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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF LOS ANGELES**

RACHEL MACDONALD, an individual, on  
behalf of herself and on behalf of all persons  
similarly situated,

Plaintiff,

vs.

BEST FRIENDS ANIMAL SOCIETY, a  
Utah Corporation; and DOES 1 through 50,  
inclusive,

Defendants.

**Case No. 22STCV37493**

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

Hearing Date: September 17, 2024

Hearing Time: 10:00 a.m.

Judge: Hon. Kenneth R. Freeman  
Dept: SS-14

Date Filed: November 30, 2022

Trial Date: Not set

1 I, Kyle Nordrehaug, declare as follows:

2 1. I am a partner of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP,  
3 counsel of record for Plaintiff Rachel Macdonald ("Plaintiff") in this matter. As such, I am fully  
4 familiar with the facts, pleadings and history of this matter. The following facts are within my own  
5 personal knowledge, and if called as a witness, I could testify competently to the matters stated  
6 herein.

7 2. This declaration is being submitted in support of the Plaintiff's unopposed motion by  
8 for preliminary approval of the proposed class action settlement with Defendant Best Friends  
9 Animal Society ("Defendant"), which motion seeks entry of an order: (1) preliminarily approving  
10 the proposed settlement of this class action; (2) for settlement purposes only, conditionally  
11 certifying the Class, which is comprised of "all individuals who were employed by Defendant in  
12 California and classified as a non-exempt employee at any time during the Class Period", which is  
13 November 30, 2018 to December 11, 2023; (3) provisionally appointing Plaintiff as the  
14 representatives of the Class; (4) provisionally appointing Norman B. Blumenthal, Kyle R.  
15 Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class  
16 Counsel for the Class; (5) approving the form and method for providing notice to the Class of the  
17 proposed settlement; (6) directing that notice of the proposed settlement be given to the Class; (7)  
18 appointing Apex Class Action LLC as the Administrator; and (8) scheduling a final approval  
19 hearing date in approximately four months to consider the Plaintiff's motion for final approval of  
20 the settlement and for approval of attorneys' fees, expenses and the service award. Plaintiff and  
21 Defendant have reached a full and final settlement of the above-captioned action, which is set forth  
22 in the Class Action and PAGA Settlement Agreement (the "Agreement") filed concurrently with the  
23 Court. Attached hereto as Exhibit #1 is a copy of the fully executed Class Action and PAGA  
24 Settlement Agreement ("Agreement") along with exhibits thereto. The form of the Agreement is  
25 based upon the Los Angeles County Superior Court model form for a class and PAGA settlement. A  
26 redline comparison between the Agreement and the Court's model form for a class and PAGA  
27 settlement is attached hereto as Exhibit #2. This Declaration incorporates by reference the  
28

1 definitions in the Agreement, and all terms defined therein shall have the same meaning as set forth  
2 in the Agreement.

3  
4 Fairness of Settlement

5         3. As consideration for this Settlement, the Gross Settlement Amount is Four Hundred  
6 Seventy Thousand Dollars (\$470,000) to be paid by Defendant, as set forth in the Agreement. The  
7 Gross Settlement Amount will settle all issues pending in the Action between the Parties and will be  
8 made in full and final settlement of the released claims. The Gross Settlement Amount includes all  
9 payments of Individual Class Payments to the Participating Class Members, the Administration  
10 Expenses Payment to the Administrator, the Class Counsel Fees Payment and Class Counsel  
11 Litigation Expenses Payment to Class Counsel, the Class Representative Service Payment to  
12 Plaintiff, and the PAGA Penalties payment to the California Labor and Workforce Development  
13 Agency (the "LWDA") and the Aggrieved Employees. The Gross Settlement Amount does not  
14 include the employer's share of payroll taxes which will be separately paid by Defendant. The  
15 Settlement is all-in with no reversion to Defendant and no need for Class Members to submit claim  
16 forms. The following is a table of the key financial terms of the Settlement and the proposed  
17 deductions:

18         **\$470,000** (Gross Settlement Amount)

- 19                 - \$12,500 (Plaintiff's proposed service award not to exceed amount)  
20                 - \$26,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)  
21                 - \$156,666 (Class Counsel Fees Payment - not to exceed one-third of settlement)  
22                 - \$10,000 (PAGA Penalties - 75% to LWDA / 25% to Aggrieved Employees)  
23                 - \$9,000 (Administration Expenses Payment - not to exceed amount)

24         **\$255,834** (Net Settlement Amount)

25         4. The relief provided in the Settlement will benefit all members of the Class. The  
26 Settlement does not grant preferential treatment to Plaintiff or segments of the Class in any way.  
27 Payments to the Class Members are all determined under a neutral methodology. Each Participating  
28 Class Member will receive the same opportunity to participate in and receive payment through a  
neutral formula that is based upon the Workweeks worked by that individual.

5. On December 11, 2023, the Parties participated in an all-day mediation session

1 presided over by Steven Serratore, Esq., a respected and experienced mediator of wage and hour  
2 class actions. In preparation for the mediation, Defendant provided Class Counsel with necessary  
3 information, including the Class payroll and timekeeping data. Plaintiff analyzed the data with the  
4 assistance of a damages expert, Berger Consulting, and prepared and submitted a mediation brief  
5 and damage valuation to the Mediator. Following the all-day mediation, the Parties agreed to the  
6 Settlement, which was memorialized in the form of a Memorandum of Understanding. The final  
7 terms of the Settlement were negotiated and set forth in the Agreement now presented for this  
8 Court's approval. Importantly, Plaintiff and Class Counsel believe that this Settlement is fair,  
9 reasonable and adequate.

10         6.       Based upon 163 Class Members who collectively worked 12,000 Workweeks  
11 (Agreement at ¶ 4.1), the Gross Settlement Amount provides a value of \$2,883 per Class Member  
12 and \$39 per Workweek and, after deductions, the Net Settlement Amount provides an average  
13 recovery of \$1,569.53 per Class Member and \$21.31 per Workweek. The calculations to  
14 compensate for the amount due to the Class Members at the time the Settlement was negotiated  
15 were calculated by Plaintiff's expert, Berger Consulting, in advance of mediation. Class Counsel  
16 analyzed the data for putative class members and determined the potential maximum damages for  
17 the class claims. For the Class, the maximum value of the claim for unpaid wages due to the alleged  
18 miscalculation of the regular rate applicable to overtime pay and meal premiums was \$29,882, the  
19 maximum value of the claim for unpaid wages due to alleged off-the-clock work was \$280,591, the  
20 maximum value of unpaid overtime was \$28,023, the maximum potential damages for alleged meal  
21 period violations were estimated to be \$70.342 based upon a 11.5% violation rate observed in the  
22 time records and after deduction of meal premiums already paid by Defendant, the maximum  
23 potential damages for alleged rest period violations were estimated to be \$885,231 based upon an  
24 alleged 100% violation rate, and the maximum potential damages for the alleged failure to  
25 reimburse business expenses were calculated to be \$13,320 based upon \$5 per month. In total, the  
26 damages for the Class were calculated to have a maximum potential total value of \$1,307,389. In  
27 addition, Plaintiff calculated that the maximum value of the potential waiting time penalties were  
28

1 between \$227,208 and \$358,289, depending on the predicate violation, and the maximum value of  
2 the potential wage statement penalties were \$155,400.<sup>1</sup> Defendant vigorously disputed Plaintiff's  
3 calculations and exposure theories. Consequently, the Gross Settlement Amount represents more  
4 than 35% of Plaintiff's calculation of the potential maximum damages at issue for the Class in this  
5 case, assuming these amounts could all be proven in full at trial.<sup>2</sup> Importantly, the highest valued  
6 claim was the rest period claim which was valued at a 100% violation rate, however, class members  
7 certainly received some rest periods so this valuation is likely overstated. The maximum  
8 calculations should then be realistically risk rated in consideration for both the risk of class  
9 certification and the risk of establishing class-wide liability on all claims. Given the amount of the  
10 Settlement as compared to the potential value of the claims, the Settlement is most certainly fair and  
11 reasonable. Specific details as to the calculation and valuation of the claims for purposes of  
12 mediation and the negotiation of the Settlement are as follows:

13           **A. Payroll and Timekeeping Data.** Plaintiff received and Plaintiff's expert  
14 analyzed payroll data and time punch data which covered 153 employees  
15 during the period 11/30/2018 through 6/2/2023. As such, for mediation  
16 Plaintiff's expert only had to extrapolate this data out a few months to  
17 November 14, 2023. The payroll data and time punch data covered 46,024  
18 shifts worked and 10,379 work weeks, which means that Plaintiff received  
19 and analyzed nearly the entire payroll and time data applicable to the Class.

20           **B. Alleged Miscalculation of the Regular Rate for Overtime.** Plaintiff

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21  
22       <sup>1</sup> While Plaintiff alleged claims for statutory penalties pursuant to Labor Code Sections 203 and  
23 226, at mediation Plaintiff recognized that these claims were subject to additional, separate defenses  
24 asserted by Defendant, including but not limited to, a good-faith dispute defense as to whether any  
25 premium wages for meal or rest periods or other wages were owed given Defendant's position that  
26 Plaintiff and Class Members were properly compensated. *See Nordstrom Commission Cases*, 186  
27 Cal. App. 4th 576, 584 (2010) ("There is no willful failure to pay wages if the employer and  
28 employee have a good faith dispute as to whether and when the wages were due.").

29       <sup>2</sup> Because the PAGA claim does not provide a recovery to the Class, Plaintiff did not included  
the PAGA claim in this discussion of the class claim valuation. The PAGA claim is addressed  
below at ¶ 33.

1 alleged that The annual BON-BONUS payments were not included in the  
2 regular rate of pay for purposes of calculating overtime. Payroll data showed  
3 that 49.4% of employees and 47.6% of pay periods had overtime paid and  
4 bonus earned. The damages are calculated as the difference between the  
5 earnings assuming overtime hours are paid correctly at the regular rate  
6 incorporating all the additional compensation and the actual payout. The  
7 average base rate for the Class was \$18.53 per hour. There are also unpaid  
8 meal premiums and vacation pay ("PTO" and "Paid Leavel" assumed  
9 vacation pay) due from not including the annual bonuses in the regular rate.  
10 42.9% of employees and 9.3% of pay periods have meal premiums paid and  
11 bonus earned. 48.1% of employees and 21% of pay periods have vacation  
12 paid and bonus earned. The alleged unpaid wages from the miscalculation of  
13 the regular rate applicable to overtime pay and meal premiums paid was  
14 calculated to total \$29,882.

15 **C. Unpaid Overtime.** Plaintiff's expert also found unpaid overtime in 5.9% of  
16 pay periods, meaning that some overtime hours were paid as regular hours.  
17 The unpaid overtime resulting from this alleged underpayment totaled  
18 \$28,023.

19 **D. Alleged Off-The-Clock Work.** The off-the-clock claim is based on  
20 allegations that Defendant knew or should have known the Class Members  
21 spent time in the locker room donning protective gear prior to clocking in. As  
22 a result, they were systematically subjected to uncompensated pre and post  
23 shift donning, doffing, and walking time, which is alleged to be  
24 uncompensated work time. Off-the-clock damages assume employees were  
25 not paid 1 hour per workweek. 84.3% of these OTC hours are assumed  
26 overtime. Unpaid OTC wages are calculated as the sum of unpaid regular  
27 OTC wages (at the hourly rate) and the unpaid overtime OTC wages (at the  
28

overtime rate).. As a result, the maximum value of the claim for unpaid wages due to alleged off-the-clock work was \$280,591.

C. **Alleged Meal Period Violations.** The meal period claim is based upon the analysis of time punch records reflect a meal break violation rate in 11.5% of all shifts (4,960 unique violations out of 43,299 shifts greater than 6 hours). The pay data reflects meal break premiums paid for 1,135 instances, therefore roughly 97.7% of facial violations have had a premium paid. The pay data reflects meal break premiums paid for 1,275 instances, therefore roughly 25.7% of facial violations have had a premium paid. The 4,960 unique meal break violations include 1,015 late (after 5th hour), 451 missed (for shifts greater than 6 hours), 141 short (under 30 minutes), 48 missed 2nd meal breaks (for shifts greater than 12 hours), and 3,399 shifts with exactly 30-minute meals (for shifts greater than 6 hours). The damages for a missed period is one hour of pay under Labor Code §§266.7 and 512. As a result, the maximum potential damages for alleged meal period violations using the 11.5% potential violation rate, and after deducting premiums paid of \$25,352, were estimated to be \$70,342.

D. **Alleged Rest Period Violations.** The rest period claim is difficult to calculate because California law does not require rest periods to be recorded. For this claim, Plaintiff used the maximum assumption of 100% violation rate for all shifts. The damages for a missed period is one hour of pay under Labor Code §§266.7 and 512. As a result, the maximum potential damages for alleged rest period violations using a 100% violation rate were estimated to be \$885,231. As discussed above, because this valuation was based on a 100% violation rate, and Class Members most certainly received some rest breaks, this valuation is likely overstated.

E. **Alleged Business Expenses Reimbursement.** The expense reimbursement

claim was based upon the personal cellphone usage for work purposes. The value of this claim used was \$5 per month over 2,664 months to calculated that the maximum potential damages for the alleged failure to reimburse business expenses were \$13,320

F. **Alleged Waiting Time Penalties.** Waiting Time Penalties are calculated assuming 82 terminated employees x 7.9 hours per day x 30 days x the average rate of pay. An alternate Waiting Time Penalty was calculated for 52 terminated employees with regular rate issues (unpaid overtime or Ferra). As such, the maximum value of the potential waiting time penalties were calculated to be between \$227,208 and \$358,289, depending on the predicate violation.

G. **Alleged Wage Statement Penalties.** Wage Statement Penalties are calculated at \$50 for the initial violation and \$100 for each subsequent violation with a max of \$4,000 per employee (assumes 100% violation). The Wage Statement claim is predicated and is derivative of the above claims, so the maximum valuation assumed there was a violation in every pay period within the applicable one-year statute of limitation. The maximum value of the potential wage statement penalties were therefore calculated to be \$155,400.

H. **Alleged PAGA Claim.** The PAGA Claim is not a class claim and the PAGA penalties are paid primarily (75%) to the State of California, and do not compensate for or release the individual claims of the employees. As such, the PAGA Claim is not included in this valuation, however, the PAGA claim is addressed separately below at paragraph 33.

#### Procedural History of the Litigation

7. On October 4, 2022, Plaintiff filed with the LWDA and served on Defendant a

1 notice under Labor Code section 2699.3 identifying the alleged Labor Code violations to recover  
2 civil penalties on behalf of Aggrieved Employees for various Labor Code violations. A true and  
3 correct copy of this PAGA Notice is attached hereto as Exhibit #4. On November 30, 2022, Plaintiff  
4 commenced the Action by filing a Complaint against Defendant in the Superior Court of the State of  
5 California, County of Los Angeles. The Complaint asserted class claims against Defendant for: (1)  
6 unfair competition in violation of Cal. Bus & Prof. Code §§ 17200, et seq.; (2) failure to pay  
7 minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1; (3) failure to pay  
8 overtime wages in violation of Cal. Labor Code § 510; (4) failure to provide required meal periods in  
9 violation of Cal. Labor Code §§ 226.7 and 512; (5) failure to provide required rest periods in  
10 violation of Cal. Labor Code §§ 226.7 and 512; (6); failure to provide accurate itemized wage  
11 statements in violation of California Labor Code § 226; (7) failure to reimburse employees for  
12 required expenses in violation of California Labor Code § 2802; (8) failure to provide wages when  
13 due in violation of California Labor Code §§ 201, 202 and 203; and, (9) failure to pay sick pay  
14 wages in violation of California Labor Code §§ 201-204, 233, 246. On December 30, 2022,  
15 Plaintiff filed a separate complaint against Defendant (the “Individual Action”) for violation of the  
16 Private Attorney General Act (“PAGA”) seeking civil penalties pursuant to Labor Code § 2699, et  
17 seq. for violations of Labor Code §§ 201, 202 203, 204 et seq., 210, 218, 221, 226(a), 226.7, 227.3,  
18 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8,  
19 Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s).

20 . 8. On August 3, 2023, Plaintiff filed a First Amended Complaint in the Individual  
21 Action which added a cause of action for Wrongful Termination in Violation of Public Policy and a  
22 First Amended Complaint in the Action which removed the cause of action for Wrongful  
23 Termination in Violation of Public Policy. On March 6, 2024, the Parties also filed a stipulation in  
24 the Individual Action to dismiss the PAGA cause of action without prejudice leaving only a cause of  
25 action for Wrongful Termination in Violation of Public Policy in the Individual Action.

26 9. As part of this Settlement, on February 28, 2024, the Parties filed a stipulation to add  
27 the PAGA cause of action to the complaint in the Action. The Second Amended Complaint in the  
28

1 Action was filed on March 1, 2024 and is referred to as the "Operative Complaint". Defendant  
2 denies the allegations in the Operative Complaint, denies any failure to comply with the laws  
3 identified in the Operative Complaint and denies any and all liability for the causes of action  
4 alleged.

5 10. Over the course of litigation, the Parties engaged in the investigation of the claims,  
6 including production of documents, class data, and other information, allowing for the full and  
7 complete analysis of liabilities and defenses to the claims in the Action. Plaintiff obtained informal  
8 discovery, which included the production and analysis of hundreds of pages of documents. The  
9 information for mediation obtained by Plaintiff included: (1) data concerning the composition of the  
10 Class; (2) payroll data for the Class and time punch data for the Class which covered 46,024 shifts  
11 and 10,379 work weeks; (3) Defendant's wage and hour policies and job descriptions; (4) the  
12 employment file for the Plaintiff; and, (5) samples of wage statements provided by Defendant. As  
13 such, Class Counsel received the data and information for the Class, which was sufficient for  
14 Plaintiff's expert to prepare the valuations of the claims for the Class.

15 11. Class Counsel has extensive experience in litigating wage and hour class actions in  
16 California. The Parties have vigorously litigated the Action since inception. During the course of  
17 litigation, the Parties each performed analysis of the merits and value of the claims. Plaintiff and  
18 Defendant have engaged in substantial research and investigation in connection with the Action.  
19 Class Counsel has thoroughly analyzed the value of the claims during the prosecution of this Action  
20 and utilized an expert to perform an analysis of the data and valuation of the claims.

21 12. Plaintiff and Defendant agreed to discuss resolution of the Action through a  
22 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of  
23 documents and information in connection with the Action. On December 11, 2023, the Parties  
24 participated in an all-day mediation presided over by Steven Serratore, a respected and experienced  
25 mediator of wage and hour class actions. Following the mediation, each side, represented by its  
26 respective counsel, were able to agree to settle the Action based upon a mediator's proposal which  
27 was memorialized in a memorandum of understanding. The Parties then negotiated the final terms  
28

1 of the settlement as set forth in the Agreement. At all times, the negotiations were arm's length and  
2 contentious.

3 13. Although a settlement has been reached, Defendant denies any liability or  
4 wrongdoing of any kind associated with the claims alleged in the Action and further deny that, for  
5 any purpose other than settlement, the Action is appropriate for class and/or representative  
6 treatment. Defendant contends, among other things, that it has properly compensated the Class  
7 Members and complied at all times with the California Labor Code, applicable Wage Order, and all  
8 other laws and regulations. Further, Defendant contends that class certification is inappropriate for  
9 any reason other than for settlement. Plaintiff contends that Defendant violated California wage and  
10 hour laws. Plaintiff further contends that the Action is appropriate for class certification on the  
11 basis that the claims meet the requisites for class certification. Without admitting that class  
12 certification is proper, Defendant has stipulated that the above Class may be certified for settlement  
13 purposes only. (Agreement at ¶ 2.8.) The Parties agree that certification for settlement purposes is  
14 not an admission that class certification is proper. Further, the Agreement is not admissible in this  
15 or any other proceeding as evidence that the Class could be certified absent a settlement. Solely for  
16 purposes of settling the Action, the Parties stipulate and agree that the requisites for establishing  
17 class certification with respect to the Class are satisfied.

18 14. Class Counsel has conducted a thorough investigation into the facts of the class  
19 action. Over the course of more than a year, Class Counsel diligently evaluated the Class Members'  
20 claims against Defendant. Prior to the settlement negotiations, counsel for Defendant provided  
21 Class Counsel with access to necessary documents and information for the Class. In addition, Class  
22 Counsel has previously negotiated settlements with other employers in actions involving nearly  
23 identical issues and analogous defenses. Based on the informal discovery and their own  
24 independent investigation, evaluation and experience, Class Counsel believes that the settlement  
25 with Defendant on the terms set forth in the Agreement is fair, reasonable, and adequate and is in  
26 the best interest of the Class in light of all known facts and circumstances, including the risk of  
27 significant delay, the risk that the claims would not be allowed to proceed on a class or  
28

1 representative basis, the defenses asserted by Defendant, and potential appellate issues.

2  
3 Settlement Terms and Plan of Allocation

4 15. The Gross Settlement Amount is Four Hundred Seventy Thousand Dollars  
5 (\$470,000). (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount consists of  
6 the following elements: (i) all Individual Class Payments and Individual PAGA Payments; (ii) the  
7 LWDA PAGA Payment; (iii) the Class Counsel Fees Payment and the Class Counsel Litigation  
8 Expenses Payment; (iv) the Class Representative Service Payment; and (v) the Administration  
9 Expenses Payment. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not include  
10 Defendant's share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount shall be  
11 all-in with no reversion to Defendant. (Agreement at ¶ 3.1.)

