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Trung Le and Kevin Lam

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

TRUNG LE, individually, KEVIN LAM,
individually, and on behalf of other members
of the general public similarly situated,

Plaintiff,

v.

M4D LLC, and DOES 1 through 25,

Defendants.

) **CASE NO.: 30-2021-01182977**
) [Honorable Judge Peter Wilson, Dept. CX101]
)

) **[PROPOSED] ORDER GRANTING**
) **PLAINTIFF LAM'S MOTION FOR**
) **CONDITIONAL CLASS**
) **CERTIFICATION AND PRELIMINARY**
) **APPROVAL OF CLASS ACTION AND**
) **PAGA SETTLEMENT**

) **Date: May 25, 2023**

) **Time: 2:00 p.m.**

) **Dept.: CX 101**
)

) FAC Filed: August 11, 2022

) Complaint Filed: February 5, 2021

) Trial Date: None Set
)
)

1 Before the Court is Plaintiff Kevin Lam’s unopposed Motion for Conditional Class
2 Certification and Preliminary Approval of Class Action and PAGA Settlement (the “Motion”).
3 The Parties have entered into a Class Action and PAGA Settlement Agreement (the “Settlement”
4 or “Agreement”), a copy of which was submitted with the Motion. The proposed Settlement has
5 two main parts: (1) a settlement of class claims requiring Defendant M4D LLC (“M4D” or
6 “Defendant”) to fund Individual Class Payments to Settlement Class Members; and (2) a
7 settlement of claims under the California Private Attorneys General Act (“PAGA”) requiring
8 M4D to fund Individual PAGA Payments to Aggrieved Employees and pay penalties to the
9 California Labor and Workforce Development Agency (“LWDA”). The Court, having reviewed
10 and considered the Motion, its accompanying memorandum, the Agreement, and the declarations
11 in support thereof (and all exhibits thereto), finds that the Motion should be, and hereby is,
12 GRANTED. The Court finds and concludes as follows:

13 The Court has jurisdiction over the subject matter of this proceeding and over all Parties
14 to this proceeding. In addition, the Court has personal jurisdiction over all Parties with respect to
15 this Action and the Agreement.

16 The Court hereby finds the Agreement involves the resolution of a bona fide dispute and
17 was entered into in good faith.

18 **CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS**

19 Plaintiff Kevin Lam (“Lam”) has moved for entry of an order conditionally certifying the
20 following proposed Class for settlement purposes: “all individuals who worked for M4D as
21 nonexempt employees in California at any time between February 5, 2017 and August 28, 2022.”
22 Class certification is appropriate where the class is ascertainable and there is “a well-defined
23 community of interest in the questions of law and fact involved affecting the parties to be
24 represented.” *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1806 (internal quotation
25 marks omitted); *see* Cal. Code Civ. Proc. § 382. Civil Procedure Code § 382’s requirements
26 essentially mirror those of Federal Rule 23: numerosity, typicality of the class representatives’
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1 claims, adequacy of representation, predominance of common issues, and superiority. *Linder v.*
2 *Thrifty Oil Co.*(2000) 23 Cal. 4th 429, 435 (“The community of interest requirement involves
3 three factors: (1) predominant common questions of law or fact; (2) class representatives with
4 claims or defenses typical of the class; and (3) class representatives who can adequately
5 represent the class”) (internal quotations and citations omitted); *see also* Fed. R. Civ. P. 23(a);
6 *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1019, *overruled on other grounds by*
7 *Wal-Mart Stores, Inc. v. Dukes* (2011) 564 U.S. 338.

8 The Court, having considered all arguments presented in the Motion and the evidence
9 submitted in support of those arguments, finds that all requirements of certification for
10 settlement purposes are met for the proposed Settlement Class. First, the Class is so numerous
11 that joinder of all members is impracticable. Defendant’s records reflect that there are
12 approximately 84 members of the Settlement Class (between the start of the Class Period on
13 February 5, 2017 and the date of mediation on June 28, 2022).

14 Second, there are questions of law or fact common to the Class. The common questions
15 presented here include, but are not limited to, the following:

- 16 • Did Class Members receive all required meal periods or premiums in lieu thereof?
- 17 • Did Class Members receive all require rest breaks or premiums in lieu thereof?
- 18 • Did formerly employed Class Members receive all final wages due at termination?
- 19 • Did Class Members receive minimum wage for all hours worked?
- 20 • Did Class Members receive proper overtime pay for all hours worked in excess of eight
- 21 (8) hours in a workday and/or forty (40) hours in a workweek?
- 22 • Did Class Members’ wage statements reflect all hours worked and all earned wages?

