CLASS ACTION AND PAGA REPRESENTATIVE ACTION SETTLEMENT AGREEMENT

I. INTRODUCTION

1. This Class Action and PAGA Representative Action Settlement Agreement (hereinafter "Settlement" or "Settlement Agreement") is made by and between Plaintiff Shania Cole ("Plaintiff"), individually and on behalf of all others similarly situated, and Defendant Lane Bryant Brands Opco LLC ("Defendant") (collectively, the "Parties"). This Settlement Agreement is subject to the terms and conditions set forth below and to the approval of the Court. This Settlement Agreement supersedes any and all prior memoranda of understanding and accurately sets forth the Parties' class action and PAGA settlement to resolve all claims as detailed below. The Parties agree that the consideration described herein constitutes adequate consideration for the Settlement and releases described herein.

II. DEFINITIONS

2. "Action" means Plaintiff's lawsuit captioned *Shania Cole v. Lane Bryant Brands Opco LLC*, Case No. 5:22-cv-07614-PCP, initiated on September 14, 2022, and removed on October 31, 2022, and pending in the United States District Court, Northern District of California.

3. "Class Counsel" or "Plaintiff's Counsel" means Raúl Pérez, Bevin Allen Pike, Daniel S. Jonathan and Trisha K. Monesi of Capstone Law APC.

4. "Class Member" or "Settlement Class Member" mean any person who worked for Defendant as a non-exempt, hourly employee in the State of California at any time from January 1, 2021, through and including the earlier of: (i) January 25, 2024 or (ii) the Date of Preliminary Approval, and who does not timely opt-out of the Settlement.

5. "Class Period" means the period commencing on January 1, 2021, through and including the earlier of: (i) January 25, 2024 or (ii) the Date of Preliminary Approval.

6. "Class Representative" means Plaintiff Shania Cole, who is to be designated as the Class Representative for settlement purposes subject to Court approval.

7. "Complaint" means the First Amended Complaint in this Action.

8. "Court" means the United States District Court, Northern District of California.

9. "Date of Preliminary Approval" means the date the Court approves this Settlement

Agreement, and the exhibits thereto, and enters an Order providing for notice to the Class Members, an opportunity to opt-out of being a Participating Class Member, an opportunity to submit timely objections to the settlement, and setting a hearing for Final Approval of the Settlement, including approval of attorneys' fees and costs.

10. "Defendant's Counsel" means Carrie A. Gonell and David J. Rashe of Morgan, Lewis & Bockius LLP.

11. "Deficient Opt-Out" means a Class Member has submitted a Deficient Request for Exclusion and has failed to cure its deficiencies within the time required by this Settlement Agreement.

12. "Deficient Request for Exclusion" means a Request for Exclusion that is not signed by the Class Member submitting the Request for Exclusion or cannot be verified by the Settlement Administrator as being an authentic submission by the Class Member.

13. "Final Approval" means the date on which the Court enters the Final Approval Order.

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

15. "Final Approval Order" means the Court's order granting the Motion for Final Approval of the Settlement.

16. "Gross Settlement Amount" is the sum of One Million One Hundred Fifty Thousand Dollars ($1,150,000), which represents the maximum amount payable in this Settlement by Defendant, and includes all attorneys' fees not to exceed one-third of the Gross Settlement Amount, actual litigation costs and expenses not to exceed $25,000, Settlement Administration Expenses, Incentive Payment to the Class Representative, LWDA PAGA Amount, PAGA Member Payment, Settlement Class Payment, and all taxes except the employer's share of payroll taxes.

17. "Incentive Payment" means the incentive payment in an amount not to exceed Ten Thousand Dollars ($10,000) total to the Class Representative.

18. "Judgment" means the judgment entered by the Court based upon the Final Approval Order.

19. "Late Request for Exclusion" means a Request for Exclusion that is submitted to the

Settlement Administrator after the end of the Notice Period.

20. "LWDA" means the California Labor and Workforce Development Agency.

21. "LWDA PAGA Amount" is the 75% share of the Sixty Thousand Dollars ($60,000) (or Forty-Five Thousand Dollars ($45,000)) allocated from the Gross Settlement Amount for PAGA penalties that will be paid to the LWDA.

22. "Named Plaintiff" means Plaintiff Shania Cole.

23. "Net Settlement Amount" is the portion of the Gross Settlement Amount eligible for distribution to Participating Class Members. It equals the Gross Settlement amount less Class Counsel's attorneys' fees and actual litigation costs and expenses as ordered to be paid by this Court, Settlement Administration Expenses, Incentive Payment to the Class Representative, LWDA PAGA Amount, PAGA Member Payment, and all taxes except the employer's share of payroll taxes.

24. "Notice Period" shall mean the period of thirty (30) days following the mailing of the Notice of Settlement by the Settlement Administrator. If the 30th day falls on a Sunday or holiday, the Notice Period shall end on the next business day that is not a Sunday or holiday.

25. "PAGA" means the California Labor Code Private Attorneys General Act, California Labor Code §§ 2698 *et seq.*

26. "PAGA Member" means any person who worked for Defendant as a non-exempt, hourly employee in the State of California at any time from August 22, 2022, through earlier of: (i) January 25, 2024 or (ii) the Date of Preliminary Approval.

27. "PAGA Member Payment" is the 25% share of the Sixty Thousand Dollars ($60,000) (or Fifteen Thousand Dollars ($15,000)) allocated from the Gross Settlement Amount for PAGA penalties that will be paid to the PAGA Members.

28. "PAGA Period" means the period commencing on August 22, 2022, through earlier of: (i) January 25, 2024 or (ii) the Date of Preliminary Approval.

29. "Participating Class Member" means any Class Member who does not timely opt out of the Settlement or who opts out but subsequently rescinds the opt-out in a timely manner.

30. "Pay Period" means any biweekly pay period in which a PAGA Member worked at least

one day during the PAGA Period based on Defendant's records.

31. "Qualified Settlement Fund" means the Qualified Settlement Fund ("QSF") created under Internal Revenue Code Section 468B, to be overseen by the Settlement Administrator.

32. "Released Parties" means Defendant and its predecessors, successors and assigns, its current and former direct and indirect parents, affiliates, subsidiaries, divisions, insurers, partnerships, and related business entities, past and present, as well as their current and former officers, directors, shareholders, employees, agents, representatives and employee benefit programs (including the trustees, administrators, fiduciaries and insurers of such programs).

33. "Request for Exclusion" means a signed request from a Class Member to be excluded from the non-PAGA portion of this Settlement.

34. "Settlement Administration Expenses" are those expenses incurred by the Settlement Administrator in effectuating the Settlement and are not to exceed $25,000.00.

35. "Settlement Administrator" means CPT Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.

36. "Settlement Documents" means the Notice of Settlement attached hereto as Exhibit A.

37. "Settlement Effective Date" means the latter date of: (1) the date of final affirmance of an appeal of the Final Approval Order, or the expiration of the time for a petition for a writ of certiorari to review the Final Approval Order and, if certiorari be granted, the date of final affirmance of the Final Approval Order following review pursuant to that grant; or (2) the date of final dismissal of any appeal from the Final Approval Order or the final dismissal of any proceeding on certiorari to review the Final Approval Order; or (3) if no appeal is filed, the 31st day after the entry of the Judgment on the Final Approval Order. The Settlement Effective Date cannot occur unless and until there is no possibility of an appeal or further appeal (by anyone who has the right to, or claims to have the ability to, take an appeal) that could potentially prevent this Settlement Agreement from becoming final and binding. The Parties intend that the Final Approval Order will extinguish all released claims, including but not limited to PAGA claims, for the periods covered by this Settlement upon Final Approval of the Settlement and the issuance of payment to the Class/PAGA Members. The Court will retain jurisdiction to enforce the

Settlement after the Settlement Effective Date.

38. "Settlement Class Payment" is the allocation from the Net Settlement Amount paid to Participating Class Members and does not include the PAGA Member Payment to the PAGA Members.

39. "Workweek" means any week in which a Class Member worked at least one day during the Class Period based on Defendant's records.

III. LITIGATION BACKGROUND

40. On or about September 14, 2022, Plaintiff filed a lawsuit in the Santa Clara County Superior Court, asserting causes of action for (1) Failure to Pay Minimum Wages; (2) Failure to Timely Pay Wages Upon Termination; (3) Failure to Pay Wages During Employment; (4) Failure to Provide Meal Periods; (5) Failure to Authorize and Permit Rest Periods; (6) Failure to Provide Accurate Itemized Wage Statements and Maintain Accurate Payroll Records; and (7) Violation of the California Business and Professions Code section 17200, *et seq.*

41. On or about October 10, 2022, Plaintiff submitted a notice letter to the LWDA alleging Labor Code violations by Defendant (hereinafter referred to as the "LWDA Notice"). The allegations in the LWDA Notice included: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime; (3) Failure to Timely Pay Wages Upon Termination; (4) Failure to Pay Wages During Employment; (5) Failure to Provide Meal Periods; (6) Failure to Authorize and Permit Rest Periods;
(7) Failure to Provide Accurate Itemized Wage Statements and Maintain Accurate Payroll Records; and (8) Failure to Provide Suitable Seating; and (9) to Provide Notice of Material Terms of Employment.

42. On October 31, 2022, Defendant filed a Notice of Removal of Action to Federal Court.

43. Defendant denies Plaintiff's claims, and asserts that, during all relevant times, it complied with the California Labor Code and related authorities, and that Plaintiff and Class Members are not entitled to any recovery.

