14 13.3 No Solicitation. The Parties separately agree that they and their respective
15 counsel and employees will not solicit any Class Member to opt out of or object to the Settlement,
16 or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class
17 Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical
18 obligations owed to Class Members.

19 13.4 Integrated Agreement. Upon execution by all Parties and their counsel, this
20 Agreement together with its attached exhibits shall constitute the entire agreement between the
21 Parties relating to the Settlement, superseding any and all oral representations, warranties,
22 covenants, or inducements made to or by any Party.

23 13.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant
24 and represent that they are authorized by Plaintiff and Defendants, respectively, to take all
25 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
26 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
27 terms of this Agreement including any amendments to this Agreement.

28 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

1 or content of any document necessary to implement the Settlement, or on any modification of the
2 Agreement that may become necessary to implement the Settlement, the Parties will seek the
3 assistance of a mediator and/or the Court for resolution.

4 13.7 No Prior Assignments. The Parties separately represent and warrant that they
5 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
6 or encumber to any person or entity and portion of any liability, claim, demand, action, cause of
7 action, or right released and discharged by the Parties in this Settlement.

8 13.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendants, nor Defense
9 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
10 Settlement be relied upon as such within the meaning of United States Treasury Department
11 Circular 230 (31 CFR Part 10, as amended) or otherwise.

12 13.9 Modification of Agreement. This Agreement, and all parts of it, may be amended,
13 modified, changed, or waived only by an express written instrument signed by all Parties or their
14 representatives, and approved by the Court.

15 13.10 Agreement Binding on Successors. This Agreement will be binding upon, and
16 inure to the benefit of, the successors of each of the Parties.

17 13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will
18 be governed by and interpreted according to the internal laws of the state of California, without
19 regard to conflict of law principles.

20 13.12 Cooperation in Drafting. The Parties have cooperated in the drafting and
21 preparation of this Agreement. This Agreement will not be construed against any Party on the
22 basis that the Party was the drafter or participated in the drafting.

23 13.13 Confidentiality. To the extent permitted by law, all agreements made, and orders
24 entered during Action and in this Agreement relating to the confidentiality of information shall
25 survive the execution of this Agreement.

26 13.14 Use and Return of Class Data. Information provided to Class Counsel pursuant
27 to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class
28 Counsel by Defendants 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

1 Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement
2 funds, Plaintiff shall destroy all paper and electronic versions of Class Data received from
3 Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants
4 make a written request to Class Counsel for the return, rather than the destructions, of Class Data.

5 13.15 Headings. The descriptive heading of any section or paragraph of this Agreement
6 is inserted for convenience of reference only and does not constitute a part of this Agreement.

7 13.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement
8 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
9 weekend or federal legal holiday, such date or deadline shall be on the first business day
10 thereafter.

11 13.17 Notice. All notices, demands or other communications between the Parties in
12 connection with this Agreement will be in writing and deemed to have been duly given as of the
13 third business day after mailing by United States mail, or the day sent by email or messenger,
14 addressed as follows:

15 To Plaintiff:
16 David Glenn Spivak, Esq.
17 The Spivak Law Firm
18 8605 Santa Monica Bl
19 PMB 42554
20 West Hollywood, CA 90069
21 david@spivaklaw.com

To Defendants:
Elisa Nadeau, Esq.
Don H. Nguyen, Esq.
Littler Mendelson, P.C.
50 W. San Fernando Street
7th Floor
San Jose, CA 95113
dhnguyen@littler.com

22 13.18 Execution in Counterparts. This Agreement may be executed in one or more
23 counterparts by facsimile, electronically (i.e., DocuSign), or email, which for purposes of this
24 Agreement shall be accepted as an original. All executed counterparts and each of them will be
25 deemed to be one and the same instrument if counsel for the Parties will exchange between
26 themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove
27 the existence and contents of this Agreement.

28 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 upon the signing of this Agreement pursuant to CCP section 583.330 to extend the date to
bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

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07 / 14 / 2024
Dated: July 11, 2024

By: 
SOPHIA SCHOENBERG

Dated: July 11, 2024

By: 
PETER LIN for
PM ENTERTAINMENT CORP. and
PMP GROUP INC.

THE SPIVAK LAW FIRM

07 / 15 / 2024
Dated July 11, 2024
:

By: 
DAVID GLENN SPIVAK and LAUREN R. DAVIS,
Attorneys for Plaintiff(s), SOPHIA SCHOENBERG, and
all others similarly situated

UNITED EMPLOYEES LAW GROUP

Dated: July 11, 2024

By: 
WALTER L. HAINES, Attorney for
Plaintiff(s), SOPHIA SCHOENBERG, and
all others similarly situated

LITTLER MENDELSON, P.C.

Dated: July 11, 2024

By: 
ELISA NADEAU, DON H. NGUYEN, and
REBECCA SCHACH, Attorneys for Defendants, PM
ENTERTAINMENT CORP. and PMP GROUP INC.

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EXHIBIT A

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

(case name: *Sophia Schoenberg v. PM Entertainment Corp., et al.* and number 22CV402316)

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

You may be eligible to receive money from an employee class action lawsuit (“Action”) against PM Entertainment Corp. and PMP Group Inc. (“Defendants”) for alleged violations of California’s labor laws. The Action was filed by Defendants’ former employee, Sophia Schoenberg (“Plaintiff”), and seeks payment of (1) wages and other relief for a class of Defendants’ California current and former hourly, non-exempt employees who worked at Pure Nightclub (“Class Members”) during the Class Period (August 24, 2018 to [INSERT DATE WHEN KNOWN]); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all current and former hourly, non-exempt employees who worked for Defendants during the PAGA Period (August 24, 2021 [INSERT DATE WHEN KNOWN]) (“Aggrieved Employees”).

Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

Based on Defendants’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$<<IndividualClassPaymentAmount>> (less withholding) and your Individual PAGA Payment is estimated to be \$<<IndividualPAGAPaymentAmount>>.** The estimated dollar value of a Work Week is <<\$increment type value>> and a Pay Period is <<@PayPeriodValue>>. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendants’ records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.) The individual payment amounts will vary.

The above estimates are based on Defendants’ records showing that **you worked <<__>> Work Weeks** during the Class Period, and **you worked <<__>> Pay Periods** during the PAGA Period. If you believe that you worked more Work Weeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement

If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against Defendants that are covered by this Settlement (Released Claims).

You Can Opt-out of the Class Settlement but not the PAGA Settlement

The Opt-out Deadline is <<RESPONSE DEADLINE>>

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. You can use the enclosed Election Not To Participate In Settlement form for this purpose. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.

You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Payments to all Aggrieved Employees, and Plaintiff releases Defendants from civil penalties they may owe to the Aggrieved Employees.

Participating Class Members Can Object to the Class Settlement but Not the PAGA Settlement

Written Objections Must Be Submitted by <<RESPONSE DEADLINE>>

All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. You must use the enclosed Objection form for this purpose. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.

