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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SHANIA COLE, individually, and on behalf of
other members of the general public similarly
situated, and as an aggrieved employee pursuant
to the Private Attorneys General Act ("PAGA"),

Plaintiff,

vs.

LANE BRYANT, INC., a Delaware
corporation; LANE BRYANT BRANDS
OPCO LLC, an Ohio limited liability company;
LANE BRYANT #6243, INC., a Florida
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 5:22-cv-06714-PCP

**NOTICE OF MOTION AND MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: December 12, 2024
Time: 10:00 a.m.
Place: Courtroom 8

TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on December 12, 2024 at 10:00 a.m., or as soon thereafter as counsel may be heard, in Courtroom 8 of the above-captioned court, located at 280 South First Street, San Jose, California 95113, the Honorable P. Casey Pitts presiding, Plaintiff Shania Cole will, and hereby does, move this Court to:

1. Preliminarily approve the settlement set forth in the Class Action and PAGA Representative Action Settlement Agreement, attached as Exhibit 1 to the Declaration of Raul Perez;
2. Conditionally certify the proposed Settlement Class;
3. Appoint Shania Cole as the representative for the Settlement Class;
4. Appoint Capstone Law APC as Class Counsel;
5. Approve distribution of the proposed Notice of Class Action Settlement to the Settlement Class;
6. Appoint CPT Group, Inc. as the Settlement Administrator; and
7. Set a hearing date for final approval of the settlement.

This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of Points and Authorities in support of Motion for Preliminary Approval of Class Action and PAGA Settlement; (3) the Declaration of Raul Perez; (4) the Class Action and PAGA Representative Action Settlement Agreement; (5) the Notice of Class Action Settlement; (6) the [Proposed] Order Granting Preliminary Approval of Class Action Settlement; (7) the records, pleadings, and papers filed in this action; and (8) upon such other documentary and oral evidence or argument as may be presented to the Court at or prior to the hearing of this Motion.

Dated: October 10, 2024

Respectfully submitted,

By: /s/ Bevin Allen Pike

Raul Perez
Bevin Allen Pike
Daniel Jonathan
Trisha K. Monesi
CAPSTONE LAW APC

Attorney for Plaintiff Shania Cole

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Shania Cole (“Plaintiff”) seeks preliminary approval of the Class Action and PAGA Representative Action Settlement Agreement (“Settlement” or “Settlement Agreement”) which if approved, would provide considerable monetary relief for approximately 1,400 current and former employees of Defendant Lane Bryant Brands Opco LLC (“Defendant”) (collectively with Plaintiff, the “Parties”). The principal terms of the Settlement provide for the following:

- (1) Conditional certification of a Settlement Class defined as: 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 January 25, 2024 (“Class Members”).
- (2) A **non-reversionary** Gross Settlement Amount of \$1,150,000. The Gross Settlement Amount includes:
 - (a) A Net Settlement Amount of approximately \$657,167 (the Gross Settlement Amount minus the requested attorneys’ fees and costs, settlement administration costs, the \$60,000 PAGA settlement, and the Incentive Payment), which will be allocated to all Class Members on a pro-rata basis according to the number of weeks each Class Member worked during the Class Period. **The entire Net Settlement Amount will be paid to all Class Members who do not opt out of the Settlement Class, and without the need to submit claims for payment.**
 - (b) Attorneys’ fees in the amount of one-third of the Gross Settlement Amount (or \$383,333), and litigation costs and expenses not to exceed \$25,000, to Capstone Law APC (“Plaintiff’s Counsel”).
 - (c) A \$60,000 PAGA settlement, of which 75% (i.e., \$45,000) will be paid to the Labor & Workforce Development Agency (“LWDA”), and the remaining 25% (i.e., \$15,000) (“PAGA Member Payment”), will be paid to PAGA Members, defined 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 January 25, 2024. **The entire PAGA Member Payment will be paid to all**

PAGA Members, and without the need to submit claims for payment.

- (d) Settlement administration costs currently estimated at \$14,500, to be paid to the jointly selected Settlement Administrator, CPT Group, Inc. (“CPT”).
- (e) An Incentive Payment of \$10,000 to Shania Cole for her service on behalf of the Settlement Class, the risks she took in bringing the action on behalf of the class, and for a general release of all claims arising out of her employment with Defendant.

An objective evaluation of the Settlement confirms that the relief negotiated on the Settlement Class’s behalf is fair, reasonable, and valuable. The Settlement was negotiated by the Parties at arm’s length with helpful guidance from Michael Dickstein, Esq., an experienced and well-respected class action mediator, and the Settlement confers substantial benefits to Class Members. This relief—averaging approximately \$470 per Class Member from the Net Settlement Amount—is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage and hour cases. Moreover, by settling now rather than proceeding to trial, Class Members will not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being denied or of Defendant prevailing at trial, or of Plaintiff prevailing at trial but losing on appeal.

As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement approval under applicable law and falls within the range of reasonableness. Accordingly, Plaintiff respectfully requests that this Court grant preliminary approval of the Settlement Agreement.

II. FACTS AND PROCEDURE

A. Brief Overview of the Litigation and Settlement Negotiations

Plaintiff originally filed this wage and hour action against Defendant in the Santa Clara County Superior Court on September 14, 2022. (Declaration of Raul Perez [“Perez Decl.”] ¶ 2.) The Complaint alleged that Defendant failed to: (i) pay minimum wages; (ii) timely pay wages upon termination; (iii) pay wages during employment; (iv) provide meal periods; (v) authorize and permit rest periods; and (vi) provide accurate itemized wage statements and maintain accurate payroll records. (*Id.*) The Complaint also alleged that Defendant’s wage and hour violations constituted violations of California’s Unfair Competition Law. (*Id.*) On October 10, 2022, Plaintiff submitted a notice letter to the LWDA alleging

1 Labor Code violations by Defendant. (*Id.*) The allegations in the LWDA Notice tracked the allegations
 2 in Plaintiff's Complaint. (*Id.*) On October 31, 2022, Defendant filed a Notice of Removal of Action to
 3 Federal Court. (*Id.*)

4 On October 27, 2023, the Parties participated in a mediation with Michael Dickstein, Esq., an
 5 experienced mediator of wage and hour class actions. (Perez Decl. ¶ 3.) At all times, the Parties'
 6 negotiations were adversarial and non-collusive. (*Id.*) Mr. Dickstein helped to manage the Parties'
 7 expectations and provided a useful, neutral analysis of the issues and risks to both sides. (*Id.*) With Mr.
 8 Dickstein's guidance, the Parties were eventually able to negotiate a complete settlement of Plaintiff's
 9 claims. (*Id.*) The terms of the settlement are now set forth in complete and final form in the Class Action
 10 and PAGA Representative Action Settlement Agreement. (*Id.*, Ex. 1.) The Settlement therefore
 11 constitutes a fair, adequate, and reasonable compromise of the claims at issue. (*Id.*)

12 **B. The Proposed Settlement Fully Resolves Plaintiff's Claims**

13 **1. Composition of the Settlement Class**

14 The proposed Settlement Class consists of any person who worked for Defendant as a non-
 15 exempt, hourly employee in the State of California at any time from January 1, 2021 through January 25,
 16 2024. (Settlement Agreement ¶ 5.) There are approximately 1,400 Class Members.

17 **2. Settlement Consideration**

18 Plaintiff and Defendant have agreed to settle the underlying class claims in exchange for the
 19 Gross Settlement Amount of \$1,150,000. The Gross Settlement Amount includes: (1) automatic
 20 payments to all Participating Class Members—meaning, all Class Members except those who submit
 21 timely and valid Requests for Exclusion—from the Net Settlement Amount; (2) \$383,333 in attorneys'
 22 fees (i.e., one-third of the common fund) and up to \$25,000 in litigation costs to Plaintiff's Counsel; (3)
 23 Settlement Administration Costs of approximately \$14,500; (4) a \$45,000 payment to the LWDA; and
 24 (5) a Class Representative Incentive Payment of \$10,000 for Plaintiff's service on behalf of the
 25 Settlement Class, the risks she took in bringing her representative claims, and for a release of all claims
 26 arising out of her employment with Defendant. (Settlement Agreement ¶¶ 12-13.) Likewise, the entire
 27 PAGA Fund will be distributed to PAGA Members in full. (*Id.* at ¶ 39.)

28 Payments to Participating Class Members will be made from the Net Settlement Amount.

(Settlement Agreement ¶ 64.) The individual allocations will be calculated on a pro-rata basis using the number of weeks worked by each Class Member during the Class Period. (*Id.*) This is a fair and equitable means of apportioning the Net Settlement Fund to Class Members. Class Members who worked for a longer duration during the Class Period will receive proportionally larger payments than those employees who worked for shorter durations. Given that there are approximately 1,400 Class Members, the average net recovery will be approximately \$470.

This average net recovery is significantly greater than many other wage and hour class action settlements approved by California state and federal courts. *See, e.g., Sandoval v. Nissho of Cal., Inc.*, Case No. 37-2009-00091861 (San Diego County Super. Ct. Dec. 7, 2010) (average net recovery of approximately \$145); *Fukuchi v. Pizza Hut*, Case No. BC302589 (L.A. County Super. Ct. Sept. 29, 2006) (average net recovery of approximately \$120); *Contreras v. United Food Group, LLC*, Case No. BC389253 (L.A. County Super. Ct. Sept. 10, 2009) (average net recovery of approximately \$120); *Ressler v. Federated Department Stores, Inc.*, Case No. BC335018 (L.A. County Super. Ct. Jan. 27, 2009) (average net recovery of approximately \$90); *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average net recovery of approximately \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal. Dec. 17, 2008) (average net recovery of approximately \$60); *Lim v. Victoria's Secret Stores, Inc.*, Case No. 04CC00213 (Orange County Super. Ct. Jan. 20, 2006) (average net recovery of approximately \$35); *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (L.A. Super. Ct. July 23, 2010) (average net recovery of approximately \$20); *Jones v. Bath & Body Works, Inc.*, No. 2:13-cv-05206-FMO-AJW (C.D. Cal. July 11, 2016) (average net recovery of approximately \$50); and *Palencia v. 99 Cents Only Stores*, No. 34-2010-00079619 (Sacramento County Super. Ct. Oct. 11, 2012) (average net recovery of approximately \$80).

Payments to PAGA Members will be made from the PAGA Member Payment. (Settlement Agreement ¶ 65.) The individual allocations will be calculated on a pro-rata basis using the number of pay periods by each PAGA Member during the PAGA Period. (*Id.*) This is a fair and equitable means of apportioning the PAGA Fund to PAGA Members. PAGA Members who worked for a longer duration during the PAGA Period will receive proportionally larger payments than those employees who worked for shorter durations. Plaintiff estimates that there are approximately 650 PAGA Members, which results

in an average payment of approximately \$23.

3. Releases by Participating Class Members and PAGA Members

In exchange for the Gross Settlement Amount, Plaintiffs and Participating Class Members will release the Released Class Claims during the Class Period. (Settlement Agreement ¶ 76.) And in exchange for the PAGA settlement, Plaintiffs, the LWDA, and PAGA Members will release the Released PAGA Claims during the PAGA Period. (*Id.* at ¶ 77.)

4. The Settlement Administrator Selection Process

Plaintiff obtained bids from the following administrators: (1) CPT Group, Inc. (“CPT”); (2) Phoenix Class Action Administrators; (3) ILYM Group, Inc.; and (4) Verita (formerly KCC, Inc.) (*See* Perez Decl. ¶ 9, Ex. 2-5.) All administrators were given the same notice parameters and provided bids as follows:

Administrator	Bid Amount
CPT Group, Inc.	\$14,500.00
Phoenix Class Action Administrators	\$14,500.00
ILYM Group, Inc.	\$19,850.00
Verita (formerly known as KCC)	\$43,626.00

Based on CPT’s experience administering class action settlements, and the fact that it submitted a competitive bid, the Court should appoint CPT to administer the settlement. For their part, Plaintiff’s Counsel have worked with CPT on multiple occasions over the past few years: *Hurtado v. Sweet Earth, Inc.*, No. 5:21-cv-04894-VKD (N.D. Cal.); *Verdugo v. Bluescope Buildings North America, Inc.*, No. VCU292562 (Tulare County Superior Court); *Arellano v. R&B Sales and Marketing, Inc.*, No. 20STCV04112 (Los Angeles County Superior Court); *Limon v. Crestline Hotels & Resorts, LLC*, No. 20STCV37266 (Los Angeles County Superior Court); *Trento v. U.S. Security Associates, Inc.*, No. RG18932522 (Alameda County Superior Court); *Saldana v. Hydrochem LLC*, No. MSC19-02624 (Contra Costa County Superior Court). (Perez Decl. ¶ 10.)

III. ARGUMENT

A. Conditional Class Certification Is Appropriate for Settlement Purposes

The parties seek conditional certification of the Settlement Class. A party seeking to certify a class must demonstrate that it has met all four requirements under Federal Rule of Civil Procedure 23(a),

and at least one of the requirements of Rule 23(b)—in this case, Rule 23(b)(3). *See Zinser v. Accufix Research Inst.*, 253 F.3d 1180, 1186 (9th Cir. 2001). Where, as here, workplace violations are at issue, “the key question for class certification is whether there is a consistent employer practice [or policy] that could be a basis for consistent liability.” *Kamar v. Radio Shack Corp.*, 254 F.R.D. 387, 399 (C.D. Cal. 2008). Class certification is proper when the plaintiff provides substantial evidence of a company-wide policy on which her theory of liability is based, even if in practice that policy’s implementation varied. *See In re Taco Bell Wage & Hour Actions*, No. 07-01314-SAB, 2012 U.S. Dist. LEXIS 168219, at *19 (E.D. Cal. Nov. 27, 2012) (certifying meal period class where uniform policy was undisputed but defendant argued “as a matter of practice, the policy is carried out in a variety of ways”) (*adopted in full*, 2013 U.S. Dist. LEXIS 380 (E.D. Cal. Jan. 2, 2013)).

Moreover, “it is the plaintiff’s theory that matters at the class certification stage, not whether the theory will ultimately succeed on the merits.” *Alonzo v. Maximus, Inc.*, 275 F.R.D. 513, 525 (C.D. Cal. 2011) (citations omitted). Rule 23’s commonality analysis depends on whether a “basic theory of the [plaintiffs’] case” “can be proved on a classwide basis.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350, 359, 131 S. Ct. 2541 (2011). However, the fact that class members may have been affected by a defendant’s uniform policies/practices to varying degrees or have suffered varying damages *is not a bar* to certification. *See Leyva v. Medline Indus. Inc.*, 716 F.3d 510, 514 (9th. Cir. 2013) (“the presence of individualized damages cannot, by itself, defeat class certification under Rule 23(b)(3).”).

B. Plaintiff’s Claims Present Predominant Questions of Law and Fact

For a class to be certified, there must be questions of law or fact common to the class. Fed. R. Civ. P. 23(a)(2). Rule 23(b)(3) also requires that the common questions of law or fact predominate over any individual questions. Thus, the Rule 23(a)(2) commonality inquiry and the Rule 23(b)(3) predominance inquiry overlap. *See In re Autozone, Inc.*, 289 F.R.D. 526, 533 n.10 (N.D. Cal. 2012). Here, each of Plaintiff’s theories of liability presents common legal and factual questions that predominate over any individual issues.

1. Common Questions of Law and Fact Predominate as to Plaintiff’s Meal Period Claim

Plaintiff alleges that Defendant’s meal period policy does not specifically inform employees that

they must take a meal period within the first five hours of their shifts. Under *Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1053 (2012), “[i]f an employer’s records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided.”

Plaintiff contends that her meal period claim under this theory is readily certifiable. Even before *Brinker*, class certification rules were not as demanding as employers typically represent.

“Predominance is a comparative concept,’ and ‘the necessity for class members to individually establish eligibility and damages does not mean individual fact questions predominate.’ [Citations.]” *Sav-On Drug Stores, Inc. v. Super. Ct.*, 34 Cal. 4th 319, 334 (2004) (“*Sav-On*”) (citation omitted).

Thus, “[a] class action can be maintained even if each class member must at some point individually show his or her eligibility for recovery or the amount of his or her damages, so long as each class member would not be required to litigate substantial and numerous factually unique questions to determine his or her individual right to recover.” *Acree v. General Motors Acceptance Corp.*, 92 Cal. App. 4th 385, 397 (2001), fn. omitted.

Accordingly, Plaintiff contends that her meal period theory of liability yields the following predominant, common questions of fact and law:

- Did Defendant maintain and implement a uniform meal period policy that, *in practice*, did not instruct employees to take their first meal period within the first five hours of their shifts?
- Did Defendant fail to pay premiums whenever employees did not take meal periods within the first five hours of their shifts?

Plaintiff maintains that common evidence—in the form of Defendant’s written policies, corporate representative testimony, and Class Member declarations—would answer the predominant common questions and would show that the combined effect of Defendant’s meal period policies was that it did not provide Class Members to take timely meal periods.

2. Common Questions of Law and Fact Predominate as to Plaintiff’s Rest Period Claim

Plaintiff alleges that Defendant’s radio policy unlawfully requires employees to respond to

communications over the radio, even when on rest breaks. The California Supreme has confirmed that an employer is required to relieve an employee of all duties during rest breaks. *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269 (2016) (“[D]uring rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time.”).

Plaintiff contends that common questions predominate as to Plaintiff’s rest period claim because Defendant’s rest period policy creates the following class-wide issues:

- Whether Defendant violates California law by requiring Class Members to respond to radio calls during their rest periods;
- Whether Defendant’s uniform written rest period policy violates California law by failing to give full effect to the Wage Orders; and
- Whether Defendant was required to pay Class Members premium compensation for requiring them to respond to radio calls during their rest periods.

Accordingly, the Court should find that common issues of fact and law predominate as to the rest period claim.

3. Common Questions of Law and Fact Predominate as to Plaintiff’s Off-the-Clock Claim

During closing shifts, Defendant instituted a security policy that requires employees to leave in pairs. Plaintiff alleges that this policy often leads to employees having to wait several minutes after they clock out for a manager (the other employee on shift) to finish his or her tasks before leaving for the day. As a result, employees were not compensated for time spent undergoing security checks at the end of their shifts in violation of California law. *See Frlekin v. Apple, Inc.*, 8 Cal. 5th 1038, 1057 (2020) (“We reiterate that [an employer] may tailor its bag-search policy as narrowly or broadly as it desires and may minimize the time required for exit searches by hiring sufficient security personnel or employing adequate security technology. But it must compensate those employees to whom the policy applies for the time spent waiting for and undergoing these searches.”)

Plaintiff contends that common questions predominate as to Plaintiff’s off-the-clock claim because Defendant’s security policy creates the following class-wide issues:

- Whether Defendant’s security policy violates California minimum wage law by requiring

1 closing shift employees to wait several minutes after they clock out for a manager to leave
 2 the store with them;

- 3 • Whether Defendant should have paid minimum wages to employees for this time.

4 Accordingly, the Court should find that common issues of fact and law predominate as to the
 5 off-the-clock claim.

6 **4. Common Questions Of Law And Fact Predominate As to Plaintiff's Wage** 7 **Statement Claim**

8 Labor Code section 226(a) provides, in pertinent part, that an employer must provide an
 9 "accurate itemized" wage statement showing net and gross wages earned. Cal. Lab. Code § 226(a).
 10 "[A]n employee has a statutory right to an accurate pay stub." *Jaimez v. Daiohs USA, Inc.*, 181 Cal. App.
 11 4th 1286, 1306 (2010) ("*Jaimez*"); *see also Kisliuk v. ADT Sec. Servs.*, 263 F.R.D. 544, 548 (C.D. Cal.
 12 2008). "The purpose of the wage statement requirement is to provide transparency as to the calculation
 13 of wages. A complying wage statement accurately reports most of the information necessary for an
 14 employee to verify if he or she is being properly paid in accordance with the law and that deductions
 15 from wages are proper." DLSE Opinion Letter 2006.07.06 at 2. One of the requirements for a legally
 16 compliant wage statement is that it includes "the name and address of the legal entity that is the
 17 employer." Labor Code § 226(a)(8) (emphasis added).

18 Plaintiff alleges that Defendant's pay stubs failed to provide the employer's address. Instead, the
 19 address was only listed on the check portion of the wage statement, which is not "part of" the wage
 20 statement. *Noori v. Countrywide Payroll & HR Solution, Inc.*, 43 Cal. App. 5th 957 (2019). Plaintiff
 21 contends that whether Defendant's wage statements were properly formatted is an inherently common,
 22 certifiable question. Similar wage statement claims have been certified. *See, e.g., Ortega v. J.B. Hunt*
 23 *Transp., Inc.*, 258 F.R.D. 361, 374 (C.D. Cal. 2009) ("Accordingly, particularly in light of the fact that
 24 the pay stubs and settlement summaries provided to California drivers are standardized documents, the
 25 Court finds that Plaintiffs have demonstrated that certification of their pay stub claim is appropriate.");
 26 *Jaimez*, 181 Cal. App. 4th at 1306 (reversing and ordering certification of meal period, rest period, and
 27 wage statement subclasses).
 28

5. Common Questions of Law and Fact Predominate as to Plaintiff's Final Pay Claim

California Labor Code section 203 provides, “[i]f an employer willfully fails to pay ... any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid” for a maximum of 30 days. The failure to pay is willful if the employer knows what it is doing and intends to do what it is doing. *Diaz v. Grill Concepts Services, Inc.*, 23 Cal.App.5th 859, 868 (2018). Willfulness does not require proof that the employer acted with an intent to defraud employees of wages which the employer knows to be due. *Id.*

Plaintiff alleges that as a result of the violations of the Labor Code alleged on behalf of the Class Members, Defendant knew they were not paying meal and rest break premiums despite the fact that they were owed and knew and intended to deprive employees of meal and rest breaks. As a result, Defendant also failed to pay their employees all wages owed during employment under Labor Code § 204. Thus, for the same reasons that the Court should conditionally certify the underlying meal and rest period claims, it should also conditionally certify this derivative claim. *See Dilts v. Penske Logistics, LLC*, 267 F.R.D. 625, 640 (S.D. Cal. 2010).