23 Under these circumstances, the proposed Class satisfies the commonality requirement.
24 The typicality requirement is met if the claims of the named representative are similar to those of
25 the Class, though “they need not be substantially identical.” *Hanlon*, 150 F. 3d at 1020; *see also*
26 *Classen v. Weller* (1983) 145 Cal. App. 3d 27, 46-47. The claims of Lam are typical of the
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1 Settlement Class because they arise from the same factual bases and are based on the same legal
2 theories as the Settlement Class claims. *See J.P. Morgan & Co. Inc. v. Superior Court* (2003)
3 113 Cal. App. 4th 195, 212; *Caro v. Procter & Gamble Co.* (1993) 18 Cal App. 4th 644, 663-64
4 (typicality equates to membership in the proposed class). Lam worked in California as a
5 nonexempt employee for M4D. The adequacy requirement is met if the named plaintiffs and
6 their counsel have no interests adverse to the proposed class and are committed to vigorously
7 prosecuting the case on behalf of the class. *McGhee v. Bank of Am.* (1976) 60 Cal. App. 3d 442,
8 450-51. Those standards are met here. Lam's interests in obtaining the best recovery possible for
9 the Class fully comport with the Class's interests, given that he possesses the same claims as the
10 Class. In addition, Plaintiffs' Counsel, who are experienced employment and class action
11 attorneys, have demonstrated their commitment to litigating the Action vigorously on behalf of
12 the putative Class.

13 Certification is appropriate when common questions of law and fact predominate over
14 individual questions and when the use of the class device is superior to individual litigation.
15 *Richmond v. Dart Indus., Inc.* (1981) 29 Cal. 3d 462, 470. When assessing predominance and
16 superiority, courts may consider whether the class will be certified for settlement purposes only,
17 rendering trial manageability irrelevant. *Amchem Prods., Inc. v. Windsor* (1997) 521 U.S. 591,
18 620. The test for determining predominance of common issues is whether the proposed class is
19 sufficiently cohesive to warrant adjudication on a class-wide basis. *Hanlon*, 150 F.3d at 1022.
20 The proposed Class here is sufficiently cohesive because Class Members, in the words of
21 *Hanlon*, share a "common nucleus of facts and potential legal remedies." *Id.* Lam alleges that
22 M4D had a policy of requiring its employees to work through meal periods and rest breaks, not
23 paying all earned wages, including overtime and minimum wages, not paying all final wages due
24 at the time of separation, and not providing accurate itemized wage statements. Common legal
25 and factual questions about M4D's pay practices, meal and rest period practices, and issued
26 wage statements accordingly predominate over individual questions. Particularly in the
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1 settlement context, class resolution is superior to other available methods of adjudication. *See*
2 *Hanlon*, 150 F.3d at 1023; *Dunk*, 48 Cal. App. 4th at 1807 n.19. Here, the alternative methods of
3 adjudication are repetitive individual cases relying on the same facts and legal argument, which
4 would waste judicial resources. *See Sav-On Drug Stores, Inc. v. Super. Ct.* (2004) 34 Cal. 4th
5 319, 340; *Bell v. Farmers Ins. Exch.* (2004) 115 Cal. App. 4th 715, 745. Use of the class device
6 in this case will provide redress for many employees who are unwilling or unable to file
7 individual suits, including those whose claims may be too small to warrant an individual suit.
8 For these reasons, a class action settlement is the preferred method of resolution of the Class
9 Members' claims here.

10 The Court therefore CERTIFIES the Class for settlement purposes. The Court
11 APPOINTS the law firm of The Gould Law Firm and Garcia & Phan to serve as Class Counsel.

12 **LIKELY APPROVAL OF THE PROPOSED CLASS SETTLEMENT**

13 For the reasons stated in greater detail below, the Court finds on a preliminary basis that
14 it will likely be able to approve the proposed Settlement—including the Individual Class
15 Payments and the process by which Settlement Class Members may object to or request
16 exclusion from the Class Settlement—as fair, reasonable, and adequate. *See* Cal. Rules of Ct.
17 3.769(a); Fed. R. Civ. P. 23(e)(1)(B)(i).