You Can Participate in the <<FinalApprovalHearingDate>> Final Approval Hearing

The Court's Final Approval Hearing is scheduled to take place on <<FinalApprovalHearingDate>>. You don't have to attend, but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone, or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing whether or not they submitted a written objection. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Work Weeks / Pay Periods

Written Challenges Must Be Submitted by <<RESPONSE DEADLINE>>

The amount of your Individual Class Payment and PAGA Payment (if any) depends on how many Work Weeks 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 Work Weeks and number of PAGA Period Pay Periods you worked according to Defendants' records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by <<RESPONSE DEADLINE>>. See Section 4 of this Notice. You can use the enclosed Work Week Dispute form for this purpose.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendants. The Action accuses Defendants of violating California labor laws by failure to pay wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to issue proper wage statements, failure to timely pay wages, unfair business practices, and related violations of the Labor Code. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the PAGA (Labor Code section 2698 and sections that follow) ("PAGA"). Plaintiff is represented by attorneys in the Action: David Glenn Spivak of The Spivak Law Firm and Walter L. Haines of United Employees Law Group ("Class Counsel.") Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

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

The Court has not made any determination whether Plaintiff or Defendants are correct on the merits and will not do so if the settlement is finally approved. Plaintiff and Defendants negotiated a settlement agreement ("Agreement") and now jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable, and adequate amount considering the strengths and weaknesses of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

A. Gross Settlement Amount. Defendants will pay \$200,000.00 as the Gross Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class

1 Representative Service Payment, Class Counsel's attorneys' fees and expenses, the
2 Administrator's expenses, and penalties to be paid to the California Labor and Workforce
3 Development Agency ("LWDA"). "Effective Date" means the date by all of the following events
4 have occurred: (i) this Agreement has been executed by Plaintiff, Defendant, Class Counsel and
5 Defendant's Counsel; (ii) the Court has given preliminary approval to the Settlement; (iii) the
6 Notice has been sent to the Class Members, providing them the opportunity to object to the
7 Settlement, and the opportunity to opt out of the Settlement; (iv) the Notice has been sent to the
8 LWDA; (v) the Court has held a formal fairness hearing and entered the Court's Final Order and
9 Judgment; and (vi) either (a) sixty five (65) calendar days after final approval of the Settlement
10 and entry of a Final Judgment without any appeal, writ, or other appellate proceeding having been
11 filed therefrom; or (b) if any appeal, writ, or other appellate proceeding opposing Final Approval
12 has been filed within sixty five (65) calendar days after entry of Final Judgment, the Effective
13 Date shall be five (5) business days after any appeal, writ, or other appellate proceedings opposing
14 the Settlement have been finally and conclusively dismissed and the Settlement has been upheld
15 with no right to pursue further remedies or relief. If the Court declines to approve the Settlement,
16 the entire Agreement is deemed void and null.

17 B. Court Approved Deductions from Gross Settlement. At the Final Approval
18 Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions
19 from the Gross Settlement, the amounts of which will be decided by the Court at the Final
20 Approval Hearing:

21 1. Attorney Fees and Costs. Up to 33.33% of the Gross Settlement (which is
22 currently estimated to be \$66,666.00) to Class Counsel for attorneys' fees and up to \$15,000.00
23 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the
24 Action without payment.

25 2. Class Representative Service Payment. Up to \$10,000.00 as a Class
26 Representative Service Payment for filing the Action, working with Class Counsel, and
27 representing the Class. A Class Representative Service Payment will be the only monies Plaintiff
28 will receive other than Plaintiff's Individual Class Payments and any Individual PAGA Payments.

29 3. Administration Expenses. Up to \$10,000.00 to the Administrator for its
30 services in administering the Settlement, except for a showing of good cause and as approved by
31 the Court.

32 4. PAGA Penalties. Up to \$20,000.00 for PAGA Penalties, allocated 75% to
33 the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees
34 based on their PAGA Period Pay Periods.

35 Participating Class Members have the right to object to any of these deductions. The Court
36 will consider all objections. Based on their records, Defendants estimated that, as of November
37 22, 2022, (1) there are 164 Class Members and 5,692 Total Work Weeks during the Class period,
38 and (2) there were 87 Aggrieved Employees who worked 1,230 Pay Periods during the PAGA
39 Period. If the Workweeks as of the date the Court preliminarily approves the Class Action
40 settlement exceed the Class Workweeks by more than 10%, meaning there are more than 6,262

1 Workweeks, at Defendants' sole election, Defendants will either (a) increase the Gross Settlement
2 Amount, including the Class Counsel Fees Payment, the Class Representative Service Payment,
3 and the PAGA Penalties, proportionally according to the number of additional Workweeks over
4 6,262 (e.g., if the numbers increase by 11%, the Gross Settlement Fund shall increase by 1%) or
(b) elect to set the end date for the Class Period on the date when the total Workweeks for the
Class Period would be no more than 6,262 workweeks.

5 C. Net Settlement Distributed to Class Members. After making the above deductions
6 in amounts approved by the Court, the Administrator will distribute the rest of the Gross
7 Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class
Members based on their Class Period Work Weeks.

8 D. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking
9 the Court to approve an allocation of 33.33% of each Individual Class Payment to taxable wages
10 ("Wage Portion") and 66.67% to interest and penalties ("Non-Wage Portion."). The Wage Portion
11 is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately
12 pay employer payroll taxes they owe on the Wage Portion. The Individual PAGA Payments are
counted as penalties rather than wages for tax purposes. The Administrator will report the
Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS
1099 Forms.

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

16 E. Need to Promptly Cash Payment Checks. The front of every check issued for
17 Individual Class Payments and Individual PAGA Payments will show the date when the check
18 expires (the void date). If you don't cash it by the void date, your check will be automatically
19 cancelled, and the monies will be deposited with the California Controller's Unclaimed Property
Fund (https://www.sco.ca.gov/search_upd.html) in your name.

20 If the monies represented by your check are sent to the Controller's Unclaimed Property Fund,
21 you should consult the rules of the Fund for instructions on how to retrieve your money. You can
contact the Unclaimed Property Fund at (800) 992-4647.

22 F. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated
23 as a Participating Class Member, participating fully in the Class Settlement, unless you notify the
Administrator in writing, not later than <<RESPONSE DEADLINE>>, that you wish to opt-out.
24 The easiest way to notify the Administrator is to email, fax, or mail a written and signed Request
25 for Exclusion by the <<RESPONSE DEADLINE>> Response Deadline. The Request for
Exclusion should be a letter from a Class Member or his/her representative setting forth a Class
26 Member's name, present address, telephone number, and a simple statement electing to be
27 excluded from the Settlement. You may use the enclosed Election Not To Participate In
Settlement form for this purpose. Excluded Class Members (i.e., Non-Participating Class

Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue claims against Defendants for violations of California's labor laws.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments, and Plaintiff release Defendants from civil penalties they may owe to the Aggrieved Employees.

G. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the "Administrator") to send this Notice, calculate, and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Work Weeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

H. Participating Class Members' Release. After the Judgment is final and Defendants have fully funded the Gross Settlement (and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or their officers, directors, employees, and agents for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

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

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 of any and all claims, causes of action, rights, demands, liabilities, and causes of action, known or unknown, suspected or unsuspected, that each Class Member had, now has, or may hereafter claim to have against the Released Parties that were asserted in the Complaint, or that could have been asserted in the Complaint based on any of the facts, circumstances, transactions, events, occurrences, acts, disclosures, statements, omissions or failures to act alleged in the Complaint, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law August 24, 2018 through December 31, 2022 ("the Released Claims"). The Released Claims specifically include all claims for: (i) unpaid minimum and overtime wages, however asserted or accrued, including but not limited to failing to properly calculate the regular rate for overtime, working off-the-clock through meal or rest breaks, and working off-the-clock due to time spent donning or doffing a company uniform; (ii) failing to provide meal or rest breaks; (iii) failing to pay meal or rest break premiums or properly calculate the rate for meal and rest break premium pay; (iv) wage statement violations; (v) failing to timely pay wages upon termination, regardless of the nature or type of wages allegedly unpaid; and (vi) incorporated or related claims asserted through

1 California Business & Professions Code §§ 17200, et. seq. and/or California Labor
2 Code §§ 2698, et seq. . Except as set forth in Section 6.3 of this Agreement,
3 Participating Class Members do not release any other claims, including claims for
4 vested benefits, wrongful termination, violation of the Fair Employment and
Housing Act, unemployment insurance, disability, social security, workers'
compensation, or claims based on facts occurring outside the Class Period.

5 I. The PAGA Release. After the Court's judgment is final, and Defendants have paid
6 the Gross Settlement (and separately paid the employer-side payroll taxes), Plaintiff releases all
7 claims for civil penalties that could have been sought by the Labor Commissioner for the
8 violations identified in Plaintiff's pre-filing letter to the LWDA; Plaintiff does not release the
claim for wages or damages of any Aggrieved Employee unless such Aggrieved Employee is a
Participating Class Member.

9 **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

10 A. Individual Class Payments. The Administrator will calculate Individual Class
11 Payments by (a) dividing the Net Settlement Amount by the total number of Work Weeks worked
12 by all Participating Class Members, and (b) multiplying the result by the number of Work Weeks
worked by each individual Participating Class Member.

13 B. Individual PAGA Payments. The Administrator will calculate Individual PAGA
14 Payments by (a) dividing \$5,000.00 by the total number of PAGA Pay Periods worked by all
15 Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked
by each individual Aggrieved Employee.

16 C. Workweek/Pay Period Challenges. The number of Class Work Weeks you worked
17 during the Class Period and the number of PAGA Pay Periods you worked during the PAGA
18 Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have
19 until <<RESPONSE DEADLINE>> to challenge the number of Work Weeks and/or Pay Periods
20 credited to you. You can submit your challenge by signing and sending a letter to the
Administrator by email, fax, or regular U.S. mail. You must submit the enclosed Dispute form
for this purpose. Section 9 of this Notice has the Administrator's contact information.

21 You need to support your challenge by submitting copies of pay stubs or other records.
22 The Administrator will accept Defendants' calculation of Work Weeks and/or Pay Periods based
23 on Defendants' records as accurate unless you send copies of records containing contrary
24 information. You should send copies rather than originals because the documents will not be
returned to you. The Administrator will resolve Work Week and/or Pay Period challenges and the
Administrator's decision is final.

25 **5. HOW WILL I GET PAID?**

26 A. Participating Class Members. The Administrator will send, by U.S. mail, a single
27 check to every Participating Class Member (i.e., every Class Member who doesn't opt-out)
including those who also qualify as Aggrieved Employees. The single check will combine the

Individual Class Payment and the Individual PAGA Payment.

B. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

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

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

Email, fax, or mail the enclosed Election Not To Participate In Settlement form to the Administrator. Be sure to personally sign your request, identify the Action as *Sophia Schoenberg vs. PM Entertainment Corp., et al.*, Case No. 22CV402316, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by <<RESPONSE DEADLINE>>, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information. If you are an Aggrieved Employee, you will still receive an Individual PAGA Payment.

7. HOW DO I OBJECT TO THE SETTLEMENT?

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

The deadline for sending written objections to the Administrator is <<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 include your name, current address, telephone number, and approximate dates of employment for Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information. You must use the enclosed Objection form for this purpose. You should send your objection to the Administrator by email, fax, or regular U.S. mail.

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

1 to tell the Court what you object to, why you object, and any facts that support your objection.
2 See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval
Hearing.

3 **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

4 You can, but don't have to, attend the Final Approval Hearing on <<FINAL APPROVAL
5 HEARING DATE>> at <<FINAL APPROVAL HEARING TIME>> in Department 19 of the
6 Santa Clara Superior Court, located at Downtown Superior Court, Dept. 19 - 191 North First
7 Street, San Jose, CA 95113. At the Hearing, the judge will decide whether to grant Final Approval
8 of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff,
and the Administrator. The Court will invite comment from objectors, Class Counsel, and Defense
9 Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally
or virtually by <<CourtConnect/CourtCall/MicrosoftTeams>>
10 (<https://www.<<CourtVirtualAppearanceLink>>>). Check the Court's website for the most current
information.

11 It's possible the Court will reschedule the Final Approval Hearing. You should check the
12 Administrator's website <<ADMINISTRATOR WEBSITE>> beforehand or contact Class
Counsel to verify the date and time of the Final Approval Hearing.

13 **9. HOW CAN I GET MORE INFORMATION?**

14 The Agreement sets forth everything Defendants and Plaintiff have promised to do under the
15 proposed Settlement. The easiest way to read the Agreement, the Judgment, or any other
16 Settlement documents is to go to the Administrator's website at <<ADMINISTRATOR'S
17 WEBSITE>>. You can also telephone or send an email to Class Counsel or the Administrator
18 using the contact information listed below, or consult the Superior Court website by going to
19 (<http://www.<< COURT'S WEBSITE>>.aspx>) and entering the Case Number for the Action,
20 Case No. 22CV402316. You can also make an appointment to personally review court documents
21 in the Clerk's Office at Department 19 of the Santa Clara Superior Court, located at Downtown
22 Superior Court, Dept. 19 - 191 North First Street, San Jose, CA 95113, by calling <<CLERK OF
COURT'S PHONE NUMBER>>.

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

25 Class Counsel:

26 Name of Attorney:	David Glenn Spivak
27 Email Address:	david@spivaklaw.com
28 Name of Firm:	The Spivak Law Firm
Mailing Address:	8605 Santa Monica Bl PMB 42554 West Hollywood, CA 90069
Telephone:	(213) 725-9094

Administrator:

Name of Company: Phoenix Settlement Administrators

Email Address: _____

Mailing Address: _____

Telephone: _____

Fax Number: _____

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund (https://www.sco.ca.gov/search_upd.html) for instructions on how to retrieve the funds. You can contact the Unclaimed Property Fund at (800) 992-4647.