6. Plaintiff Will Adequately Represent the Interests of the Proposed Settlement Class

The final Rule 23(a) requirement asks whether “the representative parties will fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). This requirement is satisfied if: (1) the proposed representative Plaintiffs do not have conflicts of interest with the proposed class, and (2) Plaintiffs are represented by qualified and competent counsel. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998).

The Rule 23(a) adequacy requirement is met here as Plaintiff has and will represent putative Class Members with a focus and zeal true to the fiduciary obligation that she has undertaken. Plaintiff's Counsel also satisfies the Rule 23(a)(4) adequacy-of-counsel requirement. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998) (“will the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?”). The attorneys at Capstone Law APC have successfully certified numerous class actions by way of contested motion in state and federal court, and have negotiated

1 settlements totaling over 200 million dollars on behalf of hundreds of thousands of Class Members. (See
 2 Perez Decl. ¶¶ 46-54, Ex. 6.)

3 7. Class Settlement Is Superior to Other Available Means of Resolution

4 Resolving all Class Members' claims through a single class action is superior to a series of
 5 individual lawsuits. "From either a judicial or litigant viewpoint, there is no advantage in individual
 6 members controlling the prosecution of separate actions. There would be less litigation or settlement
 7 leverage, significantly reduced resources and no greater prospect for recovery." *Hanlon*, 150 F.3d at
 8 1023. Indeed, the terms of the Settlement negotiated on behalf of the Class demonstrates the advantages
 9 of a collective bargaining and resolution process.

10 Addressing the allegations through a class action is superior to individual litigation or any
 11 alternative methods that may exist. This action was filed precisely because Plaintiff believed those
 12 alternatives would have proven ineffective in addressing the problem on a class-wide basis. Additionally,
 13 although the value of the claims is not insignificant, the amount in controversy is not nearly enough to
 14 incentivize individual action. *See Wolin v. Jaguar Land Rover N. Am.*, 617 F.3d 1168, 1175 (9th Cir.
 15 2010) ("Where recovery on an individual basis would be dwarfed by the cost of litigating on an
 16 individual basis, this [superiority] factor weighs in favor of class certification."). As the class action
 17 device provides the superior means to effectively and efficiently resolve this controversy, and as the
 18 other requirements of Rule 23 are each satisfied, certification of the Settlement Class proposed by the
 19 Parties is appropriate.

20 C. The Proposed Class Action Settlement Should Receive Preliminary Approval

21 Class action settlements must be approved by the court and notice of the settlement must be
 22 provided to the class before the action can be dismissed. Fed. R. Civ. P. 23(e)(1)(A). To protect absent
 23 class members' due process rights, approval of class action settlements involves three steps:

- 24 1. Preliminary approval of the proposed settlement;
- 25 2. Notice to the class providing them an opportunity to exclude themselves; and
- 26 3. A final fairness hearing concerning the fairness, adequacy, and reasonableness of the
- 27 settlement.

28 *See* Fed. R. Civ. P. 23(e)(2); Manual for Complex Litigation § 21.632 (4th ed. 2004).

1 F.R.C.P. 23(e) provides that if the proposal would bind class members, the Court may approve it
 2 only after a hearing and only on finding that it is fair, reasonable, and adequate after considering whether:

- 3 (A) the class representatives and class counsel have adequately represented the class;
- 4 (B) the proposal was negotiated at arm's length;
- 5 (C) the relief provided for the class is adequate, taking into account:
 - 6 (i) the costs, risks, and delay of trial and appeal;
 - 7 (ii) the effectiveness of any proposed method of distributing relief to the class,
 8 including the method of processing class-member claims;
 - 9 (iii) the terms of any proposed award of attorney's fees, including timing of
 10 payment; and
 - 11 (iv) any agreement required to be identified under Rule 23(e)(3); and
- 12 (D) the proposal treats class members equitably relative to each other.

13 The judicial policy favoring settlement of class action suits should guide the Court in evaluating
 14 the fairness of a settlement. *See Churchill Village, LLC v. Gen. Elec.*, 361 F.3d 566, 576 (9th Cir. 2004);
 15 *see also Hanlon v. Chrysler Corp.*, 150 F.3d at 1027 (endorsing the trial court's "proper deference to the
 16 private consensual decision of the parties" when approving a settlement). As this Circuit has observed,
 17 "settlements offer parties and their counsel relief from the burdens and uncertainties inherent in trial. . . .
 18 The economics of litigation are such that pre-trial settlement may be more advantageous for both sides
 19 than expending the time and resources inevitably consumed in the trial process." *Franklin v. Kaypro*, 884
 20 F.2d 1222, 1225 (9th Cir. 1989).

21 **1. The Relief Provided by the Settlement is Fair and Reasonable**

22 At the preliminary approval stage, the Court evaluates whether the settlement is within the
 23 "range of reasonableness," and whether notice to the class and the scheduling of a final approval hearing
 24 should be ordered. *See generally* 3 Conte & Newberg, *Newberg on Class Actions*, § 7.20 (4th ed. 2002).
 25 For preliminary approval, scrutiny of the settlement is reduced. *In re Nat'l Football League Players'*
 26 *Concussion Injury Litig.*, 961 F. Supp. 2d 708, 714 (E.D. Pa. 2014) ("At the preliminary approval stage,
 27 the bar to meet the 'fair, reasonable and adequate' standard is lowered."); *see also, Montoya v. Intelicare*
 28 *Direct, Inc.*, No. 15CV1269-LAB, 2016 WL 4142342 (S.D. Cal. Aug. 4, 2016).

The Court need only review the parties’ proposed settlement to determine whether it is within the permissible “range of possible judicial approval” and thus, whether the notice to the class and the scheduling of the formal fairness hearing is appropriate. *Newberg*, § 11:25. Preliminary approval should be granted if “the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, and falls within the range of possible approval. *Ruch v. AM Retail Group, Inc.*, 2016 WL 1161453, at *7 (N.D. Cal. Mar. 24, 2016) (quoting *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007)).

2. The Gross Settlement Amount is Within the Range of Reasonableness

As discussed in detail below, an objective evaluation of the Settlement confirms that the relief negotiated on the Class’s behalf—a \$1,150,000 non-reversionary total Gross Settlement Amount—is fair, reasonable, and valuable. The Settlement was negotiated by the Parties at arm’s length with helpful guidance from Mr. Dickstein, and the Settlement confers substantial benefits to Class Members. The relief offered by the Settlement is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage and hour cases.

In determining whether a settlement agreement is fair, adequate, and reasonable to all concerned, the Court may consider the strength of the plaintiff’s case and the amount offered in settlement, among other factors. *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1242 (9th Cir. 1998). Ultimately, “the district court’s determination is nothing more than an amalgam of delicate balancing, gross approximations, and rough justice,” and there is no single “formula” to be applied; rather, the Court may presume that the parties’ counsel and the mediator arrived at a reasonable range of settlement by considering Plaintiff’s likelihood of recovery. *Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir. 1982); *Rodriguez v. West Pub. Corp.*, 563 F.3d 948, 965 (9th Cir. 2009).

Federal district courts recognize that there is an inherent “range of reasonableness” in determining whether to approve a settlement “which recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs necessarily inherent in taking any litigation to completion.” *Newman v. Stein*, 464 F. 2d 689, 693 (2d Cir. 1972); *see also Nat’l Rural Telecomm. Coop. v. Directv, Inc.*, 221 F.R.D. 523, 527 (C.D. Cal. 2004) (“well settled law that a proposed settlement may

be acceptable even though it amounts to only a fraction of the potential recovery”).

Defendant’s Maximum Potential Exposure for the Class Claims		
Claim	Explanation	Damages/Penalties
Off-the-Clock	≈ 400,000 shifts worked in aggregate by Class Members × 60% of shifts with off-the-clock violations × \$24.62 average overtime rate of pay × 5 minutes off-the-clock	\$472,704.00
Meal Periods	≈ 40,000 shifts with late meal periods × \$16.41 average hourly wage.	\$656,400.00
Rest Periods	≈ 250,000 rest period eligible shifts × \$16.41 average hourly wage.	\$4,102,500.00
Wage Statements	≈ 35,000 wage statements issued during the 1-year statute of limitations period × \$50 penalty.	\$1,750,000.00
Final Pay	≈ 1,100 former employees × 8- hour average shift length × 30 days of penalties × \$16.41 average hourly wage × 10% probability of proving willful violation of the Labor Code and absence of good faith defenses.	\$433,224.00
Total		\$7,414,828.00

Understandably, for purposes of evaluating the settlement’s reasonable, the above estimates must be “tempered by factors such as the risk of losing at trial, the expense of litigating the case, and the expected delay in recovery (often measured in years).” *In re Toys R Us-Delaware, Inc.-- Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014).

Ultimately, Plaintiff’s Counsel determined an appropriate range of recovery for settlement purposes by offsetting Defendant’s maximum theoretical liability by: (i) the strength of the defenses to the merits of Plaintiff’s claims; (ii) the risk of class certification being denied; (iii) the risk of losing on

any of a number of dispositive motions that could have been brought between certification and trial (e.g., motions to decertify the class, motions for summary judgment, and/or motions in limine) that might have eliminated all or some of Plaintiff's claims, or barred evidence/testimony in support of the claims; (iv) the risk of losing at trial; (v) the chances of a favorable verdict being reversed on appeal; and (vi) the difficulties attendant to collecting on a judgment (collectively, the "Discount Factors").

After taking into account the Discount Factors, Plaintiff's Counsel determined that it would be reasonable to settle for a fraction of Defendant's maximum potential exposure for the class claims (PAGA discussed in the following section), or approximately 16%. Such a discount is inherently reasonable given that Plaintiff would have had to overcome **multiple, dependent** contingencies to prevail on her claims. If anything, the projected odds for each of the above contingencies is generous to the class's position, since plaintiffs in employment cases rarely prevail on **all of the claims** at any of these dispositive stages. Courts routinely approve settlements that provide a similar discounted range of the maximum potential recovery. *See, e.g., Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 256 (N.D. Cal. 2015) (approving wage-and-hour class action settlement where gross settlement amount was between 11% and 27% of plaintiffs' potential recovery); *In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 256-58 (D. Del. 2002) (recognizing that a reasonable settlement amount can be 1.6% to 14% of the total estimated damages); *In Re Armored Car Antitrust Litig.*, 472 F. Supp. 1357, 1373 (N.D. Ga. 1979) (settlements with a value of 1% to 8% of the estimated total damages were approved); *In Re Four Seasons Secs. Laws Litig.*, 58 F.R.D. 19, 37 (W.D. Okla. 1972) (approving 8% of damages); *Balderas v. Massage Envy Franchising, LLP*, 2014 WL 3610945, at *5 (N.D. Cal. July 21, 2014) (finding that settlement which amounted to 8% of maximum recovery "[fell] within the range of possible initial approval based on the strength of plaintiff's case and the risk and expense of continued litigation."); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated damages).

The instant settlement compares favorably to a previous wage and hour settlement approved by the Northern District of California for comparable wage and hour claims.

<i>Ford v. CEC Entertainment, Inc., No. 3:14-cv-01420-RS (N.D. Cal.)</i>	
Gross Settlement Amount	\$2,500,000
Total Number of Class Members	10,526
Average Class Member Payment	≈ \$150
Final Approval Granted	November 18, 2016 (Judge Richard Seeborg)

<i>Rivas v. BG Retail, LLC, No. 5:16-cv-06458-BLF (N.D. Cal.)</i>	
Gross Settlement Amount	\$175,000
Total Number of Class Members	396
Average Class Member Payment	≈ \$170
Final Approval Granted	January 16, 2020 (Judge Beth Labson Freeman)

<i>Berry v. Urban Outfitters Wholesale, Inc., No. 4:13-cv-02628-JSW (N.D. Cal.)</i>	
Gross Settlement Amount	\$5,000,000
Total Number of Class Members	12,308
Average Class Member Payment	\$255
Final Approval Granted	April 7, 2016 (Judge Jeffrey S. White)

Notably, whereas the average class member payments in the above settlements ranged from \$150 to \$255, the average payment here is approximately \$470.

3. The Settlement Provides for an Equitable Method of Allocating Relief to Class Members

Payments to Participating Class Members will be made from the Net Settlement Amount. (Settlement Agreement ¶ 64.) The individual allocations will be calculated on a pro-rata basis using the number of weeks worked by each Class Member during the Class Period. (*Id.*) This is a fair and equitable means of apportioning the Net Settlement Fund to Class Members. Class Members who worked for a longer duration during the Class Period will receive proportionally larger payments than those employees who worked for shorter durations.

4. There Are No Obvious Deficiencies with the Settlement or Preferential Treatment to Certain Class Members

The Court must also ask whether “the Settlement contains any obvious deficiencies” and “whether the Settlement provides preferential treatment to any Class Member.” *Volkswagen*, 2016 WL 4010049, at **14, 16. This Settlement contains no “glaring deficiencies” *Id.* at *14. The Settlement does not provide for a reversion of unpaid settlement funds to Defendants or distribute a disproportionate share of the settlement to the attorneys that requires closer scrutiny in the Ninth Circuit. *See id.* at *14-15 (applying the factors set forth in *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011)).

Moreover, no segment of the Class is given preferential treatment. Plaintiff will also seek, at a later time (when the Motion for Attorneys’ Fees is filed), an incentive award in an amount that is well within the range of such awards in the Ninth Circuit for her work on the behalf of the Class, the reputation risk undertaken, and for the execution of a general release. *See infra*, § III.G. *See, e.g., La Fleur v. Medical Management Intern, Inc.*, No. 13-00398-VAP, 2014 WL 2967475, *8 (C.D. Cal. June 25, 2014) (awarding \$15,000 to each named plaintiff for services to the Class, reputational harm and general release). Accordingly, the Settlement is procedurally fair, adequate and reasonable.

5. The Extent of Discovery Completed Supports Preliminary Approval

As set forth in greater detail in Plaintiff’s Counsel’s declaration in support of the Motion, based on their analysis of documents and class data produced by Defendant, including Defendant’s California labor policies and procedures materials and a sample of Class Members’ time records, Plaintiff’s Counsel were able to realistically assess the value of Plaintiff’s claims and intelligently engage defense counsel in settlement discussions that culminated in the proposed settlement now before the Court. (Perez Decl. ¶¶ 4-7.)

By engaging in a thorough investigation and evaluation of Plaintiff’s claims, Plaintiff’s Counsel can opine that the Settlement, for the consideration and on the terms set forth in the Settlement Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendant. (*Id.* at ¶ 8.)

D. The Court Should Preliminarily Approve the PAGA Settlement

Pursuant to the Settlement Agreement, \$60,000 from the Gross Settlement Amount shall be allocated to the resolution of the PAGA claim, of which 75% (i.e., \$45,000) will be paid directly to the LWDA, and the remaining 25% (i.e., \$15,000) will be paid to PAGA Members. (Settlement Agreement ¶ 65.)

This result was reached after good-faith negotiation between the parties. The amount was valued as follows: Based on information and evidence produced by Defendant during discovery, Plaintiff's Counsel determined that aggrieved employees worked a combined total of approximately 35,000 pay periods during the PAGA statute of limitations period ("PAGA Period"). Statutory penalties would be calculated according to Labor Code 2699(f)(2): If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

However, a number of courts have found that the "subsequent" penalty under PAGA applies only after a court or the Labor Commissioner determines that the employer has violated the Labor Code. *See Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th 334, 356 (2021) ("the increased \$200 civil penalty for 'subsequent violation[s]' does not apply unless [Plaintiff] presents evidence that the Labor Commission or a court notified [Defendant] that it was in violation of the Labor Code."); *Bernstein v. Virgin Am., Inc.*, 990 F.3d 1157, 1173 (9th Cir. 2021) (reversing judgment as to "heightened civil penalties" because the defendant was not given notice by the Labor Commissioner when the "subsequent" violations occurred). Under this line of cases, Defendant's exposure would be approximately $\$3,500,000 = 35,000 \text{ violative pay periods} \times \$100$.

It should be noted that PAGA gives the Court wide latitude to reduce the amount of civil penalties "based on the facts and circumstances of a particular case" when "to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." Cal. Lab. Code § 2699(h). In reducing PAGA penalties, courts have considered issues including whether the employees suffered actual injury from the violations, whether the defendant was aware of the violations, and the employer's willingness to fix the violation. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018)

(awarding PAGA penalties of only 0.2% of the maximum); *see also* *Cotter v. Lyft, Inc.*, 193 F. Supp. 3d 1030, 1037 (N.D. Cal. 2016); *Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK (OPX), 2011 WL 7563047, at *4 (C.D. Cal. Aug. 12, 2011).

For example, during the penalty phase of trial in *Carrington*, the plaintiff requested PAGA penalties in the amount of approximately \$70 million. The trial court instead awarded only \$150,000—**or 0.21% of the maximum**—and stated that this reduction was warranted because (a) the Court did not believe it was appropriate to impose multiple penalties per pay period in which a violation occurred and (b) imposing the maximum penalty would be “unjust, arbitrary, and oppressive” based on Starbucks’s “good faith attempts” to comply with meal period obligations and because the court found the violations were minimal. *Carrington*, 30 Cal. App. 5th at 517-18. The Court of Appeal affirmed the lower court’s reduced award of a \$150,000 penalty under PAGA. *Id.* at 529. If a similar reduction had been applied here, Plaintiff would have recovered only approximately \$7,350 ($\$3,500,000 \times 0.0021$ reduction).

Likewise, in *Covidien*, the Court reduced the potential penalties by over 82%, awarding \$500,000 instead of maximum penalties of \$2.8 million. *Covidien*, 2011 WL 7563047 at *4; *see also* *Thurman v. Bayshore Transit Mgmt.*, 203 Cal. App. 4th 1112, 1135-36 (2012) (affirming 30% reduction under specified PAGA claim where the employer produced evidence that it took its obligations seriously); *Elder v. Schwan Food Co.*, No. B223911, 2011 WL 1797254, at *5-*7 (Cal. Ct. App. May 12, 2011) (reversing trial court decision denying any civil penalties where violations had been proven, remanding for the trial court to exercise discretion to reduce, but not wholly deny, civil penalties); *Li v. A Perfect Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 WL 2236752, at *17 (N.D. Cal. June 15, 2012) (denying PAGA penalties for violation of California Labor Code section 226 as redundant with recovery on a class basis pursuant to California Labor Code section 226, directly); *Aguirre v. Genesis Logistics*, No. SACV 12-00687 JVS (ANx), 2013 WL 10936035 at *2-*3 (C.D. Cal. Dec. 30, 2013) (reducing penalty for past PAGA violations from \$1.8 million to \$500,000, after rejecting numerous other PAGA claims).

Plaintiff therefore determined an appropriate range of settlement for PAGA penalties as a percentage of the settlement range that was consistent with other hybrid class/PAGA settlements approved by California courts. *Dearaujo v. Regis Corp.*, No. 2:14-cv-01408-KJM-AC, 2016 WL

3549473 at *3 (E.D. Cal. June 29, 2016) (preliminarily approving \$1.95 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Garcia v. Gordon Trucking, Inc.*, No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575 at *7 (E.D. Cal. Oct. 31, 2012) (approving \$3.7 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Chu v. Wells Fargo Invst., LLC*, No. C 05-4526 MHP, 2011 WL 672645 at *1 (N.D. Cal Feb. 16, 2011) (approving \$6.9 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Guerrero v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196 (Riverside County Super. Ct. July 16, 2013; Judge Matthew C. Perantoni) (gross settlement fund of \$1,100,000, of which \$3,000 (or 0.3%) was allocated to the settlement of PAGA penalties); *Parra v. Aero Port Services, Inc.*, No. BC483451 (L.A. County Super. Ct. April 20, 2015; Judge Jane Johnson) (gross settlement fund of approximately \$1,458,900, of which \$5,000 (or 0.3%) was allocated to the settlement of PAGA penalties)

Where PAGA penalties are negotiated in good faith and “there is no indication that [the] amount was the result of self-interest at the expense of other Class Members,” such amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, No. CV-08-0844 EDL, 2009 WL 928133, at *9 (N.D. Cal. Apr. 3, 2009); *see, e.g., Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 579 (2010) (“[T]rial court did not abuse its discretion in approving a settlement which does not allocate any damages to the PAGA claims.”).

E. The Court Should Preliminarily Approve the Negotiated Attorneys’ Fees and Costs

At final approval, Class Counsel will request attorneys’ fees in the amount of one-third of the total common fund. Under controlling California law, the common fund method for awarding attorneys’ fees is appropriate where, as here, attorneys have been instrumental in creating a settlement fund that benefits all class members. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002) (the state law governing the underlying claims in a diversity action “also governs the award of fees”); *Serrano v. Priest*, 20 Cal. 3d 25, 35 (1977) (noting that federal and state courts have long recognized that when attorneys create a common fund that benefits a class, the attorneys have an equitable right to be compensated from that fund); *Lealao v. Beneficial Cal. Inc.*, 82 Cal. App. 4th 19, 48 (2000) (“Courts agree that, because the percentage-of-the-benefit approach is ‘results oriented rather than process-

oriented, it better approximates the workings of the marketplace’ than the lodestar approach.” [citation omitted]).

Although California has no benchmark, California courts routinely award attorneys’ fees equalling approximately one-third of the common fund’s total potential value or higher. *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App. 5th 521, 545 (2021) (“fee awards in class actions average around one-third of the recovery regardless of whether the percentage method or the lodestar method is used.”) (internal quotations omitted); *Laffitte v. Robert Half Internat. Inc.*, 231 Cal. App. 4th 860, 871 (2016) (“33 1/3 percent of the common fund is consistent with, and in the range of, awards in other class action lawsuits”); *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43 (2008) (“Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.”).