18 Based on a review of the moving papers, the Court finds on a preliminary basis that the
19 Settlement: (a) resulted from efforts by Lam and Class Counsel who adequately represented the
20 putative Class; (b) was negotiated at arm's-length with the assistance of an experienced class
21 action mediator; (c) provides relief for the Class that appears at this stage to be adequate, taking
22 into account (i) the costs, risks, and delay of trial and appeal; (ii) the proposed method of
23 distributing relief to the Class, including the method of processing Individual Class Payments to
24 Participating Class Members; and (iii) the terms of the proposed award of attorneys' fees,
25 including timing of payment; and (d) treats Settlement Class Members equitably relative to one
26 another. In making this preliminary finding, the Court considered, *inter alia*, the nature of the
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1 claims; the amounts of benefits to be paid and received through the Settlement, and the
2 allocation of Individual Class Payments among Participating Class Members; and the fact that
3 Defendant does not admit any liability and does not characterize the Settlement as an admission
4 of liability, and that the Settlement represents a compromise of the Parties' respective positions
5 rather than the result of a finding of liability at trial. The Court further preliminarily finds that the
6 terms of the Agreement have no obvious deficiencies and do not improperly grant preferential
7 treatment to any individual Class Member.

8 Accordingly, the Court preliminarily approves:

- 9 (1) A Class Representative Service Payment to Kevin Lam in the amount of
10 \$10,000.00;
11 (2) An Administration Expense Payment to CPT Group, Inc. in the amount of
12 \$6,750.00;
13 (3) A payment of Attorneys' fees to the Gould Law Firm and Garcia & Phan in
14 the amount of \$250,000.00 (33.33% of the Gross Settlement Amount), and
15 litigation costs, currently estimated to be \$10,175.83 (not to exceed \$12,500).

16 **CLASS NOTICE AND SETTLEMENT ADMINISTRATION**

17 The Parties have designated CPT Group, Inc. as the settlement administrator (the
18 "Administrator"). The Administrator shall perform all the duties of the Administrator set forth in
19 the Agreement. Administrator CPT Group, Inc. will calculate Individual Class Payments to
20 Participating Class Members and Individual PAGA Payments to Aggrieved Employees.
21 Defendant will provide CPT Group, Inc. with the information necessary to make these
22 calculations.

23 The Court finds that the provisions for Notice of Class Action Settlement and Hearing
24 Date for Final Approval (the "Class Notice"), attached as Exhibit A to the Agreement, satisfy the
25 requirements of due process and California law and provide the best notice practicable under the
26 circumstances, including individual notice to all Class Members and Aggrieved Employees who
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1 can be identified through reasonable effort. The Class Notice is reasonably calculated to apprise
2 Settlement Class Members and Aggrieved Employees of the nature of this litigation; the scope of
3 the Settlement Class, the Class and PAGA claims, issues, and defenses; the terms of the
4 Agreement; the right of Settlement Class Members to appear the Final Approval Hearing, object
5 to the Class Settlement, and/or exclude themselves from the Class Settlement, and the process
6 for doing so; the Final Approval Hearing date; and of the binding effect of a judgment on the
7 Settlement Class and Aggrieved Employees. The Court therefore approves the proposed methods
8 of providing notice and directs CPT Group, Inc. to proceed with providing notice to Class
9 Members and Aggrieved Employees, pursuant to the terms of the Agreement and this Order.

10 Prior to the Final Fairness Hearing, Plaintiffs' Counsel shall file a declaration by CPT
11 Group, Inc. attesting that the Class Notice was disseminated as ordered.

12 **OBJECTIONS AND EXCLUSIONS**

13 Settlement Class Members who wish to exclude themselves from the Class Settlement
14 may do so by submitting such request in writing to the Administrator consistent with the
15 specifications listed in the Class Notice no later than 60 days from the mailing date of the Class
16 Notice. All Settlement Class Members who do not opt out and exclude themselves from the
17 Class Settlement shall be bound by the terms of the Agreement upon entry of the Final Approval
18 Order and Judgment. Settlement Class Members who wish to object to the Court's approval of
19 the Class Settlement must do so in a communication to the Administrator consistent with the
20 specifications listed in the Class Notice no later than no later than 60 days from the mailing date
21 of the Class Notice. Aggrieved Employees cannot object to or opt out of the PAGA component
22 of the Settlement. The Class Notice makes clear that Settlement Class Members are permitted to
23 appear at the Final Fairness Hearing and speak to the Court if they wish to do so, regardless of
24 whether they file an objection or a Notice of Intent to Appear at the hearing. The Class Notice
25 includes instructions on how the Settlement Class Members may do so.