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT B

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Schoenberg v. PM Entertainment Corp.
Superior Court of the State of California, County of Santa Clara
Case No. 22CV402316

ELECTION NOT TO PARTICIPATE IN SETTLEMENT FORM

**IF YOU WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT AND
BE ELIGIBLE FOR A SHARE OF THE SETTLEMENT PROCEEDS,
DO NOT FILL OUT THIS FORM.**

**IF YOU DO NOT WANT TO BE INCLUDED IN THE SETTLEMENT, YOU MUST
COMPLETE AND SIGN THIS DOCUMENT AND MAIL IT TO THE ADDRESS
BELOW, EMAILED, FAXED, OR POSTMARKED NOT LATER THAN <<RESPONSE
DEADLINE>>:**

Schoenberg v. PM Entertainment Corp., et al. Class Action Administrator

c/o _____

I declare as follows: I have received notice of the proposed settlement in this action, and I wish to be excluded from the class and ***not*** to participate in the proposed settlement. I understand this means that I will not be bound by the Settlement and also will not share in the settlement proceeds. I understand that exclusion from the Class Settlement will not result in exclusion from the PAGA portion of the Settlement. If I am an Aggrieved Employee under the Settlement, I will still receive an Individual PAGA Payment.

(Typed or Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number, Including
Area Code)

(Identification Number)

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct and was executed on _____.

3 Dated: ____.

4 _____
(Signature)

EXHIBIT C

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1 **WORK WEEK DISPUTE FORM**

2 Superior Court of The State of California
3 For The County of Santa Clara
4 *Sophia Schoenberg v. PM Entertainment Corp., et al.*, Case No. 22CV402316

5 Indicate Name/Address Changes, if any:

6 <<Name>> _____

7 <<Address>> _____

8 <<City>>, <<State>> <<Zip Code>> _____

9 XX – XX - ____

10 TO DEFENDANTS' CALIFORNIA HOURLY, NON-EXEMPT CURRENT AND FORMER
11 EMPLOYEES WHO WORKED AT PURE NIGHTCLUB DURING THE PERIOD OF
12 AUGUST 24, 2018 THROUGH THE DATE OF PRELIMINARY COURT APPROVAL OF
13 THE CLASS ACTION SETTLEMENT:

14 The amount of your estimated Settlement Award is based upon the number of Eligible Work
15 Weeks you worked between August 24, 2018 through [INSERT DATE WHEN KNOWN] and
16 Eligible Work Weeks you worked between August 24, 2021 [INSERT DATE WHEN KNOWN].
17 "Individual Class Work Weeks" are defined as any Work Week in which you worked at least one
18 (1) day as an hourly, non-exempt employee of PM Entertainment Corp. and PMP Group Inc.
19 ("Defendants") at Pure Nightclub in California during the calendar week. "Individual PAGA
20 Work Weeks" are defined as any Work Week in which you worked at least one (1) day as an
21 hourly, non-exempt employee of Defendants at Pure Nightclub in California during the calendar
22 week during the period of August 24, 2021 through [INSERT DATE WHEN KNOWN]. The
23 number of Class and PAGA Work Weeks applicable to your claim are set forth below.

24 **YOUR ELIGIBLE WORK WEEKS**

25 Defendants' records indicate that you worked <<number of Work Weeks>> Work Weeks
26 between August 24, 2018 and [INSERT DATE WHEN KNOWN] and <<number of Work
27 Weeks>> Work Weeks between August 24, 2021 and [INSERT DATE WHEN KNOWN].

28 **YOUR ESTIMATED SETTLEMENT AWARD AND DISPUTE PROCEDURE**

Under the terms of the Class Action Settlement, you are entitled to receive a settlement payment
in the approximate estimated amount of <<\$Settlement Share Amount>>, minus all applicable
payroll and tax deductions, after the Court approves the Settlement and it goes into effect. This
process may take six months or more. You will receive a Form W-2 reflecting the payment to
you. Your Settlement Share reflected on this Notice is only an estimate. The exact amount of the
payment could vary, up or down.

1 If you wish to dispute the number of Work Weeks credited to you, or anything else about your
2 employment status, you must complete and return this form by indicating what you believe is
3 incorrect on the blank lines below and return it on or before <<RESPONSE DEADLINE>> to
4 the Administrator by email, fax, or regular U.S. Mail with proof of the submission date (such
5 as a postmark or delivery service date stamp). You must use this Work Week Dispute form for this
6 purpose. You must also send any documents or other information that you contend supports your
7 belief that the information set forth above is incorrect. The Administrator will resolve any dispute
8 based upon Defendants' records and any information you provide. Please be advised that the
9 information on this Work Week Dispute Form is presumed to be correct unless the documents
10 you submit are company records from Defendants.

11 _____
12 _____
13 _____
14 _____

15 **UNLESS YOU ARE FILING A DISPUTE REGARDING THE NUMBER OF WORK**
16 **WEEKS, RECEIPT OF A SETTLEMENT PAYMENT, OR YOUR EMPLOYMENT**
17 **STATUS, YOU DO NOT NEED TO USE THIS FORM**

EXHIBIT D

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1 **OBJECTION FORM**

2 ***Sophia Schoenberg v. PM Entertainment Corp., et al.***
3 **Superior Court of the State California, County of Santa Clara**
4 **Case No. 22CV402316**

5 Please verify and/or complete any missing identifying information:

6
7 CPT ID: <<CPT ID>>

<<Name>>

<<Address1>>

8 <<Address2>>

<<City>>, <<State>> <<Zip>>

CORRECT NAME AND ADDRESS HERE:

9 Telephone Number: (____) _____ - _____

10 **THIS FORM IS TO BE USED ONLY IF YOU WANT TO PARTICIPATE IN THE**
11 **SETTLEMENT, BUT YOU OBJECT TO THE TERMS OF THE SETTLEMENT. IF**
12 **YOU OBJECT TO THE SETTLEMENT, YOU SHOULD SIGN AND COMPLETE THIS**
13 **FORM ACCURATELY AND IN ITS ENTIRETY, AND YOU SHOULD EMAIL IT TO**
14 **<<____@____.COM>>, FAX IT TO <<XXX-XXX-XXXX>>, OR MAIL IT BY**
15 **FIRST CLASS U.S. MAIL TO THE ADMINISTRATOR SO THAT IT IS POSTMARKED**
16 **ON OR BEFORE <<RESPONSE DEADLINE>>. THE ADDRESS FOR THE**
17 **ADMINISTRATOR IS NOTED ON PAGE TWO OF THIS FORM.**

18 **IF YOU DO NOT OBJECT TO THE SETTLEMENT, DO NOT SUBMIT THIS FORM.**
19 **THE ADMINISTRATOR WILL SEND THIS OBJECTION AND ANY SUPPORTING**
20 **DOCUMENTS TO THE ATTORNEYS FOR THE PARTIES. THE ATTORNEYS FOR**
21 **THE PARTIES WILL FILE THE OBJECTION WITH THE COURT.**

22 The Court will consider your objection at the Final Approval Hearing if you timely submit it.
23 Include any and all evidence and supporting papers (including, without limitation, all briefs,
24 written evidence, and declarations) that you would like the Court to consider. However, you may
25 speak to the Court at the final approval hearing whether or not you submit a timely objection.