Plaintiff will file a formal motion for the negotiated attorneys’ fees and costs once preliminary approval of the Settlement is granted.

F. The Court Should Preliminarily Approve the Negotiated Class Representative Incentive Payment

The Settlement provides for a Class Representative Incentive Payment of \$10,000 to Plaintiff for her service on behalf of Class Members and for agreeing to a broader release than those required of other Class Members. “Incentive awards are fairly typical in class action cases . . . Such awards are discretionary and are intended to compensate class representatives for work done on behalf of the class . . .” *Rodriguez v. West Publ’g Corp.*, 563 F.3d 948, 958 (9th Cir. 2009) (citing 4 *William B. Rubenstein et al., Newberg on Class Actions* § 11:38 (4th ed. 2008)). These payments work both as an inducement to participate in the suit and as compensation for time spent in litigation activities. *See In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d at 463 (describing the service award as an incentive to the class representatives); *Matter of Continental Illinois Securities Litig.*, 962 F.2d 566, 571 (7th Cir. 1992) (stating that an enhancement award should be in such an amount “as may be necessary to induce [the class representative] to participate in the suit”).

Plaintiff will file a formal motion for the negotiated Class Representative Incentive Payment once preliminary approval of the Settlement is granted.

1 **IV. CONCLUSION**

2 The Parties have negotiated a fair and reasonable settlement of claims. Having appropriately
3 presented the materials and information necessary for preliminary approval, the Parties request that the
4 Court preliminarily approve the settlement.

5
6 Dated: October 10, 2024

Respectfully submitted,

7
8 By: /s/ Bevin Allen Pike

Raul Perez

Bevin Allen Pike

Daniel Jonathan

Trisha K. Monesi

9
10 **CAPSTONE LAW APC**

11 Attorney for Plaintiff Shania Cole
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Attorneys for Plaintiff Shania Cole

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SHANIA COLE, individually, and on behalf of
other members of the general public similarly
situated, and as an aggrieved employee pursuant
to the Private Attorneys General Act ("PAGA"),

Plaintiff,

vs.

LANE BRYANT, INC., a Delaware
corporation; LANE BRYANT BRANDS
OPCO LLC, an Ohio limited liability company;
LANE BRYANT #6243, INC., a Florida
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 5:22-cv-06714-PCP

**DECLARATION OF RAUL PEREZ IN
SUPPORT OF MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: December 12, 2024
Time: 10:00 a.m.
Place: Courtroom 8

DECLARATION OF RAUL PEREZ

I, Raul Perez, hereby declare as follows:

1. I am an attorney licensed to practice before all courts of the State of California. I am a Partner at Capstone Law APC (“Capstone” or “Plaintiff’s Counsel”), counsel for Plaintiff Shania Cole (“Plaintiff”) in the above-captioned action. Unless indicated otherwise, I have personal knowledge of the following facts, and if called as a witness, I could and would testify competently to them. I make this declaration in support of the Motion for Preliminary Approval of the Class Action and PAGA Settlement.

BRIEF OVERVIEW OF THE LITIGATION AND SETTLEMENT NEGOTIATIONS

2. Plaintiff originally filed this wage and hour action against Defendant Lane Bryant Brands Opco LLC (“Defendant”) (collectively with Plaintiff, the “Parties”) in the Santa Clara County Superior Court on September 14, 2022. The Complaint alleged that Defendant failed to: (a) pay minimum wages; (b) timely pay wages upon termination; (c) pay wages during employment; (d) provide meal periods; (e) authorize and permit rest periods; and (f) provide accurate itemized wage statements and maintain accurate payroll records. The Complaint also alleged that Defendant’s wage and hour violations constituted violations of California’s Unfair Competition Law. On October 10, 2022, Plaintiff submitted a notice letter to the LWDA alleging Labor Code violations by Defendant. The allegations in the LWDA Notice tracked the allegations in Plaintiff’s Complaint. On October 31, 2022, Defendant filed a Notice of Removal of Action to Federal Court.

3. On October 27, 2023, the Parties participated in a mediation with Michael Dickstein, Esq., an experienced mediator of wage and hour class actions. At all times, the Parties’ negotiations were adversarial and non-collusive. Mr. Dickstein helped to manage the Parties’ expectations and provided a useful, neutral analysis of the issues and risks to both sides. With Mr. Dickstein’s guidance, the Parties were eventually able to negotiate a complete settlement of Plaintiff’s claims. The terms of the settlement are now set forth in complete and final form in the Class Action and PAGA Representative Action Settlement Agreement, attached as **Exhibit 1**. Plaintiff will file a fully-executed copy of the Class Action and PAGA Representative Action Settlement Agreement after all signatures are received.

4. It is my opinion that the settlement constitutes a fair, adequate, and reasonable

1 compromise of the claims at issue. This opinion is informed by my experience litigating and settling
2 wage and hour actions, and my firm's investigation into the factual and legal issues implicated by
3 Plaintiff's claims and Defendant's defenses.

4 5. Prior to filing the action, Plaintiff contacted Plaintiff's Counsel to discuss the factual
5 basis for pursuing an action against Defendant for Labor Code violations. Plaintiff was intimately
6 familiar with Defendant's labor policies and practices, and knowledgeably summarized those policies
7 and practices to Plaintiff's Counsel. She explained how the policies and practices were instituted, and
8 provided valuable insight into how they gave rise to the alleged Labor Code violations. Based on this
9 information, Plaintiff's Counsel determined that there were legally sufficient grounds for pursuing an
10 action against Defendant.

11 6. In advance of the Parties' mediation, Plaintiff's Counsel received a considerable amount
12 of documents and data, including class demographic data, a sample of Class Members' time records, and
13 Defendant's California labor policies and procedures materials which covered a broad range of topics
14 including, *inter alia*, employee clock-in policies and procedures, meal and rest period policies, bag check
15 policies, etc. The document and data exchanges allowed Plaintiff's Counsel to fully assess the nature and
16 magnitude of the claims being settled, as well as the impediments to recovery, and ultimately enabled
17 Plaintiff's Counsel so as to make an independent assessment of the reasonableness of the settlement's
18 terms.

19 7. In summary, Plaintiff's Counsel performed a thorough investigation into the claims at
20 issue, which included: (a) determining Plaintiff's suitability as a private attorney general and class
21 representative through interviews and a background investigation; (b) evaluating all of Plaintiff's
22 potential representative claims; (c) researching similar wage and hour class actions as to the claims
23 brought, the nature of the positions, and the type of employer; (d) analyzing a sample of Class Members'
24 time and pay records; (e) reviewing Defendant's California labor policies and procedures materials; (f)
25 researching settlements in similar cases; (g) evaluating Plaintiff's claims and estimating Defendant's
26 liability for purposes of settlement; (h) drafting the mediation brief; and (i) participating in the mediation.

27 8. By engaging in such a thorough investigation and evaluation of Plaintiff's claims,
28 Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth in the

Settlement Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, and various defenses asserted by Defendant.

THE SETTLEMENT ADMINISTRATOR SELECTION PROCESS

9. Plaintiff's Counsel obtained bids from the following administrators: (1) CPT Group, Inc. ("CPT"), attached as **Exhibit 2**; (2) Phoenix Class Action Administrators, attached as **Exhibit 3**; (3) ILYM Group, Inc., attached as **Exhibit 4**; and (4) Verita (formerly KCC, Inc.), attached as **Exhibit 5**. All administrators were given the same notice parameters and provided bids as follows:

Administrator	Bid Amount
CPT Group, Inc.	\$14,500.00
Phoenix Class Action Administrators	\$14,500.00
ILYM Group, Inc.	\$19,850.00
Verita (formerly known as KCC)	\$43,626.00

10. Plaintiff's Counsel have worked with CPT on multiple occasions over the past few years: *Hurtado v. Sweet Earth, Inc.*, No. 5:21-cv-04894-VKD (N.D. Cal.); *Verdugo v. Bluescope Buildings North America, Inc.*, No. VCU292562 (Tulare County Superior Court); *Arellano v. R&B Sales and Marketing, Inc.*, No. 20STCV04112 (Los Angeles County Superior Court); *Limon v. Crestline Hotels & Resorts, LLC*, No. 20STCV37266 (Los Angeles County Superior Court); *Trento v. U.S. Security Associates, Inc.*, No. RG18932522 (Alameda County Superior Court); *Saldana v. Hydrochem LLC*, No. MSC19-02624 (Contra Costa County Superior Court).

CONDITIONAL CLASS CERTIFICATION IS APPROPRIATE FOR SETTLEMENT PURPOSES

11. The parties seek conditional certification of the Settlement Class. A party seeking to certify a class must demonstrate that it has met all four requirements under Federal Rule of Civil Procedure 23(a), and at least one of the requirements of Rule 23(b)—in this case, Rule 23(b)(3). *See Zinser v. Accufix Research Inst.*, 253 F.3d 1180, 1186 (9th Cir. 2001). Where, as here, workplace violations are at issue, "the key question for class certification is whether there is a consistent employer practice [or policy] that could be a basis for consistent liability." *Kamar v. Radio Shack Corp.*, 254 F.R.D. 387, 399 (C.D. Cal. 2008). Class certification is proper when the plaintiff provides substantial evidence of a company-wide policy on which her theory of liability is based, even if in practice that

policy's implementation varied. *See In re Taco Bell Wage & Hour Actions*, No. 07-01314-SAB, 2012 U.S. Dist. LEXIS 168219, at *19 (E.D. Cal. Nov. 27, 2012) (certifying meal period class where uniform policy was undisputed but defendant argued "as a matter of practice, the policy is carried out in a variety of ways") (*adopted in full*, 2013 U.S. Dist. LEXIS 380 (E.D. Cal. Jan. 2, 2013)).

12. Moreover, "it is the plaintiff's theory that matters at the class certification stage, not whether the theory will ultimately succeed on the merits." *Alonzo v. Maximus, Inc.*, 275 F.R.D. 513, 525 (C.D. Cal. 2011) (citations omitted). Rule 23's commonality analysis depends on whether a "basic theory of the [plaintiffs'] case" "can be proved on a classwide basis." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350, 359, 131 S. Ct. 2541 (2011). However, the fact that class members may have been affected by a defendant's uniform policies/practices to varying degrees or have suffered varying damages is not a bar to certification. *See Leyva v. Medline Indus. Inc.*, 716 F.3d 510, 514 (9th. Cir. 2013) ("the presence of individualized damages cannot, by itself, defeat class certification under Rule 23(b)(3).").

13. **Plaintiff's Claims Present Predominant Questions of Law and Fact:** For a class to be certified, there must be questions of law or fact common to the class. Fed. R. Civ. P. 23(a)(2). Rule 23(b)(3) also requires that the common questions of law or fact predominate over any individual questions. Thus, the Rule 23(a)(2) commonality inquiry and the Rule 23(b)(3) predominance inquiry overlap. *See In re Autozone, Inc.*, 289 F.R.D. 526, 533 n.10 (N.D. Cal. 2012). Here, each of Plaintiff's theories of liability presents common legal and factual questions that predominate over any individual issues.

14. **Common Questions of Law and Fact Predominate as to Plaintiff's Meal Period Claim:** Plaintiff alleges that Defendant's meal period policy does not specifically inform employees that they must take a meal period within the first five hours of their shifts. Under *Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1053 (2012), "[i]f an employer's records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided."

15. Plaintiff contends that her meal period claim under this theory is readily certifiable. Even before *Brinker*, class certification rules were not as demanding as employers typically represent.

“Predominance is a comparative concept,’ and ‘the necessity for class members to individually establish eligibility and damages does not mean individual fact questions predominate.’ [Citations.]” *Sav-On Drug Stores, Inc. v. Super. Ct.*, 34 Cal. 4th 319, 334 (2004) (“*Sav-On*”) (citation omitted). Thus, “[a] class action can be maintained even if each class member must at some point individually show his or her eligibility for recovery or the amount of his or her damages, so long as each class member would not be required to litigate substantial and numerous factually unique questions to determine his or her individual right to recover.” *Acree v. General Motors Acceptance Corp.*, 92 Cal. App. 4th 385, 397 (2001), *fn.* omitted.

16. Accordingly, Plaintiff contends that her meal period theory of liability yields the following predominant, common questions of fact and law: (a) Did Defendant maintain and implement a uniform meal period policy that, *in practice*, did not instruct employees to take their first meal period within the first five hours of their shifts? (b) Did Defendant fail to pay premiums whenever employees did not take meal periods within the first five hours of their shifts?

17. Plaintiff maintains that common evidence—in the form of Defendant’s written policies, corporate representative testimony, and Class Member declarations—would answer the predominant common questions and would show that the combined effect of Defendant’s meal period policies was that it did not provide Class Members to take timely meal periods.

18. **Common Questions of Law and Fact Predominate as to Plaintiff’s Rest Period Claim:** Plaintiff alleges that Defendant’s radio policy unlawfully requires employees to respond to communications over the radio, even when on rest breaks. The California Supreme has confirmed that an employer is required to relieve an employee of all duties during rest breaks. *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269 (2016) (“[D]uring rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time.”).

19. Plaintiff contends that common questions predominate as to Plaintiff’s rest period claim because Defendant’s rest period policy creates the following class-wide issues: (a) Whether Defendant violates California law by requiring Class Members to respond to radio calls during their rest periods; (b) Whether Defendant’s uniform written rest period policy violates California law by failing to give full effect to the Wage Orders; and (c) Whether Defendant was required to pay Class Members premium

1 compensation for requiring them to respond to radio calls during their rest periods.

2 20. Accordingly, the Court should find that common issues of fact and law predominate as
3 to the rest period claim.

4 21. **Common Questions of Law and Fact Predominate as to Plaintiff's Off-the-Clock**
5 **Claim:** During closing shifts, Defendant instituted a security policy that requires employees to leave in
6 pairs. Plaintiff alleges that this policy often leads to employees having to wait several minutes after they
7 clock out for a manager (the other employee on shift) to finish his or her tasks before leaving for the day.
8 As a result, employees were not compensated for time spent undergoing security checks at the end of
9 their shifts in violation of California law. *See Frlekin v. Apple, Inc.*, 8 Cal. 5th 1038, 1057 (2020) (“We
10 reiterate that [an employer] may tailor its bag-search policy as narrowly or broadly as it desires and may
11 minimize the time required for exit searches by hiring sufficient security personnel or employing
12 adequate security technology. But it must compensate those employees to whom the policy applies for
13 the time spent waiting for and undergoing these searches.”)

14 22. Plaintiff contends that common questions predominate as to Plaintiff's off-the-clock
15 claim because Defendant's security policy creates the following class-wide issues: (a) Whether
16 Defendant's security policy violates California minimum wage law by requiring closing shift employees
17 to wait several minutes after they clock out for a manager to leave the store with them; (b) Whether
18 Defendant should have paid minimum wages to employees for this time.

19 23. Accordingly, the Court should find that common issues of fact and law predominate as
20 to the off-the-clock claim.

21 24. **Common Questions Of Law And Fact Predominate As to Plaintiff's Wage**
22 **Statement Claim:** Labor Code section 226(a) provides, in pertinent part, that an employer must provide
23 an “accurate itemized” wage statement showing net and gross wages earned. Cal. Lab. Code § 226(a).
24 “[A]n employee has a statutory right to an accurate pay stub.” *Jaimez v. Daiohs USA, Inc.*, 181 Cal. App.
25 4th 1286, 1306 (2010) (“*Jaimez*”); *see also Kisliuk v. ADT Sec. Servs.*, 263 F.R.D. 544, 548 (C.D. Cal.
26 2008). “The purpose of the wage statement requirement is to provide transparency as to the calculation
27 of wages. A complying wage statement accurately reports most of the information necessary for an
28 employee to verify if he or she is being properly paid in accordance with the law and that deductions

1 from wages are proper.” DLSE Opinion Letter 2006.07.06 at 2. One of the requirements for a legally
 2 compliant wage statement is that it includes “the name and address of the legal entity that is the
 3 employer.” Labor Code § 226(a)(8) (emphasis added).

4 25. Plaintiff alleges that Defendant’s pay stubs failed to provide the employer’s address.
 5 Instead, the address was only listed on the check portion of the wage statement, which is not “part of” the
 6 wage statement. *Noori v. Countrywide Payroll & HR Solution, Inc.*, 43 Cal. App. 5th 957 (2019).
 7 Plaintiff contends that whether Defendant’s wage statements were properly formatted is an inherently
 8 common, certifiable question. Similar wage statement claims have been certified. *See, e.g., Ortega v. J.B.*
 9 *Hunt Transp., Inc.*, 258 F.R.D. 361, 374 (C.D. Cal. 2009) (“Accordingly, particularly in light of the fact
 10 that the pay stubs and settlement summaries provided to California drivers are standardized documents,
 11 the Court finds that Plaintiffs have demonstrated that certification of their pay stub claim is
 12 appropriate.”); *Jaimez*, 181 Cal. App. 4th at 1306 (reversing and ordering certification of meal period,
 13 rest period, and wage statement subclasses).

14 26. **Common Questions of Law and Fact Predominate as to Plaintiff’s Final Pay**
 15 **Claim:** California Labor Code section 203 provides, “[i]f an employer willfully fails to pay ... any wages
 16 of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty
 17 from the due date thereof at the same rate until paid” for a maximum of 30 days. The failure to pay is
 18 willful if the employer knows what it is doing and intends to do what it is doing. *Diaz v. Grill Concepts*
 19 *Services, Inc.*, 23 Cal.App.5th 859, 868 (2018). Willfulness does not require proof that the employer
 20 acted with an intent to defraud employees of wages which the employer knows to be due. *Id.*

21 27. Plaintiff alleges that as a result of the violations of the Labor Code alleged on behalf of
 22 the Class Members, Defendant knew they were not paying meal and rest break premiums despite the fact
 23 that they were owed and knew and intended to deprive employees of meal and rest breaks. As a result,
 24 Defendant also failed to pay their employees all wages owed during employment under Labor Code §
 25 204. Thus, for the same reasons that the Court should conditionally certify the underlying meal and rest
 26 period claims, it should also conditionally certify this derivative claim. *See Dilts v. Penske Logistics,*
 27 *LLC*, 267 F.R.D. 625, 640 (S.D. Cal. 2010).

28. **Plaintiff Will Adequately Represent the Interests of the Proposed Settlement Class:**

The final Rule 23(a) requirement asks whether “the representative parties will fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). This requirement is satisfied if: (1) the proposed representative Plaintiffs do not have conflicts of interest with the proposed class, and (2) Plaintiffs are represented by qualified and competent counsel. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998).

29. The Rule 23(a) adequacy requirement is met here as Plaintiff has and will represent putative Class Members with a focus and zeal true to the fiduciary obligation that she has undertaken. Plaintiff’s Counsel also satisfies the Rule 23(a)(4) adequacy-of-counsel requirement. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998) (“will the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?”). The attorneys at Capstone Law APC have successfully certified numerous class actions by way of contested motion in state and federal court, and have negotiated settlements totaling over 200 million dollars on behalf of hundreds of thousands of Class Members. (*See* Perez Decl. ¶¶ 11-19, Ex. 6.)

30. **Class Settlement Is Superior to Other Available Means of Resolution:** Resolving all Class Members’ claims through a single class action is superior to a series of individual lawsuits. “From either a judicial or litigant viewpoint, there is no advantage in individual members controlling the prosecution of separate actions. There would be less litigation or settlement leverage, significantly reduced resources and no greater prospect for recovery.” *Hanlon*, 150 F.3d at 1023. Indeed, the terms of the Settlement negotiated on behalf of the Class demonstrates the advantages of a collective bargaining and resolution process.

31. Addressing the allegations through a class action is superior to individual litigation or any alternative methods that may exist. This action was filed precisely because Plaintiff believed those alternatives would have proven ineffective in addressing the problem on a class-wide basis. Additionally, although the value of the claims is not insignificant, the amount in controversy is not nearly enough to incentivize individual action. *See Wolin v. Jaguar Land Rover N. Am.*, 617 F.3d 1168, 1175 (9th Cir. 2010) (“Where recovery on an individual basis would be dwarfed by the cost of litigating on an individual basis, this [superiority] factor weighs in favor of class certification.”). As the class action

device provides the superior means to effectively and efficiently resolve this controversy, and as the other requirements of Rule 23 are each satisfied, certification of the Settlement Class proposed by the Parties is appropriate.

THE GROSS SETTLEMENT AMOUNT IS WITHIN THE RANGE OF REASONABLENESS

32. As discussed in detail below, an objective evaluation of the Settlement confirms that the relief negotiated on the Class's behalf—a \$1,150,000 non-reversionary total Gross Settlement Amount—is fair, reasonable, and valuable. The Settlement was negotiated by the Parties at arm's length with helpful guidance from Mr. Dickstein, and the Settlement confers substantial benefits to Class Members. The relief offered by the Settlement is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage and hour cases.

33. In determining whether a settlement agreement is fair, adequate, and reasonable to all concerned, the Court may consider the strength of the plaintiff's case and the amount offered in settlement, among other factors. *Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1242 (9th Cir. 1998). Ultimately, "the district court's determination is nothing more than an amalgam of delicate balancing, gross approximations, and rough justice," and there is no single "formula" to be applied; rather, the Court may presume that the parties' counsel and the mediator arrived at a reasonable range of settlement by considering Plaintiff's likelihood of recovery. *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982); *Rodriguez v. West Pub. Corp.*, 563 F.3d 948, 965 (9th Cir. 2009).