44. On October 27, 2023, the Parties participated in a mediation session with mediator Michael Dickstein, Esq. With Mr. Dickstein's guidance, the Parties were able to reach a resolution that was memorialized in a Memorandum of Understanding signed on October 27, 2023.

45. It is the desire of the Parties to fully, finally, and forever settle, compromise, and

discharge all disputes and claims against Defendant and the Released Parties arising from or related to the Action.

46. It is the intention of the Parties that this Settlement Agreement shall constitute a full and complete settlement and release of the claims averred in the Action. This release includes in its effect a release of all Released Parties.

IV. JURISDICTION AND VENUE

47. This Court has jurisdiction over the Parties and the subject matter of this Action. This Court will have continuing jurisdiction over the terms and conditions of this Settlement Agreement, until all payments and obligations provided for herein have been fully executed.

V. TERMS OF SETTLEMENT

48. NOW, THEREFORE, in consideration of the mutual covenants, promises, and undertakings set forth herein, the Parties agree, subject to the Court's approval, as follows:

a. **Non-Admission.** Nothing in this Settlement shall be construed to be or deemed an admission by Defendant of any liability, culpability, negligence, or wrongdoing toward the Class Representative, the Class Members, or any other person, and Defendant specifically disclaims any liability, culpability, negligence, or wrongdoing toward the Class Representative, the Class Members, or any other person, or that class certification or proceeding on a class or representative basis is appropriate. Each of the Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant risk, inconvenience, expenses, and contingencies. This Settlement and any settlement-related court documents or orders between the Parties may not be cited or otherwise admitted as evidence of liability or that class or collective certification is appropriate or that a representative action could ever be manageably tried before a court. There has been no final determination by any Court as to the merits of the claims asserted by Plaintiff against Defendant or as to whether a class should be certified, other than for settlement purposes only. Furthermore, nothing in this Settlement shall be considered any form of waiver of any alternative dispute resolution provisions, including but not limited to any arbitration agreements, if any, signed by any Class Members.

b. **Certification.** The Parties stipulate, for settlement purposes only, to the certification of the Class described above in Paragraph 4 as to all claims asserted in the Complaint. If for any reason the Court does not approve this Settlement, fails to enter the Final Approval Order, or fails to enter the Judgment, or if this Settlement Agreement is lawfully terminated for any other reason, Defendant shall retain the absolute right to dispute the propriety of class or conditional certification and/or the ability of this action to proceed as a class and/or representative action on all applicable grounds.

c. The Parties further stipulate that, for settlement purposes only, Plaintiff's Counsel may be appointed Class Counsel and that Named Plaintiff may be appointed as Class Representative. The Settlement Class may be provisionally certified as a class action for the purposes of the monetary relief provided in this Settlement Agreement. Plaintiff's Counsel, Capstone Law APC may be preliminarily and conditionally appointed as Class Counsel.

d. **Non-Approval By The Court**. In the event that this Settlement Agreement is not approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court:

i. The Parties will meet and confer or attend mediation again in an effort to reach a settlement approved by the Court. Plaintiff may not withdraw from the Settlement if the Court reduces any amount of attorneys' fees, litigation costs and expenses, or the Incentive Payment to Plaintiff;

ii. The Settlement Agreement shall have no force or effect, other than the confidentiality and non-disclosure provisions in Section XVII and the non-admission provisions in Paragraph 48.a;

iii. The Settlement Agreement shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural;

iv. The preliminary and conditional certification of the class shall become null and void, and the fact of certification shall not be cited to or admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and

v. None of the Parties to this Settlement Agreement will be deemed to have waived any claims, objections, defenses or arguments with respect to the issue of class certification or the merits of Plaintiff's claims.

e. **Settlement Payments.** Defendant agrees to pay a non-reversionary Gross Settlement Amount of One Million One Hundred Fifty Thousand Dollars ($1,150,000), inclusive of all payments, fees and costs identified in this Settlement Agreement, including the Incentive Payment to the Class Representative, Settlement Administration Expenses, attorneys' fees and out-of-pocket litigation costs and expenses, PAGA penalties (both the LWDA PAGA Amount and the PAGA Member Payment), and all taxes except the employer's share of payroll taxes. The Parties agree, subject to Court approval, to the following allocations to be paid from the Gross Settlement Amount:

i. From the Gross Settlement Amount, provided there is no breach of this Settlement Agreement by Named Plaintiff or her counsel, Class Counsel may seek from the Court a maximum of Three Hundred Eighty-Three Thousand Three Hundred Thirty-Three Dollars ($383,333.33), or one-third (1/3) of the Gross Settlement Amount in attorneys' fees, plus actual litigation costs and expenses not to exceed $25,000, for serving as Class

Counsel, which Defendant will not oppose.

ii. From the Gross Settlement Amount, provided there is no breach of this Settlement Agreement by Named Plaintiff or her counsel, Named Plaintiff may seek from the Court an Incentive Payment not to exceed Ten Thousand Dollars ($10,000) for serving as Class Representative, which Defendant will not oppose. The Incentive Payment is in addition to whatever monetary settlement Plaintiff is entitled to recover from the Net Settlement Amount as a Participating Class Member and the PAGA Member Payment. Any amount of the Incentive Payment not approved by the Court shall become part of the Net Settlement Amount.

iii. From the Gross Settlement Amount, a payment of $45,000.00 to the California Labor and Workforce Development Agency (the LWDA PAGA Amount), representing the LWDA's 75% share of the settlement attributable to PAGA penalties. In connection with seeking settlement approval, Plaintiff's counsel shall notify the LWDA of the existence of the Settlement. Should the LWDA object to the amount of this payment, the Parties agree to work in good faith to negotiate another agreeable amount.

iv. From the Gross Settlement Amount, a payment of Fifteen Thousand Dollars ($15,000) to be allocated among the PAGA Members (the PAGA Member Payment), calculated on a proportional basis by dividing the number of Pay Periods worked by each PAGA Member by the total Pay Periods worked by all PAGA Members during the PAGA Period, and multiplying the resulting fraction by the PAGA Member Payment.

v. From the Gross Settlement Amount, Settlement Administration Expenses in a reasonable amount, which are not to exceed Twenty-Five Thousand Dollars ($25,000). To the extent that Settlement

Administration Expenses are less than $25,000, the remainder shall become part of the Net Settlement Amount.

vi. If the Court approves a lesser amount of attorney's fees or costs than those sought by Named Plaintiff or Class Counsel, the amount shall become part of the Net Settlement Amount, except that in the event Class Counsel appeals a reduction in the award of fees or costs by the Court, any appellate reduction of attorney fees and costs will be allocated *cy pres* to Legal Aid Association of California. The amount of reduction at issue in the appeal shall be held by the Settlement Administrator in trust pending the outcome of the appeal.

vii. The Settlement Administrator will administer the notice, challenges, and opt-outs, informing Class Members of their rights in regard to the proposed settlement as specified below; will disburse monies from the Qualified Settlement Fund as and when authorized in this Settlement Agreement and by order of the Court; and will inform the Parties and the Court of its fulfillment of the duties imposed by this Settlement Agreement. Settlement Administrator Expenses shall be paid from the Gross Settlement Amount.

viii. The Net Settlement Amount is the balance of the Gross Settlement Amount, after payments have been made for attorneys' fees and litigation costs and expenses, Settlement Administration Expenses, Class Representative's Incentive Payment, PAGA penalties (both the LWDA PAGA Amount and the PAGA Member Payment), and all taxes except the employer's share of the employer's share of payroll taxes.

ix. The Settlement Administrator shall, after Final Approval of the Settlement Agreement by the Court and after the Settlement Effective Date, pay each Participating Class Member from the Net Settlement

Amount based on a proportional basis according to the number of Workweeks worked during the Class Period. The Settlement Administrator will also conduct a similar proportional calculation based on Pay Periods worked for each PAGA Member to determine their share of the PAGA Member Payment, as set forth in Section VIII.

x. The dates of employment for each Class Member and PAGA Member and the corresponding number of Workweeks and Pay Periods during which Class Members worked during the Class Period and PAGA Members worked during the PAGA Period shall be provided by Defendant to the Settlement Administrator and kept confidential by the Settlement Administrator, although Class Counsel may receive a copy containing only a unique identifier in place of Class Members and PAGA Members' names and the estimated amount of each Class Members and PAGA Members' payments under this Settlement, with sensitive information (such as names, addresses, and social security numbers) removed. The Administrator shall calculate the number of Workweeks worked by Class Members during the Class Period and the number of Pay Periods worked by PAGA Members during the PAGA Period. All Class Members will be deemed to have worked during at least one Workweek during the Class Period, and all PAGA Members will be deemed to have worked during at least one Pay Period during the PAGA Period. Class Members shall have the right to challenge the number of Pay Periods reflected in Defendant's records as set forth in Paragraph 69.

xi. Class Members entitled to recover under this Settlement Agreement will include only those individuals who are identified in Defendant's records as having worked as Class Members in California during the Class

Period, or those additional individuals who can provide to the Settlement Administrator evidence that they worked in that capacity notwithstanding the absence of Defendant's records confirming such employment.

xii. Within ten (10) days of the Settlement Effective Date, the Settlement Administrator shall issue Settlement Class Payment checks to Participating Class Members under this Settlement Agreement, as well as an Incentive Payment to the Class Representative, attorneys' fees and litigation costs and expenses awarded to Class Counsel, the LWDA PAGA Amount, and the PAGA Member Payment by sending such payments by mail or other reliable means to the respective recipients as specified below.