26 [] I OBJECT to the *Sophia Schoenberg v. PM Entertainment Corp., et al.* Settlement on
27 the following grounds (if additional space necessary, please include additional sheets of paper):

28 _____

[] I am or will be represented by an attorney (provide name and address of attorney on lines below if applicable):

Executed on _____, 2024

(Signature)

<<Name>>

(Printed Name)

EMAIL TO THE ADMINISTRATOR: <<_____@_____.COM>>

FAX TO THE ADMINITRATOR: <<(XXX) XXX-XXXX>>

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL
POSTMARKED NOT LATER THAN <<RESPONSE DEADLINE>>:

Sophia Schoenberg v. PM Entertainment Corp., et al. Administrator
[ADDRESS]

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EXHIBIT E

1 DAVID GLENN SPIVAK (SBN 179684)

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6 Attorneys for Plaintiff(s),
7 SOPHIA SCHOENBERG, and all others similarly situated
(Additional attorneys for parties on following page)

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF SANTA CLARA**

11 **(UNLIMITED JURISDICTION)**

12 SOPHIA SCHOENBERG, on behalf of herself
13 and all others similarly situated, and the general
14 public, and as an “Aggrieved Employee” on
15 behalf of other “Aggrieved Employees” under the
Private Attorneys General Act of 2004,

16 *Plaintiff,*

17 vs.

18 PM ENTERTAINMENT CORP., a California
19 corporation; PMP GROUP INC., a California
corporation; and DOES 2–50, inclusive,

20 *Defendant(s).*
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Case No. 22CV402316

**[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION AND PAGA
SETTLEMENT**

Action filed: August 24, 2022
Dept: 19, The Hon. Theodore C.
Zayner

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ADDITIONAL ATTORNEYS FOR PLAINTIFF(S)

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SOPHIA SCHOENBERG, and, and all others similarly situated

ATTORNEYS FOR DEFENDANT(S)

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San Jose CA 95113
Telephone: (408) 795-3461
Facsimile: (408) 288-5686
Attorneys for Defendant(s),
PM ENTERTAINMENT CORP., and PM GROUP INC.

1 The Motion of Plaintiff Sophia Schoenberg (“Plaintiff”) and Defendants PM
2 Entertainment Corp. and PMP Group Inc. (“Defendants”) (Plaintiff and Defendants are hereafter
3 referred to as “the Parties”) for Preliminary Approval of a Class Action and PAGA Settlement
4 (the “Motion”) was considered by the Court, Hon. Theodore C. Zayner presiding. The Court,
5 having considered the Motion, the Class Action and PAGA Settlement Agreement and Class
6 Notice (“Settlement” or “Settlement Agreement”), and supporting papers, HEREBY ORDERS
7
8 THE FOLLOWING:

9 1. The Court grants preliminary approval of the Settlement and the Settlement Class
10 based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary
11 Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court
12 has determined only that there is sufficient evidence to suggest that the proposed settlement might
13 be fair, adequate, and reasonable, and that any final determination of those issues will be made at
14 the final hearing. The Court will make a determination at the hearing on the motion for final
15 approval of class action settlement (the “Final Approval Hearing”) as to whether the Settlement
16 is fair, adequate, and reasonable to the Settlement Class.
17

18 2. For purposes of this Preliminary Approval Order, the “Settlement Class” means
19 Class Defendants’ California hourly, non-exempt employees who worked at Pure Nightclub
20 anytime during the Class Period (collectively “Class Members”). The “Class Period” shall mean
21 the period of time from August 24, 2018, to the date of preliminary court approval of the Class
22 Action Settlement or some earlier date if elected by Defendants in accordance with the Escalator
23 clause of the Settlement.
24

25 3. Based on its records, Defendants estimate that, as of the date of the Settlement
26 Agreement (1) there are 164 Class Members and 5,692 Total Work Weeks during the Class period
27
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1 and (2) there were 87 Aggrieved Employees who worked 1,230 Pay Periods during the PAGA
2 Period. If the Workweeks as of the date the Court preliminarily approves the Class Action
3 settlement exceed the Class Workweeks by more than 10%, meaning there are more than 6,262
4 Workweeks, at Defendants' sole election, Defendants will either (a) increase the Gross Settlement
5 Amount, including the Class Counsel Fees Payment, the Class Representative Service Payment,
6 and the PAGA Penalties, proportionally according to the number of additional Workweeks over
7 6,262 (e.g., if the numbers increase by 11%, the Gross Settlement Fund shall increase by 1%) or
8 (b) elect to set the end date for the Class Period on the date when the total Workweeks for the
9 Class Period would be no more than 6,262 workweeks.

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

19 5. This action is provisionally certified pursuant to section 382 of the California Code
20 of Civil Procedure and Rule 3.760, *et seq.* of the California Rules of Court as a class action for
21 purposes of settlement only with respect to the proposed Settlement Class.

23 6. Not later than 15 days after the Court grants Preliminary Approval of the
24 Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the
25 form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the
26 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes
27

1 of the Settlement and for no other purpose, and restrict access to the Class Data to Administrator
2 employees who need access to the Class Data to effect and perform under the Settlement
3 Agreement. Defendants have a continuing duty to immediately notify Class Counsel if they
4 discover that the Class Data omitted class member identifying information and to provide
5 corrected or updated Class Data as soon as reasonably feasible. Without any extension of the
6 deadline by which Defendants must send the Class Data to the Administrator, the Parties and their
7 counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any
8 issues related to missing or omitted Class Data.
9

10 7. No later than three (3) business days after receipt of the Class Data, the
11 Administrator shall notify Class Counsel that the list has been received and state the number of
12 Class Members, PAGA Members, Work Weeks, and Pay Periods in the Class Data.
13

14 8. Using best efforts to perform as soon as possible, and in no event later than 14
15 days after receiving the Class Data, the Administrator will send to all Class Members identified
16 in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Notice Packet,
17 substantially in the forms attached to this order as **Exhibits A, B, C, and D**. The first page of the
18 Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment
19 and/or Individual PAGA Payment payable to the Class Member, and the number of Work Weeks
20 and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Notice
21 Packets, the Administrator shall update Class Member addresses using the National Change of
22 Address database.
23

24 9. Not later than 3 business days after the Administrator’s receipt of any Notice
25 Packet returned by the USPS as undelivered, the Administrator shall re-mail the Notice Packet
26 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding
27

1 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Notice
2 Packet to the most current address obtained. The Administrator has no obligation to make further
3 attempts to locate or send Notice Packet to Class Members whose Notice Packet is returned by
4 the USPS a second time.