34. Federal district courts recognize that there is an inherent "range of reasonableness" in determining whether to approve a settlement "which recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs necessarily inherent in taking any litigation to completion." *Newman v. Stein*, 464 F. 2d 689, 693 (2d Cir. 1972); *see also Nat'l Rural Telecomm. Coop. v. Directv, Inc.*, 221 F.R.D. 523, 527 (C.D. Cal. 2004) ("well settled law that a proposed settlement may be acceptable even though it amounts to only a fraction of the potential recovery").

Defendant's Maximum Potential Exposure for the Class Claims		
Claim	Explanation	Damages/Penalties
Off-the-Clock	≈ 400,000 shifts worked in aggregate by Class	\$472,704.00

Defendant's Maximum Potential Exposure for the Class Claims		
	Members × 60% of shifts with off-the-clock violations × \$24.62 average overtime rate of pay × 5 minutes off-the-clock	
Meal Periods	≈ 40,000 shifts with late meal periods × \$16.41 average hourly wage.	\$656,400.00
Rest Periods	≈ 250,000 rest period eligible shifts × \$16.41 average hourly wage.	\$4,102,500.00
Wage Statements	≈ 35,000 wage statements issued during the 1-year statute of limitations period × \$50 penalty.	\$1,750,000.00
Final Pay	≈ 1,100 former employees × 8-hour average shift length × 30 days of penalties × \$16.41 average hourly wage × 10% probability of proving willful violation of the Labor Code and absence of good faith defenses.	\$433,224.00
Total		\$7,414,828.00

35. Understandably, for purposes of evaluating the settlement's reasonable, the above estimates must be "tempered by factors such as the risk of losing at trial, the expense of litigating the case, and the expected delay in recovery (often measured in years)." *In re Toys R Us-Delaware, Inc.--Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014).

36. Ultimately, Plaintiff's Counsel determined an appropriate range of recovery for settlement purposes by offsetting Defendant's maximum theoretical liability by: (i) the strength of the defenses to the merits of Plaintiff's claims; (ii) the risk of class certification being denied; (iii) the risk of losing on any of a number of dispositive motions that could have been brought between certification and trial (e.g., motions to decertify the class, motions for summary judgment, and/or motions in limine) that might have eliminated all or some of Plaintiff's claims, or barred evidence/testimony in support of the

claims; (iv) the risk of losing at trial; (v) the chances of a favorable verdict being reversed on appeal; and (vi) the difficulties attendant to collecting on a judgment (collectively, the “Discount Factors”).

37. After taking into account the Discount Factors, Plaintiff’s Counsel determined that it would be reasonable to settle for a fraction of Defendant’s maximum potential exposure for the class claims (PAGA discussed in the following section), or approximately 16%. Such a discount is inherently reasonable given that Plaintiff would have had to overcome multiple, dependent contingencies to prevail on her claims. If anything, the projected odds for each of the above contingencies is generous to the class’s position, since plaintiffs in employment cases rarely prevail on all of the claims at any of these dispositive stages. Courts routinely approve settlements that provide a similar discounted range of the maximum potential recovery. *See, e.g., Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 256 (N.D. Cal. 2015) (approving wage-and-hour class action settlement where gross settlement amount was between 11% and 27% of plaintiffs’ potential recovery); *In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 256-58 (D. Del. 2002) (recognizing that a reasonable settlement amount can be 1.6% to 14% of the total estimated damages); *In Re Armored Car Antitrust Litig.*, 472 F. Supp. 1357, 1373 (N.D. Ga. 1979) (settlements with a value of 1% to 8% of the estimated total damages were approved); *In Re Four Seasons Secs. Laws Litig.*, 58 F.R.D. 19, 37 (W.D. Okla.1972) (approving 8% of damages); *Balderas v. Massage Envy Franchising, LLP*, 2014 WL 3610945, at *5 (N.D. Cal. July 21, 2014) (finding that settlement which amounted to 8% of maximum recovery “[fell] within the range of possible initial approval based on the strength of plaintiff’s case and the risk and expense of continued litigation.”); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated damages).

THE COURT SHOULD PRELIMINARILY APPROVE THE PAGA SETTLEMENT

38. Pursuant to the Settlement Agreement, \$60,000 from the Gross Settlement Amount shall be allocated to the resolution of the PAGA claim, of which 75% (i.e., \$45,000) will be paid directly to the LWDA, and the remaining 25% (i.e., \$15,000) will be paid to PAGA Members.

39. This result was reached after good-faith negotiation between the parties. The amount was valued as follows: Based on information and evidence produced by Defendant during discovery, Plaintiff’s Counsel determined that aggrieved employees worked a combined total of approximately

35,000 pay periods during the PAGA statute of limitations period (“PAGA Period”). Statutory penalties would be calculated according to Labor Code 2699(f)(2): If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

40. However, a number of courts have found that the “subsequent” penalty under PAGA applies only after a court or the Labor Commissioner determines that the employer has violated the Labor Code. *See Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th 334, 356 (2021) (“the increased \$200 civil penalty for ‘subsequent violation[s]’ does not apply unless [Plaintiff] presents evidence that the Labor Commission or a court notified [Defendant] that it was in violation of the Labor Code.”); *Bernstein v. Virgin Am., Inc.*, 990 F.3d 1157, 1173 (9th Cir. 2021) (reversing judgment as to “heightened civil penalties” because the defendant was not given notice by the Labor Commissioner when the “subsequent” violations occurred). Under this line of cases, Defendant’s exposure would be approximately $\$3,500,000 = 35,000 \text{ violative pay periods} \times \$100$.

41. It should be noted that PAGA gives the Court wide latitude to reduce the amount of civil penalties “based on the facts and circumstances of a particular case” when “to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(h). In reducing PAGA penalties, courts have considered issues including whether the employees suffered actual injury from the violations, whether the defendant was aware of the violations, and the employer’s willingness to fix the violation. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018) (awarding PAGA penalties of only 0.2% of the maximum); *see also Cotter v. Lyft, Inc.*, 193 F. Supp. 3d 1030, 1037 (N.D. Cal. 2016); *Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK (OPX), 2011 WL 7563047, at *4 (C.D. Cal. Aug. 12, 2011).

42. For example, during the penalty phase of trial in *Carrington*, the plaintiff requested PAGA penalties in the amount of approximately \$70 million. The trial court instead awarded only \$150,000—or 0.21% of the maximum—and stated that this reduction was warranted because (a) the Court did not believe it was appropriate to impose multiple penalties per pay period in which a violation occurred and (b) imposing the maximum penalty would be “unjust, arbitrary, and oppressive” based on

Starbucks's "good faith attempts" to comply with meal period obligations and because the court found the violations were minimal. *Carrington*, 30 Cal. App. 5th at 517-18. The Court of Appeal affirmed the lower court's reduced award of a \$150,000 penalty under PAGA. *Id.* at 529. If a similar reduction had been applied here, Plaintiff would have recovered only approximately \$7,350 ($\$3,500,000 \times 0.0021$ reduction).

43. Likewise, in *Covidien*, the Court reduced the potential penalties by over 82%, awarding \$500,000 instead of maximum penalties of \$2.8 million. *Covidien*, 2011 WL 7563047 at *4; *see also Thurman v. Bayshore Transit Mgmt.*, 203 Cal. App. 4th 1112, 1135-36 (2012) (affirming 30% reduction under specified PAGA claim where the employer produced evidence that it took its obligations seriously); *Elder v. Schwan Food Co.*, No. B223911, 2011 WL 1797254, at *5-*7 (Cal. Ct. App. May 12, 2011) (reversing trial court decision denying any civil penalties where violations had been proven, remanding for the trial court to exercise discretion to reduce, but not wholly deny, civil penalties); *Li v. A Perfect Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 WL 2236752, at *17 (N.D. Cal. June 15, 2012) (denying PAGA penalties for violation of California Labor Code section 226 as redundant with recovery on a class basis pursuant to California Labor Code section 226, directly); *Aguirre v. Genesis Logistics*, No. SACV 12-00687 JVS (ANx), 2013 WL 10936035 at *2-*3 (C.D. Cal. Dec. 30, 2013) (reducing penalty for past PAGA violations from \$1.8 million to \$500,000, after rejecting numerous other PAGA claims).

44. Plaintiff therefore determined an appropriate range of settlement for PAGA penalties as a percentage of the settlement range that was consistent with other hybrid class/PAGA settlements approved by California courts. *Dearaujo v. Regis Corp.*, No. 2:14-cv-01408-KJM-AC, 2016 WL 3549473 at *3 (E.D. Cal. June 29, 2016) (preliminarily approving \$1.95 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Garcia v. Gordon Trucking, Inc.*, No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575 at *7 (E.D. Cal. Oct. 31, 2012) (approving \$3.7 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Chu v. Wells Fargo Invst., LLC*, No. C 05-4526 MHP, 2011 WL 672645 at *1 (N.D. Cal. Feb. 16, 2011) (approving \$6.9 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Guerrero v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196 (Riverside County Super. Ct. July 16, 2013; Judge Matthew C. Perantoni)

(gross settlement fund of \$1,100,000, of which \$3,000 (or 0.3%) was allocated to the settlement of PAGA penalties); *Parra v. Aero Port Services, Inc.*, No. BC483451 (L.A. County Super. Ct. April 20, 2015; Judge Jane Johnson) (gross settlement fund of approximately \$1,458,900, of which \$5,000 (or 0.3%) was allocated to the settlement of PAGA penalties)

45. Where PAGA penalties are negotiated in good faith and “there is no indication that [the] amount was the result of self-interest at the expense of other Class Members,” such amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, No. CV-08-0844 EDL, 2009 WL 928133, at *9 (N.D. Cal. Apr. 3, 2009); *see, e.g., Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 579 (2010) (“[T]rial court did not abuse its discretion in approving a settlement which does not allocate any damages to the PAGA claims.”).

CAPSTONE LAW APC FIRM PROFILE

46. Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues.

47. In February, 2015, Ryan H. Wu and I were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for our work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act (“PAGA”) notwithstanding a representative action waiver in an arbitration agreement.

48. Recognized as a leading firm in the prosecution of PAGA enforcement actions, Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior Court (Marshalls of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.

49. Capstone has made important contributions to consumer protection law. In *McGill v. Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the right to seek public injunctive relief under the state’s consumer protection laws cannot be waived and that consumers need not satisfy class certification requirements to enjoin unfair business practices on

1 behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed
 2 a denial of class certification, making law that clarified the use of “benefit of the bargain” damages
 3 models in consumer class actions.

4 50. Capstone served as class counsel in a number of significant wage and hour settlements,
 5 including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case
 6 No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v.*
 7 *Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of
 8 pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour*
 9 *Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an
 10 \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.

11 51. Capstone has an established practice in automotive defect class actions and is currently
 12 appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No.
 13 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A.,*
 14 *Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

15 52. Capstone has settled over 100 high-stakes class and representative actions. Capstone’s
 16 settlements have directly compensated hundreds of thousands of California workers and consumers.
 17 Capstone’s actions have also forced employers to modify their policies for the benefit of employees,
 18 including changing the compensation structure for commissioned employees and changing practices to
 19 ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA
 20 enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of
 21 California.

22 53. The following is a representative sample of Capstone’s settlements:

- 23 a. *Navarro v. United Parcel Service, Inc.*, No. BC592098 (LA County
 24 Superior Court): gross settlement of \$16.5 million on behalf of
 25 approximately 180,000 non-exempt employees for wage and hour
 26 violations;
- 27 b. *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-
 28 PLA (N.D. Cal.): gross settlement of \$12 million on behalf of

- approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- c. *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
 - d. *Moore v. Petsmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
 - e. *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
 - f. *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
 - g. *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
 - h. *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
 - i. *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
 - j. *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
 - k. *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 non-exempt employees;
 - l. *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross

1 settlement of nearly \$5 million on behalf of over 100,000 non-exempt
2 workers for meal break and wage statement claims;

3 m. *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.):
4 gross settlement of nearly \$5 million on behalf of 2,700 non-exempt
5 employees following contested certification;

6 n. *Asghari v. Volkswagen Group of North America*, Case No. 13-02529
7 (C.D. Cal.): Settlement providing complementary repairs of oil
8 consumption defect, reimbursement for repairs, and extended warranty
9 coverage of certain Audi vehicles valued at over \$20 million;

10 o. *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.):
11 Settlement providing complimentary electric vehicle charging cards and
12 extending warranty coverage for the electric battery on the Nissan Leaf
13 valued at over \$10 million.

14 54. Attached as **Exhibit 6** is a true and correct copy of Capstone's firm resume.

15 55. To date, Capstone's attorneys have billed over 300 hours to litigate and settle this action.
16 These hours are reasonably valued at over \$200,000. Capstone has also incurred over \$20,000 in
17 litigation costs and expenses to date.

18 I declare under penalty of perjury under the laws of the United States of America that the
19 foregoing is true and correct. Executed this 10th day of October, 2024, at Los Angeles, California.

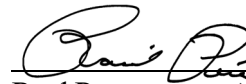
20 
21 Raul Perez

Exhibit 1

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. **Opt Outs.** 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. DUTIES OF THE PARTIES AFTER FINAL COURT APPROVAL

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 31 st 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 <i>cy pres</i> 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

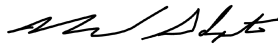
PLAINTIFF SHANIA COLE

Dated: _____, 2024

Shania Cole

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

NOTICE OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT*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.
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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 Workweeks¹ 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 Periods² 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

Exhibit 2

CASE NAME: COLE**Requesting Attorney:** Eduardo Santos**Date:** September 30, 2024**Plaintiff or Defense:** Plaintiff**Prepared By:** Tim Phillips**Firm Name:** Capstone Law, APC

50 Corporate Park, Irvine CA92606

Telephone: (310)712-8018

Tim@CPTGroup.com

Email: Eduardo.Santos@capstonelawyers.com**Direct Number:** (818) 415-2703**Main Number:** (800) 542-0900**PROJECT ASSUMPTIONS & ADMINISTRATIVE COSTS**

Class Size: 2,000	Undeliverable Mail Rate: 8%
Opt-Out Filing Rate: 1%	Payment Option: Check
No. of Checks Issued: 1,980	Unclaimed Funds: Cy Pres
Language Translation Services: Yes	Postage Total: \$2,941.47
Settlement Website: Static Website	Grand Total: \$24,363.47
Notice Procedures: Mail	CPT'S DISCOUNTED FEE: \$14,500.00

The services and numbers reflected herein are an estimate provided by counsel. If the actual services and number are different, our cost estimate will change accordingly.

The attached Terms and Conditions are included as part of our cost proposal. By accepting our costs proposal for this matter, you are thereby agreeing to the Terms and Conditions.

CASE SETUP

After receiving the data, CPT will scrub all records to eliminate duplicates and anomalies, ensuring a higher success percentage in delivering the Class Notice. Each Class Member will receive a unique mailing ID that will be utilized for all administrative purposes. CPT will translate the court Notice Packet into Spanish. All pertinent documents will be posted on a case-specific website.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Case Intake & Review	\$95.00	7	\$665.00
Programming: Data Base Setup	\$150.00	7	\$1,050.00
Spanish Translation	\$1,200.00	1	\$1,200.00
Static Website	\$500.00	1	\$500.00
Sub Total:			\$3,415.00

DIRECT MAIL NOTIFICATION

CPT will perform an address update via NCOA and, if necessary, conduct an additional skip trace in order to ensure that mail is delivered to the most current address possible. A detailed notice and a one-page opt-out form will be mailed via US Mail. Spanish notice available upon request.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Format Documents	\$95.00	2	\$190.00
National Change of Address Search (NCOA)	\$250.00	1	\$250.00
XML Lex ID Skip Trace	\$0.75	200	\$150.00
Print & Mail Notice Packets	\$1.00	2,000	\$2,000.00
First-Class Postage (up to 1 oz.)*	\$0.69	2,000	\$1,380.00
Sub Total:			\$3,970.00

*Postage costs are subject to change at anytime. The final rate will be determined at the time of mailing.

PROCESS RETURNED UNDELIVERABLE MAIL

According to CPT's historical data, 8% of the notices would be returned as undeliverable. Upon notification from USPS, CPT will conduct a skip trace to try to find a current address. As a result, 70% of the undeliverable notice packets are remailed.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Clerical Staff	\$60.00	2	\$120.00
Update Undeliverable Mail Database	\$0.50	160	\$80.00
Skip Trace for Best Address	\$1.00	142	\$142.00
Print & Remail Notice Packets	\$1.00	112	\$112.00
First-Class Postage (up to 1 oz.)	\$0.69	112	\$77.28
Sub Total:			\$531.28

OPT-OUT PROCESSING

CPT will thoroughly examine the submitted responses to identify and remove any duplicates, fraudulent entries, or other invalid submissions. CPT will handle the processing and verification of any opt-outs, objections, and other responses submitted by class members. Deficient opt-outs will be sent a notice by mail, offering the class member a chance to cure.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: De-duplication/Scrubbing	\$150.00	6	\$900.00
Project Manager: Validate Opt-Outs	\$95.00	1	\$95.00
Clerical Staff	\$60.00	1	\$60.00
Opt-Out Processing	\$2.50	20	\$50.00
Print & Mail Deficiency/Dispute Notices	\$1.50	1	\$1.50
First-Class Postage (up to 1 oz.)	\$0.69	1	\$0.69
Review & Process Deficiency Responses	\$10.00	1	\$10.00
Sub Total:			\$1,117.19

CLASS MEMBER SUPPORT

CPT will establish a toll-free telephone number equipped with interactive voice response (IVR) capabilities and live customer support representatives. Live support will be available during regular business hours, Monday to Friday, 9:00 AM to 5:30 PM, Pacific Time (PT). The dedicated case phone number shall be operational for a maximum of 120 days following the disbursement.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Toll-Free Number Establish/Setup	\$150.00	2	\$300.00
Live Call Center Support Reps.	\$3.00	400	\$1,200.00
Sub Total:			\$1,500.00

SSN VERIFICATION

Authenticate Social Security Number for validity using IRS verification processes and/or IRS backup withholdings processes.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: SSN Selection	\$150.00	1	\$150.00
Department Manager: Analysis & Reporting	\$95.00	3	\$285.00
IRS SSN Verification	\$0.10	1,980	\$198.00
Sub Total:			\$633.00

DISTRIBUTION SERVICES

CPT will establish and oversee the administration of the 26 CFR § 1.468B-1 compliant Qualified Settlement Fund (QSF) for a maximum duration of one year following the distribution of funds. Once approved, CPT will conduct the essential calculations and distribute funds. CPT will send a magnetic ink character recognition (MICR) check to class members who are eligible. CPT employs a Payee Positive Pay System to reconcile cashed checks and performs monthly account reconciliations for the QSF. Undeliverable checks are skip traces to determine a current address and are remailed accordingly. Requests for check reissues will be processed continuously and mailed to class members.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: Calculation Totals	\$150.00	3	\$450.00
Project Supervisor: Review of Distribution	\$150.00	3	\$450.00
Project Manager: Correspondence w/Parties	\$95.00	2	\$190.00
Programming: Setup & Printing of Checks	\$150.00	4	\$600.00
Obtain EIN, Setup QSF/Bank Account	\$150.00	3	\$450.00
Print & Mail Notice, Checks & W2/1099	\$2.00	1,980	\$3,960.00
First-Class Postage (up to 1 oz.)	\$0.69	1,980	\$1,366.20
Project Supervisor: Account Reconciliation	\$150.00	12	\$1,800.00
Update Undeliverable Checks Database	\$0.50	99	\$49.50
Skip Trace for Best Address	\$1.00	99	\$99.00
Remail Undeliverable Checks	\$2.50	90	\$225.00
First-Class Postage (up to 1 oz.)	\$0.69	90	\$62.10
Re-Issue Checks as Required	\$5.00	80	\$400.00
First-Class Postage (up to 1 oz.)	\$0.69	80	\$55.20
Sub Total:			\$10,157.00

TAX REPORTING & SETTLEMENT CONCLUSION

CPT prepares annual tax reporting on behalf of the QSF and Federal and State taxes in accordance with current state and federal regulations. All parties will be furnished with weekly and final reports. A declaration attesting to due process will be provided to all parties. Unclaimed funds will revert to a Cy Pres designated by the parties.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Supervisor: Reconcile Uncashed Chk	\$150.00	1	\$150.00
Programming: Weekly & Final Reports	\$150.00	2	\$300.00
Project Supervisor: Final Declaration	\$150.00	2	\$300.00
Project Manager: Account Files Sent to Atty	\$95.00	2	\$190.00
CATax Preparation*	\$600.00	1	\$600.00
Annual Tax Reporting to IRS*	\$1,000.00	1	\$1,000.00
QSF Annual Tax Reporting	\$500.00	1	\$500.00
Unclaimed Funds Revert to Cy Pres	Included	1	Included
Sub Total:			\$3,040.00

*CPT will file Federal and California taxes in accordance with current state and federal regulations. Additional charges will apply if the Settlement/Order/parties require(s) multiple state tax filings.

Total Administration Costs: \$24,363.47

Courtesy Discount: -\$9,863.47

CPT'S DISCOUNTED FLAT FEE: \$14,500.00

CURRICULUM VITAE



50 Corporate Park
Irvine, CA 92606



www.CPTGROUP.com



1 (800) 542-0900



COMPANY PROFILE

CPT Group, Inc. ("CPT"), founded in 1984, is a leading provider of notice and settlement class action administration services and has been appointed as the third-party administrator by all major courts. Throughout our history, CPT has disbursed billions of dollars in settlement funds, serviced over 250,000,000 class members, and administrated over 7,000 cases. CPT offers a wide range of class action administrative services for developing, managing, and executing all stages of integrated notice plans and settlements. This includes pre-certification and discovery mailings, class-certification mailings, claims processing and administration, data management, data reporting, settlement fund administration, legal noticing campaigns, website design, and web hosting. The project management team, call center, data entry center, IT, and production facilities are all located at the corporate headquarters in Irvine, CA.