f. **Objections**. Only Participating Class Members who do not opt-out may object to the non-PAGA portion of the Settlement. Plaintiff may not object to the Settlement. Class Members who timely opt-out of the non-PAGA portion of the Settlement are not eligible to object. All written objections must be sent no later than thirty (30) days after the mailing of the Settlement Documents and must include: (a) the Participating Class Member's full name, (b) the Participating Class Member's last four digits of their social security number, and (c) a clear statement explaining why the Participating Class Member objects to the non-PAGA portion of the Settlement. Such deadline applies notwithstanding any argument regarding non-receipt of the Settlement Documents. Notwithstanding this deadline to submit a written objection, Class Members shall retain the right to appear at the Final Approval Hearing regardless of whether they have submitted a written objection to the settlement. Anyone who fails to send timely written objections or make an oral objection at the Final Approval Hearing shall be deemed to have waived any objections and shall be foreclosed from filing any appeal from any Final Approval Order and Judgment issued by the Court. The Parties may file a response to any objections submitted by objecting Class Members at or prior to the Final Approval Hearing. Class Members shall be permitted to withdraw their objections in writing by submitting a withdrawal statement to the Settlement Administrator not later than one (1) business day prior to the Final Approval Hearing, or as otherwise ordered by the Court.

g. **<u>Opt Outs</u>**. Class Members who wish to "opt out" of and be excluded from the non-PAGA portion of this Settlement must submit a written Request for Exclusion from the Settlement bearing a post-mark from a date within the Notice Period. Class Members may not opt out of the PAGA portion of this Settlement and are still bound by the release of PAGA claims even if they submit a valid Request for Exclusion from the non-PAGA portion of this Settlement and will receive a check with their PAGA Member Payment allocation from the $15,000.00 PAGA Member Payment if they are a PAGA Member. The Request for Exclusion must include: (a) the Class Member's name; (b) a statement that the Class Member desires to exclude himself or herself from the case; (c) the last four digits of the Class Member's social security number; and (d) be signed by the Class Member. If a Class Member submits a Deficient Opt-Out, the Settlement Administrator shall notify the Class Member of the deficiency within five (5) business days of receipt. The Class Member shall have until the end of the Notice Period or five (5) business days after the close of the Notice Period if the notice of deficiency is sent by the Settlement Administrator within (5) business days of the end of the Notice Period to cure said deficiencies, at which point his or her Request for Exclusion will be rejected if not received. Class Members with Deficient Opt-Outs shall be bound by the Settlement and its releases and will be considered Participating Class Members for settlement distribution purposes. Class Members shall be permitted to rescind their Request for Exclusion in writing by submitting a rescission statement to the Settlement Administrator not later than one (1) business day prior to the Final Approval Hearing, or as otherwise ordered by the Court. The Settlement Administrator shall not accept Late Requests for Exclusion without the written authorization of the Parties. Plaintiff may not opt out of the Settlement.

h. **Released Claims**. Upon Final Approval, the Class Representative, PAGA Members, and Participating Class Members who did not opt out of the non-PAGA portion of this Settlement, shall be deemed to have fully, finally, and forever released Defendant and the Released Parties from the released claims as set forth in Sections X through XII below.

i. **Entry of Judgment.** At the Final Approval Hearing, the Parties will request that the Court, among other things: (a) certify the Settlement Class for purposes of settlement only; (b) enter a Final Approval Order in accordance with the terms of this Settlement Agreement; (c) approve the settlement as fair, adequate, reasonable, and binding on all Participating Class Members, all PAGA Members, and the LWDA; (d) enter an order whereby Participating Class Members shall release the Released Class Claims; and (e) enter an order whereby the PAGA Members and LWDA shall release the Released PAGA Claims.

VI. SETTLEMENT ADMINISTRATION

49. The Parties have agreed to the appointment of CPT Group, Inc. to perform the duties of Settlement Administrator.

50. Within seven (7) days of the Final Approval Order, the Settlement Administrator shall calculate, and inform Defendant's counsel of, the employer's share of payroll taxes. Defendant shall provide all information necessary for the Settlement Administrator to calculate the employer's share of payroll taxes.

51. Within thirty (30) days of the Final Approval Order, Defendant shall fund the settlement with the Gross Settlement Amount and the employer's share of payroll taxes by wire transfer or otherwise

transmit to a depository bank designated by the Settlement Administrator in an account titled in the name of "Lane Bryant Wage and Hour Settlement Fund." The account will be organized and existing under the laws of the State of California, intended by the Parties to be a "Qualified Settlement Fund" as described in Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, *et seq.* The monies so transferred, together with any interest subsequently earned thereon, shall constitute the Qualified Settlement Fund. The $1,150,000 for the Gross Settlement Amount and the employer's share of payroll taxes transferred into the Qualified Settlement Fund by Defendant shall constitute the total Settlement cash outlay by Defendant in connection with: (1) the resolution of this matter; (2) this Settlement Agreement; and (3) the entry of Judgment in this Action. This sum is inclusive of payment for the Gross Settlement Amount (and all payments to be made from the Gross Settlement Amount as described herein).

52. The Settlement Administrator shall serve as Trustee of the Qualified Settlement Fund and shall act as a fiduciary with respect to the handling, management and distribution of the Qualified Settlement Fund, including with regard to payment of valid claims and reporting and paying taxes on such awards. The Settlement Administrator shall act in a manner necessary to qualify the Qualified Settlement Fund as a "Qualified Settlement Fund" under Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, *et seq.*, and to maintain that qualification.

53. The Settlement Administrator shall be responsible for: (a) calculating each Class Member's potential recovery of the Net Settlement Amount and PAGA Member Payment amount; (b) preparing and mailing to all Class Members and PAGA Members the Settlement Documents with estimated Settlement Class Payment amounts and (if applicable) a PAGA Member Payment amount, and instructions on how to opt out of or object to the non-PAGA portion of the Settlement, and will take appropriate steps to trace, update and locate any individual Class Members and PAGA Members whose address or contact information as provided to the Settlement Administrator is inaccurate or outdated; (c) receiving and serving on Class Counsel and Defendant's Counsel, and the Court, Requests for Exclusion and any withdrawal and rescission statements; (d) providing to Class Counsel and Defendant's Counsel a weekly report of activity; (e) establishing a toll free telephone line and responding to inquiries

and requests for information or assistance from Class Members; (f) determining and paying the final amounts due to be paid to Participating Class Members after adjustment for funds due to Class Members who timely opt out of the non-PAGA portion of this Settlement; (g) reporting to Class Counsel, Defendant's Counsel, and the Court regarding the completion of the tasks identified in this paragraph; and (h) carrying out other related tasks including the proper maintenance of the QSF and reporting required for that account, in accordance with the terms of this Settlement Agreement. The weekly report of activity should include: (a) the number of Class Members who have submitted valid Requests for Exclusion, (b) the number of Notices returned and re-mailed, (c) whether any Class Member has submitted a dispute to any information contained in the Notice, and (d) the final count of Class Members who successfully opted-out of the non-PAGA portion of this Settlement.

54. All disputes relating to the Settlement Administrator's ability and need to perform its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement Agreement, until all payments and obligations contemplated by the Settlement Agreement have been fully executed.

55. When and if the Court grants Final Approval of the Settlement, and the Settlement Effective Date as defined herein has passed, the Settlement Administrator shall prepare a final list of all Participating Class Members and PAGA Members. The Settlement Administrator shall provide a redacted list to the Parties within ten (10) days after the Final Approval Order. For each Participating Class Member on this list, the Settlement Administrator will re-calculate the amounts due to each Participating Class Member. The Settlement Administrator shall also provide a non-redacted list only to Defendant within ten (10) days after the Final Approval Order.

56. Except for the Incentive Payment described above to be paid to the Class Representative, all Settlement Class Payments to Participating Class Members shall be allocated as follows: 75% allocation for wages to be reported on IRS Form W-2; and 25% allocation for penalties to be reported on IRS Form 1099. All PAGA Member Payments will be allocated entirely to civil penalties. The Incentive Payment to the Class Representative shall be treated as compensation for non-wage claims. The Settlement Administrator shall provide Participating Class Members, PAGA Members, and the Class

Representative with an IRS Form 1099 as appropriate for the portions allocated to non-wages, if required. The Class Representative, Participating Class Members, and PAGA Members shall be exclusively liable for all tax liability, if any, resulting from any failure on their part to pay any taxes due on their receipt of the Settlement Class Payments and/or PAGA Member Payments. All Parties represent that they have not received, and shall not rely on, advice or representations from other Parties or their agents or attorneys regarding the tax treatment of payments under federal, state, or local law.

57. After all payments have been disbursed from the QSF, the Settlement Administrator shall dissolve the QSF and file a return (SF-1120) with the IRS.

VII. NOTICE TO THE CLASS MEMBERS AND LWDA

58. Within twenty-eight (28) days after the Date of Preliminary Approval by the Court, and subject to the Settlement Administrator executing a confidentiality agreement required by Defendant, Defendant shall provide the Settlement Administrator only with a Microsoft Excel spreadsheet containing the following for each Class Member: (1) full name; (2) last known mailing address; (3) social security number; (4) start and end dates of active employment as a Class Member and PAGA Member in the state of California; (5) the number of Workweeks during which the Class Member worked; (6) the number of Pay Periods during which PAGA Members worked; and (7) any other information required by the Settlement Administrator in order to effectuate the terms of the Settlement to the extent it can be reasonably provided by Defendant. Class Counsel will not be provided with the aforementioned data (including names, last known mailing address, social security numbers, and employment dates for Class Members and PAGA Members) unless Defendant provides consent in writing, but may receive summaries of the aforementioned data, provided sensitive information such as names, last known mailing addresses, and social security numbers are redacted.