5 10. Class Counsel's contact information is David Glenn Spivak, Esq., The Spivak Law
6 Firm, 8605 Santa Monica Bl, PMB 42554, West Hollywood, CA 90069. Defense Counsel's
7 contact information is Elisa Nadeau, Esq. and Don H. Nguyen, Esq., Littler Mendelson, P.C., 50
8 W. San Fernando Street, 7th Floor, San Jose, CA, 95113.

9 11. The deadlines for Class Members' written objections, Challenges to Work Weeks
10 and/or Pay Periods (disputes), and Requests for Exclusion will be extended an additional 14 days
11 beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice
12 is re-mailed. The Administrator will inform the Class Member of the extended deadline with the
13 re-mailed Notice Packet.

14 12. If the Administrator, Defendants, or Class Counsel are contacted by or otherwise
15 discover any persons who believe they should have been included in the Class Data and should
16 have received Notice Packet, the Parties will expeditiously meet and confer in person or by
17 telephone, and in good faith, in an effort to agree on whether to include them as Class Members.
18 If the Parties agree, such persons will be Class Members entitled to the same rights as other Class
19 Members, and the Administrator will send a Notice Packet requiring them to exercise options
20 under the Settlement Agreement not later than 14 days after receipt of Notice Packet, or the
21 deadline dates in the Notice Packet, which ever are later.

22 13. Requests for Exclusion. Class Members who wish to exclude themselves (opt-out
23 of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written
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1 Request for Exclusion not later than 60 days after the Administrator mails the Notice Packet (plus
2 an additional 14 days for Class Members whose Notice Packet is re-mailed). A Request for
3 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates
4 the Class Member's election to be excluded from the Settlement and includes the Class Member's
5 name, address, and email address or telephone number. To be valid, a Request for Exclusion must
6 be timely faxed, emailed, or postmarked by the Response Deadline. An Election Not to Participate
7 in Settlement form, attached as Exhibit B, must be used for this purpose.
8

9 14. The Administrator may not reject a Request for Exclusion as invalid because it
10 fails to contain all the information specified in the Class Notice. The Administrator shall accept
11 any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of
12 the person as a Class Member and the Class Member's desire to be excluded. The Administrator's
13 determination shall be final and not appealable or otherwise susceptible to challenge. If the
14 Administrator has reason to question the authenticity of a Request for Exclusion, the
15 Administrator may demand additional proof of the Class Member's identity. The Administrator's
16 determination of authenticity shall be final and not appealable or otherwise susceptible to
17 challenge.
18

19 15. Every Class Member who does not submit a timely and valid Request for
20 Exclusion is deemed to be a Participating Class Member under the Settlement Agreement, entitled
21 to all benefits and bound by all terms and conditions of the Settlement, including the Participating
22 Class Members' Releases under Paragraphs 6.2 and 6.3 of the Settlement, regardless of whether
23 the Participating Class Member actually receives the Class Notice or objects to the Settlement.
24

25 16. Every Class Member who submits a valid and timely Request for Exclusion is a
26 Non-Participating Class Member and shall not receive an Individual Class Payment or have the
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1 right to object to the class action components of the Settlement. Plaintiff releases all claims for
2 civil penalties that could have been sought by the Labor Commissioner for the violations
3 identified in Plaintiff's pre-filing letter to the LWDA; Plaintiff does not release the claim for
4 wages or damages of any Aggrieved Employee unless such Aggrieved Employee is a
5 Participating Class Member.

6
7 17. Challenges to Calculation of Work Weeks. Each Class Member shall have 60 days
8 after the Administrator mails the Notice Packet (plus an additional 14 days for Class Members
9 whose Notice Packet is re-mailed) to challenge the number of Class Work Weeks and PAGA Pay
10 Periods (if any) allocated to the Class Member in the Class Notice. This is also known as a dispute.
11 A Work Week Dispute form, attached as Exhibit C, must be used for this purpose. The Class
12 Member may challenge the allocation by communicating with the Administrator via fax, email,
13 or mail. The Administrator must encourage the challenging Class Member to submit supporting
14 documentation. In the absence of any contrary documentation, the Administrator is entitled to
15 presume that the Work Weeks contained in the Class Notice are correct so long as they are
16 consistent with the Class Data. The Administrator's determination of each Class Member's
17 allocation of Work Weeks and/or Pay Periods shall be final and not appealable or otherwise
18 susceptible to challenge. The Administrator shall promptly provide copies of all challenges to
19 calculation of Work Weeks and/or Pay Periods to Defense Counsel and Class Counsel and the
20 Administrator's determination of the challenges.

21
22
23 18. Objections to Settlement. Only Participating Class Members may object to the
24 class action components of the Settlement and/or this Agreement, including contesting the
25 fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
26 Counsel Litigation Expenses Payment, and/or Class Representative Service Payment.

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

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

21. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under the Settlement Agreement, including, but not limited to, its mailing of the Notice Packets, the Notice Packets returned as undelivered, the re-mailing of Notice Packets, 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.

22. The Court approves, as to form and content, the Class Notice in substantially the form attached as Exhibit A to this Order, the Election Not to Participate in Settlement form in substantially the form attached as Exhibit B to this Order, the Work Week Dispute form in substantially the form attached as Exhibit C to this Order, and the Objection form in substantially

1 the form attached as Exhibit D to this Order.

2 23. The Court approves, for settlement purposes only, David Glenn Spivak of The
3 Spivak Law Firm and Walter L. Haines of United Employees Law Group as Class Counsel.

4 24. The Court approves, for settlement purposes only, Sophia Schoenberg as the Class
5 Representative.

6 25. The Court approves Phoenix Settlement Administrators as the Administrator.

7 26. The Court preliminarily approves Class Counsel's request for attorneys' fees and
8 costs subject to final review by the Court.

9 27. The Court preliminarily approves the estimated Administrator costs payable to the
10 Administrator subject to final review by the Court.

11 28. The Court preliminarily approves Plaintiff's Class Representative Service
12 Payment subject to final review by the Court.

13 29. A Final Approval Hearing shall be held on _____ at .m. in
14 Department 19 of the Superior Court for the State of California, County of Santa Clara, located
15 at the Downtown Superior Court, Dept. 19 - 191 North First Street, San Jose, CA 95113 to
16 consider the fairness, adequacy, and reasonableness of the proposed Settlement preliminarily
17 approved by this Preliminary Approval Order, and to consider the application of Class Counsel
18 for attorneys' fees and costs and the Class Representative Service Payment to the Class
19 Representative. The notice of motion and all briefs and materials in support of the motion for
20 final approval of class action settlement and motion for attorneys' fees and litigation costs shall
21 be served and filed with this Court on or before _____. Plaintiff's counsel must give
22 notice to any objecting party of any continuance of the hearing of the motion for final approval.