QUALITY ASSURANCE & SECURITY

The integrity of CPT's work and our stringent quality assurance protocols are strengthened by the staff's ability to operate in close proximity keeping the work managed in-house. With a commitment to rigorous security protocols and controls, CPT upholds an obligation to its clients to maintain data and cyber security practices that comply with AICPA SOC 2 - Type II.

DIVERSITY & INCLUSION

CPT believes that promoting diversity starts with a commitment to building understanding and awareness. Diversity is not just cultural or ethnic, it includes people of all ages and backgrounds. We are guided by a commitment to removing barriers to the recruitment, retention, and advancement of talented individuals from historically excluded populations. CPT recruits and rewards team members based on capability and performance, regardless of race, gender, sexual orientation, gender identity or expression, lifestyle, age, educational background, national origin, religion, or physical ability.

AREAS OF EXPERTISE

- **PROJECT MANAGEMENT** - At the heart of our administrative capabilities is the ability to manage and process our cases as a neutral TPA with efficiency, accuracy, and in compliance with the terms of the parties' agreement. Our skilled approach in the use of technology, effective management, and quality assurance is the core of our operation.
- **Claims Administration** - CPT conducts extensive Quality Assurance processes throughout the duration of the claims period. Any responses received from Class Members are processed according to our strict internal procedures and in accordance with the Settlement Agreement. Counsel is provided with all required reporting, including, where applicable, a list of approved claimants and the settlement calculations for each.
- **Call Center** - CPT's case support representatives stand ready to service all case inquiries offering live, multi-lingual, 1-1 response, 5 days a week during business hours (extended hours available). Interactive Voice Response (IVR) assures that class members receive the assistance and support they require 24 hours a day. A proprietary call tracking system combined with highly trained representatives ensures an accurate class member history for each and every call.
- **Data Management/Reporting** - Through programmatic analysis, CPT will standardize the class data to compile a master mailing list. CPT prepares weekly status reports for each case that summarize the status of returns and responses such as mail pieces and claim form submissions. CPT is SOC 2 Type II certified, which ensures necessary measures are taken to safeguard all class member data.
- **Noticing Expertise** - CPT's legal notice experts have a combined experience of over 25 years in the industry and come together to plan a successful notice campaign based on the requirements of the Settlement. After strategizing and consulting with Counsel, our team will determine the best method of notification to reach your intended target audience. Whether notification will be through means of a known or unknown data set, CPT will execute the campaign with precision and accountability.
- **Settlement Fund Administration** - CPT's team of tax and accounting professionals manages all fund distributions through a rigorous and supervised process. Stringently following the terms of the Court Order, CPT maintains its Qualified Settlement Fund (QSF) accounts through federally insured banks with access restricted to authorized personnel only. On behalf of the QSF, CPT will handle all remittances and reporting to local, state, and federal tax authorities.



EXPERIENCE

CPT has extensive experience providing court-approved notice and administration services in complex, large fund, and top-tier class action settlements across a broad spectrum of unique subject matters. Below are highlights from a few relevant cases we handled:

- ***Helmick v. Air Methods Corp., Alameda County Superior Court, Case No. RG13665373***: (*Top Settlements*, 2020) Administration of this \$78,000,000 employment settlement included direct mailed notice to class members, production and maintenance of a settlement website, and distribution of over \$48,000,000 to eligible claimants.
- ***Wackenhut Wage and Hour Cases, Los Angeles County Superior Court, Case No. JCCP Np. 4545***: (*Top Settlements*, 2019) To notify potential class members in this \$130,000,000 wage and hour settlement, CPT' provided email and text notice in both English and Spanish, maintained a dedicated settlement website with an online claims portal, and a toll-free support hotline. CPT's outreach efforts resulted in a 57.14% filing rate.
- ***Sanchez v McDonald's Restaurants of California, Los Angeles County Superior Court, Case No. BC499888***: (*Top Settlements*, 2019) Notice methods in this \$26,000,000 wage and hour settlement included both mailed notice in both English and Spanish and email notification, as well as a settlement website and toll-free case support hotline.
- ***Augustus et al. v. American Commercial Security Services, Inc., Los Angeles County Superior Court, Case No. BC336416***: (*Top Settlements*, 2018) Administration duties in this \$110,000,000 employment settlement included direct mailed notice to class members in both English and Spanish and distributing over \$72,000,000 in settlement funds to valid claimants.
- ***Abdullah v U.S. Security Associates, Inc., Case No. 2:15-cv-09-00984 PSG-E (C.D. Cal.)***: (*Top Settlements*, 2018) Administration of this \$21,000,000 wage and hour settlement included direct mailed notice to class members, class member support hotline and distribution of over \$13,000,000 to eligible claimants.
- ***Thompson v. 1-800 Contacts, Inc., Vision Direct, Inc., Walgreens Boots Alliance, Inc., Walgreen Co., Arlington Contact Lens Service, Inc., National Vision, Inc., Luxottica of America, Inc. (f/k/a Luxottica Retail North America, Inc.), Case No. 2:16-cv-01183 (D. Utah)***: This \$40 million-dollar anti-trust settlement comprised of four settlement classes required design and implementation of a robust, multi-faceted two-part notice program with a multi-layered media campaign combining the use of various digital advertisement platforms, a press release, a dedicated settlement website with an online claims portal, and a toll-free support hotline. The notice program also included an e-mail notice campaign to approximately 10,000,000 potential class members. Combined notice efforts resulted in over 140,000 claimants.
- ***Broomfield v. Craft Brew Alliance, Inc., Case No. 5:17-cv-01027-BLF (N.D. Cal.)***: CPT's outreach efforts in this \$20 million consumer settlement included a multi-media channel approach to notice which employed direct mailed notice and a digital, social, and mobile media campaign which reached an impressive 91.43% of the targeted 8,000,000 class members. CPT processed both electronic and hard copy claim forms and valid claimants were paid via paper checks, e-Check, and ACH.
- ***Livingston v. MiTAC Digital Corporation, Case No. 4:18-cv-05993-JST (N.D. Cal.)***: In this matter, CPT was charged with distributing direct notice via email and mail as well as the design and execution of a multi-media channel supplemental notice campaign that combined the use of various digital advertisement platforms, a nationwide press release, print publication, a dedicated settlement website, and a toll-free support hotline. Combined, these efforts reached 82% of the targeted audience. Claims processing included claim forms submitted both digitally and hard copy and valid claimants received paper checks.
- ***Lim, et al. v. In re Vendi, Inc., Superior Court of the State of California, County of Santa Clara, Case No. 1-14-CV-259897***: In this \$3 million data breach settlement, CPT notified approximately 9,000,000 potential class members through a combination of email, postcard, and publication notice. Claims processing included claim forms submitted both digitally and hard copy, and valid claimants received paper checks.



EXPERIENCE

- ***Mael v. Evanger's Dog and Cat Food Co., Inc., et al. Case No. NO. 3:17-cv-05469-RBL (W.D. Wash):*** Notice efforts included a multi-media program designed to reach settlement class members through a combination of direct and supplemental notification methods. Email, internet banner and social media advertisements, a dedicated settlement website, and a toll-free support hotline were used to effectively reach 87% of the target audience nationwide. CPT processed both electronic and hard copy claim forms and valid claimants were paid cash awards or product certificates.
- ***Jacobo, et al. v. Ross Stores, Inc., Case No. 2:15-cv-04701-MWF-AGRx (C.D. Cal.):*** In this \$4.85 million consumer settlement, CPT notified approximately 9,000,000 potential class members via direct email notice and a media campaign that combined the use of various digital advertisement platforms, a nationwide press release, print publication in People magazine, a dedicated settlement website, and a toll-free support hotline. Ultimately, CPT processed 285,000 claims and disbursed \$3,000,000 in merchandise certificates.
- ***Gold, et al. v. Lumber Liquidators, Inc., Case No. NO. 3:14-cv-05373-RS (N.D. Cal.):*** The Notice Plan for this matter relied heavily on direct notice, but to ensure effective reach also encompassed supplemental notice efforts including digital advertisements, a nationwide press release, a dedicated settlement website, and a toll-free support hotline. CPT processed claims submitted electronically, and hard copy and valid claimants were paid via a combination of paper checks and vouchers.
- ***Bokelman, et al. v. Zippy's/FCH Enterprises, Inc., United States District Court for the District of Hawaii, Case No. 18-00209-RJB-RLP:*** Notice efforts for this data breach settlement included a multi-media program designed to reach settlement class members through a combination of direct mail, email, in-store notice, and supplemental media. The digital notice campaign served impressions for 8-weeks across Google Display Network (GDN), programmatic display, press releases, Facebook, Instagram, Twitter, print publication, and Google Ads. Overall, the supplemental notice campaign alone reached 72% of the target audience nationwide.
- ***Coleman, et al. v. Boys Town National Research Hospital, District Court of Douglas County, Nebraska, Case No. D01CI18008162:*** Notice to 98,957 class members in this data breach settlement was mailed in April 2020 when CA businesses were under stay-at-home orders. CPT was able to execute and carry out all administrative duties outlined in the settlement agreement without any disruption due to our robust Pandemic Policy that was immediately put into practice once the Governor gave executive orders.
- ***Christofferson, et al., v. Creation Entertainment, Inc., Superior Court of the State of California, County of Los Angeles, Case No. 19STCV11000:*** Notice efforts for this data breach settlement included a multi-media program designed to reach settlement class members through direct mail, email, and supplemental media. The digital notice campaign served impressions across Google Display Network (GDN), programmatic display, PR Newswire national Newswire, Facebook, Instagram, Twitter, print publication, Google Ads and Bing Ads. CPT's supplemental notice program reached 75% of the target audience nationwide. In addition, CPT served notice to 94.6% of the class members for whom the defendant provided an email address and 99.5% by mail. CPT reported a 3.79% filing rate.





QUALIFICATIONS & EXPERIENCE OF KEY PERSONNEL

JULIE N. GREEN, **Senior Vice President of Operations** **Notice Expert**

With 17 years at CPT, Julie Green is a driving force behind the company's ongoing success. Through oversight responsibilities for the entire operation, she has an expert hand in all aspects of notice administration and demands quality and success for each step of the process. Making informed recommendations to meet the goals of complex and unique settlements, Julie has been responsible for the design and or implementation of thousands of class action notice programs. She understands the necessary mechanics to ensure that effective notice is executed while making certain neutrality and client confidentiality is continually maintained. In her position, Julie leverages the Operations Team's abilities to meet the goals and objectives of the Business Development Team, while ensuring that CPT's clients are met with exceptional service and a successful notice program. Julie holds a BA in Drama and Psychology & Social Behavior from the University of California, Irvine.

RANDI J. MARTZ, **Director of Marketing & Business Development** **Notice Expert**

Ms. Martz serves as Director of Marketing and Business Development and has been with CPT Group for more than 14 years. Randi is responsible for critically analyzing the requirements of a settlement for legal notification through secondary market research, data analysis, planning, and execution. Upon consulting with clients to determine the needs of the Settlement parties, Randi finds ways to increase efficiencies to implement cost savings for the RFPs. She is also tasked with researching and analyzing target markets to develop strategic and tactical plans to grow the business. As the liaison between the Business Development and Operations Teams, Randi collaborates on identifying critical business development and marketing opportunities to strengthen the Settlement and Client's core objectives. Randi received her B.A. in Business Administration, a Professional Concentration, from California State University of Fullerton.

TIM PHILLIPS, **Vice President, Business Development**

Tim Phillips has been a member of CPT Group since 2010, and in the attorney service and litigation support industry for 15 years. As a senior staff member of the sales team, Tim is an intricate piece of the overall puzzle and has been a driving force behind the success at CPT. His leading sales, consulting, and marketing strategies have established CPT as a premier Class Action Settlement Administrator. Tim has proven to be the leading wage and hour consultant in California and brings in over 200 settlements a year in all realms of class action. Tim provides exemplary service to his clients with a steadfast goal that longevity of the relationship is most important.

JACQUELINE N.K. HITOMI, **Director of Settlement & Treasury Services**

Jackie Hitomi is the Director of Settlement & Treasury Services at CPT Group. With 15 years of experience in the class action industry, Jackie oversees the distribution process and is responsible for ensuring the accuracy of settlement calculations and compliance with court-approved agreements. Jackie manages a team of disbursement and tax administrators and provides guidance to the case management team for complex settlements. As a Director, Jackie serves as a trusted contact for clients and assists with the effectuation of multifaceted projects. She is also a key contributor to the development and execution of the settlement administration process. Jackie began her legal career as a Paralegal at the Orange County District Attorney's Office and has also held Senior Paralegal positions in several law firms in Orange County and Los Angeles. She received her B.A. in International Relations and Law & Public Policy, from the University of Southern California, and completed the ABA Paralegal Studies from the University of California, Los Angeles.

ABEL E. MORALES, **Director of Operations**

Abel Morales is the Director of Operations at CPT Group. Since joining CPT in 2010, Abel has handled hundreds of class action cases from inception through distribution and has become an expert in complex settlements. He is the primary client contact and is well trusted for his expertise in the class action industry. Abel oversees the Claims Processing Department, Production Department, and Class Member Support Services. His wide range of expertise provides valuable insight into all facets of the Administration process. Prior to CPT Group, Abel was a Senior Analyst for 9 years at a prominent Fortune 500 mutual insurance holding company. Abel also holds a B.A. in International Finance from the California State University of Fullerton. He is bilingual in Spanish.



QUALIFICATIONS & EXPERIENCE OF KEY PERSONNEL

J. LES GAINOUS, Software Development Manager

J. Les Gainous has over 30 years of experience in developing and architecting enterprise-level software applications, with 10 of those years as a solutions architect with the Microsoft Corporation. At Microsoft, Les was involved with major software application projects at many Fortune 50 companies, including corporations such as Motorola, Toyota America, Merck Pharmaceuticals, Chevron, VISA America, and Charles Schwab. At CPT his team is primarily responsible for architecting and engineering CPT's Line of Business software application. The application allows cross-case functionality via a centralized system-of-record data store. Having this cross-case functionality, the application allows for automating sets of processes around the administration of class action cases. Along with automation, his team minimizes data redundancies. Les is a graduate of Florida State University with a BS in Business Administration and a minor degree in Computer Science.

ALEJANDRA ZARATE, Supervising Case Manager

Alejandra Zárate de Landa is CPT Group's Case Quality Assurance Manager. In her role, she is responsible for analyzing the Stipulations of Settlement as well as the Court Orders to ensure compliance in all aspects of case administration as well as the allocation of settlement funds to class members. Alejandra started with CPT Group over 15 years ago in the claims department and became a Case Manager in 2009. She was promoted into her current role in 2016. Alejandra received her degree in Computer Engineering from Autonomous University of Baja California in Ensenada, B.C. Mexico. While earning her degree, she worked as a web development assistant and helped develop a web page for students interested in taking off-campus classes.

TIM CUNNINGHAM, Supervising Case Manager

Tim Cunningham has successfully managed over 400 cases in his 11 years at CPT Group. As Supervising Case Manager, under his direction, a team of Case Managers and Assistants are trained and guided to oversee all case activity—from administrative conception to disbursement. Tim and his team are also the primary contact between the firm and Counsel while also working closely throughout administration with the IT, Mailing, Claims, and Call Center departments. Prior to CPT Group, Tim was a Lead Relationship Manager for 10 years at a prominent Fortune 500 mutual insurance holding company. Tim earned his B.A. in Public Administration with a minor in English from California State University San Diego.

CAROLE THOMPSON, Supervising Case Manager

Carole Thompson is a Supervising Case Manager at CPT Group. In this role, she leads a team of Case Managers and Assistants and ensures the proper guidance and supervision is upheld for high accuracy levels and prompt adherence to court-ordered deadlines. She is also responsible for overseeing all case activities and having a comprehensive understanding of each case her team handles. Carole initially joined CPT in 2010 as a Case Manager. In her career prior, she spent 12 years in the Financial Industry at a prominent Fortune 500 annuities company. Then, when an opportunity took her family to Minot, North Dakota, she had to leave CPT, but gained 5 years of Human Resources expertise, first as Benefits Specialist at Trinity Health and then as a Benefits Coordinator at Food Management Investors, Inc. Upon returning to California in 2016, Carole rejoined CPT, providing a strong professional background to the team.

TARUS DANCY Supervising Case Manager

As a Supervising Case Manager at CPT Group, Tarus leads a team of Case Managers that oversee a breadth of cases, including Wage & Hour, pre-settlement Belaire, and Class Certification matters. With over a decade of experience in project management, Tarus brings a track record of guaranteeing projects are completed on schedule and in accordance with case specifications. In addition, his exceptional communication and leadership abilities support the continuity of the various projects he oversees. Tarus holds an M.B.A. in Project Management from the Florida Institute of Technology and a B.A. in Communications from the University of Memphis.

EXHIBITS

EXHIBIT 1. CPT'S INFORMATION SECURITY STATEMENT

EXHIBIT 2. CPT'S DATA AND SETTLEMENT FUND TRANSMISSION METHODS

Exhibit 3

**CASE ASSUMPTIONS**

Class Members	2,000
Opt Out Rate	1%
Opt Outs Received	20
Total Class Claimants	1,980
Subtotal Admin Only	\$14,500.00

Not-to-Exceed Total \$14,500.00

For 2000 Members

Pricing Good for Scope of Estimate Only

All Aspects of Escheating to the State of CA Included

September 30, 2024

Case: Cole Opt-Out Administration wTranslation

Phoenix Contact: Jodey Lawrence
 Contact Number: 949.566.1455
 Email: Jodey@phoenixclassaction.com

Requesting Attorney: Eduardo Santos
 Firm: CAPSTONE
 Contact Number: 310.556.4811
 Email: Eduardo.Santos@capstonelawyers.com

Assumptions and Estimate are based on information provided by counsel. If class size changes, PHX will need to adjust this Estimate accordingly.
 Estimate is based on 2000 Class Members. Class data Must be sent in Microsoft Excel or uploaded in the same format. Class Data Must be sent in one spreadsheet, with no additional programming needed. A rate of \$150 per hour will be charged for any additional analysis or programming. Pricing good for 90 days.

Case & Database Setup / Toll Free Setup & Call Center / NCOA (USPS)

Administrative Tasks:	Rate	Hours/Units	Line Item Estimate
Programming Manager	\$100.00	2	\$200.00
Programming Database & Setup	\$100.00	2	\$200.00
Toll Free Setup*	\$157.00	1	\$157.00
Call Center & Long Distance	\$2.00	16	\$32.00
NCOA (USPS)	\$200.00	2	\$400.00
Total			\$989.00

* Up to 120 days after disbursement

Data Merger & Scrub / Notice Packet, Opt-Out Form & Postage / Translation / Reporting

Project Action	Rate	Hours/Units	Line Item Estimate
Notice Packet Formatting	\$100.00	2	\$200.00
Data Merge & Duplication Scrub	\$0.20	2,000	\$400.00
Notice Packet & Opt-Out Form	\$0.95	2,000	\$1,900.00
Estimated Postage (up to 2 oz.)*	\$0.69	2,000	\$1,380.00
Static Website	\$250.00	1	\$250.00
Translation	\$1,000.00	1	\$1,000.00
Total			\$5,130.00

* Prices good for 90 days. Subject to change with the USPS Rate or change in Notice pages or Translation, if any.



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Skip Tracing & Remailing Notice Packets / Tracking & Programming Undeliverables			
Project Action:	Rate	Hours/Units	Line Item Estimate
Case Associate	\$55.00	3	\$165.00
Skip Tracing Undeliverables	\$0.70	150	\$105.00
Remail Notice Packets	\$0.95	150	\$142.50
Estimated Postage	\$0.69	150	\$103.50
Programming Undeliverables	\$50.00	3	\$150.00
		Total	\$666.00

Database Programming / Processing Opt-Outs, Deficiencies or Disputes			
Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Claims Database	\$135.00	2	\$270.00
Non Opt-Out Processing	\$200.00	1	\$200.00
Case Associate	\$55.00	2	\$110.00
Opt-Outs/Deficiency/Dispute Letters	\$10.00	2	\$20.00
Case Manager	\$85.00	3	\$255.00
		Total	\$855.00

Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks			
Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Calculations	\$100.00	2	\$200.00
Disbursement Review	\$100.00	2	\$200.00
Programming Manager	\$95.00	3	\$285.00
QSF Bank Account & EIN	\$100.00	2	\$200.00
Check Run Setup & Printing	\$100.00	4	\$400.00
Mail Class Checks *	\$0.75	2,000	\$1,500.00
Estimated Postage	\$0.69	2,000	\$1,380.00
		Total	\$4,165.00

* Checks are printed on 8.5 x 11 in. sheets with W2/1099 Tax Filing



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Tax Reporting & Reconciliation / Re-Issuance of Checks / Conclusion Reports and Declarations			
Project Action:	Rate	Hours/Units	Line Item Estimate
Case Supervisor	\$125.00	2	\$250.00
Remail Undeliverable Checks (Postage Included)	\$2.00	100	\$200.00
Case Associate	\$50.00	3	\$150.00
Reconcile Uncashed Checks	\$75.00	3	\$225.00
Conclusion Reports	\$100.00	2	\$200.00
Case Manager Conclusion	\$85.00	2	\$170.00
Final Reporting & Declarations	\$125.00	2	\$250.00
IRS & QSF Annual Tax Reporting * (1 State Tax Reporting Included)	\$1,250.00	1	\$1,250.00
Total			\$2,695.00

* All applicable California State & Federal taxes, which include SUI, ETT, and SDI, and FUTA filings. Additional taxes are Defendant's responsibility.