12 16. Within thirty (30) days of the Effective Date, Defendant shall deposit the Gross  
13 Settlement Amount with the Administrator. (Agreement at ¶ 4.3.) The distribution of Individual  
14 Class Payments to Participating Class Members along with the other Court-approved distributions  
15 shall be made by the Administrator within fourteen (14) days after Defendant fully funds the Gross  
16 Settlement Amount. (Agreement at ¶ 5.1.)

17 17. The amount remaining in the Gross Settlement Amount after the deduction of  
18 Court-approved amounts for Individual PAGA Payments, the LWDA PAGA Payment, the Class  
19 Representative Service Payment, the Class Counsel Fees Payment, the Class Counsel Litigation  
20 Expenses Payment, and the Administration Expenses Payment (the "Net Settlement Amount") shall  
21 be allocated to Participating Class Members as their Individual Class Payments. (Agreement at ¶¶  
22 1.29 and 3.2(e).) From the Net Settlement Amount, the Individual Class Payment for each  
23 Participating Class Member will be calculated by (i) dividing the Net Settlement Amount by the  
24 total number of Workweeks worked by all Participating Class Members during the Class Period and  
25 (b) multiplying the result by each Participating Class Member's Workweeks. (Agreement at ¶  
26 3.2(e).) Workweeks will be calculated based on Defendant's records; however, Class Members will  
27 have the right to challenge their number of Workweeks.

1           18.     Class Members may choose to opt-out of the Settlement by following the directions  
2 in the Class Notice. (Agreement at ¶ 8.5, Ex. A.) All Class Members who do not "opt out" will be  
3 deemed Participating Class Members and will be bound by the Settlement and will be entitled to  
4 receive an Individual Class Payment. (Agreement at ¶ 8.5(c).) All Aggrieved Employees, including  
5 any who submit an opt-out request, still will receive an Individual PAGA Payment and will release  
6 of the Released PAGA Claims regardless of their request for exclusion. (Agreement at ¶¶ 6.3 and  
7 8.5(d)) Finally, the Class Notice will advise the Class Members of their right to object to the  
8 Settlement and/or dispute their Workweeks. (Agreement at ¶¶ 8.6 and 8.7, Ex. A.)

9           19.     A Participating Class Member must cash the check for his or her Individual Class  
10 Payment (and, if applicable, Individual PAGA Payment) within 180 days after it is mailed.  
11 (Agreement at ¶ 5.2.) Any settlement checks not cashed within 180 days will be voided and any  
12 funds represented by such checks sent to the California State Controller's Office, Unclaimed  
13 Property Division, in the name of the Class Member, thereby leaving no "unpaid residue" subject to  
14 the requirements of California Code of Civil Procedure Section 384, subd. (b). (Agreement at ¶  
15 5.4.)

16           20.     Subject to Court approval, the Parties have agreed on Apex Class Action LLC to  
17 administer the settlement in this action (the "Administrator"). (Agreement at ¶ 1.2.) The  
18 Administrator will be paid for settlement administration in an amount not to exceed \$9,000.  
19 (Agreement at ¶ 3.2(c).)

20           21.     Subject to Court approval, the Agreement provides for Class Counsel to be awarded  
21 a sum not to exceed one-third of the Gross Settlement Amount as the Class Counsel Fees Payment.  
22 (Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply for an award of Class Counsel  
23 Litigation Expenses Payment in an amount not to exceed \$26,000. (Agreement at ¶ 3.2(b).) Subject  
24 to Court approval, the Agreement provides for a payment of no more than \$12,500 to Plaintiff as the  
25 Class Representative Service Payment. (Agreement at ¶ 3.2(a).)

26           22.     Subject to Court approval, the Agreement provides for Class Counsel to be awarded  
27 a sum not to exceed one-third of the Gross Settlement Amount as the Class Counsel Fees Payment.  
28

(Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply for an award of Class Counsel Litigation Expenses Payment in an amount not to exceed \$26,000. (Agreement at ¶ 3.2(b).) Subject to Court approval, the Agreement provides for a payment of no more than \$12,500 to Plaintiff as the Class Representative Service Payment. (Agreement at ¶ 3.2(a).)

#### Risks of Continued Litigation and Standards for Approval

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

24. Here, a number of defenses asserted by Defendant present serious threats to the claims of the Plaintiff and the other Class Members. Defendant maintains that its practices complied with all applicable wage and hour laws. Defendant maintains that all Class Members' work time was properly recorded and compensated and that there was no miscalculation of the regular rate. Defendant contends that its meal and rest period policies and practices provide Class Members with meal and rest periods and that the payment of significant meal premiums is evidence of Defendant's legal compliant practices. As to expense reimbursement, Defendant maintains that it did not fail to provide reimbursement for necessary business expenses because, among other things, employees are not required to use their personal cell phones to perform their work. Defendant could argue that the decisions in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), *Lockheed Martin Corp. v. Superior Ct.*, 29 Cal. 4th 1096, 1108 (2003), and *Salazar v. See's Candy Shops Inc.*, 64 Cal.App.5th 85 (2021), weakened Plaintiff's claims in terms of liability and value, and preclude claims from proceeding on a class or representative basis. Defendant also maintains that a good faith dispute and absence of willfulness would negate the claims for waiting time penalties and/or failure to provide accurate itemized wage statements. See e.g. *Naranjo v. Spectrum Sec. Servs.*,

1 2024 Cal. Lexis 2438, at \*3 (May 6, 2024) (“if an employer reasonably and in good faith believed it  
2 was providing a complete and accurate wage statement in compliance with the requirements of  
3 section 226, then it has not knowingly and intentionally failed to comply with the wage statement  
4 law.”) If successful, Defendant’s defenses could eliminate or substantially reduce any recovery to  
5 the Class. While Plaintiff believes that these defenses could be overcome, Defendant maintains  
6 these defenses have merit and therefore present a serious risk to recovery by the Class.

7 25. There was also a significant risk that, if the Action was not settled, Plaintiff would be  
8 unable to obtain class certification and thereby not recover on behalf of any employees other than  
9 themselves. Defendant argued that the individual experience of each putative class member varied  
10 with respect to the claims, which would preclude the claims from proceeding on a class basis. For  
11 instance, Plaintiff’s meal and rest period claims would require individualized inquiries into whether  
12 each employee took a compliant meal or rest period on a given shift and, if not, why. Plaintiff is  
13 aware of other cases where class certification of similar claims was denied. *See e.g. Cacho v.*  
14 *Eurostar, Inc.*, 43 Cal. App. 5th 885 (2019) (denying certification of rest break claims). Finally,  
15 even if class certification was successful, as demonstrated by the California Supreme Court decision  
16 in *Duran v. U.S. Bank National Association*, 59 Cal. 4th 1 (2014), there are significant hurdles to  
17 overcome for a class-wide recovery even where a class has been certified. While other cases have  
18 approved class certification of wage and hour claims, class certification in this Action would have  
19 been hotly disputed and was by no means a foregone conclusion.

20 26. This settlement is therefore certainly entitled to preliminary approval. Were this  
21 case to go to trial, the Plaintiff and the other class members would need to prove, among other  
22 things, that wages were owed on a class-wide basis. This was and is a substantial risk. This  
23 Settlement provides a recovery to all non-exempt employees of the Defendant, which is a result that  
24 would not be possible if liability was not imposed on a class-wide basis.

25 27. Plaintiff will apply to the Court for a Class Representative Service Payment in  
26 consideration for her service and for the risks undertaken on behalf of the Class. (Agreement at ¶  
27 3.2(a).) Plaintiff performed her duties admirably by working with Class Counsel. The concurrently  
28 filed declaration of the Plaintiff is presented herewith in support of the request. For purposes of this

1 preliminary approval stage, the requested service award of is well within the accepted range of  
2 awards for purposes of preliminary approval. *See, e.g., Andrews v. Plains All Am. Pipeline L.P.*,  
3 2022 U.S. Dist. LEXIS 172183, at \*11 (C.D. Cal. 2022) (finding that the requested service awards  
4 of \$15,000 each are appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS  
5 149865, at \*19 (N.D. Cal. 2019) (granting request for \$12,500 service award); *Mathein v. Pier 1*  
6 *Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where average  
7 class member payment was \$351); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL  
8 4473183, \*7 (S.D. Cal. Oct. 06, 2008) (awarding \$25,000 service award to each of six plaintiffs in  
9 overtime class action); *Glass v. UBS Fin. Servs.*, 2007 WL 221862, \*16-17 (N.D. Cal. 2007)  
10 (awarding \$25,000 service award in overtime class action and a pool of \$100,000 in enhancements).  
11 Below, I provide a long list of similar Court-approved service awards.

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

22         29.       Based on the informal discovery of data and documents, and their own independent  
23 investigation and evaluation, Class Counsel is of the opinion that the Settlement with Defendant for  
24 the consideration and on the terms set forth in the Agreement is fair, reasonable, and adequate and is  
25 in the best interest of the Class in light of all known facts and circumstances, including the risk of  
26 significant delay, defenses asserted by Defendant, and numerous potential appellate issues. There  
27 can be no doubt that counsel for both Parties possessed sufficient information to make an informed  
28 judgment regarding the likelihood of success on the merits and the results that could be obtained

1 through further litigation.

2  
3 Class Certification Issues

4 30. Plaintiff contends that the Settlement meets all of the requirements for certification  
5 of a settlement class under California Code of Civil Procedure § 382 as demonstrated below, and  
6 therefore, the Court may appropriately approve the Class as defined in the Agreement. This Court  
7 should conditionally certify the Class, for settlement purposes only, defined as follows:

8 All individuals who were employed by Defendant in California and classified as a  
9 non-exempt employee at any time during the Class Period.

10 (Agreement at ¶ 1.5.)

11 The “Class Period” is from November 30, 2018 to December 11, 2023. (Agreement at ¶ 1.13.)

12 a. **Ascertainability And Numerosity** - Here, Plaintiff asserts that the 163  
13 individuals who comprise the Class can be identified based on Defendant’s records and are  
14 sufficiently numerous for class certification.

15 b. **Predominance of Common Issues Of Law and Fact** - Here, Plaintiff  
16 contends that common questions of law and fact are present, and specifically the common questions  
17 of whether Defendant’s practices were lawful, whether Class members were lawfully compensated  
18 for all hours worked, whether Defendant properly calculated wages, whether the Defendant failed to  
19 provide all legally required meal and rest periods to Class Members, whether Defendant failed to  
20 provide required expense reimbursement, and whether Class Members are entitled to damages and  
21 penalties as a result of these alleged practices. Plaintiff contends that certification of this Class is  
22 appropriate because Defendant allegedly engaged in uniform practices with respect to the Class  
23 Members. As a result, these common questions of liability could be answered on a class wide basis.

24 c. **Typicality** - In the Action, Plaintiff contends that there can be little doubt  
25 that the typicality requirement is satisfied. Plaintiff worked for Defendant as non-exempt employee  
26 during the Class Period. Plaintiff contends that, like every other member of the Class, she was  
27 subjected to the same practices and policies of Defendant and is subject to the same defenses. Thus,  
28 Plaintiff asserts that the claims of Plaintiff and the Class Members arise from the same course of

1 conduct by the Defendant, involve the same employment policies and practices of Defendant, and  
2 are based on the same legal theories.

3 d. **Adequacy** - Plaintiff contends that the Class Members are adequately  
4 represented here because Plaintiff and Class Counsel (a) do not have any conflicts of interest with  
5 other Class members, and (b) will prosecute the case vigorously on behalf of the Class. First,  
6 Plaintiff is well aware of her duties as the representative of the Class and has actively participated in  
7 the prosecution of this case to date. Plaintiff effectively communicated with counsel, provided  
8 documents to counsel, and participated in the investigation and negotiations in the Action. Second,  
9 Plaintiff retained competent counsel who are experienced in employment class actions and who  
10 have no conflicts. Third, there is no antagonism between the interests of the Plaintiff and those of  
11 the Class. Both Plaintiff and the Class Members seek monetary relief under the same set of facts  
12 and legal theories.

13 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal  
14 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can  
15 competently represent the Class. Other lawyers at my firm and I have extensive class litigation  
16 experience. We have handled a number of class actions and complex cases and have acted both as  
17 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully  
18 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits  
19 involving complex issues of law and fact. My firm is particularly experienced in wage and hour  
20 employment law class actions, including claims for misclassification, overtime, expense  
21 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal  
22 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage  
23 and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be  
24 adequate counsel by the courts throughout California. We have been approved as experienced class  
25 counsel by both state and federal courts in California in contested class certification proceedings. A  
26 true and correct copy of the resume of my firm is attached hereto as Exhibit #3. The Class in this  
27 settlement is defined as "all individuals who were employed by Defendant in California and  
28 classified as a non-exempt employee at any time during the Class Period." I have reviewed my

1 firm's cases and representation of other plaintiffs and there is no conflict or representation which  
2 would prevent my firm from representing the interests of the Class this case. My firm only  
3 represents employees, and not employers. My firm has never represented Defendant nor any  
4 affiliate of the Defendant. My firm's only interest in the subject matter of this litigation is to ensure  
5 a recovery to the Class and to maximize that recovery. Finally, our allegiance to the Class and the  
6 claims of the Class is not inconsistent with our allegiance to pursue the claims on behalf of other  
7 employees and classes as the claims are all against different and distinct employers. I can think of  
8 no conflict that would arise in our representation of the Class and our adequate representation of the  
9 Class is evidenced by the successful prosecution of the class claims to reach an excellent recovery  
10 for the Class. Moreover, neither the Plaintiff nor Class Counsel have any affiliation with the  
11 Administrator for this settlement. Thus, the adequacy requirement for my firm is satisfied.

12 32. The Class Notice, drafted jointly and agreed upon by the Parties through their  
13 respective counsel and to be approved by the Court, is based upon the Los Angeles County Superior  
14 Court's model form and includes all relevant information. (See Exhibit "A" to the Agreement.)  
15 The mailing will include a Spanish translation of the Class Notice. (Agreement at ¶ 1.11.) The  
16 Class Notice, drafted jointly and agreed upon by the Parties through their respective counsel and to  
17 be approved by the Court, includes all relevant information. (See Exhibit "A" to the Agreement.)  
18 The Class Notice will include, among other information: (i) information regarding the Action; (ii)  
19 the impact on the rights of the Class Members if they do not opt out, including a description of the  
20 applicable release; (iii) information to the Class Members regarding how to opt out and how to  
21 object to the Settlement; (iv) the estimated Individual Class Payment (and, if applicable, Individual  
22 PAGA Payment) for each of the Class Members and how to dispute the information used to  
23 calculate the payment; (iii) the amount of attorneys' fees and expenses to be sought; (v) the amount  
24 of the Plaintiff's service award request; and (vi) the anticipated expenses of the Administrator. The  
25 Class Notice will state that the Class Members shall have sixty (60) days from the date that the  
26 Notice is mailed to them (the "Response Deadline") to request exclusion (opt-out), and that the  
27 Response Deadline shall be extended 14 days in the event of a re-mailing. (Agreement at ¶¶ 1.43,  
28 8.5(a).) Class Members shall be given the opportunity to object to the Settlement and/or requests

1 for attorneys' fees and expenses and to appear at the Final Approval Hearing. (Agreement at ¶ 8.7.)  
2 Class Members who do not submit a timely and proper request to opt out will automatically receive  
3 a payment of their Individual Class Payment (and, if applicable, their Individual PAGA Payment).  
4 This notice program was designed to meaningfully reach the Class Members and it advises them of  
5 all pertinent information concerning the Settlement.

6  
7 33. The PAGA Claim -

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

20 b. **Valuation of the PAGA Claim.** For mediation, Plaintiff calculated the  
21 value of the alleged PAGA claim as to the Aggrieved Employees for civil penalties to be between  
22 \$85,850 and \$171,700 for a single violation in every one of the estimated 1,717 pay periods at issue  
23 in the PAGA Period, depending on whether the violation was \$50 per pay period as in the case of  
24 Labor Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor Code  
25 § 1198. This valuation assumed that PAGA civil penalties would be awarded at the maximum rate

1 per pay period but without stacking.<sup>3</sup> The PAGA allocation in the Settlement is \$7,500. This  
2 allocation is justified by several important considerations. First, the PAGA claim was subject to the  
3 same risks as the underlying class claims. Second, Defendant asserted additional defenses to the  
4 PAGA claim, not only as to liability but also as to the amount of the penalties. Defendant could  
5 also argue that no penalties prior to the PAGA notification should be awarded, and I am aware of  
6 one Court which has so ruled. These additional defenses present a risk to the PAGA claim and the  
7 potential that some or all of the PAGA penalties sought may not be awarded. Second, in *Carrington*  
8 *v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the Court affirmed a judgment which only  
9 provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA penalties awarded  
10 could be significantly less than Plaintiff's calculation even where Plaintiff prevailed on the PAGA  
11 claim. Even if we assume that violations for all 1,717 pay periods were established, using the  
12 valuation from *Carrington* results in a potential recovery of only \$8,585 under PAGA. This means  
13 that the PAGA allocation of \$10,000 in the Agreement is a reasonable percentage of this potential  
14 PAGA recovery. Fourth, the interests of PAGA are also served by the Class recovery under the  
15 reasoning of the LWDA in *O'Connor v. Uber*.

16 c. **Comparable PAGA Settlements.** In reaching the settlement of the PAGA  
17 claim, Class Counsel was also aware of what allocations other Courts have approved for similar  
18 PAGA settlements as compared to the total settlement amount. A class settlement that allocates  
19 approximately 2% of the total settlement value to resolve the PAGA claims applicable to the class is  
20 also supported by what has been approved in other wage-and-hour class settlements. Indeed, Courts  
21 typically approve PAGA settlement amounts in the range of between 0.27 to 2 percent of the total  
22 settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015) (PAGA  
23 Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated Logistics, Inc.*,  
24 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for PAGA on a \$1.5

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25  
26 <sup>3</sup> Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.  
27 The valuation of between \$85,850 and \$171,700 is the civil penalty amount without stacking. If  
28 stacking is permitted, then the valuation increases with each additional penalty added to each pay  
period. Plaintiff, however, are not aware of any PAGA award which permitted stacking and in the  
cases cited herein, only one penalty per pay period was assessed.

1 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637 (N.D. Cal. 2015)  
2 (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs, Inc.*, 2014 U.S. Dist  
3 Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA for PAGA out of  
4 \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, \*1 (N.D.  
5 Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9 million common-fund  
6 settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, \*13 (E.D. Cal. 2012)  
7 (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million common-fund settlement);  
8 *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, \*9 (N.D. Cal. 2009) (approving PAGA allocation  
9 that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon Trucking, Inc.*,  
10 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement of \$3,700,000,  
11 with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*, CV 10-02420  
12 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount of \$8.25  
13 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay*, 8:10-cv-00112-DOC  
14 (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000 allocated to PAGA);  
15 *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as PAGA penalties  
16 or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive Educational Services Inc.*,  
17 Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000 allotted as PAGA penalties or  
18 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell Banker Residential Brokerage*  
19 *Company*, Los Angeles Superior Court Case No. BC495767 (2016) (\$10,000 allotted as PAGA  
20 penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los Robles Medical Center*, No.  
21 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.40% of \$3,775,000  
22 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441 (E.D. Cal. 2017)  
23 (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount); *Nehrlich v. RPM*  
24 *Mortgage Inc.*, Orange County Superior Court Case No. 30-2013-00666783-CU-OE-CXC (2017)  
25 (\$10,000 allotted as PAGA penalties or 0.40% of \$2,500,000 settlement amount); *Rubio v. KTI*  
26 *Incorporated*, San Bernardino Superior Court Case No. CIVDS-14-06132 (2015) (\$1,000 allotted as  
27 PAGA penalties or 0.18% of \$550,000 settlement amount); *Gray v. Mountain View Child Care Inc.*,  
28 San Bernardino Superior Court Case No. CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA

1 penalties or 0.37% of \$675,000 settlement amount); *Perez v. West Coast Liquidators Inc. d/b/a Big*  
2 *Lots*, San Bernardino Superior Court Case No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA  
3 penalties or 0.33% of \$900,000 settlement amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles  
4 Superior Court No. BC471369 (2013) (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000  
5 settlement amount); *Mejia v. DHL Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000  
6 allotted as PAGA penalties or 0.34% of \$1,450,000 settlement amount).