23 30. If for any reason the Court does not execute and file a Final Approval Order and
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1 judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the
2 proposed Settlement that is the subject of this order, and all evidence and proceedings had in
3 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the
4 litigation, as more specifically set forth in the Settlement.

5 31. The Court expressly reserves the right to adjourn or continue the Final Approval
6 Hearing from time to time without further notice to members of the Class. The Plaintiff shall give
7 prompt notice of any continuance to Settlement Class Members who object to the Settlement.
8

9 **IT IS SO ORDERED.**

10
11
12 **DATE**

13 **HON. THEODORE C. ZAYNER**
14 **SUPERIOR COURT JUDGE**

EXHIBIT F

1 DAVID GLENN SPIVAK (SBN 179684)

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2 LAUREN R. DAVIS (SBN 294115)

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4 West Hollywood, CA 90069

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5 Facsimile: (213) 634-2485

6 Attorneys for Plaintiff(s),

SOPHIA SCHOENBERG, and all others similarly situated

7 (Additional attorneys for parties on following page)

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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF SANTA CLARA**

12 **(UNLIMITED JURISDICTION)**

13 SOPHIA SCHOENBERG, on behalf of herself
14 and all others similarly situated, and the general
15 public, and as an “Aggrieved Employee” on
behalf of other “Aggrieved Employees” under the
Private Attorneys General Act of 2004,

16 *Plaintiff,*

17 vs.

18 PM ENTERTAINMENT CORP., a California
19 corporation; PMP GROUP INC., a California
20 corporation; and DOES 2–50, inclusive,

21 *Defendant(s).*

Case No. 22CV402316

**[PROPOSED] FINAL ORDER AND
JUDGMENT APPROVING CLASS
ACTION AND PAGA SETTLEMENT**

Action filed: August 24, 2022

Dept: 19, The Hon. Theodore C.
Zayner

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ADDITIONAL ATTORNEYS FOR PLAINTIFF(S)

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Attorneys for Plaintiff(s),
SOPHIA SCHOENBERG, and, and all others similarly situated

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San Jose CA 95113
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Facsimile: (408) 288-5686
Attorneys for Defendant(s),
PM ENTERTAINMENT CORP., and PM GROUP INC.

1 This matter came on for hearing on _____ at ____ .m. in Department 19 of the
2 above-captioned court on Plaintiff's Motion for Final Approval of a Class Action Settlement
3 pursuant to California Rules of Court, Rule 3.769, as set forth in the Joint Stipulation of Class
4 Action Settlement and Release of Claims (the "Settlement") filed herewith, which provides for a
5 Gross Settlement Amount ("GSA") of up to \$200,000.00 in compromise of all disputed claims
6 on behalf of Class Defendants' California hourly, non-exempt employees who worked at Pure
7 Nightclub during the period of August 24, 2018 to the date of preliminary court approval of the
8 Class Action Settlement or some earlier date if elected by Defendants in accordance with the
9 Escalator clause of the Settlement ("Settlement Class Period"). All capitalized terms used herein
10 shall have the same meaning as defined in the Settlement.
11

12 In accordance with the Court's prior Order Granting Preliminary Approval of Class
13 Action Settlement, Class Members have been given notice of the terms of the Settlement and the
14 opportunity to submit a claim, request exclusion, comment upon, or object to it or to any of its
15 terms. Having received and considered the Settlement, the supporting papers filed by the Parties,
16 and the evidence and argument received by the Court in conjunction with the motions for
17 preliminary and final approval of the Settlement, the Court grants final approval of the Settlement
18 and HEREBY ORDERS, ADJUDGES, DECREES, AND MAKES THE FOLLOWING
19 DETERMINATIONS¹:
20

21 1. The Court has jurisdiction over the subject matter of the Action and over all Parties
22 to the Action, including all Class Members. Pursuant to this Court's Order Granting Preliminary
23

24
25 _____
26 ¹ A true and correct copy of the Court's ruling on the Motion for Final Approval of Class Action
27 Settlement entered on _____ is attached hereto as **Exhibit A** and incorporated
28 by reference. A true and correct copy of the Court's Minute Order dated _____ is
attached hereto as **Exhibit B** and incorporated by reference.

1 Approval of Class Action Settlement of _____, the Notice Packet was sent to each
2 Class Member by First Class U.S. mail. The Notice Packet informed Class Members of the terms
3 of the Settlement, their right to receive their proportional share of the Settlement, their right to
4 request exclusion, their right to comment upon or object to the Settlement, and their right to appear
5 in person or by counsel at the final approval hearing and be heard regarding final approval of the
6 Settlement. Adequate periods of time were provided by each of these procedures. No member of
7 the Settlement Class presented written objections to the proposed Settlement as part of this notice
8 process, stated an intention to appear, or actually appeared at the final approval hearing.
9

10 2. For purposes of this Final Order and Judgment, the Class Members are Class
11 Defendants' California hourly, non-exempt employees who worked at Pure Nightclub during the
12 period of August 24, 2018 to the date of preliminary court approval of the Class Action Settlement
13 or some earlier date if elected by Defendants in accordance with the Escalator clause of the
14 Settlement ("Settlement Class Period").
15

16 3. The Court finds and determines that the notice procedure afforded adequate
17 protections to Class Members and provides the basis for the Court to make an informed decision
18 regarding final approval of the Settlement based on the responses of Class Members. The Court
19 finds and determines that the notice provided in this case was the best notice practicable, which
20 satisfied the requirements of law and due process as to all persons entitled to such notice.
21

22 **Release by Plaintiff and Class Members.** The Parties agree that it is their intent that the
23 resolution set forth in this Settlement will release and discharge the Released Claims by way of
24 any further attempt, by lawsuit, administrative claim or action, arbitration, demand, or other action
25 of any kind by each and all of the Settlement Class Members (including participation to any extent
26 in any representative or collective action) against the Released Parties. This release will not take
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1 effect until Defendants have paid the Gross Settlement Amount in full per this Settlement
2 Agreement.