Estimate Total: \$14,500.00



TERMS AND CONDITIONS

Provisions: The case estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make any provision for any services or class size not delineated in the request for proposal or stipulations. Proposal rates and amounts are subject to change upon further review, with Counsel/Client, of the Settlement Agreement. Only pre-approved changes will be charged when applicable. No modifications may be made to this estimate without the approval of PSA (Phoenix Settlement Administrators). All notifications are mailed in English language only unless otherwise specified. Additional costs will apply if translation into other language(s) is required. Rates to prepare and file taxes are for Federal and California State taxes only. Additional charges will apply if multiple state tax filing(s) is required. **Pricing is good for ninety (90) days.**

Data Conversion and Mailing: The proposal assumes that data provided will be in ready-to-use condition and that all data is provided in a single, comprehensive Excel spreadsheet. PSA cannot be liable for any errors or omissions arising due to additional work required for analyzing and processing the original database. A minimum of two (2) business days is required for processing prior to the anticipated mailing date with an additional two (2) business days for a National Change of Address (NCOA) update. Additional time may be required depending on the class size, necessary translation of the documents, or other factors. PSA will keep counsel apprised of the estimated mailing date.

Claims: PSA's general policy is to not accept claims via facsimile. However, in the event that facsimile filing of claims must be accepted, PSA will not be held responsible for any issues and/or errors arising out of said filing. Furthermore, PSA will require disclaimer language regarding facsimile transmissions. PSA will not be responsible for any acts or omissions caused by the USPS. PSA shall not make payments to any claimants without verified, valid Social Security Numbers. All responses and class member information are held in strict confidentiality. Additional class members are \$10.00 per opt-out.

Payment Terms: All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the data and/or notice documents. PSA bills are due upon receipt unless otherwise negotiated and agreed to with PSA by Counsel/Client. In the event the settlement terms provide that PSA is to be paid out of the settlement fund, PSA will request that Counsel/Client endeavor to make alternate payment arrangements for PSA charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the settlement account is funded by Defendant, or no later than the time of disbursement. Amounts not paid within thirty (30) days are subject to a service charge of 1.5% per month or the highest rate permitted by law.

Tax Reporting Requirements

PSA will file the necessary tax returns under the EIN of the QSF, including federal and state returns. Payroll tax returns will be filed if necessary. Under the California Employment Development Department, all taxes are to be reported under the EIN of the QSF with the exception of the following taxes: Unemployment Insurance (UI) and Employment Training Tax (ETT), employer-side taxes, and State Disability Insurance (SDI), an employee-side tax. These are reported under Defendant's EIN. Therefore, to comply with the EDD payroll tax filing requirements we will need the following information:

1. Defendant's California State ID and Federal EIN.
2. Defendant's current State Unemployment Insurance (UI) rate and Employment Training Tax (ETT) rate. This information can be found in the current year DE 2088, Notice of Contribution Rates, issued by the EDD.
3. Termination dates of the class members, or identification of current employee class members, so we can account for the periods that the wages relate to for each class member.
4. An executed Power of Attorney (Form DE 48) from Defendant. This form is needed so that we may report the UI, SDI, and ETT taxes under Defendant's EIN on their behalf. If this form is not provided we will work with the EDD auditors to transfer the tax payments to Defendant's EIN.
5. Defendant is responsible for reporting the SDI portion of the settlement payments on the class member's W-2. PSA will file these forms on Defendant's behalf for an additional fee and will issue an additional W-2 for each class member under Defendant's EIN, as SDI is reported under Defendant's EIN rather than the EIN of the QSF. The Power of Attorney (Form DE 48) will be needed in order for PSA to report SDI payments.

Exhibit 4

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Cole

Monday, September 30, 2024

Requesting Attorneys Name:

Eduardo Santos

E-Mail:

Eduardo.Santos@capstonelawyers.com

ILYM Contact:

Lisa Mullins

E-Mail:

Lisa@ilymgroup.com

Contact Number:

714.878.8836

Estimate For Administrative Solutions

KEY ASSUMPTIONS	
Total Number of Class Members	2,000
Estimated Percentage of Remails	15%
Certified Spanish Translation (Available by Request)	Yes
ILYM Group Static Website	Yes
Case Duration (Years)	1

Summary Estimate: ILYM Group Fees & Expenses

Case Startup:	\$1,300.00
Project Management:	\$5,150.00
Notification & Mailing:	\$4,325.00
Distribution (Includes EIN, Bank Acct * /QSF Setup):	\$7,370.00
Case Conclusion:	\$1,705.00

Estimated ILYM Fees & Expenses: \$19,850.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Cole

Monday, September 30, 2024

Requesting Attorneys Name: Eduardo Santos

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	4	\$600.00
Programming of Class Database	Hourly	\$175.00	4	\$700.00

*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.

Subtotal \$1,300.00

PROJECT MANAGEMENT				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	8	\$960.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	4	\$280.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s)	Hourly	\$70.00	4	\$280.00
Report Processing	Hourly	\$70.00	4	\$280.00
NCOA	Flat Rate	\$650.00	1	\$650.00
Toll Free Customer Service Representative	Flat Fee	\$700.00	1	\$700.00
Certified Spanish Translation	Flat Fee	\$1,250.00	1	\$1,250.00
ILYM Group Static Website	Flat Fee	\$750.00	1	\$750.00
Weekly Reports	Flat Rate	\$750.00	1	Waived

Subtotal \$5,150.00

NOTIFICATION/MAILING				
Fulfillment of Notice, English only	Per Piece	\$1.25	2,000	\$2,500.00
USPS First Class Postage	Per Piece	\$0.60	2,000	\$1,200.00
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$1.75	300	\$525.00
Storage, Photocopies, Deliveries	Flat Fee	\$100.00	1	\$100.00

Subtotal \$4,325.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Cole

Monday, September 30, 2024

Requesting Attorneys Name: Eduardo Santos

Activity	Rate Type	Unit Cost	Volume	Amount
DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Distribution Setup & Management	Hourly	\$150.00	6	\$900.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	6	\$750.00
Check, Stub & Release - Print & Mail (W2/1099)	Per Check	\$1.00	2,000	\$2,000.00
USPS First Class Postage	Per Piece	\$0.60	2,000	\$1,200.00
Re-Mails (Forward/Skip trace Undeliverables up to 10%)	Per Piece	\$1.50	200	\$300.00
Preparation of Taxes	Hourly	\$120.00	6	\$720.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

*Additional Bank fees may apply

Subtotal **\$7,370.00**

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	3	\$300.00
Project Manager Final Reporting	Hourly	\$120.00	4	\$480.00
Process Unclaimed Funds to cy pres	Flat Fee	\$550.00	1	\$550.00
Declaration	Hourly	\$125.00	3	\$375.00

Subtotal **\$1,705.00**

Estimated ILYM Fees & Expenses: **\$19,850.00**

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

Exhibit 5

Cole - Wage and Hour Settlement Administration

Settlement Administration Services Estimate

September 30, 2024



Formerly known as





September 30, 2024

Eduardo Santos
Capstone Law APC

Dear Eduardo,

We appreciate the opportunity to submit this estimate for settlement administration services.

For the purposes of this estimate, Verita's duties include:

- I. Translate the Notice documents into Spanish;
- II. Update all class member contact information through the U.S. Postal Service's National Change of Address database;
- III. Print and mail a 4-page Notice to approximately 2,000 class members;
- IV. Conduct address searches for any Notices returned as undeliverable and re-mail to any newfound address;
- V. Establish and maintain a case website that will contain relevant case documents, important dates, and answers to frequently asked questions;
- VI. Process opt-outs and provide a Declaration of Notice Procedures to the parties indicating our compliance with the noticing efforts; and
- VII. Issue checks with enclosed forms W-2 and 1099 to appropriate class members, as required.

In addition, we included pricing associated with the following optional services:

- Provide live telephone support to handle any class member inquiries and fulfill notice packet requests; and
- Print and mail a 2-page Taxpayer Identification Number (TIN) Validation letter to correct any TIN discrepancies, as needed.

Please do not hesitate to contact me with any questions. We will hold this estimate open for ninety days from the date of this letter. Thank you for your time and consideration.

Sincerely,

Carla Peak
Vice President, Legal Notification Services
Verita Global, LLC
Tel: 610.304.4308
Email: cpeak@veritaglobal.com

Frank J. Gatto
Vice President, Mass Tort
Verita Global, LLC
Tel: 415.798.5967
Cell: 310.647.7828
Email: fgatto@veritaglobal.com



Cost Summary and Scope of Services

Description	Estimated Cost
Notice Procedures	\$29,345
Disbursement & Tax Reporting	\$16,200
Sub-total Administration Costs	\$45,545
Plus: Estimated Postage	\$3,081
Total Estimated Cost	\$48,626
Less: Client Courtesy Discount	(\$5,000)
Total Estimate Cost, with Discount	\$43,626

Administration costs will be discounted by \$5,000 provided there is no significant reduction to the scope of work.

All services are subject to Verita's Terms and Conditions of Service set forth as part of the estimate.

Data and Forms Management

Class member data will be provided to Verita in one complete electronic .csv or xls file. Each class member will be assigned a unique sequential control number that will be used throughout the administration process. Prior to mailing, the addresses will be updated using the National Change of Address System ("NCOA") to increase mail deliverability and accuracy.

Relevant documents will be formatted and translated. Proofs will be sent to all parties for approval prior to printing.

All paper and electronic documentation received throughout the duration of the case will be stored. Upon the conclusion of the case, and absent any court orders or client requests pertaining to retention specifications, physical materials will be returned or disposed of within ninety (90) days, and any returned undeliverable mail will be disposed of within 2 days of receipt. Storage of returned undeliverable mail will be billed as incurred.



Notification Methods

Mail Notice

Notices will be mailed to class members via First Class U.S. mail. All Notices returned with a forwarding address will be re-mailed to the new address indicated, and the class list will be updated accordingly.

Address Searches and Re-mails

Address searches will be conducted on all returned mail that does not contain a forwarding address. Notices will be re-mailed to any new addresses located through the search process.

Administration

Website

A case-specific website will be created and maintained to provide important court documents, dates, FAQs, forms and other pertinent case information. Class members will have the ability to view and print the Notice and other important documents.

Opt-out Processing

Requests for Exclusion will be processed, and copies will be provided to counsel and the Court.

Declaration for Final Approval

A Declaration of Notice Procedures detailing the administration process will be provided to the parties in conjunction with final approval

Disbursement and Tax Reporting

A Taxpayer ID number will be obtained, and an account will be opened for the settlement fund. The account will be used to make distributions to claimants, attorneys, and named plaintiffs, in accordance with the settlement agreement and applicable court orders.

Disbursement services include:

- An 8 ½" x 11" sheet with the check printed on safety paper on the bottom one-third and a transmittal letter printed on the top two-thirds;
- Through the Positive Pay system, we will regularly monitor the account for potential fraud;
- Daily updates of the check register to respond to claimant requests for misplaced checks and daily account reconciliation;
- Processing stop payment/re-issue requests, tracking and re-mailing undeliverable checks; and
- Issuing Forms 1099 and W2 to all appropriate class members as required.

All required taxes will be paid from the settlement fund, and we will work with a CPA firm to file all necessary tax returns.



Cole - Wage and Hour Settlement Administration

Contact: Carla Peak | 610.304.4308 | cpeak@veritaglobal.com

Contact: Frank Gatto | 310.647.7828 | fgatto@veritaglobal.com

September 30, 2024

Key Assumptions Used in Estimate Preparation

Class Size (number of members):	2,000
Case Duration (months):	12
Number of Electronic, Finalized Data Files Provided (Excel, Access, etc.):	1
Number of States that Employed Class Members:	1
CAFA Notice Required?	No
Claims Processing:	No
Address Searches:	Yes
% of returned notices to be forwarded:	1%
% of returned undeliverable notices:	10%
% of successful address searches:	90%
Media Campaign Required:	No
Expert Media Services:	No
Translations Required:	Yes
Number of Email Campaigns:	N/A
Reminder Mailing:	No
Duration of Claims Filing Period (weeks):	N/A
Type of Telephone Support:	None
Type of Website Support:	Static
Online Claims Filing:	No
Duration of Website Support (months):	12

Summary of Costs

Notice Procedures	\$29,345
Disbursement & Tax Reporting	\$16,200
Sub-Total Administration Costs	\$45,545
Plus Estimated Postage*	\$3,081
Total Estimated Cost**	\$48,626
Less Client Courtesy Discount****	(\$5,000)
Total Est. Cost, with Discount**	\$43,626

See Additional Services below



Cole - Wage and Hour Settlement Administration

Contact: Carla Peak | 610.304.4308 | cpeak@veritaglobal.com

Contact: Frank Gatto | 310.647.7828 | fgatto@veritaglobal.com

September 30, 2024

Notice Procedures	Response Rate	Quantity	Unit	Rate Per Unit	Estimated Cost	Total
Data and Forms Set-up						
Intake and Process Data, Set up Case Management System		20	hrs	\$160.00	\$3,200	
Format Document(s)		20	hrs	\$85.00	\$1,700	
Translate Documents into Spanish		2,678	words	\$0.37	\$1,000	
Sub-total of Data and Forms Set-up						\$5,900
Print/Mail Notice Packet						
NCOA Updates		2,000	units		\$250	
4-page Notice, Outer Envelope		2,000	units	\$0.70	\$1,400	
Print Production Management		10	hrs	\$85.00	\$850	
Forwarding of Returned Mail with USPS Forwarding Addresses	1%	20	units	\$1.45	\$29	
Data Entry for Re-mails to New Addresses		20	units	\$0.50	\$10	
Returned Undeliverable Mail	10%	200	units			
Handling of Returned Undeliverable Mail		1	hrs	\$85.00	\$85	
Sub-total of Print/Mail Notice Packet						\$2,624
Address Searches/Re-mails						
Number of Address Searches Performed		200	units	\$0.10	\$20	
Number of New Addresses Found	90%	180	units			
Re-mails to Found Addresses		180	units	\$1.45	\$261	
Staff Time for Address Searches/Re-mails		2	hrs	\$85.00	\$170	
Sub-total of Address Searches/Re-mails						\$451
Website Set-up & Maintenance						
Design & Set up Static Website		10	hrs	\$160.00	\$1,600	
Website Domain Registration (for duration of website)					\$175	
Maintenance		6	hrs	\$160.00	\$960	
Server Space rental		12	mos	\$50.00	\$600	
Sub-total of Website Set-up & Maintenance						\$3,335
Case Management, Opt Out Processing, and Declaration of Notice Procedures						
Case Management		65	hrs	\$185.00	\$12,025	
Principal Project Management		10	hrs	\$290.00	\$2,900	
Opt-Out/Objection Processing (per hr)		3	hrs	\$85.00	\$255	
Correspondence Processing		3	hrs	\$85.00	\$255	
Declaration of Notice Procedures		10	hrs	\$160.00	\$1,600	
Sub-total of Case Management, Opt Out Processing, and Declaration of Notice Procedures						\$17,035
Sub-total of Notice Procedures						\$29,345
Disbursement & Tax Reporting						
Estimated # of Approved Claims		2,000	units			
Funds Management, Obtain Tax ID		10	hrs	\$160.00	\$1,600	
Distribution Calculations & Prep		20	hrs	\$120.00	\$2,400	
Initial Payroll Set-up Fee (Includes 1 state)		1	units	\$575.00	\$575	
Tax Compliance		10	hrs	\$290.00	\$2,900	
Print/Mail Checks w/Forms W2 & 1099		2,000	cks	\$1.00	\$2,000	
Distribution Management		10	hrs	\$290.00	\$2,900	
Forms 1099 Reporting (annual)		1	ysr	\$100.00	\$100	
Returned Undeliverable Checks	1%	20	units			
Handling of Returned Undeliverable Mail		1	hrs	\$85.00	\$85	
Reissue Checks	1%	20	cks	\$4.50	\$90	
Post-Distribution Follow-up & Reports		15	hrs	\$120.00	\$1,800	
Settlement Fund Tax Returns (annual)		1	ysr	\$1,750.00	\$1,750	
Sub-total of Disbursement & Tax Reporting						\$16,200
SUB-TOTAL ADMINISTRATION COSTS						\$45,545
1 Plus Estimated Postage*						\$3,081
TOTAL ESTIMATED COST**						\$48,626
LESS CLIENT COURTESY DISCOUNT****						(\$5,000)
TOTAL ESTIMATED COST, WITH DISCOUNT						\$43,626
1 The USPS reserves the right to propose an increase in postage every 60 days.						

**Cole - Wage and Hour Settlement Administration**

Contact: Carla Peak | 610.304.4308 | cpeak@veritaglobal.com

Contact: Frank Gatto | 310.647.7828 | fgatto@veritaglobal.com

September 30, 2024

Additional Services	Response Rate	Quantity	Unit	Rate Per Unit	Estimated Cost	Total
Call Center Support						
Script Drafting and Management		5	hrs	\$160.00	\$800	
Monthly Maintenance Fees		12	mos	\$50.00	\$600	
Estimated # of Calls	5%	100	calls			
- Average Call Duration (minutes)		3	mins			
- Live Operator Line Charges		300	mins	\$1.25	\$375	
Long-Form Notice Packet Requests	5%	5	units			
- Fulfill Notice Packet Requests		5	units	\$1.50	\$8	
- Print Production Management		1	hrs	\$85.00	\$85	
Sub-total of Call Center Support						\$1,868
Plus Estimated Postage*						\$4
Sub-total of Call Center Support, Plus Estimated Postage*						\$1,871
Print/Mail TIN Validation Letters						
2-page TIN Validation Letter, #10 Window Envelope		TBD	units	\$1.50	TBD	
Estimated Postage*		TBD	units	\$0.730	(actual)	
Print Production Management		TBD	hrs	\$85.00	TBD	
Staff Hours Processing Responses		TBD	hrs	\$85.00	TBD	
Open/Image Form		TBD	units	\$0.60	TBD	
Sub-total of Print/Mail TIN Validation Letters						TBD

Standard Hourly Rates

Verita Standard Hourly Rates	Rate Per Unit
Principal	\$290.00
Director	\$235.00
Sr. Manager	\$185.00
Manager	\$160.00
Supervisor	\$120.00
Staff	\$60.00 - \$85.00

Other Services And Out-Of-Pocket Expenses

Other Services and Ad Hoc Reporting, as needed or requested	Rate Per Unit	(standard hourly rates)
Other Charges and Out-of-Pocket Costs***		(actual)

* Estimated Postage and Handling.

** Does not include applicable taxes or escheatment services.

*** Includes, but is not limited to long distance calls, overnight shipping, photocopies, storage, PO Box rentals, broker fees, etc.

*** Discount is contingent upon no significant change in the scope of work.

This Settlement Administration Estimate and the attached Cost Summary & Scope of Services (together, the "Proposal") are valid for ninety days from September 30, 2024. After such period, Verita reserves the right to amend the Proposal (including, without limitation,

All services to be provided to the undersigned (the "Client") and all fees and costs set forth in the Proposal are subject to the terms, specifications, assumptions and conditions set forth in the Proposal and the attached Terms and Conditions (the "Terms of Service"). The estimated fees and charges in the Proposal are based on certain information provided to Verita as well as significant assumptions. Accordingly, this estimate is not intended to limit Verita's actual fees and charges, which may be less or more than estimated due to the scope of actual services or changes to the underlying facts or assumptions.

Verita Global, LLC

BY: _____ DATE: _____

TITLE: _____

Financially Responsible Party

BY: _____ DATE: _____

TITLE: _____



Terms and Conditions

All services to be provided by Verita Global, LLC (together with its affiliates, "Verita"), including services provided to Client as set forth in the attached Proposal, are subject to the following Terms and Conditions:

1. SERVICES. Verita agrees to provide the services set forth in the Proposal attached hereto (the "Services"). Capitalized terms not otherwise defined herein have the meanings given to such terms in the Proposal. Verita will often take direction from Client's representatives, employees, agents and/or professionals (collectively, the "Client Parties") with respect to the Services. The parties agree that Verita may rely upon, and Client agrees to be bound by, any direction, advice or information provided by the Client Parties to the same extent as if provided by Client. Client agrees and understands that Verita shall not provide Client or any other party with any legal advice.

2. PRICES, CHARGES AND PAYMENT. Verita agrees to charge and Client agrees to pay, subject to the terms herein, Verita for its fees and charges as set forth in the Proposal. Client acknowledges that any estimate in the Proposal is based on information provided by Client to Verita and actual fees and charges may vary depending on the circumstances and length of the case. Notwithstanding the foregoing, where total charges are expected to exceed \$10,000 in any single month, Verita may require advance payment from Client due and payable upon demand and prior to the performance of services. Verita's prices are inclusive of commission and other charges and are generally adjusted periodically to reflect changes in the business and economic environment. Verita reserves the right to reasonably increase its prices, charges and rates annually. If any such increase exceeds 10%, Verita will give thirty (30) days written notice to Client. Client agrees to pay the reasonable out of pocket expenses incurred by Verita in connection with Services, including, but not limited to, transportation, lodging, and meals.

Verita agrees to submit its invoices to Client and Client agrees that the amount invoiced is due and payable upon receipt. If any amount is unpaid as of thirty (30) days from the receipt of the invoice, the Client further agrees to pay a late charge (the "Finance Charge"), calculated as one and one-half percent (1-1/2%) of the total amount unpaid every thirty (30) days. In the case of a dispute in the invoice amount, Client shall give written notice to Verita within twenty (20) days of receipt of the invoice by Client. Client agrees the Finance Charge is applicable to instances where Verita agreed to provide certain pre-settlement work while deferring the billing of said work until the settlement phase.

3. FURTHER ASSURANCES. Client agrees that it will use its best efforts to include provisions reasonably acceptable to Verita in any relevant court order, settlement agreement or similar document that provide for the payment of Verita's fees and expenses hereunder. No agreement to which Verita is not a party shall reduce or limit the full and prompt payment of Verita's fees and expenses as set forth herein and in the Proposal.

4. RIGHTS OF OWNERSHIP. The parties understand that the software programs and other materials furnished by Verita to Client and/or developed during the course of the performance of Services are the sole property of Verita. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, and documentation. Client agrees not to copy or permit others to copy the source code from the support software or any other programs or materials furnished to Client. Fees and expenses paid by Client do not vest in Client any rights in such property, it being understood that such property is only being made available for Client's use during and in connection with the Services provided by Verita.

5. CONFIDENTIALITY. Each of Verita and Client, on behalf of themselves and their respective employees, agents, professionals and representatives, agrees to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the Services; provided, however, that if either party reasonably believes that it is required to produce any such information by order of any governmental agency or other regulatory body it may, upon not less than five (5) business days' written notice to the other party, release the required information. These provisions shall survive termination of Services. Verita will not accept, and Client agrees not to send, any information that may be deemed protected health information under state or federal law without the consent of the data subjects or pursuant to the terms of an agreed qualified protective order entered by a court of competent jurisdiction.

6. DOCUMENT RETENTION. All data and records received in connection with the Services will be destroyed no later than six months after case closing, absent client agreement or legal requirement. Telephone call recordings will be stored for no longer than ten days. Retention outside of Verita's standard schedule may result in additional storage charges to Client.



7. BANK ACCOUNTS. At Client's request, Verita shall be authorized to establish accounts with financial institutions as agent for Client or as otherwise agreed by the parties. All Client accounts established by Verita shall be deposit accounts of commercial banks with Tier 1 Capital exceeding \$1 billion and bank ratings of investment grade (each, an "Approved Bank"). Notwithstanding the foregoing, the parties may utilize any financial institution or electronic payment service provider specified in the Proposal in connection with the services to be provided hereunder, or as otherwise agreed to in writing, which institution or provider will be deemed an Approved Bank. In some cases, Verita may derive financial benefits from financial institutions resulting from settlement funds and other moneys on deposit or invested with them including, for example, discounts provided on certain banking services and service fees. The amounts held pursuant to these Terms and Conditions ("Amounts Held") are at the sole risk of Client and, without limiting the generality of the foregoing, Verita shall have no responsibility or liability for any diminution of the fund that may result from any deposit made with an Approved Bank including any losses resulting from a default by the Approved Bank or other credit losses. Verita shall have no responsibility or liability for any claims or losses arising from or related to the delivery of electronic payments. It is acknowledged and agreed that Verita will have acted prudently in depositing the fund at any Approved Bank, and Verita is not required to make any further inquiries in respect of any such bank.

Client hereby authorizes Verita to stop payment of checks issued in payment of settlement proceeds, if applicable, but not presented for payment, when the payees thereof allege either that they have not received the checks or that such checks have been mislaid, lost, stolen, destroyed or, through no fault of theirs, are otherwise beyond their control and cannot be produced by them for presentation and collection, and Verita shall issue and deliver duplicate checks in replacement thereof. Client shall indemnify Verita against any loss or damage resulting from reissuance of the checks. Further, in the event payees present their checks for payment through electronic or mobile deposit and subsequently present their checks for payment, at which point they are dishonored, Client shall indemnify Verita against any loss or damage resulting from the double presentment, including any holder in due course claims.

8. TERMINATION. The Services may be terminated by either party (i) upon thirty (30) days' written notice to the other party or (ii) immediately upon written notice for Cause (defined herein). As used herein, the term "Cause" means (i) gross negligence or willful misconduct of Verita that causes serious and material harm to Client, (ii) the failure of Client to pay Verita invoices for more than sixty (60) days from the date of invoice, or (iii) the accrual of invoices or unpaid services where Verita reasonably believes it will not be paid. Termination of Services shall not relieve Client of its obligations to pay all fees and expenses incurred prior to such termination.

In the event that the Services are terminated, regardless of the reason for such termination, Verita shall reasonably coordinate with Client to maintain an orderly transfer of data, programs, storage media or other materials furnished by Client to Verita or received by Verita in connection with the Services. Client agrees to pay for such services in accordance with Verita's then existing prices for such services.

9. LIMITATIONS OF LIABILITY AND INDEMNIFICATION. Client shall indemnify and hold Verita, its affiliates, members, directors, officers, employees, consultants, subcontractors and agents (collectively, the "Indemnified Parties") harmless, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, judgments, liabilities and expenses (including reasonable counsel fees and expenses) (collectively, "Losses") resulting from, arising out of or related to Verita's performance of Services. Such indemnification shall exclude Losses resulting from Verita's gross negligence or willful misconduct. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third-parties against any Indemnified Party. Client shall notify Verita in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that Client becomes aware of with respect to the Services provided by Verita.

Except as provided herein, Verita's liability to Client or any person making a claim through or under Client or in connection with Services for any Losses of any kind, even if Verita has been advised of the possibility of such Losses, whether direct or indirect and unless due to gross negligence or willful misconduct of Verita, shall be limited to the total amount billed or billable for the portion of the particular work which gave rise to the alleged Loss. In no event shall Verita's liability for any Losses, whether direct or indirect, arising out of the Services exceed the greater of (i) the total amount billed and paid by or through Client for the Services and (ii) solely in the event of any loss of the Amount Held caused by Verita's gross negligence or willful misconduct, the total Amount Held under Section 6. In no event shall Verita be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the Services. Except as expressly set forth herein, Verita makes no representations or warranties, express or implied, including, but not limited to, any implied or express warranty of merchantability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity. The provisions of this Section 9 shall survive termination of Services.



10.FORCE MAJEURE. Verita will not be liable for any delay or failure in performance when such delay or failure arises from circumstances beyond its reasonable control, including without limitation acts of God, acts of government in its sovereign or contractual capacity, acts of public enemy or terrorists, acts of civil or military authority, war, riots, civil strife, terrorism, blockades, sabotage, rationing, embargoes, epidemics, pandemics, outbreaks of infectious diseases or any other public health crises, earthquakes, fire, flood, other natural disaster, quarantine or any other employee restrictions, power shortages or failures, utility or communication failure or delays, labor disputes, strikes, or shortages, supply shortages, equipment failures, or software malfunctions.

11.INDEPENDENT CONTRACTORS. Verita is and shall be an independent contractor of Client and no agency, partnership, joint venture or employment relationship shall arise, directly or indirectly, as a result of the Services or these Terms and Conditions.

12. NOTICES. All notices and requests hereunder shall be given or made upon the respective parties in writing and shall be deemed as given as of the third day following the day it is deposited in the U.S. Mail, postage pre-paid or on the day it is given if sent by facsimile or on the day after the day it is sent if sent by overnight courier to the appropriate address set forth in the Proposal or to such other address as the party to receive the notice or request so designates by written notice to the other.

13.APPLICABLE LAW. These Terms and Conditions will be governed by and construed in accordance with the laws of the State of California, without giving effect to any choice of law principles.

14.ENTIRE AGREEMENT; MODIFICATIONS; SEVERABILITY; BINDING EFFECT. These Terms and Conditions, together with the Proposal delivered pursuant hereto, constitutes the entire agreement and understanding of the parties in respect of the subject matter hereof and supersede all prior understandings, agreements or representations by or among the parties, written or oral, to the extent they relate in any way to the subject matter hereof. If any provision herein shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. These Terms and Conditions may be modified only by a written instrument duly executed by the parties. All of the terms, agreements, covenants, representations, warranties and conditions of these Terms and Conditions are binding upon, and inure to the benefit of and are enforceable by, the parties and their respective successors and permitted assigns.

Exhibit 6



FIRM PROFILE

Capstone Law APC is one of California's largest plaintiff-only labor and consumer law firms. Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues and obtaining over two hundred million dollars in recovery for employees and consumers:

- In February, 2015, Capstone attorneys Raul Perez and Ryan H. Wu were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for their work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.
- Recognized as a leading firm in the prosecution of PAGA enforcement actions, Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior Court (Marshall of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.
- Capstone has made important contributions to consumer protection law. In *McGill v. Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the right to seek public injunctive relief under the state's consumer protection laws cannot be waived and that consumers need not satisfy class certification requirements to enjoin unfair business practices on behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed a denial of class certification, making law that clarified the use of "benefit of the bargain" damages models in consumer class actions.
- Capstone served as class counsel in a number of significant wage and hour settlements, including \$16.5 million on behalf of a California class in *Navarro v. United Parcel Service, Inc.*, BC592098 (Los Angeles Super. Ct.), \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v. Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.
- Capstone has an established practice in automotive defect class actions and is currently appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No. 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).



SUMMARY OF SIGNIFICANT SETTLEMENTS

Since its founding, Capstone has settled over 100 high-stakes class and representative actions totaling well over \$200 million dollars. Capstone's settlements have directly compensated hundreds of thousands of California workers and consumers. Capstone's actions have also forced employers to modify their policies for the benefit of employees, including changing the compensation structure for commissioned employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of California.

The following is a representative sample of Capstone's settlements:

- *Navarro et al v. United Parcel Service, Inc.*, No. BC592098 (Los Angeles Super. Ct.): gross settlement of \$16.5 million on behalf of approximately 180,000 non-exempt employees;
- *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- *Moore v. PetSmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
- *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
- *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
- *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
- *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
- *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 nonexempt employees;
- *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;
- *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million.



PROFESSIONAL BIOGRAPHIES

Partners

Rebecca Labat. Rebecca Labat is co-managing partner of Capstone Law APC, supervising the litigation for all of the firm's cases. She also manages the firm's co-counsel relationships and assists the firm's other partners and senior counsel with case management and litigation strategy. Under Ms. Labat's leadership, Capstone has successfully settled over 100 cases, delivering hundreds millions of dollars to California employees and consumers while earning statewide recognition for its cutting-edge work in developing new law.

Ms. Labat's career accomplishments representing consumers and employees in class actions include the certification of a class of approximately 3,200 current and former automobile technicians and shop employees for the miscalculation of the regular rate for purposes of paying premiums for missed meal and rest breaks.

Before her work representing plaintiffs in class and representative actions, Ms. Labat was an attorney with Wilson Elser and represented life, health, and disability insurers in litigation throughout California in both state and federal courts. She graduated from the University of California, Hastings College of the Law in 2002, where she was a member of the Hastings Civil Justice Clinic, served as a mediator in Small Claims Court for the City and County of San Francisco, and received the CALI Award for Excellence in Alternative Dispute Resolution. She received her undergraduate degree from the University of California, Los Angeles. Ms. Labat is a member of the National Employment Lawyers Association (NELA), the Consumer Attorneys Association of Los Angeles (CAALA), and the Beverly Hills Bar Association.

Raul Perez. Raul Perez is co-managing partner at Capstone, and has focused exclusively on wage and hour and consumer class litigation since 2011. Mr. Perez is the lead negotiator on numerous large settlements that have resulted in hundreds of millions to low-wage workers across California, including many of the most valuable settlements reached by Capstone.

During his career, Mr. Perez has successfully certified by way of contested motion and/or been appointed Lead Counsel or Interim Lead Counsel in several cases, including: *Lopes v. Kohl's Department Stores, Inc.*, Case No. RG08380189 (Alameda Super. Ct.); *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.); *Tameifuna v. Sunrise Senior Living Managements, Inc.*, Case No. 13-02171 (C.D. Cal.) (certified class of over 10,000 hourly-paid employees); and *Berry v. Urban Outfitters Wholesale, Inc.*, Case No. 13-02628 (N.D. Cal.) (appointed lead counsel in a class action involving over 10,000 non-exempt employees). As the lead trial attorney in *Iskanian v. CLS Transportation Los Angeles*, 59 Cal. 4th 348 (2014), Mr. Perez, along with Mr. Wu, received the 2015 CLAY Award in labor and employment.

Mr. Perez received both his undergraduate degree and his law degree from Harvard University and was admitted to the California Bar in December 1994. Earlier in his career, Mr. Perez handled a variety of complex litigation matters, including wrongful termination and other employment related actions, for corporate clients while employed by some of the more established law firms in the State of California, including Morgan, Lewis & Bockius; Manatt Phelps & Phillips; and Akin Gump Strauss Hauer & Feld. Before Capstone, Mr. Perez was a partner at another large plaintiff's firm, helping to deliver millions of dollars in relief to California workers.

Melissa Grant. Melissa Grant is a partner at Capstone. Ms. Grant is responsible for litigating many of the firm's most contentious and high-stakes class actions. The author of numerous successful motions for class



certification, Ms. Grant is the lead or co-lead attorney on multiplied certified class actions currently on track for trial, representing over 140,000 California employees in pursuing their wage and hour claims. She is also at the forefront in developing the law on PAGA, including administrative exhaustion, standing, the nature of PAGA violations, the scope of discovery, and trials.

Prior to joining Capstone, Ms. Grant worked at the Securities and Exchange Commission as a staff attorney in the Enforcement Division, investigating ongoing violations of federal securities regulations and statutes and for Quinn Emanuel Urquhart & Sullivan, LLP, where she was an associate on the trial team that prosecuted the *Mattel v. Bratz* case. Ms. Grant began her legal career as a law clerk to the Honorable Harry Pregerson, Justice of the Ninth Circuit Court of Appeals before joining Sidley & Austin as an associate. She graduated from Southwestern Law School in 1999, where she served as editor-in-chief of the Law Review, and graduated *summa cum laude* and first in her class. Ms. Grant earned her undergraduate degree from Cornell University, where she received the JFK Public Service Award and the Outstanding Senior Award. Her published articles include: *Battling for ERISA Benefits in the Ninth Circuit: Overcoming Abuse of Discretion Review*, 28 Sw. U. L. Rev. 93 (1998), and CLE Class Actions Conference (SF) CAFA: *Early Decisions on Commencement and Removal of Actions* (2006).

Ryan H. Wu. Ryan H. Wu is a partner at Capstone and is primarily responsible for complex motion work and supervising court approval of class action settlements. Mr. Wu handles many of the most challenging legal issues facing Capstone's clients, including the scope and operation of PAGA, contested attorneys' fees motions, responding to objectors, and high-impact appeals. Mr. Wu is responsible for the merits briefing in *McGill v. Citibank, N.A.*, 2 Cal. 5th 945 (2017), where the California Supreme Court unanimously held that consumers' right to pursue public injunctive relief cannot be impeded by a contractual waiver or class certification requirements. He briefed the closely-watched *Williams v. Superior Court (Marshalls of CA LLC)*, 3 Cal.5th 531(2017), an important pro-employee ruling that broadened the scope of discovery in PAGA actions and resolved a longstanding conflict regarding third-party constitutional privacy rights. He also authored the briefs in *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), where, on an issue of first impression, the Ninth Circuit sided with Plaintiffs in holding that PAGA actions are state enforcement actions not covered by the CAFA. In February 2015, Mr. Wu, along with Mr. Perez, received the prestigious CLAY award for his successful appellate work, including briefing to the California Supreme Court, in *Iskanian*. Mr. Wu recently achieved an important consumer victory in *Nguyen v. Nissan N.A.*, 932 F.3d 811 (9th Cir. 2019), which clarified the use of "benefit of the bargain" damages models in consumer class actions.

Mr. Wu graduated from the University of Michigan Law School in 2001, where he was an associate editor of the *Michigan Journal of Law Reform* and contributor to the law school newspaper. He received his undergraduate degree in political science with honors from the University of California, Berkeley. He began his career litigating international commercial disputes and commercial actions governed by the Uniform Commercial Code. Mr. Wu is co-author of "*Williams v. Superior Court: Employees' Perspective*" and "*Iskanian v. CLS Transportation: Employees' Perspective*," both published in the *California Labor & Employment Law Review*.

Robert Drexler. Robert Drexler is a partner with Capstone Law where he leads one of the firm's litigation teams prosecuting wage-and-hour class actions. He has more than 25 years of experience representing clients in wage-and-hour and consumer rights class actions and other complex litigation in state and federal courts. Over the course of his career, Mr. Drexler has successfully certified dozens of employee classes for claims such as misclassification, meal and rest breaks, and off-the-clock work, ultimately resulting in multi-million



dollar settlements. He has also arbitrated and tried wage-and-hour and complex insurance cases. Mr. Drexler has been selected as one of Southern California's "Super Lawyers" every year from 2009 through 2020.

Before joining Capstone, Mr. Drexler was head of the Class Action Work Group at Khorrami Boucher, LLP and led the class action team at The Quisenberry Law Firm. Mr. Drexler graduated from Case Western Reserve University School of Law, where he served as Managing Editor of the Case Western Reserve Law Review and authored *Defective Prosthetic Devices: Strict Tort Liability for the Hospital?* 32 CASE W. RES. L. REV. 929 (1982). He received his undergraduate degree in Finance at Ohio State University where he graduated *cum laude*. Mr. Drexler is a member of Consumer Attorneys of California (CAOC) and Consumer Attorneys of Los Angeles (CAALA). He has been a featured speaker at class action and employment litigation seminars, and has published articles in CAOC's Forum Magazine and The Daily Journal.

Jamie Greene. Jamie Greene is a partner with Capstone Law, where she leads the firm's business development and case generation team. Ms. Greene is responsible for evaluating all potential new cases and referrals, developing new claims, and managing the firm's client and cocounseling relationships. She also supervises the pre-litigation phase for all cases, including investigation, analysis, and client consultation.

Before joining Capstone, Ms. Greene began her legal career at Makarem & Associates representing clients in a wide array of cases ranging from wrongful death, insurance bad faith, employment, personal injury, construction defect, consumer protection, and privacy law. Ms. Greene is a graduate of the University of Southern California Gould School of Law and earned her bachelor's degree from Scripps College in Claremont, California.

Bevin Allen Pike. Bevin Allen Pike is a partner with Capstone Law, where she focuses primarily on wage-and-hour class actions. Ms. Pike has spent her entire legal career representing employees and consumers in wage-and-hour and consumer rights class actions. Over the course of her career, Ms. Pike has successfully certified dozens of employee and consumer classes for claims such as meal and rest breaks, unpaid overtime, off-the-clock work, and false advertising.

Before joining Capstone, Ms. Pike's experience included class and representative action work on behalf of employees and consumers at some of the leading plaintiffs' firms in California. Ms. Pike graduated from Loyola Law School, Los Angeles, where she was an Editor for the International and Comparative Law Review. She received her undergraduate degree from the University of Southern California. Ms. Pike has been selected as one of Southern California's "Super Lawyers – Rising Stars" every year from 2012 through 2015.

Senior Counsel

Theresa Carroll. Theresa Carroll is a senior counsel at Capstone Law. Her practice is devoted to the Appeals & Complex Motions team, working on various settlement and approval projects.

Prior to joining Capstone, Ms. Carroll was an associate with Parker Stanbury, LLP, advising small business owners on various employment matters and worked as an associate attorney for O'Donnell & Mandell litigating employment discrimination and sexual harassment cases. In 1995, she graduated from Southwestern University School of Law where she was on the trial advocacy team and was awarded the prestigious Trial Advocate of the Year award sponsored by the American Board of Trial Advocates (ABOTA) for Southwestern University School of Law. Ms. Carroll received her Bachelor of Science degree in speech with an emphasis in theatre from Iowa State University.



Liana Carter. Liana Carter is a senior counsel with Capstone Law APC, specializing in complex motions, writs, and appeals. Her work on recent appeals has included reversing a denial of class certification decision in *Brown v. Cinemark USA, Inc.*, No. 16-15377, 2017 WL 6047613 (9th Cir. Dec. 7, 2017), affirming a denial of a motion to compel arbitration in *Jacoby v. Islands Rests., L.P.*, 2014 Cal. App. Unpub. LEXIS 4366 (2014) and reversal of a dismissal of class claims in *Rivers v. Cedars-Sinai Med. Care Found.*, 2015 Cal. App. Unpub. LEXIS 287 (Jan. 13, 2015). Ms. Carter was responsible for drafting the successful petition for review in *McGill v. Citibank N.A.*, as well as the petition for review and briefing on the merits in *Williams v. Superior Court*, 2017 WL 2980258. Ms. Carter also has extensive prior experience in overseeing settlement negotiations and obtaining court approval of class action settlements.

Ms. Carter was admitted to the California bar in 1999 after graduating from the University of Southern California Gould School of Law, where she was an Articles Editor on the board of the *Southern California Law Review*. She received her undergraduate degree with honors from the University of California, Irvine.

Anthony Castillo. Anthony Castillo is a senior counsel with Capstone Law. His practice focuses on analyzing and developing pre-litigation wage-and-hour and consumer claims, including PAGA representative actions and class actions for failure to pay overtime and minimum wages, meal and rest period violations, and claims under the Fair Labor Standards Act and the Investigative Consumer Reporting Agency Act. Prior to joining Capstone, he was an associate at a California bankruptcy practice, where he represented individual and business debtors in liquidations and re-organizations as well as various debt and foreclosure defense-related issues.

Mr. Castillo graduated from Loyola Law School, Los Angeles in 2009, where he volunteered with the Disability Rights Legal Center. He attended Stanford University for his undergraduate degree, majoring in Political Science and minoring in History. Anthony is admitted to practice law in California and Washington and before the United States District Court for the Central and Southern Districts of California.

Helga Hakimi. Helga Hakimi is a senior counsel at Capstone Law. Her practice primarily involves employment law class action litigation, namely wage-and-hour class actions and PAGA litigation on behalf of employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work, and related employer violations under the Fair Labor Standards Act and California Labor Code.

Prior to joining Capstone, Ms. Hakimi was a partner at a civil litigation firm in West Los Angeles, where she handled mainly real estate litigation, business litigation, and defense of some employment law matters; prior to that, she worked as a civil litigation attorney handling complex personal injury litigation. Ms. Hakimi's interest in advocating for employee rights began in law school, where she volunteered for the Workers' Rights Clinic and assisted low-income community members in Northern California's greater Bay Area region with employment-related legal issues. Upon graduating from law school, Ms. Hakimi worked as an associate for a municipal law firm, and thereafter at the local City Attorney's Office, where she advised municipalities and cities in civil matters involving land use, environmental law, development issues, Constitutional law, and First Amendment rights. Ms. Hakimi graduated from Berkeley Law (Boalt Hall School of Law), where she earned her Juris Doctorate and was awarded the Prosser Award in Remedies. Ms. Hakimi received her Bachelor of Arts degree in Political Science with a minor in Education Studies from the University of California, Los Angeles, and graduated summa cum laude and with Departmental Highest Honors.



Daniel Jonathan. Daniel Jonathan is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Prior to joining Capstone, Mr. Jonathan began his career as an associate at Kirkland & Ellis representing Fortune 500 clients in high-stakes litigation in various matters, including class action defense and plaintiff's actions for accounting fraud. Following that, he was a senior counsel at a boutique litigation firm where he successfully first-chaired several trials. Mr. Jonathan graduated from the Northwestern University School of Law. He received his undergraduate degree in Accounting from the University of Southern California, where he graduated cum laude. He has passed the CPA examination and worked as an auditor at Deloitte before attending law school.

Jonathan Lee. A senior counsel with Capstone, Jonathan Lee primarily litigates employment class actions. At Capstone, Mr. Lee has worked on several major successful class certification motions, and his work has contributed to multi-million dollar class settlements against various employers, including restaurant chains, retail stores, airport staffing companies, and hospitals. Prior to joining Capstone, Mr. Lee defended employers and insurance companies in workers' compensation actions throughout California.

Mr. Lee graduated in 2009 from Pepperdine University School of Law, where he served as an editor for the Journal of Business, Entrepreneurship and the Law; he received his undergraduate degree from UCLA.

Shealene Mancuso. Shealene Mancuso is a senior counsel with Capstone, specializing in employment class action litigation. Her practice is devoted to wage-and-hour class actions and Private Attorneys General Act litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, failure to provide compensation for off-the-clock work, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Prior to joining Capstone Law, Ms. Mancuso was a Partner at a California maritime law firm, representing employers in federal claims brought by domestic and foreign civilian employees for benefits for injuries sustained while working on U.S. military bases for government contractors. She also has extensive litigation experience representing individuals in federal vaccine injury, personal injury, and family law matters. She served on the Board of Directors of a Philadelphia domestic violence organization and as a pro bono attorney assisting low-income families with custody and grandparent's rights matters. In 2020, she was recognized as a Rising Star by Super Lawyers.

Ms. Mancuso graduated from Temple University, Beasley School of Law in 2014, where she was a Fellow in the Rubin Public Interest Law Honor Society, served as the Volunteer Chair of the Women's Law Caucus, Women's Rights Chair of the National Lawyers Guild, Membership Coordinator of the American Constitution Society, and board member of the School to Prison Pipeline, and volunteered with the Domestic Violence Assistant Project. She began to develop her litigation skills through the Integrated Trial Advocacy Program at Temple Law, as a certified law clerk with the Ventura County District Attorney's Office, and through internships with non-profit organizations. She received her undergraduate degree from the University of California, Riverside, where she majored in Sociology: Law and Society.

Cody Padgett. Cody Padgett is a senior counsel with Capstone Law. Mr. Padgett prosecutes automotive defect and other consumer class action lawsuits during all stages of litigation. His work has been integral to



achieving contested class certification in several automotive defect cases, including *Falco v. Nissan N. Am. Inc.*, No. 13-00686 (C.D. Cal.) (certifying a class of owners/lessees of Nissan vehicles), *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-08629 (C.D. Cal.) (certifying a class of owners/lessees of Toyota vehicles), and *Victorino v. FCA US, LLC*, No. 16-01617 (S.D. Cal.) (certifying a class of owners/lessees of Dodge Dart vehicles). Mr. Padgett's efforts have also contributed to major settlements of automotive defect and consumer cases, providing substantial monetary relief to millions of class members, valued in the hundreds of millions of dollars. See, e.g., *Weckwerth v. Nissan North America, Inc.*, No. 18-00588 (M.D. Tenn.) (providing a \$407 to \$547 million-dollar benefit to a class of nearly 3 million consumers).

Prior to joining Capstone Law, Mr. Padgett assisted with the defense of major felony cases at the San Diego County Public Defender's Office. During law school, Mr. Padgett served as a judicial extern to the Honorable C. Leroy Hansen, United States District Court for the District of New Mexico. He graduated from California Western School of Law in the top 10% of his class and received his undergraduate degree from the University of Southern California, where he graduated *cum laude*. Mr. Padgett is admitted to practice in California, before the Ninth Circuit Court of Appeals, and before United States District Court for the Northern, Eastern, Central, and Southern Districts of California.

Eduardo Santos. Eduardo Santos is a senior counsel at Capstone Law, and concentrates his practice on managing and obtaining court approval of many of Capstone's wage-and-hour, consumer, and PAGA settlements, from the initial contract drafting phase to motion practice, including contested motion practice on attorneys' fees. Over the course of his career, Mr. Santos has helped to secure court approval of over one hundred high-stakes class and representative action settlements totaling over \$100 million.

Before joining Capstone, Mr. Santos began his career at a prominent plaintiff's firm in Los Angeles specializing in mass torts litigation, with a focus on complex pharmaceutical cases. Most notably, he was involved in the national Vioxx settlement, which secured a total of \$4.85 billion for thousands of individuals with claims of injuries caused by taking Vioxx. Mr. Santos graduated from Loyola Law School, Los Angeles, where he was a recipient of a full-tuition scholarship awarded in recognition of academic excellence. While in law school, Mr. Santos served as an extern for the Honorable Thomas L. Willhite, Jr. of the California Court of Appeal. He graduated magna cum laude from UCLA and was a recipient of the Ralph J. Bunche Scholarship for academic achievement.

Mao Shiokura. Mao Shiokura is a senior counsel with Capstone. Her practice focuses on identifying, evaluating, and developing new claims, including PAGA representative actions and class actions for wage-and-hour violations and consumer actions under the Consumers Legal Remedies Act, False Advertising Law, Unfair Competition Law, and other consumer protection statutes. Prior to joining Capstone, Ms. Shiokura was an associate at a California lemon law firm, where she represented consumers in Song-Beverly, Magnuson-Moss, and fraud actions against automobile manufacturers and dealerships.

Ms. Shiokura graduated from Loyola Law School, Los Angeles in 2009, where she served as a staff member of Loyola of Los Angeles Law Review. She earned her undergraduate degree from the University of Southern California, where she was a Presidential Scholar and majored in Business Administration, with an emphasis in Cinema-Television and Finance.

John Stobart. John Stobart is a senior counsel with Capstone Law. He focuses on appellate issues in state and federal courts and contributes to the firm's amicus curiae efforts to protect and expand the legal rights of California employees and consumers. Mr. Stobart has significant appellate experience having drafted over two



dozen writs, appeals and petitions, and having argued before the Second, Fourth, and Fifth Districts of the California Court of Appeal.

Prior to joining Capstone, Mr. Stobart was a law and motion attorney who defended against civil liability in catastrophic injury and wrongful death cases brought against his clients, which included the railroad, public schools, small businesses, and commercial and residential landowners. He has drafted and argued scores of dispositive motions at the trial court level and had success in upholding judgments and verdicts on appeal. He graduated cum laude from Thomas Jefferson School of Law where he was on the mock trial competition team and earned his undergraduate degree from the Ohio State University.

Roxanna Tabatabaepour. Roxanna Tabatabaepour is a senior counsel with Capstone Law. Her practice primarily involves representing employees in class actions and representative actions for various violations of the California Labor Code.

Before joining Capstone, Ms. Tabatabaepour's experience included representing workers in single-plaintiff and class/representative action lawsuits regarding wage-and-hour violations, as well as individual claims for discrimination, retaliation, failure to accommodate, harassment, and wrongful termination, under both California and federal laws. Ms. Tabatabaepour received her undergraduate degrees from the University of California San Diego. She subsequently graduated from the American University, Washington College of Law, where she was a Marshall-Brennan Constitutional Literacy Fellow and taught Constitutional Literacy to teens in marginalized communities.

Ryan Tish. Ryan Tish is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and Private Attorneys General Act ("PAGA") representative actions on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, failure to reimburse necessary business expenses, and other claims under the Fair Labor Standards Act and California Labor Code.

Before joining Capstone, Mr. Tish was an associate at a civil litigation firm in Los Angeles, handling a variety of matters, including commercial contracts, real estate, and employment law. Mr. Tish has represented both employers and employees in actions ranging from individual claims of discrimination, harassment, retaliation, and wrongful termination, to class and representative actions for wage-and-hour and privacy law violations. Mr. Tish is a graduate of the University of Southern California Gould School of Law and earned his bachelor's degree in civil and environmental engineering from the University of California, Los Angeles. Mr. Tish is admitted to practice law in California and before the United States District Court for the Northern, Eastern, Central, and Southern Districts of California.

Orlando Villalba. Orlando Villalba is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Mr. Villalba began his career at Kirkland & Ellis where he handled a wide range of business litigation matters, including transnational contract disputes, insurance-related tort claims, developer litigation, and civil rights actions. He also has extensive plaintiff-side experience representing government agencies and note-holders in the pursuit of mortgage and other fraud losses. Mr. Villalba graduated from Stanford Law School, where he served as an articles editor on the Stanford Journal of Law, Business & Finance. After law school, he clerked



for the Honorable Warren Matthews of the Alaska Supreme Court. Orlando received his bachelor's degree in International Business from the University of Southern California.

Tarek Zohdy. A senior counsel with Capstone Law, Tarek Zohdy develops, investigates and litigates automotive defect class actions, along with other consumer class actions for breach of warranty and consumer fraud. At Capstone, he has worked on several large-scale automotive class actions from investigation through settlements that have provided significant relief to millions of defrauded car owners. Before joining Capstone, Mr. Zohdy spent several years representing individual consumers in their actions against automobile manufacturers and dealerships for breaches of express and implied warranties pursuant to the Song-Beverly Consumer Warranty Act and the Magnuson-Moss Warranty Act, commonly referred to together as "Lemon Law." He also handled fraudulent misrepresentation and omission cases pursuant to the Consumers Legal Remedies Act. Mr. Zohdy graduated from Louisiana State University *magna cum laude* in 2003, and Boston University School of Law in 2006, where he was a member of the criminal clinic representing underprivileged criminal defendants.

Associates

Tyler Anderson. Tyler Anderson is an associate with Capstone Law. His practice focuses on complex motions, writs, and appeals. Before joining Capstone, Mr. Anderson was Co-Director of the Los Angeles Center for Community Law and Action ("LACCLA"), a nonprofit law firm that represents tenant unions and union organizers. While there, Mr. Anderson tried a disparate impact federal Fair Housing Act case that resulted in a jury verdict of over \$1,000,000. He also frequently used California Anti-SLAPP laws to block attempts to silence tenant union organizers. Prior to working at LACCLA, Mr. Anderson clerked for the Honorable Martha Vazquez, a federal district court judge for the District of New Mexico who, at the time, sat on the Executive Committee of the Federal Judiciary. Before that, Mr. Anderson was a litigation associate at the international law firm Jenner & Block LLP. Mr. Anderson graduated from Harvard Law School, where he was the Executive Articles Editor of the Harvard Journal on Legislation as well as President of one of the largest student-run pro bono organizations at Harvard University, Project No One Leaves. He graduated with several "Dean's Scholar" prizes for receiving top grades in his constitutional law courses.

Sairah Budhwani. Sairah Budhwani is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work violations. Previously, Ms. Budhwani litigated employment discrimination, harassment, and retaliation claims, and also represented incarcerated individuals contesting the conditions of their confinement. Ms. Budhwani graduated from UCLA School of Law in 2019 and received an undergraduate degree in Urban Studies from University of California, Irvine in 2012. Ms. Budhwani is admitted to practice law in California. She is fluent in Urdu.

Laura Goolsby. Laura Goolsby is an associate with Capstone Law. Her practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. Prior to joining Capstone Law, Ms. Goolsby was an associate at a California civil litigation practice representing individuals in toxic tort disputes. Previous to that, Ms. Goolsby was a trial attorney in a California lemon law firm, trying cases against automobile manufacturers in state and federal court. Ms. Goolsby is published in the University of Pennsylvania Journal of Law and Change law review and served as a judicial intern to the U.S. Department of Justice Immigration Court while in law school. Ms. Goolsby graduated from California Western School of Law, where she was a member of the award-winning Philip C. Jessup International Moot Court team and



spent multiple trimesters on the Dean's List. She graduated with several Academic Excellence Awards for receiving top grades in various international law, civil rights law, and legal skills courses.

Nate Kiyam. Nate Kiyam is an associate with Capstone. His practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. Prior to joining Capstone Law, Mr. Kiyam was an associate with the Auto Fraud Legal Center representing individuals who have been defrauded by dealers into purchasing a defective vehicle. Previous to that, Mr. Kiyam was an associate with DLA Piper, Allen Matkins, and Buchalter on various corporate and employment matters. Throughout his career, Mr. Kiyam has helped many organizations and individuals on various pro bono matters including winning an administrative trial for a young refugee in his asylum hearing. Mr. Kiyam is admitted to practice law in California and the District of Columbia.

Ninel Kocharyan. Ninel Kocharyan is an associate with Capstone. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violation of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work violations. Ms. Kocharyan began her career in entertainment law reviewing, drafting, and negotiating contracts for talent and ensuring FTC compliance. She immigrated to the United States from Russia at the age of 15 with a passion to pursue a career in law. Ms. Kocharyan graduated from Thomas Jefferson School of Law in 2014 and received her undergraduate degree from University of California, Los Angeles where she majored in Political Science. Ms. Kocharyan is admitted to practice law in California.

Alexander Lima. Alexander Lima is an associate with Capstone Law. His practice focuses on evaluating pre-litigation wage-and-hour claims, including potential violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work issues, as well as consumer protection claims. Previously, Mr. Lima was an associate at a California civil litigation practice representing individuals and entities in real estate disputes. Mr. Lima graduated from Santa Clara University, School of Law in 2018, where he served as an Executive Board Member of the Honors Moot Court and was selected as a regional finalist for the American Bar Association Negotiation Competition. He received his undergraduate degree from the University of California, Riverside in 2014.

Trisha Monesi. Trisha Monesi is an associate with Capstone. Her practice focuses on prosecuting consumer class actions in state and federal court. Ms. Monesi graduated from Loyola Law School, Los Angeles in 2014, where she served as an editor of the Loyola of Los Angeles Entertainment Law Review and was a certified law clerk at the Center for Juvenile Law and Policy. She earned her undergraduate degree from Boston University in 2011, where she majored in Political Science and International Relations. She is an active member of the Women Lawyers Association of Los Angeles, and the Los Angeles County and Beverly Hills Bar Associations.

Joey Parsons. Joey Parsons is an associate with Capstone. His practice primarily involves wage-and-hour class actions and PAGA representative actions. Previously, Joey was an associate at a boutique firm where he represented California employees in all facets of employment law, including claims brought under the FEHA, Title VII, and the California Labor Code. Joey is a graduate of the University of Alabama School of Law, where he competed on the Labor and Employment Moot Court team and served as the Executive Articles Editor for the Alabama Law & Psychology Review. Joey received his bachelor's degree in history from Virginia Tech.



Alexander Wallin. Alexander Wallin is an associate at Capstone Law. He is a passionate litigator who has successfully represented employees against corporate injustice. Mr. Wallin has recovered millions of dollars in numerous wage-and-hour class actions, PAGA actions, and individual discrimination lawsuits. He has a particular interest in representing economically disadvantaged employees who cannot afford legal representation on a retainer-fee basis. Mr. Wallin is a member of the Los Angeles County Bar Association's Employment Law Section and stays up-to-date with the rapidly evolving areas of wage-and-hour protections. He graduated from Loyola Law School in 2017 and is admitted to practice law in California, as well as before the United States District Court for Central and Northern Districts of California. He has been selected as a Southern California "Super Lawyers – Rising Star" in 2022 and 2023.

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Attorneys for Plaintiff Shania Cole

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SHANIA COLE, individually, and on behalf of
other members of the general public similarly
situated, and as an aggrieved employee pursuant
to the Private Attorneys General Act ("PAGA"),

Plaintiff,

vs.

LANE BRYANT, INC., a Delaware
corporation; LANE BRYANT BRANDS
OPCO LLC, an Ohio limited liability company;
LANE BRYANT #6243, INC., a Florida
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 5:22-cv-06714-PCP

**NOTICE RE SUBMISSION OF THE
SETTLEMENT AGREEMENT TO THE
LWDA**

Date: December 12, 2024
Time: 10:00 a.m.
Place: Courtroom 8

1 **TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that a copy of the Class Action and PAGA Representative Action
3 Settlement Agreement has been uploaded to the LWDA's website. Attached as Exhibit 1 is a true and
4 correct copy of the LWDA's confirmation of receipt.

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6 Dated: October 10, 2024

Respectfully submitted,

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8 By: /s/ Bevin Allen Pike

Raul Perez

Bevin Allen Pike

Daniel Jonathan

Trisha K. Monesi

10 **CAPSTONE LAW APC**

11 Attorney for Plaintiff Shania Cole
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Exhibit 1

Eduardo Santos

From: DIR PAGA Unit <no-reply@formassembly.com>
Sent: Thursday, October 10, 2024 4:11 PM
To: Eduardo Santos
Subject: Thank you for your Proposed Settlement Submission

10/10/2024 04:10:30 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

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Attorneys for Plaintiff Shania Cole

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SHANIA COLE, individually, and on behalf of
other members of the general public similarly
situated, and as an aggrieved employee pursuant
to the Private Attorneys General Act ("PAGA"),

Plaintiff,

vs.

LANE BRYANT, INC., a Delaware
corporation; LANE BRYANT BRANDS
OPCO LLC, an Ohio limited liability company;
LANE BRYANT #6243, INC., a Florida
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 5:22-cv-06714-PCP

**[PROPOSED] ORDER GRANTING MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT**

Date: December 12, 2024
Time: 10:00 a.m.
Place: Courtroom 8

ORDER

On December 12, 2024, this Court conducted a hearing on Plaintiff's Motion for Preliminary Approval of the Class Action and PAGA Settlement (the "Motion"). Having considered the Motion and the points and authorities submitted in support of the Motion, including the Class Action and PAGA Representative Action Settlement Agreement ("Settlement Agreement" or "Settlement"), and **GOOD CAUSE** appearing, **IT IS HEREBY ORDERED** that the Motion is **GRANTED**, subject to the following findings and orders:

1. This Order incorporates by reference the Settlement Agreement, and unless indicated otherwise, all capitalized terms used herein will have the same meaning as set forth in the Settlement Agreement.

2. The Settlement Class shall be conditionally certified for settlement purposes only and shall consist of 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 January 25, 2024.

3. The class action settlement set forth in the Settlement Agreement, entered into among the Parties and their counsel, is preliminarily approved as it appears to be proper, to fall within the range of reasonableness, to be the product of arm's-length and informed negotiations, to treat all Class Members fairly, and to be presumptively valid, subject only to any objections that may be raised at or before the final approval hearing.

4. The Court further finds that Plaintiff conducted extensive investigation and research, and that she was able to reasonably evaluate her position and the strengths and weaknesses of her claims and her ability to certify them. Plaintiff has provided the Court with enough information about the nature and magnitude of the claims being settled, as well as the impediments to recovery, to make an independent assessment of the reasonableness of the terms to which the Parties have agreed.

5. The Court also finds that settlement now will avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were to continue to litigate the Action.

6. The Court preliminarily approves the Settlement Agreement, including all the terms and conditions set forth therein and the Gross Settlement Amount and allocation of payments.

7. The rights of any potential dissenters to the proposed Settlement are adequately protected

in that they may exclude themselves from the Settlement and proceed with any alleged claims they may have against Defendant, or they may object to the Settlement and appear before this Court. However, to do so they must follow the procedures outlined in the Settlement Agreement and Notice of Class Action Settlement.

8. The Court approves, as to form and content, the proposed Notice of Class Action Settlement (“Class Notice”).

9. The Court directs the mailing, by First-Class U.S. mail, of the Class Notices to Class Members in accordance with the schedule set forth below and the other procedures described in the Settlement Agreement. The Court finds that the method selected for communicating the preliminary approval of the Settlement Agreement to Class Members is the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons entitled to notice, and thereby satisfies due process.

10. The Court appoints Plaintiff Shania Cole as the representative for the Settlement Class conditionally certified by this Order.

11. The Court appoints Capstone Law APC as Class Counsel. The Court finds that counsel have demonstrable experience litigating, certifying, and settling class actions, and will serve as adequate counsel for the Class conditionally certified by this Order.

12. The Court approves and appoints CPT Group, Inc. as the Settlement Administrator.

13. The following dates shall govern for purposes of this Settlement:

Date	Event
January 9, 2025 (or not later than 28 calendar days after the Court grants preliminary approval of the Settlement Agreement, if later)	Last day for Defendant to produce the Class List to the Settlement Administrator.
January 23, 2025 (or not later than 14 calendar days after Defendant produces the Class List, if later)	Last day for the Settlement Administrator to mail Class Notices to all Class Members.
February 10, 2025	Last day for Plaintiff to file the Motion for Attorneys’ Fees, Costs, and a Class Representative Incentive Payment.
February 24, 2025 (or not later than 30 calendar days after the Settlement Administrator mails the Class Notices, if later)	Last day for Class Members to submit Requests for Exclusion or Objections to the Settlement.
March 20, 2025	Last day for Plaintiff to file the Motion for Final Approval of Class Action and PAGA Settlement.

Date	Event
April 24, 2025 at 10:00 a.m.	Hearing on the: (1) Motion for Final Approval of Class Action and PAGA Settlement and (2) Motion for Attorneys' Fees, Costs, and a Class Representative Enhancement Payment.

14. The Court expressly reserves the right to continue or adjourn the final approval hearing without further notice to the Class Members.

IT IS SO ORDERED.

Dated: _____

Hon. P. Casey Pitts
United States District Judge