PAGA

As part of the Settlement, Lam seeks approval of PAGA Penalties to Aggrieved Employees defined as “an individual who worked for M4D as a nonexempt employee in California at any time between February 5, 2020 and August 28, 2022.” Defendant’s records reflect that there are approximately 42 Aggrieved Employees (between the start of the PAGA Period on February 5, 2020 and the date of mediation on June 28, 2022). The Court approves \$25,000.00 of the Gross Settlement Amount to be allocated for PAGA Penalties, with 75% (\$18,750.00) allocated to the LWDA PAGA Payment and 25% (\$6,250.00) allocated to the Individual PAGA Payments. The Court finds the settlement of PAGA Penalties in this Action to be fair, reasonable, to serve public interest, and to be consistent with PAGA's objectives.

FINAL APPROVAL HEARING AND SCHEDULE

The Court will hold a hearing on entry of final approval of the Settlement, an award of attorneys’ fees and litigation expenses to Class Counsel, and a service award to the Class Representative on _____ at 2:00 p.m. in Department CX 101 of the Orange County Superior Court located at 751 West Santa Ana Boulevard, Santa Ana, California 92701.

At the Final Approval Hearing, the Court will consider: (a) whether the Settlement should be approved as fair, reasonable, and adequate for the Settlement Class, and judgment entered on the terms stated in the Settlement Agreement; and (b) whether the application for an award of attorneys’ fees and expenses to Class Counsel and service award to the Class Representative should be granted. The Court may adjust the date of the Final Approval Hearing and related deadlines, without further notice to the Class.

IT IS SO ORDERED.

DATED: _____

JUDGE OF THE SUPERIOR COURT
Hon. Peter J. Wilson

Exhibit A

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

Le et al. v. M4D, LLC

(Orange County Superior Court, Case No. 30-2021-001182977-CU-OE-CXC)

***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 M4D, LLC (“Defendant” or “M4D”) for alleged wage and hour violations. The Action was settled by an employee of M4D, Kevin Lam (“Plaintiff”), and seeks payment of: (1) back wages and penalties for a class of individuals who worked for M4D as nonexempt employees in California during the Class Period (February 5, 2017 to August 28, 2022) (“Class Members”); and (2) penalties under the California Private Attorneys General Act (“PAGA”) for all individuals who worked for M4D as nonexempt employees in California during the PAGA Period (February 5, 2020 to August 28, 2022) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring M4D to fund Individual Class Payments; and (2) a PAGA Settlement requiring M4D to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on M4D’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$_____ (less withholding) and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to M4D’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on M4D’s records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ workweeks** during the PAGA Period. Workweeks are based on hire date and, where applicable, re-hire date(s), last date(s) worked, and date(s) of any transition between nonexempt and exempt status. If you believe that you worked more workweeks as a nonexempt employee 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 M4D to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against M4D.

If you worked for M4D as a nonexempt employee in California during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against M4D.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against M4D, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

M4D 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 wage claims against M4D that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. M4D must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone, or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many Workweeks you worked during the Class Period and how many Pay Periods you worked during the PAGA Period, respectively, as a nonexempt employee in California. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to M4D’s records are stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is an employee of M4D. The Action accuses M4D of violating California labor laws by failing to pay all required overtime wages, pay minimum wages, pay wages due upon termination or resignation, provide meal periods or compensation in lieu thereof, provide rest breaks or compensation in lieu thereof, and provide accurate itemized wage statements, as well as engaging in unfair competition. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) (“PAGA”). Plaintiff is represented by attorneys in the Action: Michael A. Gould and Arin A. Zeif of the Gould Law Firm (“Class Counsel.”)