3 **PAGA Release.** Plaintiff releases all claims for civil penalties that could have been sought
4 by the Labor Commissioner for the violations identified in Plaintiff's pre-filing letter to the
5 LWDA; Plaintiff does not release the claim for wages or damages of any Aggrieved Employee
6 unless such Aggrieved Employee is a Participating Class Member.
7

8 **"Released Claims"** shall mean all claims stated in the Operative Complaint and based
9 solely on the facts alleged in the Operative Complaint. **"Released Parties"** shall mean Defendants
10 and each of their respective successors and predecessors in interest, subsidiaries, affiliates, and
11 parents; and their past or present officers, directors, shareholders, employees, agents, principals,
12 partners, owners, heirs, representatives, accountants, auditors, consultants, attorneys, insurers and
13 reinsurers.
14

15 4. The Court further finds and determines that the terms of the Settlement are fair,
16 reasonable, and adequate, that the Settlement is ordered finally approved, and that all terms and
17 provisions of the Settlement, including the release of claims contained therein, should be and
18 hereby are ordered to be consummated, and directs the Parties to effectuate the Settlement
19 according to its terms. As of the Effective Date of Settlement, and for the duration of the
20 Settlement Class Period, all Class Members are hereby deemed to have waived and released all
21 Released Claims and are forever barred and enjoined from prosecuting the Released Claims
22 against the Released Parties as fully set forth in the Settlement. No objections were received by
23 the Parties or the Court through the date of this Final Order and Judgment. The Court finds ____
24 Class Member(s) - ____ - submitted a request for exclusion from the Settlement as determined by
25 the Administrator and therefore is/are not in the Settlement Class.
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1 5. The Court finds and determines that (a) the Settlement Shares to be paid to
2 Participating Class Members and (b) the LWDA payment as civil penalties under the California
3 Labor Code Private Attorneys General Act of 2004, as amended, California Labor Code sections
4 2699 *et seq.*, as provided for by the Settlement are fair and reasonable. The Court hereby grants
5 final approval to, and orders the payment of, those amounts be made to the Participating Class
6 Members and to the California Labor & Workforce Development Agency (“LWDA”), in
7 accordance with the terms of the Settlement.
8

9 6. The Court further grants final approval to and orders that the following payments
10 be made in accordance with the terms of the Settlement:

11 a. Class Counsel fees and costs of \$66,666.00 in attorneys’ fees and
12 \$15,000.00 in litigation costs to Class Counsel;

13 b. \$10,000.00 as a Class Representative Service Payment award payable to
14 Plaintiff for her services as Class Representative;

15 c. \$10,000.00 in costs of the Administrator payable to Phoenix Settlement
16 Administrator, for its services as the Administrator; and
17

18 d. Payment of \$15,000.00 (75% of the (\$20,000.00 PAGA penalty) to the
19 LWDA.
20

21 7. The settlement shall proceed as directed in the Settlement, and no payments
22 pursuant to the Settlement shall be distributed until after the Effective Date of Settlement. Without
23 affecting the finality of this Final Order and Judgment in any way, the Court retains jurisdiction
24 of all matters relating to the interpretation, administration, implementation, effectuation and
25 enforcement of this Final Order and Judgment and the Settlement pursuant to California Rule of
26 Court 3.769(h).
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1 8. Within 24 months of the Effective Date of Settlement, Defendants shall deposit
2 the Settlement proceeds, and also fund the amounts necessary to fully pay Defendants' share of
3 payroll taxes, in an account designated by the Administrator: (i) the total amount of all Individual
4 Class Payments to Participating Class Members (ii) the Court approved Class Counsel fees and
5 costs (iii) the Court-approved Class Representative Service Payment (iv) the Court-approved
6 costs of the Administrator (v) the payment to the LWDA, and (vi) the total amount of all
7 Individual PAGA Payments to Aggrieved Employees as follows. The first installment payment
8 of \$50,000 will be made within 30 days of the Effective Date, the subsequent installments will be
9 paid in quarterly installments of \$ 18,750.00 starting the next calendar quarter after the payment
10 of the first installment payment.
11

12 9. Other than their employer side payroll taxes, Defendants' payment of such sums
13 shall be the sole financial obligation of Defendants under the Settlement and shall be in full
14 satisfaction of all claims released herein, including, without limitation, all claims for wages,
15 penalties, interest, attorneys' fees, costs, and expenses.
16

17 10. Pursuant to CCP 384 and the Settlement, Participating Class Members shall have
18 one hundred and eighty (180) days from the date of the check's issuance to cash their Settlement
19 Share check. After the expiration of the 180-day period, on Defendants' behalf, the Administrator
20 shall remit any amounts from voided settlement checks and otherwise unclaimed, plus interest on
21 the Residue at the legal rate of interest from the date of entry of the initial judgment to the
22 California Unclaimed Property Fund.
23

24 11. The Parties shall file a final accounting report by _____. A non-
25 appearance case review regarding submission of a final report is scheduled for _____
26 at _____.m. in Department 19. The Parties shall also prepare and file a stipulation and proposed
27
28

1 order and proposed Amended Final Order and Judgment by _____, which includes the
2 amount of distribution of unpaid cash Residue, and unclaimed or abandoned funds to the non-
3 party, the accrued interest on that sum. The stipulation shall be signed by counsel for the class
4 and defense counsel in accord with the proposed Amended Final Order and Judgment. If there
5 are objections by any party or non-party, class counsel shall immediately notify the Court, and
6 the matter will be set for further hearing. A non-appearance hearing for the lodging of the
7 stipulation and proposed order and separate amended judgment is scheduled for _____ at
8 _____.m. in Department 19.

10 12. Nothing in this Final Order and Judgment shall preclude any action to enforce the
11 Parties' obligations under the Settlement or hereunder, including the requirement that Defendants
12 deposit funds for distribution by the Administrator to Participating Class Members in accordance
13 with the Settlement.

15 13. The Court hereby enters final judgment in this case in accordance with the terms
16 of the Settlement, Order Granting Preliminary Approval of Class Action Settlement, and this Final
17 Order and Judgment.

18 14. The Parties are hereby ordered to comply with the terms of the Settlement.

19 15. The Parties shall bear their own costs and attorneys' fees, except as otherwise
20 provided by the Settlement and this Final Order and Judgment.

22 16. The Settlement is not an admission by Defendants, nor is this Final Order and
23 Judgment a finding of the validity of any claims in the Action or of any wrongdoing by
24 Defendants. Furthermore, the Settlement is not a concession by Defendants and shall not be used
25 as an admission of any fault, omission, or wrongdoing by Defendants. Neither this Final Order
26 and Judgment, the Settlement, any document referred to herein, any exhibit to any document
27

1 referred to herein, any action taken to carry out the Settlement, nor any negotiations or
2 proceedings related to the Settlement are to be construed as, or deemed to be evidence of, or an
3 admission or concession with regard to, the denials or defenses of Defendants, and shall not be
4 offered in evidence in any proceeding against the Parties hereto in any Court, administrative
5 agency, or other tribunal for any purpose whatsoever other than to enforce the provisions of this
6 Final Order and Judgment. This Final Order and Judgment, the Settlement and exhibits thereto,
7 and any other papers and records on file in the Action may be filed in this Court or in any other
8 litigation as evidence of the settlement by Defendants to support a defense of res judicata,
9 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to
10 the Released Claims.
11

12 17. This document shall constitute a Judgment for purposes of California Rule of
13 Court 3.769(h).
14

15 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**
16

17
18 **DATE**

17
18 **HON. THEODORE C. ZAYNER**
19 **SUPERIOR COURT JUDGE**

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