7  
8 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the  
9 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and  
10 reasonable, and at the time of final approval, my firm will present lodestar to further support the  
11 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees  
12 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some  
13 of the class action awards obtained by Class Counsel in similar employment actions throughout the  
14 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total  
15 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles  
16 Superior Court, Case No. JCCP 4919), Judge Carolyn Kuhl awarded Class Counsel a one-third fee  
17 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*  
18 *Cases* (San Mateo Superior Court, Case No. JCCP 4945), Judge Marie Weiner awarded Class  
19 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*  
20 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307), Judge Edward Weil  
21 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December  
22 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.  
23 BC672235), Judge William Highberger awarded Class Counsel a one-third fee award in a wage and  
24 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange  
25 County Superior Court Case No. JCCP 4957), Judge William Claster awarded Class Counsel a one-  
26 third award in a wage and hour class settlement. On October 23, 2020, in *Ontiveros v. Baker*  
27 *Concrete*, (Santa Clara Superior Court Case No. 18CV328679), Judge Brian Walsh awarded Class  
28 Counsel a one-third fee award in a wage and hour class settlement. On December 3, 2020, in

1 *Blackshear v. California Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-  
2 00245842), Judge Christopher Krueger awarded BNBD a one-third fee award in a wage and hour  
3 class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case  
4 No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third fee award in a wage and  
5 hour class settlement. On September 24, 2021, in *Prologistics Wage and Hour Cases* (Los Angeles  
6 Superior Court Case No. JCCP 4881), Judge William Claster awarded Class Counsel a one-third fee  
7 award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour*  
8 *Cases* (Los Angeles Superior Court Case No. JCCP4837), Judge David Cunningham awarded a  
9 one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's Candies*  
10 *Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP5004), Judge Maren Nelson  
11 awarded a one-third fee award in a wage and hour class action settlement. On April 12, 2022, in  
12 *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665), Judge Richard  
13 Ulmer awarded a one-third fee award in a wage and hour class action settlement. On May 23, 2022,  
14 in *Ettegui v. WB Studio Enterprises Inc.*, (United States District Court, Central District of  
15 California Case No. 2:20-cv-08053-MCS-JDE), District Judge Mark C. Scarsi awarded a one-third  
16 fee award in a wage and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v.*  
17 *Prometric LLC* (Los Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson  
18 awarded a one-third fee award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D*  
19 *Carwash Management LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge  
20 Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement.  
21 On August 10, 2022, in *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court  
22 Case No. 34-2017-00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee  
23 award in a wage and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v.*  
24 *Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr.  
25 awarded a one-third fee award in a wage and hour class action settlement. On November 4, 2022, in  
26 *Infinity Energy Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge Keri  
27 Katz awarded a one-third fee award in a wage and hour class action settlement. On February 1,  
28 2023, in *Hogan v. AECOM Technical Services, Inc.* (Los Angeles Superior Court Case No.

1 19STCV40072), Judge Stuart Rice awarded a one-third fee award in a wage and hour class  
2 settlement. On February 28, 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior  
3 Court Case No. CGC-21-591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a  
4 wage and hour class action settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings  
5 County Superior Court Case No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee  
6 award in a wage and hour class settlement. On June 20, 2023, in *Gonzalez v. Pacific Western Bank*  
7 (San Bernardino County Superior Court Case No. CIVSB2127657) Judge David Cohn awarded a  
8 one-third fee award in a wage and hour class settlement, On June 30, 2023, in *Aguirre v. Headlands*  
9 *Ventures* (Sacramento County Superior Court Case No. 34-2021-00297290), Judge Jill Talley  
10 approved a one-third fee award in a wage and hour class settlement. On September 15, 2023, in  
11 *Moran v. Sharp Healthcare* (San Diego County Superior Court Case No. 37-2019-00050203), Judge  
12 Richard Whitney awarded a one-third fee award in a wage and hour class settlement. On October  
13 10, 2023, in *Arango v. Schlumberger Technology*, (Orange County Case No.  
14 30-2019-01056839-CU- OE-CXC), Judge William Claster approved a one-third fee award in a  
15 wage and hour class action. On October 16, 2023, in *Flores v. Walmart*, (San Bernardino County  
16 Superior Court Case No. CIVDS2023061) Judge Joseph T. Ortiz awarded a one-third fee award in a  
17 wage and hour class settlement. On November 17, 2023, in *Silva v. Woodward HRT* (Los Angeles  
18 County Superior Court Case No. 21STCV42692), Judge Maren Nelson awarded a one-third fee  
19 award in a wage and hour class settlement. On November 29, 2023, in *Ochoa-Andrade v. See's*  
20 *Candies* (San Mateo County Superior Court Case no. 22-CIV-02481), Judge Marie Weiner  
21 approved a one-third fee award in a wage and hour class settlement. A fee award equal to one-third  
22 of the common fund is therefore reasonable in light of the fees that have been awarded in other  
23 similar cases.

24  
25 35. Class Representative Service Payment - The reasonableness of the requested service  
26 award is also established by reference to the amounts that other California courts have found to be  
27 reasonable in wage and hour class action settlements since 2010: *Zamora v. Balboa Life &*  
28 *Casualty, LLC*, Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding

1 \$25,000 service award); *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP  
2 (AJWx)(C.D. Cal. Mar. 17, 2011)(awarding \$14,767 service award); *Magee v. American*  
3 *Residential Services, LLC*, Case No. BC423798, Los Angeles County Superior Court (Apr. 21,  
4 2011)(awarding \$15,000 service award); *Mares v. BFS Retail & Commercial Operations, LLC*,  
5 Case No. BC375967, Los Angeles County Superior Court (June 24, 2010)(awarding \$15,000  
6 service award); *Baker v. L.A. Fitness Int'l, LLC*, Case No. BC438654, L.A. County Superior Court  
7 (Dec. 12, 2012)(awarding \$10,000 service awards to three named plaintiffs); *Blue v. Coldwell*  
8 *banker Residential Brokerage Co.*, Case No. BC417335, Los Angeles County Superior Court (Mar.  
9 21, 2011)(awarding \$10,000 service award); *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795,  
10 Los Angeles County Superior Court (June, 11, 2010)(awarding \$10,000 service awards); *Coleman*  
11 *v. Estes Express Lines, Inc.*, Case No. BC429042, Los Angeles County Superior Court (Oct. 3,  
12 2013)(awarding \$10,000 service award); *Ethridge v. Universal Health Services, Inc.*, Case No.  
13 BC391958, Los Angeles County Superior Court (May 27, 2011)(awarding \$10,000 service award);  
14 *Hickson v. South Coast Auto Ins. Marketing, Inc.*, Case No. BC390395, Los Angeles County  
15 Superior Court (Mar. 27, 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*,  
16 Case No. BC422934, Los Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service  
17 award); *Kambamba v. Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County  
18 Superior Court, (Aug. 19, 2011)(awarding \$10,000 service award together with additional  
19 compensation for their general release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los  
20 Angeles County Superior Court (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose*  
21 *Hills Mortuary, L.P.*, Case No. BC386500, Los Angeles County Superior Court, (Mar. 19,  
22 2010)(awarding \$10,000 service award); *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No.  
23 BC440282, Los Angeles County Superior Court (Feb. 22, 2013)(awarding \$10,000 service award);  
24 *Silva v. Catholic Mortuary Services, Inc.*, Case No. BC408054, Los Angeles County Superior Court  
25 (Feb. 8, 2011)(awarding \$10,000 enhancement award); *Weisbarth v. Banc West Investment Services,*  
26 *Inc.*, Case No. BC422202, Los Angeles County Superior Court (May 24, 2013)(awarding \$10,000  
27 service award); *Lazar v. Kaiser Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara  
28 County Superior Court (Dec. 28, 2015) (awarding \$10,000 service award); *Acheson v. Express,*

1 *LLC*, Case No. 109CV135335, Santa Clara County Superior Court (Sept. 13, 2011)(awarding  
2 \$10,000 service award); *Bejarano v. Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL  
3 (Opx)(C.D. Cal. June 22, 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply*  
4 *LLC*, Case No. CIVVS 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding  
5 \$10,000 service award); *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep.  
6 10, 2012)(awarding \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC  
7 10005196, Riverside County Superior Court (July 16, 2013)(awarding \$10,000 service award);  
8 *Kisliuk v. ADT Security Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10,  
9 2011)(awarding \$10,000 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No.  
10 JCCP 4582, Orange County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award);  
11 *Barrett v. Doyon Security Services, LLC*, Case No. BS900199, BS900517, San Bernardino County  
12 Superior Court (Apr. 23, 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*,  
13 Santa Clara Superior Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service  
14 award); *Taylor v. TIC - The Industrial Company*, U.S.D.C. Central District of California Case No.  
15 EDCV 16-186-VAP (Aug. 1, 2018) (awarding \$10,000 service award).

16  
17 36. Potentially Related Other Actions - I am unaware of any other related cases pending  
18 against Defendant which would be impacted by this settlement. (Agreement at ¶ 2.9.)  
19

20 37. Administration - The estimate from Apex Class Action is was selected, as it provided  
21 for a capped estimate of \$7,500 to perform settlement administration for a class of up to 180, with  
22 any difference between the actual expenses and the budget of \$9,000 to be retained in the Net  
23 Settlement Amount for distribution to the Class. Submitted herewith is a true and correct copy of  
24 the Declaration of Sean Hartranft from Apex Class Action, which includes their estimate for  
25 administration along with the other issues required by paragraph 7.2 of the Agreement. I have used  
26 Apex Class Action successfully as the administrator in more than ten class settlements in the last  
27 couple years and know them to be competent and experienced. My firm has no relationship or  
28 connection with Apex Class Action, and thus no conflict of interest exists.

1 Service on the LWDA:

2 38. At the same time as the filing and service of this declaration, I am also serving the  
3 LWDA with the entire motion for preliminary approval which includes the Class Action and PAGA  
4 Settlement Agreement. This service is verified by the accompanying proof of service.  
5

6 Defendant's Declaration Pursuant to Paragraph 7.1:

7 39. The Declarations from the Defendant were submitted by the Defendant which  
8 avers to the issues as set forth in paragraph 7.1 of the Agreement.  
9

10 I declare under penalty of perjury under the laws of the State of California that the foregoing  
11 is true and correct. Executed this 16th day of May, 2024, at La Jolla, California.  
12

13 /s/ Kyle Nordrehaug  
14 Kyle Nordrehaug  
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**EXHIBIT #1**

## CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Rachel Macdonald (“Plaintiff”) and defendant Best Friends Animal Society (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as the “Parties,” or individually as “Party.”

### 1. DEFINITIONS

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

- 1.1. “Action” means the Plaintiff’s Class Action lawsuit alleging wage and hour violations against Defendant captioned *Macdonald v. Best Friends Animal Society*, Case No. 22STCV37493, initiated on November 30, 2022 and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means Apex Class Action LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval.
- 1.4. “Aggrieved Employees” means all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period.
- 1.5. “Class” means all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the Class Period.
- 1.6. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.

- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).
- 1.13. “Class Period” means the period of time from November 30, 2018 to December 11, 2023.
- 1.14. “Class Representative” means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.15. “Class Representative Service Payment” means the service payment made to the Plaintiff as Class Representative in order to compensate for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiff.
- 1.16. “Court” means the Superior Court of California, County of Los Angeles.
- 1.17. “Defendant” means Best Friends Animal Society.
- 1.18. “Defense Counsel” means John K. Rubiner and Daniella J. Lee of Freeman Mathis & Gary, LLP.

- 1.19. “Effective Date” means the date by when both of the following have occurred the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.20. “Final Approval” means the Court’s order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- 1.22. “Gross Settlement Amount” means Four Hundred and Seventy Thousand Dollars (\$470,000) which is the total amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.
- 1.23. “Individual Action” mean the Plaintiff’s lawsuit entitled *Macdonald v. Best Friends Animal Society*, Case No. 22CHCV01532, initiated on December 30, 2022 and pending in Superior Court of California, County of Los Angeles.
- 1.24. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.25. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.26. “Judgment” means the judgment entered by the Court based upon Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and

incorporated by reference into this Agreement.

- 1.27. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.28. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.29. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.30. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.32. “PAGA Period” means the period of time from October 4, 2021 to December 11, 2023.
- 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.34. “PAGA Notice” means the Plaintiff’s October 4, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$2,500) and the 75% to LWDA (\$7,500) in settlement of PAGA claims.
- 1.36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.37. “Plaintiff” means Rachel Macdonald, the named plaintiff in the Action.
- 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
- 1.39. “Released Class Claims” means all claims that were alleged, or reasonably could

have been alleged, based on facts stated in the Operative Complaint which occurred during the Class Period during employment in a nonexempt position in California. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

1.40. "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, which occurred during the PAGA Period during employment in a non-exempt position in California. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.

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

1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.43. "Response Deadline" means sixty (60) calendar days after the Administrator mails Class Notice Packet to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her Objection to the Settlement. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.44. "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.

1.45. "Workweek" means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day.

## **2. RECITALS**

2.1. On November 30, 2022, Plaintiff filed this Action against Defendant in the Superior Court of the State of California, County of Los Angeles. Plaintiff's Complaint asserted claims that Defendant:

(a) Violated California Business and Professions Code § 17200 *et seq.*;

- (b) Failed to pay minimum wages in violation of Cal. Lab. Code §§ 1194, 1197 & 1197.1;
- (c) Failed to pay overtime wages in violation of California Labor Code § 510, *et seq.*;
- (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (f) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
- (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802.
- (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203;
- (i) Failed to pay sick pay wages in violation of California Labor Code §§ 201-204, 233, 246; and,
- (j) Wrongful termination in Violation of Public Policy.

2.2. On December 30, 2022, Plaintiff filed a Complaint against Defendant for violation of the Private Attorney General Act (“PAGA”) seeking civil penalties pursuant to Labor Code § 2699, *et seq.* for violations of Labor Code §§ 201, 202 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B) (“Individual Action”), and the applicable Wage Order(s).

2.3. On August 3, 2023, Plaintiff filed a First Amended Complaint in the Individual Action which added a cause of action for Wrongful Termination in Violation of Public Policy and a First Amended Complaint in the Action which removed the cause of action for Wrongful Termination in Violation of Public Policy.

2.4. On February 28, 2024, the Parties filed a stipulation to add the PAGA cause of action to the complaint in the Action. The Second Amended Complaint in the Action is referred to as the “Operative Complaint”. On March 6, 2024, the Parties also filed a stipulation in the Individual Action to dismiss the PAGA cause of action without prejudice leaving only a cause of action for Wrongful Termination in Violation of Public Policy in the Individual Action.

2.5. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.6. On December 11, 2023, the Parties participated in an all-day mediation presided over by Steven Serratore, Esq., a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based upon a mediator’s proposal which was

memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.

- 2.7. Prior to mediation, Plaintiff obtained sufficient documents and information to sufficiently investigate the claims such that Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4<sup>th</sup> 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4<sup>th</sup> 116, 129-130 ("*Dunk/Kullar*").
- 2.8. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.
- 2.9. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

### **3. MONETARY TERMS**

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$470,000 and no more as the Gross Settlement Amount. This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval.
- (a) To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$12,500 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class

Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment. In addition, Plaintiff is separately settling her claim for Wrongful Termination in Violation of Public Policy as alleged in the Second Amended Complaint filed in the Individual Action ("Wrongful Termination Claim"). The payment for the settlement of the individual claims in the Wrongful Termination Claim is not being made in consideration of the settlement and dismissal of the Class and PAGA claims in the Action.

- (b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$156,666, and a Class Counsel Litigation Expenses Payment of not more than \$26,000. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.
- (c) To the Administrator: An Administration Expenses Payment not to exceed \$9,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$9,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$10,000 to be paid from the Gross Settlement Amount, with 75% (\$7,500) allocated to the LWDA PAGA Payment and 25% (\$2,500) allocated to the Individual PAGA Payments.

- i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$2,500) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.
  - ii. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
- i. Tax Allocation of Individual Class Payments. 25% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 75% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
  - ii. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

#### 4. SETTLEMENT FUNDING

- 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on its records, Defendant has represented that the Class consists of 163 Class Members who collectively worked a total of 12,000 Workweeks, and 74 Aggrieved Employees who worked a total of 1,717 PAGA Pay Periods.
- 4.2. Class Data. Not later than 30 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data

to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

- 4.3. Funding of the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 30 days after the Effective Date.

## **5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT**

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

Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

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

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

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

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

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

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

- (b) Plaintiff's Other Claim. Plaintiff represents that she has a claim against Defendant other than the Class claims and PAGA claims. This other claim is for wrongful termination in violation of public policy as alleged in the Wrongful Termination Claim in the Individual Action which Plaintiff is separately settling. Class Counsel will be filing a declaration with the Court affirming that the consideration given for the dismissal of Plaintiff's separate individual Wrongful Termination Claim is unrelated to and separate from the settlement of her Class claims and PAGA claims and is based on separate facts and claims.

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

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

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

7.1. Defendant's Responsibilities. Within 14 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In the Declaration, Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. In this Declaration, Defendant shall also aver as to the number of Class Members and the number of Workweeks for the Class during the Class Period.

7.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve;

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

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

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

## **8. SETTLEMENT ADMINISTRATION**

8.1. Selection of Administrator. The Parties have jointly selected Apex Class Action LLC to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free

telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

8.4. Notice to Class Members.

- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice [with Spanish translation, if applicable] substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- (c) Not later than 7 days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

- (d) The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

#### 8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- (b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of the Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

- (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

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

8.7. Objections to Settlement.

- (a) Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
- (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

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

- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 7 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- (c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- (d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- (e) Administrator’s Declaration. Not later than 7 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the

Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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

**9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.** Based on its records, Defendant provided figures as to the Class size as set forth in paragraph 4.1 above. In regard hereto, Defendant is providing a declaration as set forth in paragraph 7.1 above. Should the number of Workweeks worked by the Class Members during the Class Period ultimately increase by more than 10% over the estimate stated herein in paragraph 4.1 (i.e. if the number of Workweeks exceeds 13,200), Defendant, at its option, can either choose to: (1) cut off the end date for the Class Period as of the date on which the number of Workweeks reached 13,200, or (2) increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in number of Workweeks worked by the Class Members above the 10% (i.e., if there was an 11% increase in the number of Workweeks during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%).

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

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

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

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

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

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

11.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a

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

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

### **13. ADDITIONAL PROVISIONS**

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

13.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and

Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

- 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.
- 13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 13.7. Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8. Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

- 13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant.
- 13.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 13.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

*To Plaintiff and the Class:*

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

*To Defendant:*

John K. Rubiner  
Daniella J. Lee  
Freeman Mathis & Gary, LLP  
550 South Hope Street, Suite 2200  
Los Angeles, CA 90071-2627  
Tel.: (213) 619-7000  
Fax: (213) 615-7100  
E-Mail: jrubiner@fmglaw.com  
Daniella.lee@fmglaw.com

- 13.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 13.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process from the mediation on December 11, 2023 until the earlier of the Effective Date or the date this Agreement shall no longer be of any force or effect.
- 13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

#### 14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

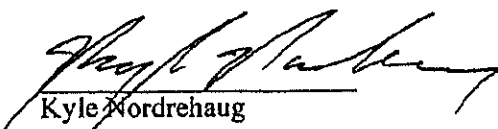
Dated: Mar 13, 2024

  
Rachel J. Macdonald (Mar 13, 2024 10:27 PDT)  
Plaintiff Rachel Macdonald

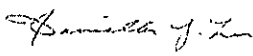
Dated: 3/25/2024

DocuSigned by:  
  
Stephen Howell, Chief Operating Officer  
For Defendant Best Friends Animal Society

Dated: 3/13/24

  
Kyle Nordrehaug  
Blumenthal Nordrehaug Bhowmik De Blouw LLP  
Attorney for Plaintiff

Dated: 3/25/24

  
John K. Rubiner  
Daniella J. Lee  
Freeman Mathis & Gary, LLP  
Attorney for Defendant

**EXHIBIT A**

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

**EXHIBIT “A”**

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

***Macdonald v. Best Friends Animal Society, Superior Court of the State of California,  
County of Los Angeles, Case No. 22STCV37493***

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

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

**You may be eligible to receive money** from an employee class action lawsuit (“Action”) against Defendant Best Friends Animal Society (“Defendant”) for alleged wage and hour violations. The Action was filed by Plaintiff Rachel Macdonald (“Plaintiff”) and seeks payment of (1) wages and other relief on behalf of all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the Class Period (November 30, 2018 through December 11, 2023) (“Class Members”), and (2) penalties and other relief on behalf of all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period (October 4, 2021 through December 11, 2023) (“Aggrieved Employees”).

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

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be <<\$\_\_\_\_\_>> (less withholding), and your share of the PAGA Penalties is estimated to <<be \$\_\_\_\_\_>>.** The actual amount you may receive likely will be different and will depend on a number of factors. (If \$0.00 is stated, then according to Defendant’s records you are not eligible for that payment.)