59. Class data shall only be used by the Settlement Administrator for the purpose of calculating settlement payment shares and finding and notifying Class Members and PAGA Members of the settlement. Data and information for Class Members and PAGA Members shall not be disclosed to the Named Plaintiff, or any other Class Members or PAGA Members without the prior written consent of

Defendant and will be subject to the Settlement Administrator's confidentiality agreement and redaction.

60. Prior to mailing the Settlement Documents, the Settlement Administrator will update the addresses for the Class Members and PAGA Members using the National Change of Address database and other available resources deemed suitable by the Settlement Administrator. Any returned envelopes from the initial mailing that are returned no later than thirty (30) days after the initial mailing shall be remailed on one occasion. Those envelopes returned with forwarding addresses will be used by the Settlement Administrator to locate Class Members and PAGA Members and re-mail the Settlement Documents to the correct or updated address. For envelopes without a forwarding address, the Settlement Administrator will use all appropriate tracing methods, including skip tracing, to ensure that the Settlement Documents are received by the Class Members and PAGA Members. The Settlement Administrator shall also take reasonable steps including skip tracing to locate any Class Member or PAGA Member whose Notice of Settlement is returned as undeliverable. Individuals who receive a remailed envelope shall be entitled to an additional 15 days beyond the response deadline to submit written objections or opt-out of the non-PAGA portion of this Settlement.

61. Within fourteen (14) days of receiving the class data from Defendant and after it has completed all of the address updates for Class Members (including any skip tracing), the Settlement Administrator shall mail the Notice of Settlement to Class Members and PAGA Members. The Notice of Settlement (attached as Exhibit A) shall provide a summary of the provisions of the Settlement. The Notice of Settlement shall also list the amount of Workweeks worked by the Class Member and, if applicable, the number of Pay Periods worked by the PAGA Member, and the estimated individual payment each Class Member will receive as a Class Member and PAGA Member. The Notice shall provide instructions to employees regarding how to request to be excluded from the Settlement, how to object to the Settlement, how to submit a dispute regarding the number of Workweeks and/or Pay Periods stated on the Settlement Documents, and the date of the final approval hearing. At least five (5) business days prior to this mailing, the Settlement Administrator shall provide the Parties with a report listing the estimated Settlement Class Payment and PAGA Member Payment amounts to each Class Member and

PAGA Member.

62. Class Members shall have thirty (30) days from the date of mailing of the Settlement Documents to opt-out of the Class (*i.e.*, the non-PAGA portion of this Settlement), object to the Settlement, or submit a dispute. If the 30th day falls on a Sunday or holiday, the deadline will be the next business day that is not a Sunday or holiday.

63. Plaintiff's counsel shall provide notice of this Settlement to the LWDA consistent with the requirements of Labor Code § 2699(*l*)(2).

VIII. CALCULATION OF SETTLEMENT PAYMENTS AND DISTRIBUTION OF NET SETTLEMENT AND PAGA MEMBER PAYMENT FUNDS

64. **Calculation of Settlement Class Payments.** The Settlement Administrator will calculate pro rata Settlement Class Payments to Class Members based on each Class Member's number of Workweeks during the Class Period as reflected on Defendant's records. That pro rata Settlement Class Payments shall be determined as follows: (1) the Settlement Administrator will divide the number of Workweeks worked by each Participating Class Member during the Class Period by the total Workweeks of all Participating Class Members during the Class Period, and (2) multiply the resulting fraction by the Net Settlement Amount allocated for distribution to Participating Class Members.

65. **Calculation of the PAGA Member Payment**. The Settlement Administrator will calculate pro rata PAGA Member Payments to PAGA Members by: (1) dividing the number of Pay Periods worked by each PAGA Member during the PAGA Period by the total Pay Periods of all PAGA Members during the PAGA Period, and (2) multiplying the resulting fraction by the PAGA Member Payment.

66. **Eligibility for Settlement Class Payments**. Only Class Members who have not opted-out of the non-PAGA portion of this Settlement will be considered Participating Class Members and eligible to receive a Settlement Class Payment.

67. Each Notice of Settlement mailed to a Class Member will identify the dates of employment that Defendant's records indicate the individual worked as a Class Member; the number of Workweeks worked by the Class Member during the Class Period and the number of Pay Periods worked

by the PAGA Member during PAGA Period; and an estimate of each Class Member's pro rata share of the Net Settlement Amount including the share of any PAGA Member Payment as a PAGA Member.

68. Participating Class Members and PAGA Members will have the right to dispute only the information described in Paragraph 67, *supra*, as shown on the Notice of Settlement. Challenges to the information listed on the Notice of Settlement shall be sent directly to the Settlement Administrator at the address indicated on the Notice of Settlement. Any dispute must be submitted to the Settlement Administrator during the Notice Period. The Settlement Administrator will inform Class Counsel and Defendant's Counsel in writing of any timely filed disputes. The information listed on the Notice of Settlement is presumed to be accurate unless the Participating Class Member and/or PAGA Member submits documentation demonstrating otherwise, *i.e.*, a Participating Class Member or PAGA Member who fails to provide documentary proof will have his or her challenge denied. In the event of any dispute over an individual's employment information, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Parties shall meet and confer and shall attempt to agree on a resolution for any such dispute. In the event the Parties cannot agree to a resolution, Defendant will make the final decision on the dispute and the decision will be binding on the Participating Class Member and/or PAGA Member and no additional rights of appeal shall exist.

69. The Settlement Administrator shall (a) date stamp all original Requests for Exclusion that it receives; and (b) serve copies on Class Counsel and Defendant's Counsel no later than five (5) business days after receipt, or immediately if received within five (5) business days of the Final Approval Hearing.

70. The Settlement Administrator shall also (a) date stamp all original rescission of Requests for Exclusion it receives; and (b) serve copies on Class Counsel and Defendant's Counsel no later than five (5) business days after receipt, or immediately if received within five (5) business days of the Court's Final Approval Hearing; and (c) file the date-stamped originals with the Clerk of the Court no later than five (5) business days prior to the date of the Final Approval Hearing or immediately if received less than five (5) business days prior to the date of the Final Approval Hearing.

71. The Settlement Administrator shall make the final calculation of Settlement Class Payments and PAGA Member Payments and within seven (7) days of the Settlement Effective Date, the

Settlement Administrator shall provide the Parties with a redacted report listing the Participating Class Members by a unique identifier, the amount of each Participating Class Member's Settlement Class Payment, any PAGA Member Payment, and the number of corresponding Workweeks and Pay Periods. The Settlement Administrator shall also provide a non-redacted report only to Defendant within seven (7) days of the Settlement Effective Date.

72. Within ten (10) days after the Settlement Effective Date, the Settlement Administrator shall distribute and pay Settlement Class Payment checks to all Participating Class Members, pay the Class Representative her Incentive Payment, issue a check to the LWDA for the LWDA PAGA Amount, issue checks to the PAGA Members for their PAGA Member Payments, pay Class Counsel's approved attorneys' fees and litigation costs and expenses, and pay the settlement administration fees.

73. The Settlement Administrator shall be responsible for issuing and mailing the checks and any necessary tax reporting forms to Participating Class Members, PAGA Members, the Class Representative, Class Counsel, and Defendant.

74. Uncashed Settlement Checks. Participating Class Members who are sent Settlement Class Payments and PAGA Members who are sent PAGA Member Payments shall have one hundred eighty (180) calendar days (which can be extended for good cause shown) after mailing by the Settlement Administrator to cash their checks and will be so advised of such deadline. If such Participating Class Members and/or PAGA Members do not cash their checks within that period, those checks will become void and a stop payment will be placed on the uncashed checks. Within thirty (30) days after the expiration date of the settlement checks, the Settlement Administrator shall provide to Class Counsel and Defendant's Counsel a verification/declaration signed under penalty of perjury that it has mailed the checks for Settlement Class Payments and PAGA Member Payments, and if uncashed, that such amounts have been sent *cy pres* to the Legal Aid Association of California ("Cy Pres Beneficiary"). The Parties do not have a connection to or a relationship with the Cy Pres Beneficiary that could reasonably create the appearance of impropriety as between the selection of the Cy Pres Beneficiary as the recipient of the unclaimed residuals and the interests of the Settlement Class. Defendant will not be required to pay any

interest on such amounts and no such amount shall be reverted to Defendant.

IX. STIPULATION TO FILE FIRST AMENDED COMPLAINT

75. Prior to seeking the Court's approval of this Settlement, the Parties agree to file a stipulation with the Court for leave of Court for Plaintiff to file an amended complaint (the "First Amended Complaint") adding a putative class claim for unpaid overtime wages and a PAGA claim alleging the Labor Code violations set forth in Plaintiff's LWDA Notice: (1) unpaid minimum wages; (2) unpaid overtime compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to provide accurate, itemized wage statements and maintain accurate payroll records; (6) failure to timely pay wages during employment; (7) failure to timely pay wages upon termination; (8) failure to provide suitable seating pursuant to Sections 14(A) and 14(B) of the applicable IWC wage orders; (9) penalties pursuant to Labor Code section 558; and (10) failure to provide notice of material terms of employment in violation of Section 2810.5.