M4D strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

So far, the Court has made no determination whether M4D or Plaintiff is correct on the merits. In the meantime, Plaintiff and M4D hired an experienced retired judge in an effort to resolve the Action by negotiating and to end the case by agreement (settle the case) rather than

continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and M4D have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, M4D does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) M4D has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

1. M4D Will Pay \$750,000.00 as the Gross Settlement Amount (“Gross Settlement”)
M4D has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorneys’ fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, M4D will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$250,000.00 (33.33%), unless escalated pursuant to the Settlement Agreement, to Class Counsel for attorneys’ fees and up to \$12,500.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000.00 as a Class Representative Award to Plaintiff Kevin Lam for working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$6,750.00 to the Administrator for services administering the Settlement.

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

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and M4D are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to penalties and interest (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. M4D will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and M4D have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller’s Unclaimed Property Fund in your name.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. You must notify the Administrator by sending a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., “Non-Participating Class Members”) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against M4D.

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 are required to give up their right to assert PAGA

claims against M4D based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and M4, have agreed that, in either case, the Settlement will be void: M4D will not pay any money and Class Members will not release any claims against M4D.
8. Administrator. The Court has appointed a neutral company, CPT Group, Inc. (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and M4D has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against M4D or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all class claims that were alleged, or reasonably could have been alleged, based on the facts contained in the First Amended Class and PAGA Representative Action Complaint in the Action, or that could have arisen out of the allegations in the First Amended Class and PAGA Representative Action Complaint in the Action, for the duration of the Class Period, including, e.g., any and all claims involving: (1) any alleged failure to pay overtime wages; (2) any alleged failure to pay minimum wages; (3) any alleged failure to provide compliant meal periods, or compensation in lieu thereof; (4) any alleged failure to provide compliant rest periods, or compensation in lieu thereof; (5) any alleged failure to pay wages due upon termination or resignation; (6) any alleged failure to provide compliant wage statements; and (7) any alleged unlawful, unfair, or fraudulent business acts or practices under California Business and Professions Code sections 17200, *et seq.* arising out of the Labor Code and Industrial Welfare Commission (“IWC”) Wage Order violations referenced in the Operative Complaint. Except as set forth in Section 5.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment benefits, insurance benefits, disability benefits, social security benefits, workers’ compensation benefits, or claims based on facts occurring outside the Class

Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and M4D has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against M4D, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against M4D or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts contained in the First Amended Class and PAGA Representative Action Complaint in the Action and in the PAGA Notices filed with the LWDA on February 5, 2021 and August 17, 2022, or that could have arisen out of the allegations in the First Amended Class and PAGA Representative Action Complaint in the Action and in the PAGA Notices filed with the LWDA on February 5, 2021 and August 17, 2022, for the duration of the PAGA Period, including, e.g., any and all claims for PAGA penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 in connection with: (1) any alleged failure to pay overtime wages; (2) any alleged failure to pay minimum wages; (3) any alleged failure to provide compliant meal periods, or compensation in lieu thereof; (4) any alleged failure to provide compliant rest periods, or compensation in lieu thereof; (5) any alleged failure to pay wages due upon termination or resignation; and (6) any alleged failure to provide compliant wage statements.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$6,250.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods (bi-weekly) you worked during the PAGA Period as a nonexempt employee in California, as recorded in M4D's records, are stated in the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail or email. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept M4D's calculation of Workweeks and/or Pay Periods based on M4D's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and M4D's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

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?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. Be sure to personally sign your request, identify the Action as *Le et al. v. M4D, LLC*, Case No. 30-2021-001182977-CU-OE-CXC, and include your identifying information (full name, address, telephone number, approximate dates of employment, and last four digits of her social security number for verification purposes). **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. **The deadline for sending written objections to the Administrator is_____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Le et al. v. M4D, LLC*, Case No. 30-2021-001182977-CU-OE-CXC, and include your name, current address, telephone number, and approximate dates of employment for M4D, and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on_____at (time) in Department CX101 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator.

9. HOW CAN I GET MORE INFORMATION?

To obtain additional information or write a statement in favor of the settlement, you can telephone or send an email to Class Counsel or the Administrator using the contact information listed below.

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

Class Counsel:

Name of Attorneys: Michael Gould and Aarin A. Zeif

Email Address: Aarin@wageandhourlaw.com

Name of Firm: The Gould Law Firm

Mailing Address: 161 Fashion Lane, Suite 207, Tustin, Ca 92780

Telephone: 714-669-2850

Settlement Administrator:

Name of Company

Email Address:

Mailing Address:

Telephone:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

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.