The above estimates are based on Defendant’s records showing that **you worked <<\_\_\_\_\_>> workweeks** during the Class Period and **you worked <<\_\_\_\_\_>> pay periods** during the PAGA Period. If you believe that you worked more workweeks and/or pay periods during either period, you can submit a challenge by the deadline date. See Section 5 of this Notice below.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment

that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

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

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

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

| <b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Don't Have to Do Anything to Participate in the Settlement</b>                                                  | If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and a share of the PAGA Penalties (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Class Claims).                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b><br><br><b>The Opt-out Deadline is ____.</b> | <p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 7 of this Notice.</p> <p>However, you cannot opt-out of the PAGA portion of the proposed Settlement. If you are also an Aggrieved Employee and exclude yourself, you will still be paid your share of the PAGA Penalties and will remain bound by the release of the Released PAGA Claims regardless of whether you submit a request for exclusion.</p> |
| <b>Participating Class Members Can Object to the Class Settlement</b>                                                  | All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

|                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Written Objections Must be Submitted by the Response Deadline</b></p> <p>_____</p>                                                                           | <p>Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable.</p> <p>See Section 8 of this Notice.</p>                                                                                                                                                                                                                                                                        |
| <p><b>You Can Participate in the _____ Final Approval Hearing</b></p>                                                                                              | <p>The Court’s Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the Los Angeles County Superior Court, Spring Street Courthouse, located at 312 North Spring Street, Los Angeles, CA 90012, in Department 14 before Judge Kenneth R. Freeman. This hearing may change as explained below in Section 9.</p> <p>You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 9 of this Notice</p> |
| <p><b>You Can Challenge the Calculation of Your Workweeks / Pay Periods</b></p> <p><b>Witten Challenges Must be Submitted by the Response Deadline (_____)</b></p> | <p>The amount of your Individual Class Payment depends on how many workweeks you worked at least one day during the Class Period. The amount of your share of the PAGA Penalties (if any) depends on how many pay periods you worked at least one day during the PAGA Period. The number of Class Period workweeks and number of PAGA Period pay periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 5 of this Notice</p>                                                                                                                               |

## 1. What is action about?

Plaintiff Rachel Macdonald is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay minimum wages, failing to pay overtime wages, failing to provide required meal periods and unpaid premiums, failing to provide required rest periods and unpaid premiums, failing to provide accurate itemized wage statements, failing to provide required expense reimbursement, failing to provide wages when due, failure to pay sick pay and engaging in unfair competition. Plaintiff also seeks civil penalties in a representative claim under the Private Attorneys General Act (“PAGA”).

Defendant denies that is has done anything wrong and disputes all the claims in the Action.

## 2. What does it mean that the action has settled?

So far, the Court has made no determination whether Defendant or Plaintiff are correct on the

merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims. Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

### **3. What are the terms of the Settlement?**

Gross Settlement Amount. **Defendant has agreed to pay an “all in” amount of Four Hundred Seventy Thousand Dollars (\$470,000) (the “Gross Settlement Amount”) to fund the settlement of the Action.** The Gross Settlement Amount includes all payments of Individual Class Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, the Administration Expenses Payment, and the PAGA Penalties for civil penalties under PAGA. Any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages shall be separately paid by Defendant. Defendant shall fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant’s share of payroll taxes, by transmitting the funds to the Administrator no later than 30 days after the Effective Date. The “Effective Date” means the date the Judgment is entered unless there are objections in which case the “Effective Date” means when the Judgment is no longer subject to appeal. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments to Participating Class Members.

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

- Administration Expenses Payment. Payment to the Administrator, estimated not to exceed \$9,000, for expenses, including expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing settlement checks and tax forms.
- Attorneys’ Fees and Costs. Payment to Class Counsel of reasonable attorneys’ fees not to exceed one-third (1/3) of the Gross Settlement Amount, which presently equals \$156,666, and an additional amount to reimburse actual litigation costs incurred by the Plaintiff not to exceed \$26,000. Class Counsel has been prosecuting the Action on behalf

of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. The amounts stated are what Class Counsel will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.

- Class Representative Service Payment. A Class Representative Service Payment in an amount not more than \$12,500 to the Plaintiff as a service award, or such lesser amount as may be approved by the Court, to compensate her for services on behalf of the Class in initiating and prosecuting the Action, and for the risks she undertook. The amount stated is what Plaintiff will be requesting and the final amount to be paid will be decided at the Final Approval Hearing.
- PAGA Penalties. A payment of \$10,000 relating to Plaintiff's claim under PAGA, \$7,500 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA"). The remaining \$2,500 will be distributed to the Aggrieved Employees as Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$2,500) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period, which is October 4, 2021 through December 11, 2023.

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

Calculation of Payments to Class Members. After all of the payments of the court-approved Attorneys' Fees and Costs, the Class Representative Service Payment, the PAGA Penalties, and the Administration Expenses Payment are deducted from the Gross Settlement Amount, the remaining portion, the "Net Settlement Amount", shall be distributed as Individual Class Payments to the Participating Class Members. The Net Settlement Amount is estimated to be at least \$ \_\_\_\_\_. The Administrator will pay an Individual Class Payment from the Net Settlement Amount to each Participating Class Member. The Individual Class Payment for each Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. "Workweek" means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day. The number of Workweeks will be based on Defendant's records; however, Class Members may challenge the number of Workweeks as explained below.

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

Tax Matters. Twenty-Five Percent (25%) of each Participating Class Member's Individual Class Payment is in settlement of wage claims (the "Wage Portion"). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Seventy-Five Percent (75%) of each Participating Class Member's Individual Class Payment is in settlement of claims for non-wages, expense reimbursement, interest and penalties allegedly due to employees (collectively the "Non-Wage Portion"). The Non-Wage Portion shall not be subject to wage withholdings and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members. Neither Class Counsel nor Defendant's Counsel intend anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

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

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

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

Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than \_\_\_\_\_, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the \_\_\_\_\_ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against the Defendant.

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

#### **4. What Do I Release Under the Settlement?**

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

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

Released PAGA Claims. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, all Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims. The “Released PAGA Claims” are all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, which occurred during the PAGA Period during employment in a non-exempt position in California. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and worker’s compensation, and claims outside of the PAGA Period.

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

## **5. How much will my payment be?**

Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member’s Workweeks.

**Defendant’s records reflect that you worked <<\_\_\_\_>> Workweeks during the Class Period (November 30, 2018 through December 11, 2023).**

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

**Defendant's records reflect that you worked <<\_\_\_\_>> PAGA Pay Periods during the during the PAGA Period (October 4, 2021 through December 11, 2023). Based on this information your estimated Individual PAGA Payment is <<\_\_\_\_>>.**

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

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

#### **6. How can I get a payment?**

To get money from the Settlement, you do not have to do anything. A check for your Individual Class Payment will be mailed automatically to the same address as this Class Notice.

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

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

If you do not wish to participate in the Settlement, you may exclude yourself from the Class portion of the Settlement or "opt out." **If you opt out, you will not receive an Individual Class Payment from the Settlement, and you will not be bound by its terms, which means you will retain the right to sue Defendant for the Released Class Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Penalties and will remain bound by the release of the Released PAGA Claims regardless of whether they submit a request for exclusion. The PAGA Penalties amount is \$10,000, of which \$2,500 will be distributed to the Aggrieved Employees to be allocated based on their respective PAGA Pay Periods. Your share of the PAGA Penalties, if any, is set forth in Section 5 above.

To opt out, you must submit to the Administrator a written, signed and dated request to opt-out postmarked no later than the Response Deadline which is \_\_\_\_\_. You may also fax your request to opt out to \_\_\_\_\_ or email the dispute to \_\_\_\_\_ by no later than the Response Deadline. The request to opt-out should state in substance that you

wish to be excluded from the class settlement in the *Macdonald v. Best Friends Animal Society* lawsuit. The request to opt-out should state the Class Member's full name, address and email address or telephone number. Please include the name and number of the case, which is *Macdonald v. Best Friends Animal Society*, Case No. 22STCV37493. The request to opt-out must be completed and signed by you. No other person may opt-out for a living member of the Class.

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

## **8. How do I Object to the Settlement?**

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least sixteen (16) court days before the Final Approval Hearing, scheduled for \_\_\_\_\_, Class Counsel and Plaintiff will file in Court a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as Class Representative Service Payment. Upon reasonable request, Class Counsel (whose contact information is below) will send you copies of these documents at no cost to you. You can also view them on Class Counsel's website at [www.bamlawca.com](http://www.bamlawca.com) under "Class Notices" for *Macdonald v. Best Friends Animal Society* or on the Court's website (<http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>) and entering the Case No. 22STCV37493.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The Response Deadline for sending written objections to the Administrator is \_\_\_\_\_** [sixty (60) days after the date of the Notice or an additional 14 days after the Notice in the case of re-mailing]. You may also fax the dispute to \_\_\_\_\_ or email the dispute to \_\_\_\_\_ by no later than this Response Deadline. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action, *Macdonald v. Best Friends Animal Society*, Case No. 22STCV37493, and include your name, current address, email or telephone number, and approximate dates of employment for Defendant and sign the objection. The Administrator's contact information is as follows:

### Administrator:

Name of Company: Apex Class Action LLC

Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. You also have the option to appear at the hearing by audio or video. Instructions on how to do so are available on the Court's website at <https://www.lacourt.org/lacc/>. Check the Court's website for the most current information. See Section 9 of this Notice (immediately below) for specifics regarding the Final Approval Hearing

The addresses for Parties' counsel are as follows:

**CLASS COUNSEL:**

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

**COUNSEL FOR DEFENDANT:**

John K. Rubiner  
Daniella J. Lee  
Freeman Mathis & Gary, LLP  
550 South Hope Street, Suite 2200  
Los Angeles, CA 90071-2627

**9. Can I Attend the Final Approval Hearing?**

You can, but don't have to, attend the Final Approval Hearing at \_\_\_\_\_ (Pacific Standard Time) on \_\_\_\_\_, in Department 14 of the Superior Court of California, County of Los Angeles, Spring Street Courthouse, 312 North Spring Street, Los Angeles, California 90012, before Judge Kenneth R. Freeman. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as a service payment to Plaintiff. If there are objections, the Court will consider them. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing in remotely using the Court Connect procedure at <https://www.lacourt.org/lacc/>. You may also appear in person. Check the Court's website for the most current information on appearing in Court.

It's possible the Court will reschedule the Final Approval Hearing. If the hearing is continued, notice will be posted on Class Counsel's website at [www.bamlawca.com](http://www.bamlawca.com) under "Class Notices" for *Macdonald v. Best Friends Animal Society*. In addition, hearing dates are posted on the Internet via the Case Access page for the Los Angeles County Superior Court (<http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>) and entering the Case No. 22STCV37493.

## 10. How Can I Get More Information?

You may call the Administrator at \_\_\_\_\_ or write to *Macdonald v. Best Friends Animal Society* Administrator, c/o \_\_\_\_\_.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Judgment, the motion for attorneys' fees, costs and service award, the motion for final approval or other Settlement documents by going to Class Counsel's website at [www.bamlawca.com](http://www.bamlawca.com) under "Class Notices" for *Macdonald v. Best Friends Animal Society*. You may get more details by examining the Court's file on the Internet via the Case Access page for the California Superior Court for the County of Los Angeles (<http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>) and entering the Case No. 22STCV37493. If you wish to view the Court files in person, you are encouraged to make an appointment with the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

**PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.**

### IMPORTANT:

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

**EXHIBIT B**

[ORDER GRANTING PRELIMINARY APPROVAL]

**EXHIBIT "B"**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

RACHEL MACDONALD, an individual, on  
behalf of herself and on behalf of all persons  
similarly situated,

Plaintiff,

vs.

BEST FRIENDS ANIMAL SOCIETY, a Utah  
Corporation; and DOES 1 through 50,  
inclusive,

Defendants.

**CASE NO.: 22STCV37493**

**[PROPOSED] PRELIMINARY  
APPROVAL ORDER**

Hearing Date: \_\_\_\_\_  
Hearing Time: \_\_\_\_\_

Judge: Hon. Kenneth R. Freeman  
Dept: SS-14

Date Filed: November 30, 2022  
Trial Date: Not set

This matter came before the Honorable Kenneth R. Freeman of the Superior Court of the State of California, in and for the County Los Angeles, on \_\_\_\_\_[DATE], for hearing on the unopposed motion by Plaintiff Rachel Macdonald ("Plaintiff") for preliminary approval of the Settlement with Defendant Best Friends Animal Society ("Defendant"). The Court, having

PRELIMINARY APPROVAL ORDER

1 considered the briefs, argument of counsel and all matters presented to the Court and good cause  
2 appearing, hereby GRANTS Plaintiff's Motion for Preliminary Approval of Class Action  
3 Settlement.

4  
5 **IT IS HEREBY ORDERED:**

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

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

14 3. The Gross Settlement Amount that Defendant shall pay is Four Hundred Seventy  
15 Thousand Dollars (\$470,000). It appears to the Court on a preliminary basis that the settlement  
16 amount and terms are fair, adequate and reasonable as to all potential Class Members when  
17 balanced against the probable outcome of further litigation and the significant risks relating to  
18 certification, liability and damages issues. It further appears that investigation and research have  
19 been conducted such that counsel for the Parties are able to reasonably evaluate their respective  
20 positions. It further appears to the Court that the Settlement will avoid substantial additional costs  
21 by all Parties, as well as avoid the delay and risks that would be presented by the further  
22 prosecution of the Action. It further appears that the Settlement has been reached as the result of  
23 serious and non-collusive, arm's-length negotiations.

24 4. The Court preliminarily finds that the Settlement appears to be within the range of  
25 reasonableness of a settlement that could ultimately be given final approval by this Court. The  
26 Court has reviewed the monetary recovery that is being granted as part of the Settlement and  
27 preliminarily finds that the monetary settlement awards made available to the Class is fair,  
28

1 adequate, and reasonable when balanced against the probable outcome of further litigation and the  
2 significant risks relating to certification, liability, and damages issues.

3         5.       The Agreement specifies for an attorneys' fees award not to exceed one-third of the  
4 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$26,000, and  
5 proposed Class Representative Service Payment to the Plaintiff in an amount not to exceed  
6 \$12,500. The Court will not approve the amount of attorneys' fees and costs, nor the amount of  
7 any service award, until the Final Approval Hearing. Plaintiff will be required to present evidence  
8 supporting these requests, including lodestar, prior to final approval.

9         6.       The Court recognizes that Plaintiff and Defendant stipulate and agree to  
10 representative treatment and certification of a class for settlement purposes only. This stipulation  
11 will not be deemed admissible in this, or any other proceeding should this Settlement not become  
12 final. For settlement purposes only, the Court conditionally certifies the Class which consists of  
13 "all individuals who were employed by Defendant in California and classified as a non-exempt  
14 employee at any time during the Class Period." The "Class Period" is November 30, 2018  
15 through December 11, 2023.

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

26         8.       The Court provisionally appoints Plaintiff as the representatives of the Class. The  
27 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik  
28

1 of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

2           9.       The Agreement provides for a PAGA Penalties out of the Gross Settlement  
3 Amount of \$10,000, which shall be allocated \$7,500 to the Labor & Workforce Development  
4 Agency (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this  
5 Agreement pursuant to the PAGA and \$2,500 to the Aggrieved Employees. “Aggrieved  
6 Employees” are all individuals who were employed by Defendant in California and classified as a  
7 non-exempt employee at any time during the PAGA Period (October 4, 2021 through December  
8 11, 2023). Pursuant to Labor Code section 2699, subdivision (l)(2), the LWDA will be provided  
9 notice of the Agreement and these settlement terms. The Court finds the PAGA Penalties to be  
10 reasonable.

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

24           11.      The Court hereby appoints Apex Class Action LLC as the Administrator. No later  
25 than thirty (30) days after this Order, Defendant will provide the Class Data to the Administrator.  
26 The Administrator will perform address updates and verifications as necessary prior to the first  
27 mailing. Using best efforts to mail it as soon as possible, and in no event later than fourteen (14)  
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1 days after receiving the Class Data, the Administrator will mail the Class Notice Packet to all  
2 Class Members via first-class regular U.S. Mail to their last known address.

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

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

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

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

23         16.       In the event the Settlement does not become effective in accordance with the terms  
24 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to  
25 become effective for any reason, this Order shall be rendered null and void and shall be vacated,  
26 and the Parties shall revert to their respective positions as of before entering into the Agreement,  
27 and expressly reserve their respective rights regarding the prosecution and defense of this Action,  
28

1 including all available defenses and affirmative defenses, and arguments that any claim in the  
2 Action could not be certified as a class action and/or managed as a representative action . In such  
3 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or  
4 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of  
5 the Agreement with respect to the effect of the Agreement if it is not approved.

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

10 **IT IS SO ORDERED.**

11 Dated: \_\_\_\_\_

12 \_\_\_\_\_  
13 HON. KENNETH R. FREEMAN  
14 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA  
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**EXHIBIT C**

[FINAL APPROVAL ORDER AND JUDGMENT]

**EXHIBIT "C"**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

RACHEL MACDONALD, an individual, on  
behalf of herself and on behalf of all persons  
similarly situated,

Plaintiff,

vs.

BEST FRIENDS ANIMAL SOCIETY, a Utah  
Corporation; and DOES 1 through 50,  
inclusive,

Defendants.

**CASE NO.: 22STCV37493**

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

Hearing Date: \_\_\_\_\_  
Hearing Time: \_\_\_\_\_

Judge: Hon. Kenneth R. Freeman  
Dept: SS-14

Date Filed: November 30, 2022  
Trial Date: Not set

FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiff Rachel Macdonald (“Plaintiff”) for an order finally  
2 approving the Class Action and PAGA Settlement Agreement (“Agreement”) with Defendant Best  
3 Friends Animal Society (“Defendant”), attorneys’ fees and costs, service payment, and the  
4 expenses of the Administrator duly came on for hearing on \_\_\_\_\_ before the  
5 Honorable Kenneth R. Freeman.

6 **I.**

7 **FINDINGS**

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

- 10 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 11 2. This Court has jurisdiction over the subject matter of this litigation pending before  
12 the Superior Court for the State of California, in and for the County of Los Angeles, and over all  
13 Parties to this litigation, including the Class.
- 14 3. Based on a review of the papers submitted by Plaintiffs and a review of the  
15 applicable law, the Court finds that the Gross Settlement Amount of Four Hundred Seventy  
16 Thousand Dollars (\$470,000) and the terms set forth in the Agreement are fair, reasonable, and  
17 adequate.
- 18 4. The Court further finds that the Settlement was the result of arm’s length  
19 negotiations conducted after Class Counsel had adequately investigated the claims and became  
20 familiar with the strengths and weaknesses of those claims. In particular, the amount of the  
21 Settlement, and the assistance of an experienced mediator in the settlement process, among other  
22 factors, support the Court’s conclusion that the Settlement is fair, reasonable, and adequate.

23 **Preliminary Approval of the Settlement**

- 24 5. On \_\_\_\_\_, the Court granted preliminary approval of the Settlement. At  
25 this same time, the Court approved conditional certification of the Class for settlement purposes  
26 only.

1           **Notice to the Class**

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

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

22           **Fairness of the Settlement**

23           8.       The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*  
24 48 Cal.App.4th 1794, 1801 (1996).

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

1                   b.       Plaintiff and Class Counsel’s investigation and discovery have been  
2 sufficient to allow the Court and counsel to act intelligently.

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

5                   d.       The percentage of objectors and requests for exclusion is small. \_\_\_\_  
6 objections were received. \_\_\_\_\_ requests for exclusion were received.

7                   e.       The participation rate was high. \_\_\_\_\_ Class Members will be mailed a  
8 settlement payment, representing \_\_\_\_% of the overall Class.

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

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

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

17               11.      An award of \$156,666 for attorneys’ fees, representing one-third of the Gross  
18 Settlement Amount, and \$26,000 for litigation costs and expenses, is reasonable, in light of the  
19 contingent nature of Class Counsel’s fee, the hours worked by Class Counsel, and the results  
20 achieved by Class Counsel. The requested award has been supported by Class Counsel’s lodestar  
21 and billing statement.

22                   **Class Representative Service Payment**

23               12.      The Agreement provides for a Class Representative Service Payment of not more  
24 than \$12,500 to the Plaintiff, subject to the Court’s approval. The Court finds that Class  
25 Representative Service Payment in the amount of \$12,500 to the Plaintiff is reasonable in light of  
26 the risks and burdens undertaken by the Plaintiff in this litigation and for his time and effort in  
27 bringing and prosecuting this matter on behalf of the Class.

1           **Administration Expenses Payment**

2           13.     The Administrator shall calculate and administer the payment to be made to the  
3 Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the  
4 Class Representative Service Payment to the Plaintiff, issue all required tax reporting forms,  
5 calculate withholdings and perform the other remaining duties set forth in the Agreement. The  
6 Administrator has documented \$9,000 in fees and expenses, and this amount is reasonable in light  
7 of the work performed by the Administrator.

8           **PAGA Penalties**

9           14.     The Agreement provides for a PAGA Penalties out of the Gross Settlement  
10 Amount of \$10,000, which shall be allocated \$7,500 to the Labor & Workforce Development  
11 Agency ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under this  
12 Agreement pursuant to the PAGA and \$2,500 to be distributed to the Aggrieved Employees and  
13 allocated by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties  
14 (\$2,500) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during  
15 the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay  
16 Periods. "Aggrieved Employees" are all individuals who were employed by Defendant in  
17 California and classified as a non-exempt employee at any time during the PAGA Period (October  
18 4, 2021 through December 11, 2023). Pursuant to Labor Code section 2699, subdivision (l)(2),  
19 the LWDA was provided notice of the Agreement and these settlement terms and has not indicated  
20 any objection thereto. The Court finds the PAGA Penalties to be reasonable.

21                           **II.**

22                           **ORDERS**

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

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

26           All individuals who were employed by Defendant in California and classified as a  
27 non-exempt employee at any time during the Class Period (November 30, 2018  
28 through December 11, 2023).

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

4           17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the  
5 best interest of the Class.

6           18. Class Counsel are awarded attorneys’ fees in the amount of \$156,666 and costs in  
7 the amount of \$26,000. Class Counsel shall not seek or obtain any other compensation or  
8 reimbursement from Defendant, Plaintiff or members of the Class.

9           19. The payment of Class Representative Service Payment in the amount of \$12,500 to  
10 the Plaintiff is approved.