X. RELEASE BY PARTICIPATING CLASS MEMBERS

76. Release by Participating Class Members. The releases agreed upon and made part of the settlement by Participating Class Members shall include a full and final release of the Released Parties, as defined above, of the Released Class Claims. The "Released Class Claims" are all claims, obligations, demands, rights, causes of action, and liabilities against Defendant and Released Parties that have been asserted in the Complaint and the First Amended Complaint, or that could reasonably have been asserted in the Complaint or the First Amended Complaint, and any amendments thereto, based on the facts, matters, and/or allegations pled therein. Released Class Claims include, but is not limited to, claims under Labor Code sections 201, 202, 203, 204, 210, 226, 226.3 226.7, 510, 512, 516, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2810.5, and Business and Professions Code § 17200, *et seq.*, including, but not limited to, claims for failure to pay minimum wages, failure to pay overtime wages, including at the regular rate, failure to provide meal periods and/or pay meal period premiums, failure to authorize and permit rest periods and/or pay rest period premiums, failure to provide accurate or otherwise compliant wage statements, failure to maintain payroll records, failure to timely pay wages during employment,

failure to timely pay wages upon termination, failure to provide notice under California's Wage Theft Prevention Act, and violations of California's Unfair Competition Law, including unfair and unlawful business practices, and includes all such claims during the Class Period.

XI. RELEASE BY PAGA MEMBERS AND THE LWDA

77. The PAGA Members and the LWDA shall release the Released Parties from all claims, obligations, demands, rights, causes of action, and liabilities against Defendant and Released Parties, for PAGA civil penalties that have been asserted in the First Amended Complaint and/or the PAGA letter to the LWDA, and any amendments thereto, or that could reasonably have been asserted in the First Amended Complaint, the PAGA letter to the LWDA, and any amendments thereto, based on the facts, matters and/or allegations pled therein. Released PAGA Claims include, but is not limited to, claims for PAGA civil penalties for violations of Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 558, 512, 516, 1174, 1182.12, 1194, 1197, 1197.1, 1198, and the applicable IWC wage orders, including, but not limited to, claims for failure to pay minimum wages, failure to pay overtime wages, including at the regular rate, failure to provide meal periods and/or pay meal period premiums, failure to authorize and permit rest periods and/or pay rest period premiums, failure to provide accurate or otherwise compliant wage statements, failure to maintain payroll records, failure to timely pay wages during employment, failure to timely pay wages upon termination, and failure to provide suitable seating when the nature of the work reasonably permits the use of seats and when employees are not engaged in the active duties of employment and the nature of the work requires standing, and includes all such claims during the PAGA Period.

XII. RELEASE BY CLASS REPRESENTATIVE

78. Settlement by Class Representative. As of the Settlement Effective Date, in consideration of the mutual covenants and promises set forth herein and by operation of the Final Approval Order and Judgment, in the event the Court grants an Incentive Payment, the release agreed upon and made part of the settlement by the Class Representative (the "Class Representative General Release") shall include a general release of the Released Parties, as defined above, from all claims, actions, causes of action, lawsuits, debts, dues, sums of money, accounts, reckonings, bonds, bills,

specialties, covenants, contracts, bonuses, controversies, agreements, promises, claims, charges, complaints and demands whatsoever, whether in law or equity, known or unknown, which against the Released Parties, the Class Representative and his heirs, executors, administrators, successors, and assigns, may now have or hereafter later determine that they have or had upon, or by reason of, any cause or thing whatsoever including, but not limited to, claims arising under the Americans With Disabilities Act, the National Labor Relations Act, the Fair Labor Standards Act, the Equal Pay Act, the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*, as amended, but not limited to, breach of fiduciary duty and equitable claims to be brought under § 1132(a)(3) ("ERISA"), the Worker Adjustment and Retraining Notification Act, as amended, Title VII of the Civil Rights Act of 1964, the Vocational Rehabilitation Act of 1973, the Civil Rights Acts of 1866, 1871 and 1991, including Section 1981 of the Civil Rights Act, the Family and Medical Leave Act (to the extent permitted by law), the California Family Rights Act ("CFRA"), California's PAGA, Cal. Bus. and Prof. Code § 17200 *et seq.* ("UCL"), the California Labor Code, and/or any other federal, state or local human rights, civil rights, wage-hour, pension or labor law, rule, statute, regulation, constitution or ordinance and/or public policy, contract or tort law, or any claim of retaliation under such laws, or any claim of breach of any contract (whether express, oral, written or implied from any source), or any claim of intentional or negligent infliction of emotional distress, tortious interference with contractual relations, wrongful or abusive or constructive discharge, defamation, prima facie tort, fraud, negligence, loss of consortium, malpractice, breach of duty of care, breach of fiduciary duty or any action similar thereto against the Released Parties, including any claim for attorneys' fees, expenses or costs based upon any conduct up to and including the date of Final Approval; provided, however, that the Class Representative does not waive any right to file an administrative charge with the Equal Employment Opportunity Commission ("EEOC") or the National Labor Relations Board ("NLRB"), subject to the condition that the Class Representative agrees not to seek, or in any way obtain or accept, any monetary award, recovery or settlement therefrom and agrees that she understands that such limitation does not in any way restrict her ability to file and pursue such charge consistent with the confidentiality obligations set forth in this Settlement Agreement; and further provided, however, that the Class Representative does not waive any rights with respect to, or release the Released Parties from, any claims for California Workers' Compensation benefits (except that the Class Representative hereby releases and waives any claims that she is entitled to additional benefits or payments); and further provided, however, that the Class Representative does not release any claim for unemployment compensation benefits; and further provided, however, that the Class Representative does not release any claim that cannot be released by private contract, or for breach of the terms of the Settlement Agreement between the Class Representative and Defendant. It is further agreed that:

a. The Class Representative, for the purpose of implementing a full and complete release and discharge of the Released Parties, expressly acknowledges that this Class Representative General Release is intended to include in its effect, without limitations, all claims through the date of Final Approval, which the Class Representative does not know or suspect to exist in the Class Representative's favor at the time of execution hereof, and that this Class Representative General Release contemplates the extinguishment of any such claim or claims.

b. The Class Representative, in connection with such waiver and relinquishment, hereby acknowledges that she or her attorneys may hereafter discover claims or facts in addition to, or different from, those which she now knows or believes to exist, but that the Class Representative expressly agrees to fully, finally and forever settle and release any and all claims, known or unknown, suspected or unsuspected, which exist or may exist on her behalf against the Released Parties at the time of Final Approval, including, but not limited to, any and all claims relating to or arising from the Class Representative's employment with Defendant. The Parties further acknowledge, understand and agree that this representation and commitment is essential to each Party and that this Settlement Agreement would not have been entered into were it not for this representation and commitment.

c. The Class Representative shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits she may otherwise have had relating to the claims covered by the Class Representative General Release pursuant to Section 1542 of the California Civil Code, which provides as follows:

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

d. The Class Representative covenants that she will not participate in or receive recovery or monies as a class member or representative action member in connection with any proceeding seeking relief of any kind, including penalties under PAGA, which arises during the Class Period and/or PAGA Period for any known and unknown claims.

e. As of the Settlement Effective Date, in consideration of the mutual covenants and promises set forth herein and by operation of the Final Approval Order and Judgment, in the event the Court grants an Incentive Payment, the Class Representative agrees to not disparage or impugn the reputation of any of the Released Parties. Notwithstanding the foregoing, the Parties agree that the Class Representative will not be prohibited or restricted from providing information to or cooperating with any government agencies or any self-regulating organizations.

XIII. DUTIES OF THE PARTIES PRIOR TO PRELIMINARY APPROVAL AND BETWEEN PRELIMINARY AND FINAL APPROVAL.

79. The Parties shall promptly submit this Settlement Agreement to the Court together with a Motion for Preliminary Approval of Settlement and Certification of Settlement Class. The motion shall also seek an order:

a. Preliminarily approving the Settlement;

b. Approving as to form and content the proposed Notice of Settlement;

c. Directing the mailing of the Notice of Settlement by first class mail to the

Settlement Class Members and PAGA Members;

d. Preliminarily certifying the settlement class for purposes of settlement and preliminarily appointing Named Plaintiff and Plaintiff's Counsel as representatives of the settlement class;

e. Preliminarily approving settlement administration services to be provided by the Settlement Administrator;

f. Preliminarily approving the Incentive Payment to Named Plaintiff as Class Representative;

g. Preliminarily approving the application for payment of reasonable attorneys' fees and litigation costs and expenses to Plaintiff's Counsel;

h. Scheduling a Final Approval Hearing on the question of whether the proposed settlement should be finally approved as fair, reasonable and adequate as to the Settlement Class Members and PAGA Members.

80. Within 10 days of the date this Settlement Agreement and the Motion for Preliminary Approval of Settlement and Certification of Settlement Class are submitted to the Court, Defendant shall serve notices to the appropriate State official of each State in which a class member resides and the appropriate Federal official as prescribed by 28 U.S.C. § 1715.

81. Plaintiff's Counsel shall provide the Court, at least 5 days prior to the Final Approval Hearing, a declaration by the Settlement Administrator of due diligence and proof of mailing of the Notice of Settlement required to be mailed to Class Members and PAGA Members by this Settlement Agreement, and of the delivery results of the Settlement Administrator's mailings including tracing and re-mailing efforts.

XIV. <u>DUTIES OF THE PARTIES AFTER FINAL COURT APPROVAL</u>

82. The Parties will submit a proposed Final Approval Order, which shall include findings and orders:

a. Approving the settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing that its terms and provisions be carried out;

b. Approving the Incentive Payment to the Named Plaintiff as Class Representative;

c. Approving Class Counsel's application for an award of attorneys' fees and litigation costs and expenses, and the Settlement Administrator's fees;

d. Ordering that the settlement payments be distributed to the Participating Class Members, the LWDA, and PAGA Members as set forth in the Agreement;

e. Identifying the individuals who opted out of the non-PAGA portion of the Settlement;

f. Releasing and extinguishing all Participating Class Members' Released Class Claims that arose during the Class Period and PAGA Members' Released PAGA Claims that arose during the PAGA Period, and the Class Representative General Release;

g. Providing that the Court will retain jurisdiction to oversee administration and enforcement of the terms of the Settlement and the Court's orders; and

h. Directing Class Counsel to submit the Court's Final Approval Order and Judgment to the LWDA within 10 days of the date on which the Court enters its Final Approval Order and Judgment consistent with Labor Code § 2699(*l*)(3).

83. Following entry of the Court's Final Approval Order, the Parties will each act to assure its timely execution and the fulfillment of all its provisions, including but not limited to the following:

a. Should an appeal be taken from the Final Approval Order, all Parties will support the approval order on appeal;

b. Class Counsel and Defendant's Counsel will assist the Settlement Administrator as needed or requested in the process of identifying and locating Participating Class Members and PAGA Members entitled to payments from the Qualified Settlement Fund;

c. Class Counsel and Defendant's Counsel will assist the Settlement Administrator as needed or requested in responding to late requests for payments;

d. Class Counsel and Defendant's Counsel will cooperate with each other and assist the Settlement Administrator as needed;

e. Class Counsel and the Settlement Administrator will certify to the Court completion of all payments required to be made by this Settlement Agreement.

XV. PRELIMINARY TIMELINE FOR COMPLETION OF SETTLEMENT

84. The preliminary schedule for notice, approval, and payment procedures carrying out this settlement is as follows. The schedule may be modified depending on whether and when the Court grants necessary approvals and orders notice to the class and sets further hearings. In the event of such modification, the Parties shall cooperate in order to complete the settlement procedures as expeditiously as reasonably practicable.

Within 10 days after filing of the Settlement Agreement and Motion for Preliminary Approval of Settlement and Certification of Settlement Class are submitted to the Court	Defendant shall serve notices as set forth in Paragraph 80.
Within 28 days after the Date of Preliminary Approval	Defendant shall provide the Settlement Administrator only with the information set forth in Paragraph 58.
Within 14 days after receipt of class data from Defendant	Settlement Administrator to complete updating any Class Member contact information and complete mailing by first class mail of Settlement Documents pursuant to Paragraph 61.
5 business days before mailing Settlement Documents	Settlement Administrator to provide the Parties with estimated Settlement Class Payments to each Class Member and PAGA Member Payments to each PAGA Member pursuant to Paragraph 61.

30 days after mailing Settlement Documents	Deadline for Class Members to opt-out of the non-PAGA portion of the settlement, object in writing, or submit Workweek and/or Pay Period disputes.
1 business day prior to the Final Approval Hearing	Last day for Class Members to rescind objections or opt-outs.
Within 7 days of the Final Approval Order	Settlement Administrator to calculate and provide Defendant's counsel with the amount of the employer's share of payroll taxes.
Within 10 days of the Final Approval Order	Settlement Administrator to provide the Parties with a redacted list of all Participating Class Members and the re-calculated amounts due to each Participating Class Member. Settlement Administrator to also provide the same list in non-redacted format only to Defendant.
Within 30 days of the Final Approval Order	Defendant to fund the Qualified Settlement Fund.
The 31st day after the entry of Judgment on the Final Approval Order, if no appeals are filed	Settlement Effective Date
Within 7 days of the Settlement Effective Date	Settlement Administrator to make the final calculation of Settlement Class Payments from the Net Settlement Amount and PAGA Member Payments to be distributed to the Participating Class Members and PAGA Members. Settlement Administrator to provide the Parties with a redacted report listing the Class Members with a unique identifier, the amount of Settlement Class Payment, any PAGA Member Payment, and number of eligible Pay Periods. Settlement Administrator to provide the same report in non-redacted format only to Defendant.
Within 10 days after the Settlement Effective Date	Settlement Administrator to distribute and pay Settlement Class Payment checks to all Participating Class Members, pay the Class Representative her Incentive Payment, issue a check to the LWDA for the LWDA PAGA Amount, issues checks to the PAGA Members for their PAGA Member Payments, pay Class Counsel's approved attorneys' fees and litigation costs and expenses, and pay the settlement administration fees.

180 days after payment of first round settlement checks	Settlement Administrator to send amounts of uncashed Settlement checks to CASA of Los Angeles (Court Appointed Special Advocates of Los Angeles).
Within thirty (30) days after the expiration date of the settlement checks	Settlement Administrator to provide to Class Counsel and Defendant's Counsel a verification/declaration signed under penalty of perjury that it has mailed the checks for Settlement Class Payments and PAGA Member Payments, and if uncashed, that such amounts have been sent *cy pres* to CASA of Los Angeles (Court Appointed Special Advocates of Los Angeles).
After Settlement Administrator submits final declaration of distributions and within fourteen (14) days of written request by Defendant	Named Plaintiff and Class Counsel to destroy and confirm the destruction of all confidential documents produced to them for settlement purposes.

XVI. VOIDING OR MODIFYING THE SETTLEMENT AGREEMENT

85. Defendant has the right to withdraw from the Settlement before Final Approval if: (a) the Settlement is construed in such a fashion that Defendant is required to pay more than the Gross Settlement Amount, with the exception of employer-side payroll taxes, to resolve the class and PAGA claims; (b) the Court does not approve the Settlement; or (c) the Court does not order the release of claims of the Settlement Class Members and/or the PAGA Members agreed to by the Parties, or otherwise makes an order inconsistent with any of the materials terms of this Settlement Agreement; or (d) Plaintiff or Plaintiff's counsel breaches the Parties' settlement memorandum of understanding.

86. If for any reason the Settlement Effect Date does not occur, or if Defendant withdraws from the Settlement pursuant to Paragraph 84, this Settlement Agreement and any related Settlement Documents will be null and void, other than the confidentiality and non-disclosure provisions in Section XVII and the non-admission provisions in Paragraph 48.a, and any class action certified for settlement purposes will be vacated. In such an event, neither this Settlement Agreement, nor the Memorandum of Understanding of Settlement, nor the settlement documents, nor the negotiations leading to the Settlement may be used as evidence for any purpose, and Defendant shall retain the right to challenge all claims and

allegations in the action, to assert all applicable defenses, and to dispute the propriety of class or collective certification on all applicable grounds. If the Settlement is not initially approved by the Court following the filing of Plaintiff's Motion for Preliminary Approval, the parties shall meet and confer or attend mediation again in an effort to modify the Settlement in a manner that addresses the Court's concerns.

87. Other than as specified above, this Settlement Agreement may not be changed, altered, or modified, except in writing and signed by counsel for the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

XVII. CONFIDENTIALITY AND PUBLICITY

88. The names of Participating Class Members and their allocation amounts shall be kept strictly confidential by the Settlement Administrator, who will not release such information to Class Counsel, unless anonymized and with contact information redacted, and such information may only be filed with the Court under seal, if necessary. Any information received by Class Counsel in connection with this Settlement may be used for this action only, and may not be used for any purpose or in any other action or proceeding.

89. Named Plaintiff and Class Counsel agree not to disclose the terms of this settlement before the Motion for Preliminary Approval is filed or if required by legal process, except that Class Counsel may put publicly available information about the Settlement in any description of their experience or the like in order to describe their experience to a court. Plaintiff and Class Counsel agree that they shall not, directly or indirectly, issue a press release, hold a press conference, publish information about the settlement on any website (other than used by the Settlement Administrator for claims administration purposes), or otherwise publicize the settlement. Plaintiff and Class Counsel agree not to respond to any press inquiries except to refer reports to the papers filed with the Court.

90. Destruction of Confidential Settlement Materials**.** Named Plaintiff and Class Counsel agree to destroy and confirm the destruction of all confidential documents produced to them for settlement purposes in this action after the Settlement Administrator submits the final declaration of

distributions and within fourteen (14) days of written request by Defendant.

XVIII. PARTIES' AUTHORITY

91. The signatories hereby represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

XIX. MUTUAL FULL COOPERATION

92. The Parties agree to fully cooperate with each other to promote participation in Settlement and in seeking court approval of this Settlement Agreement, including but not limited to, working cooperatively to address any questions raised by the Court, executing documents or amending documents as required by the Court, and taking such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court or otherwise to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Plaintiff's Counsel shall, with the assistance and cooperation of Defendant and Defendant's counsel, take all necessary steps to secure the Court's preliminary and final approval of this Settlement Agreement.

XX. NOTICES

93. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows, or by e-mail to the email address(es) listed below:

To Plaintiff's Counsel:

Raúl Pérez, Bevin Allen Pike, Daniel S. Jonathan and Trisha K. Monesi
CAPSTONE LAW APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
Tel: (310) 556-4811
Fax: (310) 943-0396
bevin.pike@capstonelawyers.com

To Defendant's Counsel:

Carrie A. Gonell and David J. Rashe
MORGAN, LEWIS & BOCKIUS LLP
600 Anton Blvd., Suite 1800
Costa Mesa, CA 92626
Tel: 949.399.7000
Fax: 949.399.7001
carrie.gonell@morganlewis.com

If the identity of the persons to be notified for any Party changes, or their address changes, that Party shall notify all other Parties of said change in writing.

XXI. MISCELLANEOUS PROVISIONS

94. **Captions and Titles**. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

95. **Drafting**. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms-length negotiations between the Parties. Neither party shall be considered the "drafter" of the Settlement Agreement for purposes of having terms construed against that party, and this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her or its counsel participated in the drafting of this Settlement Agreement.