11           20. The payment of \$9,000 to the Administrator for its fees and expenses is approved.

12           21. The PAGA Penalties of \$10,000 is approved and is to be distributed in accordance  
13 with the Agreement.

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

17           23. Neither the Agreement nor this Settlement is an admission by Defendant, nor is this  
18 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any  
19 wrongdoing by Defendant or that this Action is appropriate for class or representative treatment  
20 (other than for settlement purposes). Neither this Final Approval Order and Judgment, the  
21 Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement  
22 is, may be construed as, or may be used as an admission by or against Defendant of any fault,  
23 wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any  
24 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be  
25 evidence of, an admission or concession with regard to the denials or defenses by Defendant.  
26 Notwithstanding these restrictions, Defendant may file in the Action or in any other proceeding  
27 this Final Approval Order and Judgment, the Agreement, or any other papers and records on file in  
28

1 the Action as evidence of the Settlement to support a defense of *res judicata*, collateral estoppel,  
2 release, or other theory of claim or issue preclusion or similar defense as to the Released Class  
3 Claims and/or Released PAGA Claims.

4 24. Notice of entry of this Final Approval Order and Judgment shall be given to all  
5 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval Order  
6 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the  
7 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment  
8 to individual Class Members.

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

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

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

19 27. The Court shall retain jurisdiction to construe, interpret, implement and enforce the  
20 Agreement, to hear and resolve any contested challenge to a claim for settlement benefits, and to  
21 supervise and adjudicate any dispute arising from or in connection with the distribution of  
22 settlement benefits.

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

25 29. Effective on the date when Defendant fully funds the entire Gross Settlement  
26 Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class  
27  
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1 Payments, Plaintiff, Participating Class Members, Aggrieved Employees and the LWDA will  
2 release claims against all Released Parties as follows:

3           (a) All Participating Class Members, on behalf of themselves and their  
4 respective former and present representatives, agents, attorneys, heirs, administrators, successors,  
5 and assigns, release Released Parties from the Released Class Claims. The “Released Class  
6 Claims” are all claims that were alleged, or reasonably could have been alleged, based on facts  
7 stated in the Operative Complaint which occurred during the Class Period during employment in a  
8 nonexempt position in California. Except as expressly set forth in this Agreement, Participating  
9 Class Members do not release any other claims, including claims for vested benefits, wrongful  
10 termination, violation of the Fair Employment and Housing Act, unemployment insurance,  
11 disability, social security, workers’ compensation, or claims based on facts occurring outside the  
12 Class Period.

13           (b) All Aggrieved Employees and the LWDA are deemed to release, on behalf  
14 of themselves and their respective former and present representatives, agents, attorneys, heirs,  
15 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.  
16 The “Released PAGA Claims” are all claims for PAGA penalties that were alleged, or reasonably  
17 could have been alleged, based on the facts stated in the Operative Complaint and the PAGA  
18 Notice, which occurred during the PAGA Period during employment in a non-exempt position in  
19 California. The Released PAGA Claims do not include other PAGA claims, underlying wage and  
20 hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability  
21 and worker’s compensation, and claims outside of the PAGA Period.

22           (c) Plaintiff and his or her respective former and present spouses,  
23 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release  
24 and discharge Released Parties from all claims, transactions, or occurrences that occurred during  
25 the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have  
26 been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims

1 that were, or reasonably could have been, alleged based on facts contained in the Operative  
2 Complaint, Plaintiff's PAGA Notice ("Plaintiff's Release")) as fully set forth in the Agreement.

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

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

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

14  
15 Dated: \_\_\_\_\_

16  
17 HON. KENNETH R. FREEMAN  
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA

**EXHIBIT #2**

# ~~[MODEL]~~ CLASS ACTION AND PAGA SETTLEMENT AGREEMENT ~~AND~~ CLASS NOTICE<sup>1</sup>

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Rachel Macdonald (“Plaintiff”) and defendant XYZ ~~(“XYZ”)~~ Best Friends Animal Society (“Defendant”). The Agreement refers to Plaintiff and XYZ Defendant collectively as the “Parties,” or individually as “Party.”

## 1. DEFINITIONS.

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

- 1.1. “Action” means the Plaintiff’s Class Action lawsuit alleging wage and hour violations against XYZ Defendant captioned Macdonald v. Best Friends Animal Society, Case No. 22STCV37493, initiated on November 30, 2022 and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means Apex Class Action LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval ~~of the Settlement~~.
- 1.4. “Aggrieved ~~Employee~~ Employees” means ~~[e.g., a person]~~ all individuals who were employed by XYZ Defendant in California and classified as a ~~who worked for XYZ non-exempt employee at any time~~ during the PAGA Period.
- 1.5. “Class” means ~~[define class e.g., all persons]~~ individuals who were employed by XYZ Defendant in California and classified as ~~who worked for XYZ a non-exempt employee at any time~~ during the Class Period.
- 1.6. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts ~~allocated to be paid~~ to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.

- 1.8. “Class Data” means Class Member identifying information in XYZ’s Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. ~~“Class Member” or “Settlement~~ “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).
- ~~1.12.~~1.13. “Class Period” means the period of time from \_\_\_\_\_ to \_\_\_\_\_.<sup>ii</sup> November 30, 2018 to December 11, 2023.
- ~~1.13.~~1.14. “Class Representative” means the named Plaintiff in the ~~complaint~~operative Operative Complaint in the Action seeking Court approval to serve as a Class Representative.
- ~~1.14.~~1.15. “Class Representative Service Payment” means the service payment made to the Plaintiff as Class Representative in order to compensate for initiating the Action ~~and providing services, performing work~~ in support of the Action~~., undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiff.~~
- ~~1.15.~~1.16. “Court” means the Superior Court of California, County of Los Angeles.
- ~~1.16.~~1.17. ~~“XYZ” means named Defendant”~~ means Best Friends Animal Society.
- ~~1.17.~~1.18. “Defense Counsel” means John K. Rubiner and Daniella J. Lee of Freeman Mathis & Gary, LLP.
- ~~1.1.~~ \_\_\_\_\_ “Effective Date” means the date by when both of the following have occurred :

~~1.18.~~1.19. the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

~~1.19.~~1.20. “Final Approval” means the Court’s order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.

~~1.20.~~1.21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.

~~1.2.~~ “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

~~1.21.~~1.22. “Gross Settlement Amount” means \$~~\_\_\_\_\_~~Four Hundred and Seventy Thousand Dollars (\$470,000) which is the total amount ~~XYZ agrees to pay under the Settlement~~be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.

~~PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator's Expenses.~~

1.23. "Individual Action" mean the Plaintiff's lawsuit entitled Macdonald v. Best Friends Animal Society, Case No. 22CHCV01532, initiated on December 30, 2022 and pending in Superior Court of California, County of Los Angeles.

~~1.22.~~1.24. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

~~1.23.~~1.25. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of ~~Workweeks~~PAGA Pay Periods worked during the PAGA Period.

~~1.24.~~1.26. "Judgment" means the judgment entered by the Court based upon ~~the~~ Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.

~~1.25.~~1.27. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

~~1.26.~~1.28. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

~~1.27.~~1.29. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The ~~remainder~~Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.

~~1.28.~~1.30. "Non-Participating Class Member" means ~~any~~a Class Member who opts out of the Class Settlement by ~~sending the Administrator~~submitting a valid and timely Request for Exclusion ~~to the Administrator.~~

~~1.29.~~1.31. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for ~~XYZ~~Defendant for at least one day during the PAGA Period.

~~1.30.~~1.32. "PAGA Period" means the period of time from ~~—~~ to ~~—~~.<sup>iii</sup> October 4, 2021 to December 11, 2023.

~~1.31.~~1.33. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

~~1.32.~~1.34. "PAGA Notice" means the Plaintiff's October 4, 2022 letter to ~~XYZ and the~~

LWDA [and Plaintiff's \_\_\_\_\_ letter to XYZ Defendant  
and the LWDA] providing notice pursuant to Labor Code section 2699.3, subd.(a).

~~1.33.~~1.35. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid  
from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees  
(\$2,500) and the 75% to LWDA (\$7,500) in settlement of PAGA claims.

( \_\_\_\_\_ ) and the 75% to LWDA ( \_\_\_\_\_ ) in settlement of PAGA  
claims.

~~1.34.1.36.~~ 1.36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion ~~from the Settlement.~~

~~1.35.1.37.~~ 1.37. “Plaintiff” means Rachel Macdonald, the named plaintiff in the Action.

~~1.36.1.38.~~ 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.

~~1.3. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.~~

~~1.4. “Released Class Claims” means the claims being released as described in Paragraph 6.2 below.~~

~~1.5. “Released PAGA Claims” means the claims being released as described in Paragraph 6.2 below.~~

1.39. “Released Class Claims” means all claims that were alleged, or reasonably could have been alleged, based on facts stated in the Operative Complaint which occurred during the Class Period during employment in a nonexempt position in California. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

1.40. “Released PAGA Claims” means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, which occurred during the PAGA Period during employment in a non-exempt position in California. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and worker’s compensation, and claims outside of the PAGA Period.

~~1.37.1.41.~~ 1.41. “Released Parties” means: XYZDefendant and each of its former and present directors, officers, shareholders, owners, ~~[members],~~ attorneys, insurers, predecessors, successors, assigns ~~[and subsidiaries][affiliates].~~

~~1.38.1.42.~~ 1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

~~1.39.1.43.~~ 1.43. “Response Deadline” means ~~[e.g., sixty (60)]~~ calendar days after the Administrator mails Class Notice Packet to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) ~~fax, email, or mail~~submit Requests for Exclusion from the Settlement, or (b) ~~fax, email, or mail~~submit his or her Objection to the Settlement. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional

14 calendar days beyond the Response Deadline has expired.

~~1.40.~~1.44. “Settlement” means the disposition of the Action ~~effected~~and all related claims effectuated by this Agreement and the Judgment.

~~1.41.~~1.45. “Workweek” means any week during the Class Period in which a Class Member worked for XYZ Defendant as a Class Member for at least one day,~~during the Class Period.~~<sup>iv</sup>.

## 2. RECITALS:

2.1. On November 30, 2022, Plaintiff commenced filed this Action by filing a Complaint alleging causes of action against XYZ for \_\_\_\_\_. [The Complaint is the operative complaint in the Action (the “Operative Complaint.”)] [On—  
Defendant in the Superior Court of the State of California, County of Los Angeles. Plaintiff’s Complaint asserted claims that Defendant:

- (a) Violated California Business and Professions Code § 17200 et seq.;
- (b) Failed to pay minimum wages in violation of Cal. Lab. Code §§ 1194, 1197 & 1197.1;
- (c) Failed to pay overtime wages in violation of California Labor Code § 510, et seq.;
- (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (f) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
- (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802.
- (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203;
- (i) Failed to pay sick pay wages in violation of California Labor Code §§ 201-204, 233, 246; and,
- (j) Wrongful termination in Violation of Public Policy.

2.2. On December 30, 2022, Plaintiff filed a [e.g., Complaint against Defendant for violation of the Private Attorney General Act (“PAGA”) seeking civil penalties pursuant to Labor Code § 2699, et seq. for violations of Labor Code §§ 201, 202 203, 204 et seq., 210, 218, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B) (“Individual Action”), and the applicable Wage Order(s).

2.3. On August 3, 2023, Plaintiff filed a First Amended Complaint in the Individual Action which added a cause of action for Wrongful Termination in Violation of Public Policy and a First Amended Complaint] alleging causes in the Action which removed the cause of action against XYZ for \_\_\_\_\_. Wrongful Termination in Violation of Public Policy.

2.1.2.4. On February 28, 2024, the Parties filed a stipulation to add the PAGA cause of action to the complaint in the Action. The ~~[e.g., First~~Second Amended] Complaint ~~is the operative complaint in the Action (the~~“Operativein the Action is referred to as the “Operative Complaint”. On March 6, 2024, the Parties also filed a stipulation in the Individual Action to dismiss the PAGA cause of action without prejudice leaving only a cause of action for Wrongful Termination in Violation of Public Policy in the Individual Action.

2.2.2.5. Complaint. XYZ Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

~~1.6. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to XYZ and the LWDA by sending the PAGA Notice.~~

2.3.2.6. On \_\_\_\_\_ (type in additional dates) , [December 11, 2023, the Parties participated in an all-day mediation presided over by \_\_\_\_\_ which led to this Agreement Steven Serratore, Esq., a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action (describe alternative means of negotiation) based upon a mediator's proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (describe alternative means of negotiation)

~~1.7. \_\_\_\_\_ Prior to ☐ mediation ☐ negotiating the Settlement, Plaintiff obtained, through~~

2.4.2.7. ☐ formal ☐ informal discovery, (documents, testimony and information obtained) sufficient documents and information to sufficiently investigate the claims such that Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in Dunk v. Foot Locker Retail, Inc. (1996) 48 Cal.App.4<sup>th</sup> 1794, 1801 and Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4<sup>th</sup> 116, 129-130 ("Dunk/Kullar").

~~1.8. \_\_\_\_\_ The Court ☐ has ☐ has not granted class certification.~~

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (insert details as needed)

2.8. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.

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

### 3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, XYZDefendant promises to pay \$—\$470,000 and no more as the Gross Settlement Amount ~~[and to separately pay. This amount is all-inclusive of all payments contemplated in this resolution, excluding any and all employer-side payroll taxes owed on the Wage Portionsportion of the Individual Class Payments.] XYZ allocated to wages which shall be separately paid by Defendant to the Administrator.~~ Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph ~~6.14.3~~ of this Agreement.<sup>v</sup> The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to XYZDefendant.

3.2. Payments from the Gross Settlement Amount. ~~The Subject to the terms and conditions of this Agreement, the~~ Administrator will make ~~and deduct~~ the following payments ~~from out of~~ the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval~~;~~.

- (a) To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$—12,500 (in addition to any Individual Class Payment ~~[and any Individual PAGA Payment]~~ the Class Representative is entitled to receive as a Participating Class Member). XYZDefendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than ~~[16 court]~~ days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment. In addition, Plaintiff is separately settling her claim for Wrongful Termination in Violation of Public Policy as alleged in the Second Amended Complaint filed in the Individual Action ("Wrongful Termination Claim"). The payment for the settlement of the individual claims in the Wrongful Termination Claim is not being made in consideration of the settlement and dismissal of the Class and PAGA claims in the Action.
- (b) To Class Counsel: A Class Counsel Fees Payment of not more than %,one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$156,666, and a Class Counsel Litigation Expenses Payment of not more than \$———. XYZ26,000. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than ~~[16 court]~~ days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any

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

3.2.1. ~~\_\_\_\_\_~~ To the Administrator: An AdministratorAdministration Expenses Payment not to exceed

(c) ~~\$—\$9,000~~ except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses ~~arePayment is~~ less or the Court approves payment less than \$9,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.

(d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$10,000 to be paid from the Gross Settlement Amount, with 75% (\$7,500) allocated to the LWDA PAGA Payment and 25% (\$2,500) allocated to the Individual PAGA Payments.

i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$2,500) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

~~(d)~~(e) To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

~~(b) multiplying the result by each Participating Class Member's Workweeks.~~

3.2.1.1. ~~\_\_\_\_\_~~ Tax Allocation of Individual Class Payments. ~~%~~ 25% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. ~~The~~

i. ~~%~~ 75% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for ~~[e.g., non-wages, expense reimbursement, interest and penalties]~~ (the "Non-Wage Portion"). ~~vi~~ vi. The Non-Wage Portions

are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

- ii. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

~~3.2.2. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$\_\_\_\_\_ to be paid from the Gross Settlement Amount, with 75% (\$\_\_\_\_\_) allocated to the LWDA PAGA Payment and 25% (\$\_\_\_\_\_) allocated to the Individual PAGA Payments.~~

~~iii.i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$\_\_\_\_\_ by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.~~

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

#### 4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on ~~a review of~~ its records ~~to date~~, XYZ estimates there are \_\_\_\_\_, Defendant has represented that the Class consists of 163 Class Members who collectively worked a total of 12,000 Workweeks, and ~~of 74~~ Aggrieved Employees who worked a total of 1,717 PAGA Pay Periods.

4.2. Class Data. Not later than [e.g., 15]30 days after the Court grants Preliminary Approval of the Settlement, XYZDefendant will ~~simultaneously~~ deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. XYZDefendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted ~~class member~~Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which XYZDefendant must send the Class Data to the Administrator, the Parties and their

counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

- 4.3. Funding of the Gross Settlement Amount. XYZDefendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay XYZ'sDefendant's share of payroll taxes by transmitting the funds to the Administrator no later than [14]30 days after the Effective Date.

## 5. ~~Payments from the Gross Settlement Amount.~~ PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 4.4.5.1. Within [14] days after XYZDefendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. ~~Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.~~

- 4.5.5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the "void date (not less than", which is 180 days after the date of mailing), when the check will be voided. Before checks are mailed, the Administrator shall update address information through the National Change of Address database. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual SettlementClass Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the ~~Settlement~~ Administrator must update the recipients' mailing addresses using the National Change of Address Database. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 120 days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing him or her that unless the check is cashed by the void date, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.

- 4.6.5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within [7] days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The

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

~~4.7.5.4.~~ For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks ~~[to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).]~~ ~~[or to a Court approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b) ("Cy Pres Recipient")]~~. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.~~(b).~~

~~4.8.5.5.~~ The payment of Individual Class Payments and Individual PAGA Payments shall not obligate XYZDefendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

~~5.6.~~ **RELEASESRELEASE OF CLAIMS.** Effective on the date when XYZDefendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, Aggrieved Employees and Class Counselthe LWDA will release claims against all Released Parties as follows:

~~5.1.6.1.~~ **Plaintiff's Release.** Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences ~~[that occurred during the Class Period]~~, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, ~~[or ascertained during the Action and released under 6.2, below]~~. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

(b) Plaintiff's Other Claim. Plaintiff represents that she has a claim against Defendant other than the Class claims and PAGA claims. This other claim is for wrongful termination in violation of public policy as alleged in the Wrongful Termination Claim in the Individual Action which Plaintiff is separately settling. Class Counsel will be filing a declaration with the Court affirming that the consideration given for the dismissal of Plaintiff's separate individual Wrongful Termination Claim is unrelated to and separate from the settlement of her Class claims and PAGA claims and is based on separate facts and claims.

~~5.2.6.2. Release by Participating Class Members Who Are Not Aggrieved Employees:~~ All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from ~~(i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint [and ascertained in the course of the Action] [including, e.g., "(a) any and all claims involving any alleged failure to pay minimum wage; etc.]. Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period~~the Released Class Claims.

~~5.3.6.3. Release by Non-Participating Class Members Who Are of PAGA Claims.~~ All Aggrieved Employees: ~~All Non-Participating Class Members who are Aggrieved Employees and the LWDA~~ are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from ~~all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint[,] [and] the PAGA Notice [and ascertained in the course of the Action][including, e.g., "(a) any and all claims involving any alleged failure to pay minimum wage; etc.]~~the Released PAGA Claims.

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

~~6.1.7.1. XYZ's Declaration in Support of Preliminary Approval.~~Defendant's Responsibilities. Within 14 days of the full execution of this Agreement, ~~XYZ~~Defendant will prepare and deliver to Class Counsel a signed Declaration ~~from XYZ and Defense Counsel~~ disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator ~~and Cy Pres Recipient.~~ In their Declarations, ~~Defense Counsel and XYZ~~the Declaration, Defendant shall aver that they are not aware of any other pending

matter or action asserting claims that will be extinguished or adversely affected by the Settlement. In this Declaration, Defendant shall also aver as to the number of Class Members and the number of Workweeks for the Class during the Class Period.

6.2.7.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members ~~[and/or the proposed Cy Pres];~~; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, ~~[and/or]~~ the Administrator ~~[and/or the proposed Cy Pres];~~; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator ~~and/or the Cy Pres Recipient.~~ In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

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

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

## **7.8. SETTLEMENT ADMINISTRATION.**

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

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

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

### **7.4.8.4. Notice to Class Members.**

- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than {14} days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice [with Spanish translation, if applicable] substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- (c) Not later than {3}business7 days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice

using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

- (d) The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional ~~{14}~~ days beyond the ~~[60] days otherwise~~ Response Deadline provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- (e) If the Administrator, ~~XYZ~~ the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith- in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than ~~{14} days after~~ 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

~~receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.~~

#### 7.5.8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than ~~[60] days after the Administrator mails the Class Notice~~Response Deadline (plus an additional [14] days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- (b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

~~6.1.1~~—Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under ~~Paragraphs~~Paragraph 6.2 and

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

~~6.4 of this Agreement and are eligible for an Individual PAGA Payment.~~

7.6.8.6. Challenges to Calculation of Workweeks. Each Class Member shall have ~~[60] days after~~until the ~~Administrator mails the Class Notice~~Response Deadline (plus an additional

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

#### 7.7.8.7. Objections to Settlement.

- (a) Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than ~~[60] days after the Administrator's mailing of the Class Notice~~ Response Deadline (plus an additional [14] days for Class Members whose Class Notice was re-mailed).
- (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

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

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

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

(c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

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

~~(d)(a) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.~~

(e) Administrator’s Declaration. Not later than [14]7 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

(f) Final Report by Settlement-Administrator. Within [10] days after the Administrator disburses all funds inof the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements

by employee identification number only of all payments made under this Agreement. At least ~~15~~7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

7. ~~CLASS SIZE ESTIMATES [and ESCALATOR CLAUSE]~~ Based on its records, XYZ estimates that, as of the date of this Settlement Agreement, (1) there are \_\_\_\_\_ Class Members and \_\_\_\_\_ Total Workweeks during the Class period and (2) there were \_\_\_\_\_ Aggrieved Employees who worked \_\_\_\_\_ Pay Periods during the PAGA Period.<sup>vii</sup>

9. XYZ'S CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE. Based on its records, Defendant provided figures as to the Class size as set forth in paragraph 4.1 above. In regard hereto, Defendant is providing a declaration as set forth in paragraph 7.1 above. Should the number of Workweeks worked by the Class Members during the Class Period ultimately increase by more than 10% over the estimate stated herein in paragraph 4.1 (i.e. if the number of Workweeks exceeds 13,200), Defendant, at its option, can either choose to: (1) cut off the end date for the Class Period as of the date on which the number of Workweeks reached 13,200, or (2) increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in number of Workweeks worked by the Class Members above the 10% (i.e., if there was an 11% increase in the number of Workweeks during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%).

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

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

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

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

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

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

9.5.11.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on ~~a 50-50~~an equal basis, any additional Administration Expenses reasonably incurred ~~after~~at the time of remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not

constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

#### **11.13.ADDITIONAL PROVISIONS-**

**11.1.13.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes.** This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by XYZDefendant that any of the allegations in the Operative Complaint have merit or that XYZDefendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that XYZ'sDefendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, XYZ pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reasons, and XYZDefendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest XYZ'sDefendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

**11.2.13.2. Confidentiality Prior to Preliminary Approval.** Plaintiff, Class Counsel, XYZDefendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, XYZDefendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's

communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

~~11.3.~~13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

~~11.4.~~13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

~~11.5.~~13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and XYZDefendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

~~11.6.~~13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

~~11.7.~~13.7. ~~No~~Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

~~11.8.~~13.8. ~~No~~Tax Advice. Neither Plaintiff, Class Counsel, XYZDefendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

~~11.9.~~13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

~~11.10.~~13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

~~11.11.~~13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

~~11.12.~~13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

~~11.13.~~13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

~~11.14.~~13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by XYZ~~Defendant~~ in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from XYZ~~unless, prior to the Court's discharge of the Administrator's obligation, XYZ makes a written request to Class Counsel for the return, rather than the destructions, of Class Data~~Defendant.

~~11.15.~~13.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

~~11.16.~~13.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

~~11.17.~~13.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

*To Plaintiff and the Class:*

Norman B. Blumenthal  
Kyle R. Nordrehaug



through arms-length negotiations, taking into account all relevant factors, both current and potential.

#### **14. EXECUTION BY PARTIES AND COUNSEL**

The Parties and their counsel hereby execute this Agreement.

Dated: \_\_\_\_\_  
Plaintiff Rachel Macdonald

Dated: \_\_\_\_\_  
Stephen Howell, Chief Operating Officer  
For Defendant Best Friends Animal Society

Dated: \_\_\_\_\_  
Kyle Nordrehaug  
Blumenthal Nordrehaug Bhowmik De Blouw LLP  
Attorney for Plaintiff

Dated: \_\_\_\_\_  
John K. Rubiner  
Daniella J. Lee  
Freeman Mathis & Gary, LLP  
Attorney for Defendant

**EXHIBIT #3**

**Blumenthal Nordrehaug Bhowmik De Blouw LLP**

2255 Calle Clara, La Jolla, California 92037

Tel: (858) 551-1223

Fax: (858) 551-1232

**FIRM RESUME**

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

**ATTORNEY BIOGRAPHIES**

**Norman B. Blumenthal**

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

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

Admitted: 1973, Illinois; 1976, California

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

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

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

Summer Intern (1971) with Harvard Voluntary Defenders

**Kyle R. Nordrehaug**

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

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

Admitted: 1999, California

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

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

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

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

**Aparajit Bhowmik**

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

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

Admitted: 2006, California

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

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

Awards: Rising Star 2015

**Nicholas J. De Blouw**

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

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Admitted: 2024, California; 2014, Mexico

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**REPORTED CASES**

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

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

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

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

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

75 Cal. App. 4th 445 (1999); Jordan v. Department of Motor Vehicles, 100 Cal.App. 4th 431 (2002); Norwest Mortgage, Inc. v. Superior Court, 72 Cal.App.4th 214 (1999); Hildago v. Diversified Transp. Sya, 1998 U.S. App. LEXIS 3207 (9th Cir. 1998); Kensington Capital Mgal. v. Oakley, Inc., 1999 U.S. Dist LEXIS 385; Fed.Sec.L.Rep. (CCH) P90, 411 (1999 C.D. Cal.); Lister v. Oakley, Inc., 1999 U.S. Dist. LEXIS 384; Fed. Sec. L. Rep. (CCH) P90,409 (C.D. Cal. 1999); Olszewski v. Scripps Health, 30 Cal. 4th 798 (2003); Steroid Hormone Product Cases, 181 Cal. App. 4th 145 (2010); Owen v. Macy's, Inc., 175 Cal. App. 4th 462 (2009); Taiheiyo Cement Corp. v. Superior Court, 117 Cal. App. 4th 380 (2004); Taiheiyo Cement Corp. v. Superior Court, 105 Cal.App. 4th 398 (2003); McMeans v. Scripps Health, Inc., 100 Cal. App. 4th 507 (2002); Ramos v. Countrywide Home Loans, 82 Cal.App. 4th 615 (2000); Tevssier v. City of San Diego, 81 Cal.App. 4th 685 (2000); Washington Mutual Bank v. Superior Court, 70 Cal. App. 4th 299 (1999); Silvas v. E\*Trade Mortg. Corp., 514 F.3d 1001 (9<sup>th</sup> Cir. 2008); Silvas v. E\*Trade Mortg. Corp., 421 F. Supp. 2d 1315 (S.D. Cal. 2006); McPhail v. First Command Fin. Planning, Inc., 2009 U.S. Dist. LEXIS 26544 (S.D. Cal. 2009); McPhail v. First Command Fin. Planning, Inc., 251 F.R.D. 514 (S.D. Cal. 2008); McPhail v. First Command Fin. Planning, Inc., 247 F.R.D. 598 (S.D. Cal. 2007); Barcia v. Contain-A-Way, Inc., 2009 U.S. Dist. LEXIS 17118 (S.D. Cal. 2009); Barcia v. Contain-A-Way, Inc., 2008 U.S. Dist. LEXIS 27365 (S.D. Cal. 2008); Wise v. Cubic Def. Applications, Inc., 2009 U.S. Dist. LEXIS 11225 (S.D. Cal. 2009); Gabisan v. Pelican Prods., 2009 U.S. Dist. LEXIS 1391 (S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 630 F. Supp. 2d 1222 (S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 2008 U.S. Dist. LEXIS 102380 (S.D. Cal. 2008); Louie v. Kaiser Found. Health Plan, Inc., 2008 U.S. Dist. LEXIS 78314 (S.D. Cal. 2008); Weltman v. Ortho Mattress, Inc., 2010 U.S. Dist. LEXIS 20521 (S.D. Cal. 2010); Weltman v. Ortho Mattress, Inc., 2008 U.S. Dist. LEXIS 60344 (S.D. Cal. 2008); Curry v. CTB McGraw-Hill, LLC, 2006 U.S. Dist. LEXIS 5920; 97 A.F.T.R.2d (RIA) 1888; 37 Employee Benefits Cas. (BNA) 2390 (N.D. Cal. 2006); Reynov v. ADP Claims Servs. Group, 2006 U.S. Dist. LEXIS 94332 (N.D. Cal. 2006); Kennedy v. Natural Balance Pet Foods, Inc., 2010 U.S. App. LEXIS 248 (9<sup>th</sup> Cir. 2010); Kennedy v. Natural Balance Pet Foods, Inc., 2008 U.S. Dist. LEXIS 38889 (S.D. Cal. 2008); Kennedy v. Natural Balance Pet Foods, Inc., 2007 U.S. Dist. LEXIS 57766 (S.D. Cal. 2007); Sussex v. Turnberry/MGM Grand Towers, LLC, 2009 U.S. Dist. LEXIS 29503 (D. Nev. 2009); Picus v. Wal-Mart Stores, Inc., 256 F.R.D. 651 (D. Nev. 2009); Tull v. Stewart Title of Cal., Inc., 2009 U.S. Dist. LEXIS 14171 (S.D. Cal. 2009); Keshishzadeh v. Gallagher, 2010 U.S. Dist. LEXIS 46805 (S.D. Cal. 2010); Keshishzadeh v. Arthur J. Gallagher Serv. Co., 2010 U.S. Dist. Lexis 116380 (S.D. Cal. 2010); In re Pet Food Prods. Liab. Litig., MDL Docket No. 1850 (All Cases), 2008 U.S. Dist. LEXIS 94603 (D.N.J. 2008); In re Pet Food Prods. Liab. Litig., 629 F.3d 333 (3<sup>rd</sup> Cir. 2010); Puentes v. Wells Fargo Home Mortgage, Inc., 160 Cal. App. 4th 638 (2008); Rezec v. Sony Pictures Entertainment, Inc., 116 Cal. App. 4th 135 (2004); Badillo v. Am. Tobacco Co., 202 F.R.D. 261 (D. Nev. 2001); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin., 2010 U.S. App. Lexis 23025 (9<sup>th</sup> Cir. 2010); Dirienzo v. Dunbar Armored, Inc., 2011 U.S. Dist. Lexis 36650 (S.D. Cal. 2011); Rix v. Lockheed Martin Corp., 2011 U.S. Dist Lexis 25422 (S.D. Cal. 2011); Weitzke v. Costar Realty Info., Inc., 2011 U.S. Dist Lexis 20605 (S.D. Cal. 2011); Goodman v. Platinum Condo. Dev., LLC, 2011 U.S. Dist. LEXIS 36044 (D. Nev. 2011); Sussex v. Turnberry/MGM Grand Towers, LLC, 2011 U.S. Dist. LEXIS 14502 (D. Nev. 2011); Smith v. Kaiser Foundation Hospitals, Inc., 2010 U.S. Dist. Lexis 117869 (S.D. Cal. 2010); Dobrosky v. Arthur J. Gallagher Serv. Co., LLC, No. EDCV 13-0646 JGB (SPx), 2014 U.S. Dist. LEXIS 106345 (C.D. Cal. July 30, 2014); Metrow v. Liberty Mut. Managed Care LLC - Class Certification Granted, Metrow v. Liberty Mut. Managed Care LLC, No. EDCV 16-1133 JGB (KKx), 2017 U.S. Dist. LEXIS 73656 (C.D. Cal. May 1, 2017); Nelson v. Avon Products, Inc., Class Certification Granted, U.S. District Court for The Northern District of California, Case No. 13-cv-02276-BLF, 2015 U.S. Dist. LEXIS 51104 (N.D. Cal. Apr. 17, 2015); Orozco v. Illinois Tool Works Inc., Class Certification Granted, 2017 U.S. Dist. LEXIS 23179 (E.D. Cal. Feb. 16, 2017); Rieve v. Coventry Health Care, Summary Judgment *Sua*

*Sponte* Granted for Plaintiff, Rieve v. Coventry Health Care, Inc., 870 F. Supp. 2d 856 (C.D. Cal. 2012)

### **CLASS ACTION & REPRESENTATIVE CASES**

4G Wireless Wage Cases, Orange County Superior Court, JCCP No. 4736; Classic Party Rentals Wage & Hour Cases, Los Angeles Superior Court, Case No. JCCP No. 4672; Abu-Arafeh v. Norco Delivery Service, Inc., San Francisco County Superior Court, Case No. CGC-14-540601; Aburto v. Verizon, U.S. District Court, Southern District California, Case No. 11-cv-0088; Adkins v. Washington Mutual Bank, Class Certification Granted, San Diego County Superior Court, Case No. GIC819546; Agah v. CompUSA, U.S. District Court, Central District of California, Case No. SA CV05-1087 DOC (Anx); Akers v. The San Diego Union Tribune, San Diego County Superior Court, Case No 37-2010-00088571; Altman v. SolarCity Corporation, San Diego County Superior Court, Case No. 37-2014-00023450-CU-OE-CTL; Aquino v. Macy's West Stores, Orange County Superior Court, Case No. 30-2010-00395420; Baker v. Advanced Disability Management, Inc., Sacramento County Superior Court, Case No. 34-2014-00160711; Barcia v. Contain-A-Way, U.S. District Court, Southern District California, Case No. 07 cv 0938; Bates v. Verengo, Inc., Orange County Superior Court, Case No. 30-2012-00619985-CU-OE-CXC; Battle v. Charming Charlie Inc., San Diego County Superior Court, Case No. 37-2014-00005608; Behar v. Union Bank, Orange County Superior Court, Case No. 30-2009-00317275; Bell v. John Stewart Company, Alameda County Superior Court, Case No. RG14728792; Bennett v. Custom Built Personal Training Monterey County Superior Court, Case No. M127596; Bermant v. Bank of America, Investment Services, Inc., Los Angeles Superior Court, Civil Action No. BC342505; Bethley v. Raytheon Company, United States District Court, Central District of California, Case No. SACV10-01741; Betorina v. Randstad US, L.P., U.S. District Court Northern District of California, Case No. 3:15-cv-03646-MEJ; Beverage v. Edcoa Inc., Sacramento County Superior Court, Case No. 2013-00138279; Bova v. Washington Mutual Bank / JP Morgan Chase, U.S. District Court, Southern District California, Case No. 07-cv-2410; Bowden v. Sunset Parking Services, LLC & LAZ Parking California, LLC - Settled San Diego County Superior Court, Case No. 37-2012-00101751-CU-OE-CTL; Briseno v. American Savings Bank, Class Certification Granted, Orange County Superior Court, Case No. 774773; Brueske v. Welk Resorts, San Diego Superior Court, Case No 37-2010-00086460; Bueche v. Fidelity National Management Services, U.S. District Court, Eastern District of California, Case No. 13-cv-01114; Bunch v. Pinnacle Travel Services, LLC, Los Angeles County Superior Court, Case No. BC552048; Butler v. Stericycle, Inc & Appletree Answering Services of California, Inc., Sacramento County Superior Court, Case No. 34-2015-00180282; Cabral v. Creative Communication Tech., Class Certification Granted, Los Angeles Superior Court, Case No. BC402239; Cardoza v. Wal-Mart Associates, Inc., U.S. District Court Northern District of California, Case No. 4:15-cv-01634-DMR; Castro v. Vivint Solar, Inc., San Diego County Superior Court, Case No. 37-2014-00031385-CU-OE-CTL; Cavazos v. Heartland Automotive Services, Inc., Riverside County Superior Court, Case No. PSC 1401759; Cohen v. Bosch Tool, San Diego Superior Court, Case No. GIC 853562; Comstock v. Washington Mutual Bank - Class Certification Granted, San Diego County Superior Court, Case No. GIC820803; Conley v. Norwest, San Diego County Superior Court, Case No. N73741; Connell v. Sun Microsystems, Alameda Superior Court, Case No. RG06252310; Corrente v. Luxe Valet, Inc., San Francisco County Superior Court, Case No. CGC-15-545961; Cruz v. Redfin Corporation, U.S. District Court Northern District of California, Case No. 3:14-cv-05234-THE; Culley v. Lincare Inc. & Alpha Respiratory Inc., U.S. District Court eastern District of California, Case No. 2:15-cv-00081-GEB-CMK; Cunningham v. Leslie's Poolmart, Inc., U.S. District Court, Central District of California, Case No. 13-cv-02122-CAS; Curry v. California Testing Bureau/McGraw Hill, U.S. District Court, Northern District of California, Case No. C-05-4003 JW; Daniels, et al. v. Philip Morris, (In Re Tobacco Cases II) – Class Certification Granted, San Diego Superior Court, Case No. JCCP 4042; Davis v. Genex

Holdings Inc., Santa Clara County Superior Court, Case No. 1-13-cv-240830; Davis v. Clear Connection, LLC, San Diego County Superior Court, Case No. 37-2014-00035173-CU-OE-CTL; Day v. WDC Exploration, Orange County Superior Court, Case No. 30-2010-00433770; Dedrick v. Hollandia Dairy, San Diego County Superior Court, Case No. 37-2014-00004311-Cu-OE-CTL; Delmare v. Sungard Higher Education - Settled U.S. District Court, Southern District of California, Case No. 07-cv-1801; Del Rio v. Tumi Stores, Inc., San Diego County Superior Court, Case No. 37-2015-00022008-CU-OE-CTL; Dewane v. Prudential, U.S. District Court, Central District of California, Case No. SA CV 05-1031; Diesel v. Wells Fargo Bank, Orange County Superior Court, Case No. 30-2011-00441368; Dirienzo v. Dunbar Armored, U.S. District Court, Southern District of California, Case No. 09-cv-2745; Dobrosky v. Arthur J. Gallagher Service Company, LLC, Class certification Granted, No. EDCV 13-0646 JGB (Spx); Dodds v. Zaven Tootikian, Los Angeles County Superior Court, Case No. BC494402; Drumheller v. Radioshack Corporation, United States District Court, Central District of California, Case No. SACV11-355; Enger v. Kaiser Foundation Health Plan, U.S. District Court, Southern District of California, Case No. 09-cv-1670; Escobar v. Silicon Valley Security & Patrol, Inc., Santa Clara County Superior Court, Case No. 1-14-cv272514; Fierro v. Chase Manhattan - Class Certification Granted, Settled San Diego Superior Court, Case No. GIN033490; Figueroa v. Circle K Stores, Inc., San Diego County Superior Court, Case No. 37-2012-00101193-CU-OE-CTL; Finch v. Lamps Plus, (Lamps Plus Credit Transaction Cases), San Diego Superior Court, Case No. JCCP 4532; Fletcher v. Verizon, U.S. District Court, Southern District of California, Case No. 09-cv-1736; Francisco v. Diebold, U.S. District Court, Southern District of California, Case No. 09-cv-1889; Friend v. Wellpoint, Los Angeles Superior Court, Case No. BC345147; Frudakis v. Merck Sharp & Dohme, U.S. District Court, Central District California, Case No. SACV 11-00146; Fulcher v. Olan Mills, Inc., U.S. District Court, Northern District of California, Case No. 11-cv-1821; Gabisan v. Pelican Products, U.S. District Court, Southern District California, Case No. 08 cv 1361; Galindo v. Sunrun Installation Services Inc., San Diego County Superior Court, Case No. 37-2015-00008350-CU-OE-CTL; Gallagher v. Legacy Partners Commercial, Santa Clara County Superior Court, Case No. 112-cv-221688; Ghattas v. Footlocker Retail, Inc., U.S. District Court Central District of California, Case No. CV 13-0001678 PA; Gibson v. World Savings, Orange County Superior Court, Case No. 762321; Goerzen v. Interstate Realty Management, Co., Stanislaus County Superior Court, Case No. 679545; Gomez v. Enterprise Rent-A-Car, U.S. District Court, Southern District of California, Case No. 3:10-cv-02373; Gordon v. Wells Fargo Bank, U.S. District Court, Southern District of California, Case No. 3:11-cv-00090; Grabowski v. CH Robinson, U.S. District Court, Southern District of California, Case No. 10-cv-1658; Gross v. ACS Compiq Corporation, Orange County Superior Court, Case No. 30-2012-00587846-CU-OE-CXC; Gripenstraw v. Buffalo Wild Wings, U.S. District Court, Eastern District of California, Case No. 12-CV-00233; Gruender v. First American Title, Orange County Superior Court, Case No. 06 CC 00197; Guillen v. Univision Television Group, Inc. & Univision Management Co., San Francisco County Superior Court, Case No. CGC-12-526445; Gujjar v. Consultancy Services Limited, Orange County Superior Court, Case No. 30-2010-00365905; Gutierrez v. Five Guys Operations, LLC, San Diego County Superior Court, Case No. 37-2012-00086185-CU-OE-CTL; Handler v. Oppenheimer, Los Angeles Superior Court, Civil Action No. BC343542; Harley v. Tavistock Freebirds, LLC, Sacramento County Superior Court, Case No. 34-2014-00173010; Harrington v. Corinthian Colleges – Class Certification Granted, Orange Superior Court; United States Bankruptcy Court District of Delaware; Harvey v. PQ Operations, Inc., Los Angeles County Superior Court, Case No. BC497964; Henshaw v. Home Depot U.S.A., United States District Court, Central District of California, Case No. SACV10-01392; Heithold v. United Education Institute, Orange County Superior Court, Case No. 30-2013-00623416-CU-OE-CXC; Hibler v. Coca Cola Bottling, Settled U.S. District Court, Southern District of California, Case No. 11cv0298; Hildebrandt v. TWC Administration LLC & Time Warner NY Cable, LLC, U.S. District Court, Central District of California, Case No. ED-cv-13-02276-JGB; Hopkins v. BCI Coca-Cola Bottling Company of Los Angeles, United states District Court, Central District of California; U.S. Court of Appeals 9<sup>th</sup> Circuit; Howard v. Southern California Permanente

Medical Group, Los Angeles Superior Court, Case No. BC586369; Hughes v. Parexel International, Los Angeles County Superior Court, Case No. BC485950; Hurley v. Comcast of California/Colorado/Texas/Washington, Inc., Sonoma County Superior Court, Case No. SCV-253801; Irving v. Solarcity Corporation, San Mateo County Superior Court, Case No. CIV525975; Jacobs v. Nu Horizons - Settled Santa Clara County Superior Court, Case No. 111cv194797; Jefferson v. Bottling Group LLC (Pepsi) - Class Certification Granted, Orange County Superior Court, Case No. 30-2009-0018010; Jones v. E\*Trade Mortgage, U.S. District Court, Southern District California Case No. 02-CV-1123 L (JAH); Kennedy v. Natural Balance - Dismissal Reversed on Appeal, San Diego Superior Court, Case No. 37-2007-00066201; Keshishzadeh v. Arthur J. Gallagher Service Co., U.S. District Court, Southern District of California, Case No. 09-cv-0168; Kinney v. AIG Domestic Claims / Chartis, U.S. District Court, Central District of California, Case No. 8:10-cv-00399; Kizer v. Tristar Risk Management, Orange County Superior Court, Case No. 30-2014-00707394-CU-OE-CXC; Kleinberg v. Reeve Trucking Company, Inc., San Diego County Superior Court, Case No. 37-2015-00001601-CU-OE-CTL; Kove v. Old Republic Title, Alameda County Superior Court, Case No. RG09477437; Krellcom v. Medley Communications, Inc., San Diego County Superior Court, Case No. 37-2013-00050245-CU-OE-CTL; Ladd v. Extreme Recovery, LP, Contra Costa County Superior Court, Case No. MSC11-02790; Langille v. EMC, U.S. District Court, Southern District of California, Case No. 09-cv-0168; Lawson v. Marquee Staffing, Los Angeles County Superior Court, Case No. 37-2012-00103717-CU-OE-CTL; Lazar v. Kaiser Foundation Health Plan, Inc., Santa Clara County Superior Court, Case No. 1-14-cv-273289; Lemmons v. Kaiser Foundation Hospitals, Inc., Sacramento County Superior Court, Case No. 34-2012-00125488; Levine v. Groeniger, Alameda County Superior Court, Case No. RG09476193; Linder v. OCWEN (In re Ocwen Federal Bank FSB Servicing Litig.) U.S. District Court, Central District California, Case No. 07cv501, U.S. District Court, Northern Dist. Illinois, Case No. MDL 1604; Litton v. Diebold, Incorporated, San Mateo County Superior Court, Case No. CIV524776; Lohn v. Sodexo, Inc. & SDH Services West, LLC, U.S. District Court Central District of California, Case No. 2:15-CV-05409; Lopez v. K-Mart, Ventura County Superior Court, Case No. BC351983; Louie / Stringer v. Kaiser, U.S. District Court, Southern District California, Case No. 08-cv-0795; Lucero v. Sears, U.S. District Court Southern District of California, Case No. 3:14-cv-01620-AJB; Lucero v. Kaiser Foundation Hospitals, Inc., San Diego County Superior Court, Case No. 37-2013-00075933-CU-OE-CTL; Magallanes v. TSA Stores, Inc., Santa Clara County Superior Court, Case No. 1-15-cv-283586; Magana v. El Pollo Loco, Inc., Orange County Superior Court, Case No. 30-2012-00613901-CU-OE-CXC; Maitland v. Marriott, U.S. District Court, Central District California, Case No. SACV 10-00374; Mann v. NEC Electronics America, Santa Clara County Superior Court, Case No. 109CV132089; Martinez v. Hydro-Scape Products, Inc., San Diego County Superior Court, Case No. 37-2014-00029157-CU-OE-CTL; Mathies v. Union Bank - Class Certification Granted, San Francisco County Superior Court, Case No. CGC-10-498077; McDermott v. Catalina Restaurant Group Inc., Orange County Superior Court, Case No. 30-2012-00574113-CU-OE-CXC; McPhail v. First Command, United States District Court for the Southern District of California, Case No. 05CV0179 IEG (JMA); Medina v. Universal Protection Service, LP, Santa Clara County Superior Court, Case No. BC572848; Meierdiercks v. 8x8, Inc., Santa Clara County Superior Court, Case No. 110CV162413; Metrow v. Liberty Mut. Managed Care LLC - Class Certification Granted, U.S. District Court Eastern District of California, Case No. 16-1133 JGB (Kkx); Meyer v. Thinktank Learning, Inc., Santa Clara County Superior Court, Case No. 1-15-cv-282698; Morales v. Wells Fargo Insurance Services USA, Inc., U.S. District Court Northern District of California, Case No. 3:13-cv-03867-EDL; Morse v. Marie Callender Pie Shop, U.S. District Court, Southern District California, Case No. 09-cv-1305; Moynihan v. Escalante Golf, Inc. & Troon Golf, LLC, San Diego County Superior Court, Case No. 37-2012-00083250-CU-OE-CTL; Muntz v. Lowe's HIW, San Diego County Superior Court, Case No. GIC880932; Najarian v. Macy's West Stores, Orange County Superior Court, Case No. 30-2010-00418401; Nelson v. Avon Products, Inc., Class Certification Granted, U.S. District Court for The Northern District of California, Case No. 13-cv-02276-BLF; Nguyen v. Wells Fargo Home Mortgage, Orange County

Superior Court, Case No. 05 CC 00116; Ochoa v. Eisai, Inc., U.S. District Court, Northern District California, Case No. 3:11-cv-01349; Ogans v. Nationwide Credit, Inc., Sacramento County Superior Court, Case No. 34-2012-00121054; Ohayon v. Hertz, United States District Court, Northern District of California, Case No. 11-1662; Olvera v. El Pollo Loco, Inc., Orange County Superior Court, Case No. 30-2014-00707367-CU-OE-CXC; Orozco v. Illinois Tool Works Inc., Class Certification Granted, U.S. District Court, Eastern District of California, Case No. 14-cv-02113-MCE; Ortega v. Prime Healthcare Paradise Valley, LLC, San Diego County Superior Court, Case No. 37-2014-00011240-CU-OE-CTL; Patel v. Nike Retail Services, Inc., U.S. District Court Northern District of California, Case No. 3:14-cv-04781-RS; Patelski v. The Boeing Company, United States District Court, Southern District of New York; transferred to United States District Court, Eastern District of Missouri; Pearlman v. Bank of America, San Diego Superior Court; Perry v. AT&T, U.S. District Court, Northern District California, Case No. 11-cv 01488; Picus v. Wal-Mart Stores, U.S. District Court, District of Nevada, Case No. 2:07-CV-00682; Pittard v. Salus Homecare, U.S. District Court, Southern District California, Case No. 08 cv 1398; Port v. Southern California Permanente Medical Group, San Diego County Superior Court, Case No. 37-2007-00067538; Postema v. Lawyers Title Ins. Corp., Orange County Superior Court, Case No. 30-2010-00418901; Pratt v. Verizon, Orange County Superior Court, Case No. 30-2010-00430447; Proctor v. Ameriquest, Orange County Superior Court, Case No. 06CC00108; Ramirez v. Estenson Logistics, LLC, Orange County Superior Court, Case No. 30-2015-00803197-CU-OE-CXC; Ray v. Lawyers Title, Fidelity National, Commonwealth Land Title, Chicago Title, Orange County Superior Court, Case No. 30-2010-00359306; Renazco v. Unisys Technical Services, L.L.C., San Francisco County Superior Court, Case No. CGC-14-539667; Reynolds v. Marlboro/Philip Morris U.S.A., United States Court of Appeals for the Ninth Circuit, Case No. 08-55114, U.S. District Court, Southern District of California, Case No. 05 CV 1876 JAH; Rezec v. Sony, San Diego Superior Court; Rix v. Lockheed Martin Corporation, U.S. District Court, Southern District of California, Case No. 09-cv-2063; Rieve v. Coventry Health Care, Summary Judgment *Sua Sponte* Granted for Plaintiff, *Rieve v. Coventry Health Care, Inc.*, 870 F. Supp. 2d 856 (C.D. Cal. 2012); Ritchie v. Mauran Ambulance Services, Inc., Los Angeles County, Case No. BC491206; Rivers v. Veolia Transportation Services, Class Certification Granted, Sonoma County Superior Court, Case No. SCV 255350; Roeh v. JK Hill, San Diego Superior Court, Case No. 37-2011-00089046; Rodriguez v. Protransport-1, LLC, San Francisco County Superior Court, Case No. CGC-12-522733; Romero v. Central Payment Co., LLC, Marin County Superior Court, Case No. CIV 1106277; Salas v. Evolution Hospitality, LLC, San Diego County Superior Court, Case No. 37-2012-00083240-CU-OE-CTL; Salem v. Alliance Human Services, Inc., San Diego County Superior Court, Case No. CIVRS1401129; Sanchez v. Beena Beauty Holding, Inc. d/b/a Planet Beauty, Los Angeles County Superior Court, BC566065; Santone v. AT&T – Settled United States District Court, Southern District of Alabama; Santos v. Sleep Train (Sleep Train Wage and Hour Cases), Orange County Superior Court, Case No. 30-2008-00214586, San Francisco County Superior Court, Case No. JCCP 4553; Saravia v. O.C. Communciations, Sacramento County Superior Court, Case No. 34-2015-00180734; Sawyer v. Vivint, Inc., U.S. District Court, Northern District of Illinois, Case No. 1:14-cv-08959; Sayaman v. Baxter Healthcare, U.S. District Court, Central District of California, Case No. CV 10-1040; Schuler v. Ecolab, Inc., U.S. District Court, Southern District of California, Case No. 3:10-cv-02255; Schulz v. Qualxserv, LLC / Worldwide Techservices - Class Certification Granted, U.S. District Court, Southern District of California, Case No. 09-cv-0017; Serrato v. Sociedad Textil Lonia, Corp., San Diego County Superior Court, Case No. 37-2012-00101195-CU-OE-CTL; Shrivastara v. Fry's Electronics, Santa Clara County Superior Court, Case No. 111cv192189; Sierra v. Oakley Sales Corp., Orange County Superior Court, U.S. District Court Central District of California; U.S. Court of Appeals 9<sup>th</sup> Circuit; Sirota v. Swing-N-Slide, Wisconsin District Court, County of Rock Wisconsin, Case No. 95CV726J; Small v. Kaiser Foundation Hospitals - Settled San Diego County Superior Court, Case No. 37-2011-00099011-CU-OE-CTL; Smith v. Kaiser Foundation Hospitals, U.S. District Court, Southern District of California, Case No.

08-cv-02353; Smith v. Fedex Ground Package system, Inc., Alameda County Superior Court, Case No. RG14734322; Sones v. World Savings / Wachovia; U.S. District Court, Northern District of California, Case No. 3:08-cv-04811; Spradlin v. Trump, U.S. District Court, District of Nevada, Case No. 2:08-cv-01428; Steele v. Kaiser Foundation Health Plan, U.S. District Court, Northern District of California, Case No. 07-5743; Steffan v. Fry's Electronics, Inc., Santa Clara County Superior Court, Case No. 1-13-CV-254011; Steroid Hormone Product Cases, Los Angeles Superior Court, JCCP4363; Strauss v. Bayer Corporation, United States District Court, District of Minnesota; Sustersic v. International Paper Co., Orange County Superior Court, Case No. 30-2009-00331538; Sutton v. Seasons Hospice & Palliative Care of California, Inc., Los Angeles County Superior Court, Case No. BC590870; Swartout v. First Alarm Security & Patrol, Inc., Santa Clara County Superior Court, Case No. 112-cv-231989; Talamantez v. The Wellpoint Companies, Inc., U.S. District Court, Central District of California, Case No. 12-cv-08058; Tan v. California State Automobile Assn. - Class Certification Granted, U.S. District Court, Central District California, Case No. 07cv1011, Orange County Superior Court, Case No. 30-2008-00231219; Tauber v. Alaska Airlines, et al., Los Angeles Superior Court; Thai v. Staff Assistance, Inc., Los Angeles County Superior Court, Case No. BC567943; Thomas v. Stanford Health Care d/b/a Stanford University Medical Center, Santa Clara County Superior Court, Case No. 1-14-cv-273362; Thomas-Byass v. Michael Kors Stores (California), Inc., U.S. District Court Central District of California, Case No. 5:15-cv-00369-JGB; Trujillo v. LivHome, Orange County Superior Court, Case No. 30-2008-00100372, San Diego County Superior Court, Case No. JCCP4570; Tull v. Stewart Title, U.S. District Court, Southern District California, Case No. 08-CV-1095; Turner v. C.R. England, U.S. District Court Central District of California, Case No. 5:14-cv-02207-PSG; Turner v. Ampac Fine Chemicals, LLC, Sacramento County Superior Court, Case No. 34-2015-00176993; Valadez v. Schering-Plough, U.S. District Court, Southern District California, Case No. 10-CV-2595; Van Gorp v. Ameriquest Mortgage/Deutsche Bank, U.S. District Court, Central District of California, Case No. SACV05-907 CJC (Anx); Varela v. The Walking Company, Los Angeles County Superior Court, Case No. BC562520; Veloz v. Ross Dress For Less, Inc., Los Angeles County Superior Court, Case No. BC485949; Vogel v. Price-Simms, Inc., Santa Clara County Superior Court, Case No. 114CV261268; Vrab v. DNC Parks & Resorts at Tenaya, Inc., Mariposa County Superior Court, Case No. 0010225; Vultaggio-Kish v. Golden State Lumber, Inc., San Mateo County Superior Court, Case No. CIV 51661; Wadhwa v. Escrow Plus, Los Angeles Superior Court; Waldhart v. Mastec North America, Inc., San Bernardino County Superior Court, Case No. CIVDS1419318; Walker v. Brink's Global Services USA, Inc. & Brinks Incorporated, Los Angeles County Superior Court, Case No. BC564369; Walsh v. Apple, Inc., U.S. District Court, Northern District California, Case No. 08-04918; Weinman v. Midbar Condo Development (Las Vegas One), U.S. District Court, District of Nevada, Case No. 2:08-cv-00684; Weltman v. Ortho Mattress - Class Certification Granted, U.S. District Court, Southern District California, Case No. 08-cv-0840, Orange County Superior Court, Case No. 30-2009-00327802; West v. Jerome's Furniture Warehouse, Sacramento County Superior Court, Case No. 34-2013-00147707-CU-OE-GDS; Wheat v. Jerome's Furniture Warehouse, San Diego County Superior Court, Case No. 37-2012-00094419-CU-OE-CTL; Wietzke v. Costar Realty, U.S. District Court, Southern District California, Case No. 09-cv-2743; Williams v. Lockheed Martin Corporation, U.S. District Court, Southern District California, Case No. 3:09-cv-01669; Wilson v. Wal-Mart Associates, Inc., U.S. District Court Central District of California, Case No. 8:14-cv-1021-FMO; Winston v. Lemoore Transportation, Inc., Contra Costa County Superior Court, Case No. C-15-00897; Wise v. Cubic, U.S. District Court, Southern District California, Case No. 08-cv-2315; Witman v. Level 3 Communications, San Diego County Superior Court, Case No. 37-2012-00091649-CU-OE-CTL; Yam v. Kaiser Foundation Hospitals, U.S. District Court, Northern District California, Case No. 10-cv-05225-SBA; Zurlo v. Mission Linen, U.S. District Court, Central District, Case No. 08cv1326; Baxt v. Scor U.S., Delaware Court of Chancery; Bronson v. Blech Securities - Settled U.S. District Court, Southern District of New York; Castro & Cardwell v. B & H Education, Inc., Los Angeles Superior Court Case No. BC456198;

Dibella v. Olympic Financial, U.S. District Court, District of Minnesota; Doyle v. Lorna Jane USA, Inc., Los Angeles County Superior Court, Case No. BC526837; Estrella v. B-Per Electronic, Inc. & My Wireless, Inc., San Diego County Superior Court, Case No. 37-2013-00048951-CU-OE-CTL; Ferrari v. Read-Rite, U. S. District Court, Northern District of California; Forever 21 Wage and Hour Cases - Settled San Diego County Superior Court, JCC Proceeding No. 4745; Hart v. United States Tobacco Co., Los Angeles Superior Court; In re Bank of America Wage and Hour Employment Practices Litigation, U.S. District Court, District of Kansas, Case No. MDL 2138; In re Walgreen Co. Wage and Hour Litigation, U.S. District Court, Central District of California, Case No. 11-cv-07664; Jackson v. Fresh & Easy Neighborhood Market Inc., Los Angeles County Superior Court, Case No. BC497964; U.S. Bankruptcy Court District of Delaware Case No. 13-12569 (KJC); Jordan/Ramos v. DMV -Sacramento County Superior Court; Kensington Capital v. Oakley, U. S. District Court, Southern District of California; Kensington Capital v. Vesta, U. S. District Court, Northern District of Alabama; Lopez v. Tire centers, LLC, U.S. District Court Northern District of California, Case No. 3:13-cv-05444-JCS; Miller v. Western Athletic Clubs, LLC, Santa Clara County Superior Court, Case No. 112-cv-228670; Moffett v. WIS International, San Diego County Superior Court, Case No. 37-2011-00099909-CU-OE-CTL; Perez v. Urban Outfitters, Inc., U.S. District Court Northern District of California, Case No. 13-cv-02628-JSW; Ridgewood Capital Management v. Gensia, U.S. District Court, Southern District of California, #CV-92-1500H; Sandoval v. Redfin Corporation, U.S. District Court Northern District, Case No. 3:14-cv-04444-SC; Shurman v. Scimed, State of Minnesota District Court, Fourth District, #94-17640; Sioson v. AMP Holding, Inc., Orange County Superior Court, Case No. 30-2013-00663825; Slatton v. G.E. Capital Mortgage Services, Camden County Superior Court, New Jersey, #CAML0256198; Somkin v. Molten Metal, U.S. District Court, District of Massachusetts, #9710325PBS; Sparks v AT&T, Illinois District Court - Madison County; Sullivan v. Lyon Management Group, Orange County Superior Court, Case No. 30-2013-00649432-CU-BT-CXC; Herencia v. Alexander's Steakhouse, Inc. – San Francisco County Superior Court, Case No. CGC-16-550551; Reinhardt v. Beverly Fabrics, Inc. – Sonoma County Superior Court, Case No. SCV-257217; DeBettencourt v. Interstate realty Management Company – San Joaquin County Superior Court, Case No. STK-CV-UOE-2015-0011942; Torres v. Bhandal Bros, Inc. – Santa Cruz County Superior Court, Case No. 16CV01555; Rodriguez v. El Toro Medical Investors Limited Partnership – U.S. District Court, Central District of California, Case No. 16-CV-00059-JLS-KES; Velez v. Timec Specialty Services, Inc. & Transfield Services– Los Angeles County Superior Court, Case No. BC614318; Henry v. Central Freight Lines, Inc. – U.S. District Court, Eastern District of California, Case No. 16-CV-00280-JAM-EFB; Taylor v. TIC – The Industrial Company – U.S. District Court, Central District of California, Case No. 16-CV-00186-VAP(SPX); Harvey v. Sears, Roebuck And Co. – Sacramento County Superior Court, Case No. 34-2017-00207556; Tapia v. Panda Express, LLC et al. – Los Angeles County Superior Court, JCCP No. 4919; Severson v. Lowe's HIW, Inc. – Sacramento County Superior Court, Case No. 34-2016-00189508; Bendon v. DTG Operations, Inc. - U.S. District Court, Central District of California, Case No. 16-CV-00861-FMO-AGR; Talavera v. ACS Dataline, LP – Los Angeles County Superior Court, Case No. BC617159; McHenry v. Prologix Distribution Services (West), LLC – Los Angeles County Superior Court, Case No. BC608948; Stone v. Prologistics Distribution, Inc. – Orange County Superior Court, JCCP No 4881; Easton v. Handy Technologies, Inc. – San Diego County Superior Court, Case No. 37-2016-00004419-CU-OE-CTL; Singh v. Total Renal Care, Inc. – San Francisco County Superior Court, Case No. CGC-16-550847; Conners v. Rag Traders Melrose, LLC – Los Angeles County Superior Court, Case No. BC591413; Saporito v. Space Explorations Technologies Corporation, Los Angeles Superior Court, Case No. BC554258; Calhoun v. Celadon Trucking Services, Inc., U.S. District Court, Central District of California, Case No. 16-CV-01351-PSG-FFM; Conners v. Mission Valley Kilt, LLC - San Diego County Superior Court, Case No. 37-2015-00036888-CU-OE-CTL; Shibley v. New Prime, Inc. - U.S. District Court, Central District of California, Case No. 17-CV-00321-DOC; Lawrenz v. Blacktalon Enterprises, Inc. - Sonoma County Superior Court, Case No. SCV-258205; Jamison v. Fitness 19 CA 121, LLC - Solano County

Superior Court, Case No. FCS046697; Brooks v. Archer Trucking, Inc. – Mendocino County Superior Court, Case No. SCUK-CVG-16-67106; Montgomery v. New Prime, Inc. – San Bernardino County Superior Court, Case No. CIVDS1611884; Mills v. Core-Mark International, Inc. – San Diego County Superior Court, case No. 37-2016-00009669-CU-OE-CTL; Lopez v. Networked Insurance Agents, LLC – Orange County Superior Court, Case No. 30-2016-00843587-CU-OE-CXC; Yberri v. Agent Provocateur, Inc. – Los Angeles County Superior Court, Case No. BC620413; Woodard v. BKD Twenty-One Management Company, Inc. – San Diego County Superior Court, Case No. 37-2016-00009682-CU-OE-CTL; Gallagher v. H.H. Restaurant, Inc. – San Diego County Superior Court, Case No. 37-2016-00031247-CU-OE-CTL; San Nicolas v. West Covina Corporate Fitness, Inc. – Los Angeles County Superior Court, Case No. BC16304; Summerlin v. Maplebear Inc., d/b/a Instacart – Los Angeles County Superior Court, Case No. BC 603030; Padilla v. Sutter West Bay Hospitals – San Mateo County Superior Court, Case No. CIV538977; Quagliariello v. Victory Entertainment, Inc. – Los Angeles County Superior Court, Case No. BC620273; Mohammad v. Tee It Up LLC – Contra Costa Superior Court, Case No. C16-01188; Pucilowski v. Esurance Insurance Services, Inc. – Placer County Superior Court, Case No. SCV0038790; Arias v. Alamitos Enterprises, LLC – Orange County Superior Court, Case No. 30-2016-00865183-CU-OE-CXC; Orzano v. Hazelwood Enterprises, Inc. – San Diego County Superior Court, Case No. 37-2016-00029231-CU-OE-CTL; Tejero v. Firstmed Ambulance Services, Inc. – Orange County Superior Court, Case No. 30-2016-00885355-CU-OE-CXC; Artis v. T-W Transport, Inc. – San Diego County Superior Court, Case No. 37-2016-00013010-CU-OE-CTL; Searles v. Navajo Express, Inc. – San Bernardino County Superior Court, Case No. CIVDS1613846; Lara v. Commercial Protective Service, Inc. – Los Angeles County Superior Court, Case No. BC648921; Picos v. Culinary of California, Inc. – San Diego County Superior Court, Case No. JCCP 4892; Samaniego v. A&I Transport, Inc. – Santa Cruz County Superior Court, Case No. 16CV01894; Bailey v. Romanoff Floor Covering, Inc. – U.S. District Court, Eastern District of California, Case No. 17-CV-00685-TLN-CMK; Aguirre v. Bitech, Inc. – Sacramento County Superior Court, Case No. 34-2016-002022; Phillips v. DI Overnight LLC – San Diego County Superior Court, Case No. 37-2016-00016800-CU-OE-CTL; Jacob v. Pride Transport, Inc. – Santa Cruz County Superior Court, Case No. 16CV1337; Bennett v. Heartland Express, Inc. of Iowa – San Diego County Superior Court, Case No. 37-2016-00015056-CU-OE-CTL; Stapf v. Mercer Health & Benefits Administration LLC – Los Angeles County Superior Court, Case No. BC643007; Armstrong v. Ruan Transport Corporation – San Bernardino County Superior Court, Case No. CIVDS1605897; Geiger v. Floyd's 99-California LLC – Orange County Superior Court, Case No. 30-2016-00874943-CU-OE-CXC; Mondrian v. Trius Trucking, Inc. – Fresno County Superior Court, Case No. 16CECG01501; Johnson v. Fedex Office and Print Services, Inc. – Alameda County Superior Court, Case No. RG17856291; Rios v. Pacific Western Bank – San Diego County Superior Court, Case No. 37-2016-00038083; Sanders v. Old Dominion Freight Lines, Inc. – San Diego County Superior Court, Case No. 37-2016-00030725-CU-OE-CTL; Taylor v. Gardner Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1614280; Couture v. Wal-Mart Associates, Inc. – U.S. District Court, Eastern District of California, case No. 16-CV-02202-VC; Bertuol v. AHMC Anaheim Regional Medical Center LP – Orange County Superior Court, Case No. 30-2017-00899024-CO-OE-CXC; Espinoza v. Prime Communications of California, LLC – San Mateo County Superior Court, Case No. 16CIV01563; Archuletta v. Tidy Services, Inc. – Orange County Superior court, Case No. 30-2016-008611892-CU-OE-CXC; Puccini v. Earthbound Farm, LLC – Santa Clara County Superior Court, Case No. 17CV308643; Vikram v. First Student Management, LLC – U.S. District Court, Northern District of California, Case No. 17-CV-04656-KAW; Blair v. Ashley Distribution Services, LTD. – U.S. District Court, Central District of California, Case No. 17-CV-01427-JAK-SP; Richardson v. Service Staffing, LLC – Orange County Superior Court, Case No. 30-2017-00899039-CU-OE-CXC; Coffin v. Certified Freight Logistics, Inc. – San Diego County Superior Court, Case No. 37-2016-00036523-CU-OE-CTL; Encarnacion v. S.A.S. Services Group, Inc. – San Diego County Superior Court, Case No. 37-2017-00026726-CU-OE-CTL; Vasquez v. Golden State Overnight Delivery Service, Inc. – Alameda County Superior

Court, Case No. RG17862924; Karr v. Tristar Managed Care, Inc. – Contra Costa Superior Court, case No. MSC17-00650; Gouveia v. Central Cal Transportation – San Joaquin County Superior Court, Case No. STK-CV-UOE-2017-0001765; Miranda v. Genex Services, LLC – U.S. District Court, Northern District of California, Case No. 17-CV-01438-JD; Spears v. Health Net of California, Inc. – Sacramento County Superior Court, Case No. 34-2017-00210560; Martinez v. Geil Enterprises, Inc. – Fresno County Superior Court, Case No. 17CECG01879; McComack v. Marriott Ownership Resorts, Inc. – U.S. District Court, Southern District of California, Case No. 17CV1663 BEN WVG; Velasco v. Lemonade Restaurant Group, LLC – Los Angeles County Superior Court, Case No. BC672235; Smith v. Personnel Services, Inc. – U.S. District Court, Northern District of California, Case No. 17-CV-03594-SK; Gabriel v. Kuni SDA, LLC – San Diego County Superior Court, Case No. 37-2017-000251191-CU-OE-CTL; Miller v. Mattress Firm, Inc. – Santa Clara County Superior Court, Case No. 17CV313148; Provost v. Yourmechanic, Inc. – San Diego County Superior Court, Case No. 37-2017-00024056-CU-OE-CTL; Zirpolo v. UAG Stevens Creek II, Inc. – Santa Clara County Superior Court, Case No. 17CV313457; Salazar v. Aids Healthcare Foundation – San Diego County Superior Court, Case No. 37-2017-00033482-CU-OE-CTL; Knipe v. Amazon.com, Inc. – San Diego County Superior Court, Case No. 37-2017-00029426-CU-OE-CTL; Erwin v. Caremeridian, LLC – Fresno County Superior Court, Case No. 17CECG03048; Davis v. Cox Communications California, LLC – U.S. District Court, Southern District of California, Case No. 16-CV-00989-BAS-BLM; Lara v. RMI International, Inc. – Los Angeles County Superior Court, Case No. BC597695; Harper v. C.R. England, Inc. – U.S. District Court, Utah Central Division, Case No. 16-CV-00906-DB; Mrazik v. C.H. Robinson Company – U.S. District Court, Central District of California, Case No. 12-CV-02067-CAS-PLA; Horn v. Rise Medical Staffing, LLC – U.S. District Court, Eastern District of California, Case No. 2:17-cv-01967-MCE-KJN; Pasallo v. GSG Protective Services CA Inc. – San Diego Superior Court, Case No. 37-2018-00037611-CU-OE-CTL; Smith v. Pacific Personnel Services, Inc. – U.S. District Court, Northern District of California, Case No. 17-cv-03594-SK; Terrado v. Accredited Debt Relief, LLC – San Diego Superior Court, Case No. 37-2018-00014181-CU-OE-CTL; Escobedo v. Pacific Western Bank – Los Angeles Superior Court, Case No. BC682686; Wade v. Automobile Club of Southern California – Orange County Superior Court, Case No. 30-2017-00960268-CU-OE-CXC; Montano v. American Automobile Association of Northern California – Contra Costa County Superior Court, Case No. CIVMSC18-01539; Perez v. Summit Interconnect, Inc. – Orange County Superior Court, Case No. 30-2018-00995403-CU-OE-CXC; Wolleson v. Gosch Imports, Inc. – Riverside County Superior Court, Case No. RIC170356; Banuelos v. Ortho Mattress, Inc. – Orange County Superior Court, Case No. 30-2020-01161304-CU-OE-CXC; Castellanos v. Miller Automotive Group, Inc. – Los Angeles County Superior Court, Case No. BC699211; Tressler v. Spoonful Management, LLC – Los Angeles County Superior Court, Case No. BC71940; Delph v. Employee Retention Services, LLC – San Diego County Superior Court, Case No. 37-2018-00007885; Romero v. May Trucking Company – U.S. District Court, Central District of California, Case No. 5:17-cv-02166-JGB-SHK; Miranda v. Genex Services, LLC – San Bernardino County Superior Court, Case No. CIVDS1700779; Moore v. Zirx Transportation Services, Inc. – Los Angeles County Superior Court, Case No. CGC-18-566655; Sottile v. Motion Recruitment Partners – Santa Clara County Superior Court, Case No. 18CV321677; Shahbazian v. Fast Auto Loans, Inc. – U.S. District Court, Central District of California, Case No. 2:18-cv-03076-ODW-KS; Salazar v. Johnson & Johnson Consumer Inc. – Los Angeles County Superior Court, Case No. BC702468; Conti v. L’Oreal USA S/D, Inc. – U.S. District Court, Eastern District of California, Fresno, Case No. 1:19-CV-00769-LJO-SKO; Mercado v. Security Industry Specialists, Inc. – Santa Clara County Superior Court, Case No. 17CV320059; Vikili v. Dignity Health – San Francisco County Superior Court, Case No. CGC-18-569456; Bagby v. Swissport SA, LLC – Los Angeles County Superior Court, Case No. BC691058; Henry v. Motion Entertainment Group, LLC – San Francisco County Superior Court, Case No. CGC18565643; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Lanuza v. AccentCare, Inc. – San Francisco County Superior Court, Case No. CGC-18-565521; Thomas v. Easy Driving School, LLC – San Diego County Superior Court, Case

No. 37-2018-00047639-CU-OE-CTL; Erickson v. Erickson – Contra Costa County Superior Court, Case No. MSC18-00307; Martin v. Menzies Aviation (USA) Inc. – San Francisco County Superior Court, Case No. CGC-18-566072; Mortimer v. Healthsouth Bakersfield Rehabilitation Hospital, LLC – Kern County Superior Court, Case No. BCV-18-102761; Alcaraz v. Red Lion Hotels Corporation – San Francisco County Superior Court, Case No. CGC-18-570310; Calhoun v. Total Transportation and Distribution, Inc. – San Diego County Superior Court, Case No. 37-2018-00058681-CU-OE-CTL; Rataul v. Overton Security Services, Inc. – Alameda County Superior Court, Case No. RG18891882; Beltran v. Compass Bank – San Diego County Superior Court, Case No. 37-2019-00024475-CU-OE-CTL; Kirshner v. Touchstone Golf, LLC – San Diego County Superior Court, Case No. 37-2018-00028865-CU-OE-CTL; Pizarro v. The Home Depot, Inc. – U.S. District Court for the Northern District of Georgia-Atlanta Division; Hatanaka v. Restore Rehabilitation, LLC – San Diego County Superior Court, Case No. 37-2018-00034780-CU-OE-CTL; Faria v. Carriage Funeral Holdings, Inc. – Contra Costa County Superior Court, Case No. MSC18-00606; Ontiveros v. Baker Concrete Construction, Inc. – Santa Clara County Superior Court, Case No. 18CV328679; Morales v. Redlands Automotive Services, Inc. – San Bernardino County Superior Court, Case No. CIVDS1807525; Ramirez v. Carefusion Resources, LLC – U.S. District Court, Southern District of California; Amster v. Starbucks Corporation – San Bernardino Superior Court, Case No. CIVDS1922016; Kutzman v. Derrel's Mini Storage, Inc. – U.S. District, Eastern District of California, Case No. 1:18-cv-00755-AWI-JLT; Marks v. Universal Propulsion Company, Inc. – Solano County Superior Court, Case No. FCS051608; Martinez v. Geil Enterprises, Inc. – Fresno County Superior Court, Case No. 17CECG01480; Teniente v. Cirrus Asset Management, Inc. – Los Angeles County Superior Court, Case No. 20STCV16302; Blackshear v. California Fine Wine & Spirits LLC – Sacramento County Superior Court, Case No. 34-2018-00245842; Warnick v. Golden Gate America West LLC – Los Angeles County Superior Court, Case No. BC714176; Bennett v. Dnata Aviation USA, Inc. – San Francisco County Superior Court, Case No. CGC-18-566911; George v. PF Stockton Fitness LLC – Sacramento County Superior Court, Case No. 34-2019-00261113-CU-OE-GDS; Oshana v. Farmers and Merchants Bank of Central California – Stanislaus County Superior Court, Case No. CV-19-003427; Vasquez v. Packaging Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-01935-PSG-PLA; Palomino v. Zara USA Inc. – Orange County Superior Court, Case No. 30-2018-00992682-CU-OE-CXC; Simmons v. Joe & The Juice LA, LLC – San Francisco County Superior Court; Pacia v. CIM Group, L.P. – Los Angeles County Superior Court, Case No. BC709666; Flores v. Plastic Express – Los Angeles County Superior Court, Case No. BC71971; Madera v. William Warren Properties, Inc. – Orange County Superior Court, Case No. 30-2019-01055704-CU-OE-CXC; Hernandez v. Quality Custom Distribution – Orange County Superior Court, Case No. 30-2018-01010611-CU-OE-CXC; Arango v. Schlumberger Technology Corporation – Orange County Superior Court, Case No. 30-2019-01056839-CU-OE-CXC; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Ramirez v. J E H Enterprises, Inc. – San Francisco County Superior Court, Case No. CGC-19-574691; Sullen v. First Service Residential California, LLC – San Francisco County Superior Court, Case No. CGC-19-575131; Valentino v. East Bay Tire Co. – Solano County Superior Court, Case No. FCS053067; Murphy v. Rockler Retail Group, Inc. – Sacramento Superior Court, Case No. 34-2019-00251220; Shahbazian v. Onewest Bank – Los Angeles County Superior Court, Case No. 19STCV23722; Bruemmer v. Tempur Retail Stores LLC – Marin County Superior Court, Case No. CIV1803646; Antonios v. Interface Rehab, Inc. – Orange County Superior, Case No. 30-2019-01067547-CU-OE-CXC; Tavallodi v. DC Auto, Inc. – San Bernardino, Case No. CIVDS1833598; Miranda v. The Lloyd Pest Control Co. – San Diego County Superior Court, Case No. 37-2018-00052510-CU-OE-CTL; Soenardi v. Magnussen Imports, Inc. – Santa Clara County Superior Court, Case No. 18CV340003; Thai v. Team Industrial Services, Inc. – Los Angeles County Superior Court, Case No. 19STCV21953; Castillo v. A.J. Kirkwood & Associates, Inc. – Los Angeles County Superior Court, Case No. 19STCV04435; Moss v. Jabil Inc. – Alameda County Superior Court, Case No. HG20050536; Billosillo, Jr. v. Crown Energy Services, Inc. – San Diego County Superior Court,

Case No. 37-2018-00058254-CU-OE-CTL; Tarkington v. Freetime, Inc. – San Diego County Superior Court, Case No. 37-2019-00011473-CU-OE-CTL; McIntyre v. J.J.R. Enterprises, Inc. – Sacramento County Superior Court, Case No. 34-2019-00251220; Bucur v. Pharmaca Integrative Pharmacy, Inc. – San Diego County Superior Court, Case No. 37-2019-00009409-CU-OE-CTL; Batin v. McGee Air Services, Inc. – Santa Clara County Superior Court, Case No. 19CV347733; Terry v. McGee Air Services, Inc. – King County Superior Court of Washington, Case No. 19-2-3321-5 KNT; Weiss v. Niznik Behavioral Health Resources, Inc. – San Diego County Superior Court, Case No. 37-2019-00039441-CU-OE-CTL; Cavada v. Inter-Continental Hotels Group, Inc. – U.S. District Court, Southern District of California, Case No. 3:19-cv-01675-GPC-AHG; Lešević v. Spectraforce Technologies, Inc. – U.S. District Court, Northern District of California, Case No. 5:19-cv-03126-LHK; Mutchler v. Circle K Stores, Inc. – San Diego County Superior Court, Case No. 37-2020-00016331-CU-OE-CTL, Azima v. CSI Medical Group, – Santa Clara County Superior Court, Case No. 19CV345450; Porrás v. Baypointe Enterprises, LLC – Los Angeles County Superior Court, Case No. 19STCV31015; Mitchell v. Mack Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1928334; Watts v. T.R.L. Systems, Incorporated – Orange County Superior Court, Case No. 30-2019-01102457-CU-OE-CXC; Price v. DMSD Restaurants Inc. – San Diego County Superior Court, Case No. 37-2019-00024062-CU-OE-CTL; Jacobs v. Nortek Security & Control LLC – San Diego County Superior Court, Case No. 37-2019-0019735-CU-OE-CTL; Gonzalez v. Hub International Midwest – San Bernardino County Superior Court, Case No. CIVDS1900463; Cisneros v. Bluepearl California, Inc. – San Mateo Superior Court, Case No. 19-CIV-05707; Garcia v. Gallagher Basset Services – San Bernardino Superior Court, Case No. CIVDS2004140; Callow v. Adventist Health System/West – Placer County Superior Court, Case No. SCV0043607; Dominguez v. Kimco Facility Services, LLC – Los Angeles County Superior Court, Case No. 19STCV37592; Searles v. Robert Heath Trucking, Inc. – Los Angeles County Superior Court, Case No. 19STCY30808; Rangel v. Pioneer Hi-Bred international, Inc. – Yolo County Superior Court, Case No. CV-19-1797; Ivon v. Sinclair Television of California, Humboldt County Superior Court, Case No. DR190699; Williams v. Henkels & McCoy, Inc. – San Bernardino County Superior Court, Case No. CIVDS2003888; Cano v. Larry Green Chrysler Jeep Dodge, Inc. – Riverside County Superior Court, Case No. BLC1900184; Lopez v. Cepheid – Santa Clara County Superior Court, Case No. 19CV358827; Hernandez v. Quick Dispense, Inc. – Los Angeles County Superior Court, Case No. 19STCV29405; Lopez v. Lacoste USA, Inc. – San Bernardino County Superior Court, Case No. CIVDS1914626; Duhe v. Hospital Couriers Nevada, LLC – Contra Costa County Superior Court, Case No. MSC19-01377; Law v. Sequoia Equities, Incorporated – Contra Costa Superior Court, Case No. C19-01925; Dvorak v. Rockwell Collins, Inc. – San Diego County Superior Court, Case No. 37-2019-00064397-CU-OE-CTL; Noguera v. Metal Container Corporation – Riverside County Superior Court, Case No. RIC2003235; Leon v. Miller Event Management, Inc. – San Luis Obispo Superior Court, Case No. 19CV-0435; Leon v. Miller Event Management, Inc. – San Luis Obispo County Superior Court, Case No. 19CV-0435, Camacho-Bias v. Serve U Brands Inc. – Butte County Superior Court, Case No. 20CV00603; La Pietra v. Entertainment Partners Services, LLC – Los Angeles County Superior Court, Case No. 19STCV39529; Celis v. Theatre Box - San Diego, LLC – San Diego County Superior Court, Case No. \_\_\_\_; Ignacio v. Laboratory Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-06079-AB-RAO; Kovnas v. Cahill Contractors LLC – Alameda County Superior Court, Case No. RG19037852; Hersh v. Mrs. Gooch's Natural Food – Los Angeles County Superior Court, Case No. 19STCV10444; Miller v. The Permanente Medical Group – Alameda County Superior Court, Case No. RG19045904; Vasquez v. Autoalert, LLC – Orange County Superior Court, Case No. 30-2019-01114549-CU-OE-CXC; Cavanaugh v. Morton Golf, LLC – Sacramento County Superior Court, Case No. 34-2019-00270176; Coley v. Monroe Operations, LLC – Alameda County Superior Court, Case No. RG20063188; Ramirez v. Sierra Aluminum Company – U.S. District Court, California Central District Court, Case No. 5:20-cv-00417-JGB-KK; Marrero v. Stat Med, P.C. – Alameda County Superior Court, Case No. HG19043214; Enriquez v. Solari Enterprises, Inc. – Los Angeles County Superior Court, Case No. 20STCV11129; Craig v.

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

**EXHIBIT #4**

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WRITERS EXT:

1004

October 4 , 2022

CA2754

## VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency  
Online Filing

Best Friends Animal Society  
Certified Mail #70221670000126674766  
INCorp SERVICES, INC.  
5716 CORSA AVE SUITE 110  
WESTLAKE VILLAGE, CA 91362

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Best Friends Animal Society in California, including any employees staffed with Best Friends Animal Society by a third party, and classified as non-exempt employees during the time period of October 4, 2021 until a date as determined by the Court. Our offices represent Plaintiff Rachel MacDonald (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Best Friends Animal Society (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from August of 2021 to August 26, 2022 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v.*

*Stoneledge Furniture, LLC*, 9 Cal. App. 5<sup>th</sup> 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

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

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

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

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.