96. **Extensions of Time**. If a party cannot reasonably comply with an obligation under this Settlement Agreement by the deadline set forth herein applicable to that obligation, that party may apply to the Court for a reasonable extension of time to fulfill that obligation. Consent to such a request for an extension will not be unreasonably withheld by the other party. The parties agree to cooperate so that the matter will be resolved with appropriate dispatch and the settlement terms carried out without unnecessary delay.

97. **Governing Law**. The rights and obligations of the Parties hereunder shall be construed and enforced in accordance with, and shall be governed by, the laws of the State of California, without regard to principles of conflict of laws.

98. **No Impact on Benefit Plans**. Neither the Settlement nor any amounts paid under the

Settlement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by the Released Parties. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under the Released Parties' sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of the Released Parties' benefit plan, policy, or bonus program. The Released Parties retain the right to modify the language of the Released Parties' benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

99. **Integration**. This Settlement Agreement, along with attached exhibits, contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

100. **No Prior Assignments**. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

101. **Class Member Signatories**. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each member of the Class execute this Settlement Agreement. The Notice of Settlement attached hereto will advise all Class Members of the binding nature of the release and such shall have the same force and effect as if this Settlement Agreement were

executed by each member of the Class.

XXII. COUNTERPARTS

102. This Settlement Agreement may be executed in counterparts with signatures transmitted by facsimile or as an electronic image of the original signature. When each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to all Parties. A facsimile signature shall have the same force and effect as the original signature.

[signatures on next page]

READ CAREFULLY BEFORE SIGNING

PLAINTIFF SHANIA COLE

Dated: October 16, 2024

Signed by:
Shania Cole
C035905DA93E403...

DEFENDANT LANE BRYANT BRANDS OPCO LLC

Dated: September 13, 2024

Michael Schept, Senior Vice President, Legal
On behalf of Defendant Lane Bryant Brands Opco LLC

APPROVED AS TO FORM

Dated: September 13, 2024

MORGAN, LEWIS & BOCKIUS LLP

By

Carrie A. Gonell
David J. Rashe
Attorneys for Defendant
Lane Bryant Brands Opco LLC

Dated: October 10, 2024

CAPSTONE LAW APC

By

Raúl Pérez
Bevin Allen Pike
Daniel S. Jonathan
Trisha K. Monesi
Attorneys for Plaintiff
SHANIA COLE, individually and on behalf of all others similarly situated

Exhibit A

<u>NOTICE OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT</u>

Shania Cole v. Lane Bryant Brands Opco LLC
United States District Court, Northern District of California, Case No. 5:22-cv-07614-PCP

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

IF YOU ARE OR WERE EMPLOYED BY DEFENDANT LANE BRYANT BRANDS OPCO LLC ("Defendant") AS A NON-EXEMPT, HOURLY EMPLOYEE IN THE STATE OF CALIFORNIA AT ANY TIME FROM JANUARY 1, 2021, THROUGH AND INCLUDING JANUARY 25, 2024, A SETTLEMENT OF A CLASS AND PAGA REPRESENTATIVE ACTION LAWSUIT MAY AFFECT YOUR RIGHTS.

Why should you read this Notice?

A proposed settlement (the "Settlement") has been reached in a class action and California Labor Code Private Attorneys General Act representative action lawsuit entitled *Shania Cole v. Lane Bryant Brands Opco LLC*, Case No. 5:22-cv-07614-PCP (N.D. Cal.) (the "Action"). The purpose of this Notice of Class and PAGA Representative Action Settlement ("Notice") is to briefly describe the case, and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action and will result in the entry of Judgment in the Action.

A hearing concerning the Settlement will be held before the Hon. P. Casey Pitts on [DATE], 2024 at X:XX x.m. in Courtroom 8 of the United States District Court, Northern District of California, located at 280 South First Street, San Jose, California 95113, to determine whether the Settlement is fair, adequate, and reasonable.

AS A CLASS MEMBER AND/OR PAGA MEMBER, YOU ARE ELIGIBLE TO RECEIVE AN INDIVIDUAL SETTLEMENT PAYMENT UNDER THE SETTLEMENT AND WILL BE BOUND BY THE RELEASE OF CLAIMS DESCRIBED IN THIS NOTICE AND THE SETTLEMENT AGREEMENT FILED WITH THE COURT, UNLESS YOU TIMELY REQUEST TO BE EXCLUDED FROM THE SETTLEMENT.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING	If you do nothing, you will receive a settlement payment and will give up your right to pursue a separate legal action against Defendants for the claims alleged in this Action, as explained more fully below.
EXCLUDE YOURSELF FROM THE SETTLEMENT	You have the option to pursue separate legal action against Defendant about the class claims in the Action, except as to the claim under the California Private Attorneys General Act ("PAGA"). If you choose to do so, you must exclude yourself, in writing, from the Settlement. As a result, you will not receive benefits under the Settlement as a Settlement Class Member; however, you may still receive a settlement payment if you are determined to be a PAGA Member under the Settlement.
OBJECT	You may submit written objections to the Settlement Administrator about why you do not like the Settlement. You may also appear at the Final Approval Hearing on _____________, 2024, and make an objection at this time. Objecting is available only if you do not request to be excluded from the Settlement.
DISPUTE YOUR AMOUNT	The amount you are eligible to receive under the Settlement is based on how long you worked for Defendant as a Class Member during the Class Period and, if applicable, as a PAGA Member during the PAGA Period. The number of Workweeks and Pay Periods you have been credited is set forth in this notice. If you believe the number of Workweeks or Pay

	Periods is incorrect, you can dispute the number credited to you by following the procedures set forth below.

Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following class (the "Class"):

Any person who worked for Defendant as a non-exempt, hourly employee in the State of California at any time from January 1, 2021, through and including January 25, 2024, and who does not timely opt-out of the Settlement Class ("Class Period").

According to Defendant's records, you are a member of the Class ("Class Member").

The proposed Settlement also affects "PAGA Members," which are defined under the Settlement as:

Any person who worked for Defendant as a non-exempt, hourly employee in the State of California at any time from August 22, 2022, through and including January 25, 2024 ("PAGA Period").

What is this case about?

In the Action, Plaintiff Shania Cole ("Plaintiff") alleges on behalf of herself, the Class, and PAGA Members the following claims against Defendant: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime; (3) Failure to Timely Pay Wages Upon Termination; (4) Failure to Pay Wages During Employment; (5) Failure to Provide Accurate Itemized Wage Statements; (6) Failure to Provide Meal Periods; (7) Failure To Authorize and Permit Rest Periods; (8) Violation of the California Business and Professions Code section 17200, *et seq.*; and (9) Recovery of Civil Penalties Under PAGA. In the Action, Plaintiff seeks alleged unpaid wages, penalties under the California Labor Code, civil penalties under PAGA, interest, attorneys' fees, costs, and expenses.

Defendant denies all liability and maintains that it has strong legal and factual defenses to these claims, but it recognizes the risks, distractions, and costs associated with litigation. Defendant also maintains that its conduct is and has been lawful at all times relevant and that Plaintiff's claims do not have merit and do not meet the requirements for class certification or to proceed on a representative basis.

This Settlement is a compromise reached after good faith, arm's length negotiations between Plaintiff and Defendant (the "Parties"), through their attorneys, and is not an admission of liability on the part of Defendant. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair, adequate and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has preliminarily approved the settlement, but the Court has not ruled on the merits of Plaintiff's claims or Defendant's defenses.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Class Counsel
Raúl Pérez, Bevin Allen Pike, Daniel S. Jonathan and Trisha K. Monesi
CAPSTONE LAW APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
Tel: case-specific number
Email: case-specific email

Defense Counsel
Carrie A. Gonell and David J. Rashe
MORGAN, LEWIS & BOCKIUS LLP
600 Anton Blvd., Suite 1800
Costa Mesa, CA 92626
Tel: 949.399.7000
Fax: 949.399.7001
carrie.gonell@morganlewis.com

What are the Settlement terms?

Subject to final Court approval, Defendant will pay $1,150,000.00 (the "Gross Settlement Amount") for: (a) settlement payments to Class Members; (b) the Court-approved Incentive Payment to Plaintiff; (c) the Court-approved attorneys' fees and costs to Class Counsel; (d) the costs of administering the Settlement; (e) payment to the State of California Labor and Workforce Development Agency ("LWDA") for alleged PAGA penalties; and (f) and settlement payments to PAGA Members.

Class Settlement Payments. After deduction from the Gross Settlement Amount for attorneys' fees and costs, the Incentive Payment to Plaintiff, the PAGA Member Payment (as defined below), the payment to the LWDA, and the costs of administering the Settlement, there will be a Net Settlement Amount. From this Net Settlement Amount, each Class Member who does not opt out of the Settlement ("Participating Class Members") will receive a settlement payment (Class Settlement Payment").

The Net Settlement Amount will be divided among all Participating Class Members based on a proportional basis according to the Workweeks[1] worked during the period of January 1, 2021, through and including January 25, 2024, and who does not timely opt-out of the Settlement Class ("Class Period").

According to records maintained by Defendant, the total number of Workweeks you worked in California during the Class Period is _________.

Based on that information, your estimated Class Settlement Payment is $________. If you believe the information about the number of Workweeks assigned to you is inaccurate, you may contact the Settlement Administrator and provide the Settlement Administrator with a copy of any documentation you want to include to support your dispute. Absent such documentary evidence, your dispute, if any, will be denied. You may not dispute the formula used to calculate the estimated amount of your Class Settlement Payment.

Settlement Administrator
Address
Telephone Number
Fax Number

PAGA Settlement Payments. A portion of the Gross Settlement Amount, called the "PAGA Member Payment," will be set aside for all persons who worked for Defendant as a non-exempt, hourly employee in the State of California at any time from August 22, 2022, through and including January 25, 2024 ("PAGA Members"). The PAGA Member Payment will be $15,000.00, from which each PAGA Member will receive a pro rata share of the PAGA Member Payment based on the number of Pay Periods[2] worked between August 22, 2022, through and including January 25, 2024 ("PAGA Period"), regardless of whether he or she opts out of the non-PAGA portion of the Settlement.

Settlement Payments Generally. If a settlement check remains uncashed after 180 days from issuance, the check will become void and a stop payment will be placed on the uncashed check. These payments will then be sent to the Legal Aid Association of California, a non-profit organization. In such event, you will remain bound by the terms of the Settlement and all Court orders.

For tax reporting purposes, the Class Settlement Payment will be allocated as follows: 75% allocation for wages to be reported on IRS Form W-2; and 25% allocation for penalties. All PAGA Member Payments will be allocated entirely to civil penalties. The Settlement Administrator shall provide all required tax forms.

[1] "Workweeks" means any week in which a Class Member worked at least one day during the Class Period based on Defendant's records.

[2] "Pay Period" means any biweekly pay period in which a PAGA Member worked at least one day during the PAGA Period based on Defendant's records.

None of the Parties or attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member. You should consult with your own tax advisors concerning the tax consequences of the Settlement and any payment you may receive under the Settlement.

Class Counsel Attorneys' Fees and Costs, Class Representative Incentive Payment, Settlement Administration Costs and Payment to the California LWDA. Class Counsel will ask the Court to award attorneys' fees up to $383,333.33 (1/3 of the Gross Settlement Amount), plus reimbursement of actual litigation costs and expenses incurred in the Action not to exceed $25,000.00. In addition, Class Counsel will ask the Court to authorize an Incentive Payment of up to $10,000.00 to Plaintiff for her efforts in prosecuting the case on behalf of the Class and $_________ to the Settlement Administrator for the cost of administering the Settlement. A payment in the amount of $45,000.00 will also be made to the LWDA for the portion of the total amount of the Settlement allocated for alleged PAGA penalties.

What claims are being released by the proposed Settlement?

Upon the Settlement becoming final and distribution of the Net Settlement Amount, Plaintiff and other Participating Class Members shall release and discharge the "Released Parties"[3] from all claims, obligations, demands, rights, causes of action, and liabilities against Defendant and Released Parties that have been asserted in the Complaint and the First Amended Complaint, or that could reasonably have been asserted in the Complaint or the First Amended Complaint, and any amendments thereto, based on the facts, matters, and/or allegations pled therein. Released Class Claims include, but is not limited to, claims under Labor Code sections 201, 202, 203, 204, 210, 226, 226.3 226.7, 510, 512, 516, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2810.5, and Business and Professions Code § 17200, *et seq.*, including, but not limited to, claims for failure to pay minimum wages, failure to pay overtime wages, including at the regular rate, failure to provide meal periods and/or pay meal period premiums, failure to authorize and permit rest periods and/or pay rest period premiums, failure to provide accurate or otherwise compliant wage statements, failure to maintain payroll records, failure to timely pay wages during employment, failure to timely pay wages upon termination, failure to provide notice under California's Wage Theft Prevention Act, and violations of California's Unfair Competition Law, including unfair and unlawful business practices, and includes all such claims during the Class Period (the "Released Class Claims"). All Participating Class Members shall be bound by the release of the Released Class Claims that arose during the Class Period, unless they formally opt out. Final Approval of the Settlement effectuates this release and extinguishes the Released Class Claims.

The PAGA Members and the LWDA shall be bound by a release as to all claims, obligations, demands, rights, causes of action, and liabilities against Defendant and Released Parties, for PAGA civil penalties that have been asserted in the First Amended Complaint and/or the PAGA letter to the LWDA, and any amendments thereto, or that could reasonably have been asserted in the Amended Complaint, the PAGA letter to the LWDA, and any amendments thereto, based on the facts, matters and/or allegations pled therein. Released PAGA Claims include, but is not limited to, claims for PAGA civil penalties for violations of Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 558, 512, 516, 1174, 1182.12, 1194, 1197, 1197.1, 1198, and the applicable IWC wage orders, including, but not limited to, claims for failure to pay minimum wages, failure to pay overtime wages, including at the regular rate, failure to provide meal periods and/or pay meal period premiums, failure to authorize and permit rest periods and/or pay rest period premiums, failure to provide accurate or otherwise compliant wage statements, failure to maintain payroll records, failure to timely pay wages during employment, failure to timely pay wages upon termination, and failure to provide suitable seating when the nature of the work reasonably permits the use of seats and when employees are not engaged in the active duties of

[3] "Released Parties" means Defendant and its predecessors, successors and assigns, its current and former direct and indirect parents, affiliates, subsidiaries, divisions, insurers, partnerships, and related business entities, past and present, as well as their current and former officers, directors, shareholders, employees, agents, representatives and employee benefit programs (including the trustees, administrators, fiduciaries and insurers of such programs).

employment and the nature of the work requires standing, and includes all such claims during the PAGA Period (the "Released PAGA Claims"). The PAGA Members shall be bound by the release of the Released PAGA Claims even if they have formally opted out of being a Settlement Class Member. Final Approval of the Settlement effectuates this release by PAGA Members and the LWDA.

What are my options in this matter?

You have two options under this Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive a Class Settlement Payment; or (B) exclude yourself from the Settlement (where you will not receive a Class Settlement Payment, but will still receive your PAGA Member Payment if you are entitled to such a payment). If you choose option (A), you may also object to the Settlement, as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement.

OPTION A. Remain in the Class. If you wish to remain in the Class and be eligible to receive a Class Settlement Payment under the Settlement, you do not need to take any action. By remaining in the Class and receiving settlement monies, you consent to the release of the Released Class Claims as described above. You will also receive a PAGA Member Payment if you are determined to be a PAGA Member under the Settlement and will be bound by the release of the Released PAGA Claims.

OPTION B. If You Want To Be Excluded From the Class Settlement. If you do not want to be part of the Class Settlement, you must submit a written request to be excluded from the Settlement ("Request for Exclusion") to the Settlement Administrator at Shania Cole v. Lane Bryant Brands Opco LLC Settlement, P.O. Box _____, [City], [State] [Zip], postmarked on or before **[Response Deadline]**. In order to be valid, your Request for Exclusion must: (1) state your full name, and the last four digits of your Social Security Number; (2) contain a clear statement that you are requesting to opt out of, or be excluded from, the Settlement in *Shania Cole v. Lane Bryant Brands Opco LLC*; and (3) be signed by you. If you do not submit a timely and valid Request for Exclusion, you will be deemed a Participating Class Member, you will receive a Class Settlement Payment, and you will be bound by the release of Released Class Claims described above and all other terms of the Settlement. If you submit a valid and timely Request for Exclusion, you: will not be able to object to the Settlement; will not receive benefits under the Settlement as a Class Member; and will have the option to pursue separate legal action against Defendant about the claims in the Action, except as to the claim under PAGA. Whether or not you submit a Request for Exclusion, you will still receive a PAGA Member Payment if you are determined to be a PAGA Member under the Settlement and will be bound by the release of the Released PAGA Claims.

Objecting to the Settlement: You can ask the Court to deny approval of the Settlement by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object. You may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number (*Shania Cole v. Lane Bryant Brands Opco LLC*, No. 5:22-cv-07614-PCP), (b) be filed with the Court and served on the Parties on or before **[Response Deadline]**. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Approval Hearing set for [DATE] at X:XX x.m. in Courtroom 8 of the United States District Court, Northern District of California, located at 280 South First Street, San Jose, California 95113, and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

Even if you submit an objection, you will be bound by the terms of the Settlement, including the Release of Claims as set forth above, unless the Settlement is not finally approved by the Court.

Disputing Your Pay Periods

As mentioned above, if you dispute the accuracy of Defendant's records as to the number of Workweeks and/or Pay Periods you worked during the Class Period and/or PAGA Period, you must contact the Settlement Administrator and provide any documentation you have supporting such dispute by **[Response Deadline**]. All disputes regarding your Workweeks and/or Pay Periods worked will be reviewed by the Parties and the Parties will attempt to agree to a resolution of the dispute. If the dispute is unable to be resolved by the Parties, Defendant will make the final decision on the dispute and the decision will be binding on the Class Member and/or PAGA Member and no additional rights of appeal shall exist.

What is the next step in the approval of the Settlement?

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel's request for attorneys' fees and costs, the Incentive Payment to Plaintiff, the settlement administration costs, and the payment to the LWDA for PAGA penalties on [DATE], 2024 at X:XX x.m. in Courtroom 8 of the United States District Court, Northern District of California, located at 280 South First Street, San Jose, California 95113. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive a Settlement Payment but may attend if you wish.

How can I get additional information?

This Notice of Class and PAGA Representative Action Settlement is only a summary of the case and the Settlement. For a more detailed statement of the matters involved in the case and the Settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members and/or PAGA Members regarding this Notice and/or the Settlement should be directed to the Settlement Administrator at 1-XXX-XXX-XXXX or Class Counsel.

PLEASE DO NOT CALL OR WRITE TO THE COURT WITH QUESTIONS ABOUT THIS NOTICE.

BY ORDER OF THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA