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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **IN AND FOR THE COUNTY OF SANTA CLARA**

15 TIANA SELL, an individual, on behalf of
16 herself and on behalf of all persons similarly
17 situated,

18 Plaintiff,

19 vs.

20 EBLOCK CORPORATION, a Corporation;
21 and DOES 1 through 50, inclusive,

22 Defendants.

Case No. 23CV409729

[Consolidated with Case No. 23CV410279]

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

Hearing Date: July 24, 2024

Hearing Time: 1:30 p.m.

Judge: Hon. Theodore C. Zayner

Dept.: 19

Action Filed: January 10, 2023

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 Tiana Sell (“Plaintiff”) in this matter. As such, I am fully familiar
4 with the facts, pleadings and history of this matter. The following facts are within my own personal
5 knowledge, and if called as a witness, I could testify competently to the matters stated herein.

6 2. This declaration is being submitted in support of the Plaintiff’s unopposed motion by
7 for preliminary approval of the proposed class action settlement with Defendant EBlock
8 Corporation (“Defendant”), which motion seeks entry of an order: (1) preliminarily approving the
9 proposed settlement of this class action; (2) for settlement purposes only, conditionally certifying
10 the Class, which is comprised of “all individuals who were employed by Defendant in California
11 and classified as a non-exempt employee at any time during the Class Period”, which is November
12 20, 2020 through January 26, 2024; (3) provisionally appointing Plaintiff as the representative of the
13 Class; (4) provisionally appointing Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class
14 Counsel for the Class; (5) approving the form and method for providing notice to the Class of the
15 proposed settlement; (6) directing that notice of the proposed settlement be given to the Class; (7)
16 appointing Apex Class Action LLC as the Administrator; and (8) scheduling a final approval
17 hearing date for December 4, 2024 to consider the Plaintiff’s motion for final approval of the
18 settlement and for approval of attorneys’ fees, expenses and the service award. Plaintiff and
19 Defendant have reached a full and final settlement of the above-captioned action, which is set forth
20 in the Class Action and PAGA Settlement Agreement (the “Agreement”) filed concurrently with the
21 Court. Attached hereto as Exhibit #1 is a copy of the fully executed Class Action and PAGA
22 Settlement Agreement (“Agreement”) along with exhibits thereto. The form of the Agreement is
23 based upon the Los Angeles County Superior Court model form for a class and PAGA settlement.
24 This Declaration incorporates by reference the definitions in the Agreement, and all terms defined
25 therein shall have the same meaning as set forth in the Agreement.

26
27 Fairness of Settlement
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1 3. As consideration for this Settlement, the Gross Settlement Amount is Five Hundred
2 Thirty-Two Thousand Five Hundred Dollars (\$532,500) to be paid by Defendant, as set forth in the
3 Agreement. The Gross Settlement Amount will settle all issues pending in the Action between the
4 Parties and will be made in full and final settlement of the released claims. The Gross Settlement
5 Amount includes all payments of Individual Class Payments to the Participating Class Members, the
6 Administration Expenses Payment to the Administrator, the Class Counsel Fees Payment and Class
7 Counsel Litigation Expenses Payment to Class Counsel, the Class Representative Service Payment
8 to Plaintiff, and the PAGA Penalties payment to the California Labor and Workforce Development
9 Agency (the "LWDA") and the Aggrieved Employees. The Gross Settlement Amount does not
10 include the employer's share of payroll taxes which will be separately paid by Defendant. The
11 Settlement is all-in with no reversion to Defendant and no need for Class Members to submit claim
12 forms. The following is a table of the key financial terms of the Settlement and the proposed
13 deductions:

14 **\$532,500** (Gross Settlement Amount)

- 15 - \$12,500 (Plaintiff's proposed service award not to exceed amount)
16 - \$25,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
17 - \$177,550 (Class Counsel Fees Payment - not to exceed one-third of settlement)
18 - \$15,000 (PAGA Penalties - 75% to LWDA / 25% to Aggrieved Employees)
19 - \$10,000 (Administration Expenses Payment - not to exceed amount)

20 **\$291,950** (Net Settlement Amount)

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

26 5. On October 26, 2023, the Parties participated in an all-day mediation session
27 presided over by Michael Dickstein, Esq., a respected and experienced mediator of wage and hour
28

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

9 6. Based upon 333 Class Members who collectively worked 25,100 Workweeks
10 (Agreement at ¶ 4.1), the Gross Settlement Amount provides a value of \$1,597 per Class Member
11 and \$21 per Workweek and, after deductions, the Net Settlement Amount provides an average
12 recovery of \$876.72 per Class Member and \$11.65 per Workweek. The calculations to compensate
13 for the amount due to the Class Members at the time the Settlement was negotiated were calculated
14 by Plaintiff's expert, Berger Consulting, in advance of mediation. Class Counsel analyzed the data
15 for putative class members and determined the potential maximum damages for the class claims.
16 For the Class, the maximum value of the claim for unpaid wages due to the alleged miscalculation
17 of the regular rate applicable to overtime pay, sick pay and meal premiums was \$28,198, the
18 maximum value of the claim for unpaid wages due to alleged off-the-clock work was \$649,680, the
19 maximum potential damages for alleged meal period violations were estimated to be \$114,118
20 based upon a 7.8% violation rate observed in the time records and after deduction of meal premiums
21 already paid by Defendant, the maximum potential damages for alleged rest period violations were
22 estimated to be \$169,369 based upon the same 7.8% potential violation rate observed for meal
23 periods, and the maximum potential damages for the alleged failure to reimburse business expenses
24 were calculated to be \$32,595 based upon \$5 per month. In total, the damages for the Class were
25 calculated to have a maximum potential total value of \$993,960. In addition, Plaintiff calculated
26 that the maximum value of the potential waiting time penalties were \$824,997, and the maximum
27
28

1 value of the potential wage statement penalties were \$77,850.¹ Defendant vigorously disputed
2 Plaintiff's calculations and exposure theories. Consequently, the Gross Settlement Amount
3 represents more than 53% of Plaintiff's calculation of the potential maximum damages at issue for
4 the Class in this case, assuming these amounts could all be proven in full at trial.² Importantly, the
5 recent decision that good faith belief of compliance by the employer in *Naranjo v. Spectrum Sec.*
6 *Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could completely negate the claims for waiting time and
7 wage statement penalties, even if wages were owed to the class. The maximum calculations should
8 then be realistically risk rated in consideration for both the risk of class certification and the risk of
9 establishing class-wide liability on all claims. Given the amount of the Settlement as compared to
10 the potential value of the claims, the Settlement is most certainly fair and reasonable.

11
12 Procedural History of the Litigation

13 7. On November 15, 2022, Plaintiff filed with the LWDA and served on Defendant a
14 notice under Labor Code section 2699.3 identifying the alleged Labor Code violations to recover
15 civil penalties on behalf of Aggrieved Employees for various Labor Code violations. A true and
16 correct copy of this PAGA Notice is attached hereto as Exhibit #3. On January 10, 2023, Plaintiff
17 commenced the Action by filing a Complaint against Defendant in the Superior Court of the State of
18 California, County of Santa Clara. The Complaint asserted class claims against Defendant for: (1)
19 unfair competition in violation of Cal. Bus & Prof. Code §§ 17200, et seq.; (2) failure to pay
20 minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1; (3) failure to pay

21
22 ¹ 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.").

26 ² Because the PAGA claim does not provide a recovery to the Class, Plaintiff did not included
27 the PAGA claim in this discussion of the class claim valuation. The PAGA claim is addressed
28 below at ¶ 33.

1 overtime wages in violation of Cal. Labor Code § 510;(4) failure to provide required meal periods in
2 violation of Cal. Labor Code §§ 226.7 and 512; (5) failure to provide required rest periods in
3 violation of Cal. Labor Code §§ 226.7 and 512; (6); failure to provide accurate itemized wage
4 statements in violation of California Labor Code § 226; (7) failure to reimburse employees for
5 required expenses in violation of California Labor Code § 2802; (8) failure to provide wages when
6 due in violation of California Labor Code §§ 201, 202 and 203; and, (9) failure to pay sick pay
7 wages in violation of California Labor Code §§ 201-204, 233, 246.

8 . 8. On January 25, 2023, Plaintiff filed a separate complaint against Defendant (the
9 “PAGA Action”) for violation of the Private Attorney General Act (“PAGA”) seeking civil
10 penalties pursuant to Labor Code § 2699, et seq. for violations of Labor Code §§ 201, 202, 203, 204,
11 et seq., 210, 218, 226(a), 226.7, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California
12 Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage
13 Order(s). On March 14, 2023, the Court Ordered the Class Action and PAGA Action be
14 consolidated with the first-filed Class Action as the lead case.

15 9. As part of this Settlement, the Parties stipulated to the filing of a Consolidated First
16 Amended Complaint in the Class Action that adds the claims and parties originally in the PAGA
17 Action. The Consolidated First Amended Complaint was filed on December 18, 2023 and is the
18 operative complaint in the Action (the “Operative Complaint”). Defendant denies the allegations in
19 the Operative Complaint, denies any failure to comply with the laws identified in the Operative
20 Complaint and denies any and all liability for the causes of action alleged.

21 10. Over the course of litigation, the Parties engaged in the investigation of the claims,
22 including production of documents, class data, and other information, allowing for the full and
23 complete analysis of liabilities and defenses to the claims in the Action. Plaintiff obtained informal
24 discovery, which included the production and analysis of hundreds of pages of documents. The
25 information for mediation obtained by Plaintiff included: (1) data concerning the composition of the
26 Class; (2) payroll data for the Class and time punch data for the Class which covered 10,660 shifts;
27 (3) Defendant’s wage and hour policies and job descriptions; (4) the employment file for the
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1 Plaintiff; and, (5) samples of wage statements provided by Defendant. As such, Class Counsel
2 received the data and information for the Class, which was sufficient for Plaintiff's expert to prepare
3 the valuations of the claims for the Class.

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

10 12. Plaintiff and Defendant agreed to discuss resolution of the Action through a
11 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of
12 documents and information in connection with the Action. On October 26, 2023, the Parties
13 participated in an all-day mediation presided over by Michael Dickstein, a respected and
14 experienced mediator of wage and hour class actions. Following the mediation, each side,
15 represented by its respective counsel, were able to agree to settle the Action based upon a mediator's
16 proposal which was memorialized in a memorandum of understanding. The Parties then negotiated
17 the final terms of the settlement as set forth in the Agreement. At all times, the negotiations were
18 arm's length and contentious.

19 13. Although a settlement has been reached, Defendant denies any liability or
20 wrongdoing of any kind associated with the claims alleged in the Action and further deny that, for
21 any purpose other than settlement, the Action is appropriate for class and/or representative
22 treatment. Defendant contends, among other things, that it has properly compensated the Class
23 Members and complied at all times with the California Labor Code, applicable Wage Order, and all
24 other laws and regulations. Further, Defendant contends that class certification is inappropriate for
25 any reason other than for settlement. Plaintiff contends that Defendant violated California wage and
26 hour laws. Plaintiff further contends that the Action is appropriate for class certification on the
27 basis that the claims meet the requisites for class certification. Without admitting that class
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1 certification is proper, Defendant has stipulated that the above Class may be certified for settlement
2 purposes only. (Agreement at ¶ 2.9.) The Parties agree that certification for settlement purposes is
3 not an admission that class certification is proper. Further, the Agreement is not admissible in this
4 or any other proceeding as evidence that the Class could be certified absent a settlement. Solely for
5 purposes of settling the Action, the Parties stipulate and agree that the requisites for establishing
6 class certification with respect to the Class are satisfied.

7 14. Class Counsel has conducted a thorough investigation into the facts of the class
8 action. Over the course of more than a year, Class Counsel diligently evaluated the Class Members'
9 claims against Defendant. Prior to the settlement negotiations, counsel for Defendant provided
10 Class Counsel with access to necessary documents and information for the Class. In addition, Class
11 Counsel has previously negotiated settlements with other employers in actions involving nearly
12 identical issues and analogous defenses. Based on the informal discovery and their own
13 independent investigation, evaluation and experience, Class Counsel believes that the settlement
14 with Defendant on the terms set forth in the Agreement is fair, reasonable, and adequate and is in
15 the best interest of the Class in light of all known facts and circumstances, including the risk of
16 significant delay, the risk that the claims would not be allowed to proceed on a class or
17 representative basis, the defenses asserted by Defendant, and potential appellate issues.

18
19 Settlement Terms and Plan of Allocation

20 15. The Gross Settlement Amount is Five Hundred Thirty-Two Thousand Five Hundred
21 Dollars (\$532,500). (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount
22 consists of the following elements: (i) all Individual Class Payments and Individual PAGA
23 Payments; (ii) the LWDA PAGA Payment; (iii) the Class Counsel Fees Payment and the Class
24 Counsel Litigation Expenses Payment; (iv) the Class Representative Service Payment; and (v) the
25 Administration Expenses Payment. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not
26 include Defendant's share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount
27 shall be all-in with no reversion to Defendant. (Agreement at ¶ 3.1.)

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

6 17. The amount remaining in the Gross Settlement Amount after the deduction of
7 Court-approved amounts for Individual PAGA Payments, the LWDA PAGA Payment, the Class
8 Representative Service Payment, the Class Counsel Fees Payment, the Class Counsel Litigation
9 Expenses Payment, and the Administration Expenses Payment (the "Net Settlement Amount") shall
10 be allocated to Participating Class Members as their Individual Class Payments. (Agreement at ¶¶
11 1.28 and 3.2(e).) From the Net Settlement Amount, the Individual Class Payment for each
12 Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the
13 total number of Workweeks worked by all Participating Class Members during the Class Period and
14 (b) multiplying the result by each Participating Class Member's Workweeks. (Agreement at ¶
15 3.2(e).) Workweeks will be calculated based on Defendant's records; however, Class Members will
16 have the right to challenge their number of Workweeks.

17 18. Class Members may choose to opt-out of the Settlement by following the directions
18 in the Class Notice. (Agreement at ¶ 8.5, Ex. A.) All Class Members who do not "opt out" will be
19 deemed Participating Class Members and will be bound by the Settlement and will be entitled to
20 receive an Individual Class Payment. (Agreement at ¶ 8.5(c).) All Aggrieved Employees, including
21 any who submit an opt-out request, still will receive an Individual PAGA Payment and will release
22 the Released PAGA Claims regardless of their request for exclusion. (Agreement at ¶¶ 6.3 and
23 8.5(d).) Finally, the Class Notice will advise the Class Members of their right to object to the
24 Settlement and/or dispute their Workweeks. (Agreement at ¶¶ 8.6 and 8.7, Ex. A.)

25 19. A Participating Class Member must cash the check for his or her Individual Class
26 Payment (and, if applicable, Individual PAGA Payment) within 180 days after it is mailed.
27 (Agreement at ¶ 5.2.) Any settlement checks not cashed within 180 days will be voided and any
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1 funds represented by such checks sent to a *cy pres* recipient, and the Parties propose the
2 Interdisciplinary Center for Healthy Workplaces to be the *cy pres* recipient in compliance with
3 requirements of California Code of Civil Procedure Section 384, subd. (b).³ (Agreement at ¶ 5.4.)

4 20. Subject to Court approval, the Parties have agreed on Apex Class Action LLC to
5 administer the settlement in this action (the “Administrator”). (Agreement at ¶ 1.2.) The
6 Administrator will be paid for settlement administration in an amount not to exceed \$10,000.
7 (Agreement at ¶ 3.2(c).) Decl. Nordrehaug at ¶20. A Declaration from Apex is submitted herewith.

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

14 22. Subject to Court approval, Fifteen Thousand Dollars (\$15,000) will be paid from the
15 Gross Settlement Amount in settlement of Plaintiff’s claim for civil penalties under the California
16 Labor Code Private Attorneys General Act (“PAGA”), Cal. Labor Code Section 2698, *et seq.*
17 Pursuant to the express requirements of Labor Code § 2699(i), the PAGA Penalties payment shall
18 be allocated as follows: 75% (\$11,250) shall be allocated to the LWDA as its share of the civil
19 penalties and 25% (\$3,750) allocated to the Aggrieved Employees and distributed as Individual
20 PAGA Payments based on the number of their respective PAGA Pay Periods. (Agreement at ¶
21 3.2(d).) As set forth in the accompanying proof of service, the LWDA has been served with this
22 motion and the Agreement.

23
24
25 ³ The Agreement initially provided for funds to go to the Controller’s Unclaimed property Fund,
26 however, in light of this Court’s rulings in other cases on this issue, the Parties have stipulated to
27 change this to a *cy pres* procedure and designated the Interdisciplinary Center for Healthy
28 Workplaces. See Stipulation Regarding Cy Pres, a true and correct copy of which is attached as
hereto as Exhibit #4.

1 Risks of Continued Litigation and Standards for Approval

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

9 24. Here, a number of defenses asserted by Defendant present serious threats to the
10 claims of the Plaintiff and the other Class Members. Defendant maintains that its practices
11 complied with all applicable wage and hour laws. Defendant maintains that all Class Members'
12 work time was properly recorded and compensated and that there was no miscalculation of the
13 regular rate. Defendant contends that its meal and rest period policies and practices provide Class
14 Members with meal and rest periods and that the payment of significant meal premiums is evidence
15 of Defendant's legal compliant practices. As to expense reimbursement, Defendant maintains that it
16 did not fail to provide reimbursement for necessary business expenses because, among other things,
17 employees are not required to use their personal cell phones to perform their work. Defendant could
18 argue that the decisions in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), *Lockheed Martin*
19 *Corp. v. Superior Ct.*, 29 Cal. 4th 1096, 1108 (2003), and *Salazar v. See's Candy Shops Inc.*, 64
20 Cal.App.5th 85 (2021), weakened Plaintiff's claims in terms of liability and value, and preclude
21 claims from proceeding on a class or representative basis. Defendant also maintains that a good
22 faith dispute and absence of willfulness would negate the claims for waiting time penalties and/or
23 failure to provide accurate itemized wage statements. See e.g. *Naranjo v. Spectrum Sec. Servs.,*
24 *Inc.*, 15 Cal. 5th 1056, 1065 (2024) ("if an employer reasonably and in good faith believed it was
25 providing a complete and accurate wage statement in compliance with the requirements of section
26 226, then it has not knowingly and intentionally failed to comply with the wage statement law.") If
27 successful, Defendant's defenses could eliminate or substantially reduce any recovery to the Class.

1 While Plaintiff believes that these defenses could be overcome, Defendant maintains these defenses
2 have merit and therefore present a serious risk to recovery by the Class.

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

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

21 27. Plaintiff will apply to the Court for a Class Representative Service Payment in
22 consideration for her service and for the risks undertaken on behalf of the Class. (Agreement at ¶
23 3.2(a).) Plaintiff performed her duties admirably by working with Class Counsel. The concurrently
24 filed declaration of the Plaintiff is presented herewith in support of the request. For purposes of this
25 preliminary approval stage, the requested service award of is within the accepted range of awards
26 for purposes of preliminary approval, subject to the Court's determination at final approval. *See,*
27 *e.g., Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal.

2022) (finding that the requested service awards of \$15,000 each are appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at *19 (N.D. Cal. 2019) (granting request for \$12,500 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment was \$351); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL 4473183, *7 (S.D. Cal. Oct. 06, 2008) (awarding \$25,000 service award to each of six plaintiffs in overtime class action); *Glass v. UBS Fin. Servs.*, 2007 WL 221862, *16-17 (N.D. Cal. 2007) (awarding \$25,000 service award in overtime class action and a pool of \$100,000 in enhancements). Below, I provide a long list of similar Court-approved service awards.

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

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

1
2 Class Certification Issues

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

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

9 (Agreement at ¶ 1.5.)

10 The “Class Period” is from November 20, 2020 through January 26, 2024. (Agreement at ¶ 1.13.)

11 a. **Ascertainability And Numerosity** - Here, Plaintiff asserts that the 333
12 individuals who comprise the Class can be identified based on Defendant’s records and are
13 sufficiently numerous for class certification.

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

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

1 are based on the same legal theories.

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

12 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal
13 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can
14 competently represent the Class. Other lawyers at my firm and I have extensive class litigation
15 experience. We have handled a number of class actions and complex cases and have acted both as
16 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully
17 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits
18 involving complex issues of law and fact. My firm is particularly experienced in wage and hour
19 employment law class actions, including claims for misclassification, overtime, expense
20 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal
21 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage
22 and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be
23 adequate counsel by the courts throughout California. We have been approved as experienced class
24 counsel by both state and federal courts in California in contested class certification proceedings. A
25 true and correct copy of the resume of my firm is attached hereto as Exhibit #2. The Class in this
26 settlement is defined as "all individuals who were employed by Defendant in California and
27 classified as a non-exempt employee at any time during the Class Period." I have reviewed my
28 firm's cases and representation of other plaintiffs and there is no conflict or representation which

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

11 32. The Class Notice, drafted jointly and agreed upon by the Parties through their
12 respective counsel and to be approved by the Court, is based upon the Los Angeles County Superior
13 Court's model form and includes all relevant information. (*See Exhibit "A" to the Agreement.*)
14 The Class Notice will include, among other information: (i) information regarding the Action; (ii)
15 the impact on the rights of the Class Members if they do not opt out, including a description of the
16 applicable release; (iii) information to the Class Members regarding how to opt out and how to
17 object to the Settlement; (iv) the estimated Individual Class Payment (and, if applicable, Individual
18 PAGA Payment) for each of the Class Members and how to dispute the information used to
19 calculate the payment; (iii) the amount of attorneys' fees and expenses to be sought; (v) the amount
20 of the Plaintiff's service award request; and (vi) the anticipated expenses of the Administrator. The
21 Class Notice will state that the Class Members shall have sixty (60) days from the date that the
22 Notice is mailed to them (the "Response Deadline") to request exclusion (opt-out), and that the
23 Response Deadline shall be extended 14 days in the event of a re-mailing. (*Agreement at ¶¶ 1.43,*
24 *8.5(a).*) Class Members shall be given the opportunity to object to the Settlement and/or requests
25 for attorneys' fees and expenses and to appear at the Final Approval Hearing. (*Agreement at ¶ 8.7.*)
26 Class Members who do not submit a timely and proper request to opt out will automatically receive
27 a payment of their Individual Class Payment (and, if applicable, their Individual PAGA Payment).
28 This notice program was designed to meaningfully reach the Class Members and it advises them of

1 all pertinent information concerning the Settlement.

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3 33. The PAGA Claim -

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

16 b. **Valuation of the PAGA Claim.** For mediation, Plaintiff calculated the
17 value of the alleged PAGA claim as to the Aggrieved Employees for civil penalties to be between
18 \$395,550 and \$791,100 for a single violation in every one of the estimated 7,911 pay periods at
19 issue in the PAGA Period, depending on whether the violation was \$50 per pay period as in the case
20 of Labor Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor
21 Code § 1198. This valuation assumed that PAGA civil penalties would be awarded at the maximum
22 rate per pay period but without stacking.⁴ The PAGA allocation in the Settlement is \$15,000. This
23 allocation is justified by several important considerations. First, the PAGA claim was subject to the
24

25 ⁴ Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.
26 The valuation of between \$395,550 and \$791,100 is the civil penalty amount without stacking. If
27 stacking is permitted, then the valuation increases with each additional penalty added to each pay
28 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. In fact, the new anticipated
amendment to PAGA would expressly prohibit stacking in many circumstances.

1 same risks as the underlying class claims. Second, Defendant asserted additional defenses to the
2 PAGA claim, not only as to liability but also as to the amount of the penalties. Defendant could
3 also argue that no penalties prior to the PAGA notification should be awarded, and I am aware of
4 one Court which has so ruled. These additional defenses present a risk to the PAGA claim and the
5 potential that some or all of the PAGA penalties sought may not be awarded. Second, in *Carrington*
6 *v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the Court affirmed a judgment which only
7 provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA penalties awarded
8 could be significantly less than Plaintiff's calculation even where Plaintiff prevailed on the PAGA
9 claim. Even if we assume that violations for all 7,911 pay periods were established, using the
10 valuation from *Carrington* results in a potential recovery of only \$39,555 under PAGA. This means
11 that the PAGA allocation of \$15,000 in the Agreement is a reasonable percentage of this potential
12 PAGA recovery. Fourth, the interests of PAGA are also served by the Class recovery under the
13 reasoning of the LWDA in *O'Connor v. Uber*.

14 c. **Comparable PAGA Settlements.** In reaching the settlement of the PAGA
15 claim, Class Counsel was also aware of what allocations other Courts have approved for similar
16 PAGA settlements as compared to the total settlement amount. A class settlement that allocates
17 approximately 2.8% of the total settlement value to resolve the PAGA claims applicable to the class
18 is also supported by what has been approved in other wage-and-hour class settlements. Indeed,
19 Courts typically approve PAGA settlement amounts in the range of between 0.27 to 2 percent of the
20 total settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015)
21 (PAGA Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated*
22 *Logistics, Inc.*, 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for
23 PAGA on a \$1.5 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637
24 (N.D. Cal. 2015) (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs,*
25 *Inc.*, 2014 U.S. Dist Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA for
26 PAGA out of \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL
27 672645, *1 (N.D. Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9
28 million common-fund settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, *13

(E.D. Cal. 2012) (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million common-fund settlement); *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *9 (N.D. Cal. 2009) (approving PAGA allocation that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon Trucking, Inc.*, 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement of \$3,700,000, with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*, CV 10-02420 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount of \$8.25 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay*, 8:10-cv-00112-DOC (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000 allocated to PAGA); *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as PAGA penalties or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive Educational Services Inc.*, Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000 allotted as PAGA penalties or 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell Banker Residential Brokerage Company*, Los Angeles Superior Court Case No. BC495767 (2016) (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.40% of \$3,775,000 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441 (E.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount); *Nehrlich v. RPM Mortgage Inc.*, Orange County Superior Court Case No. 30-2013-00666783-CU-OE-CXC (2017) (\$10,000 allotted as PAGA penalties or 0.40% of \$2,500,000 settlement amount); *Rubio v. KTI Incorporated*, San Bernardino Superior Court Case No. CIVDS-14-06132 (2015) (\$1,000 allotted as PAGA penalties or 0.18% of \$550,000 settlement amount); *Gray v. Mountain View Child Care Inc.*, San Bernardino Superior Court Case No. CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA penalties or 0.37% of \$675,000 settlement amount); *Perez v. West Coast Liquidators Inc. d/b/a Big Lots*, San Bernardino Superior Court Case No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA penalties or 0.33% of \$900,000 settlement amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles Superior Court No. BC471369 (2013) (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000 settlement amount); *Mejia v. DHL Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000 allotted as PAGA penalties or

1 0.34% of \$1,450,000 settlement amount).

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3 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the
4 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and
5 reasonable, and at the time of final approval, my firm will present lodestar to further support the
6 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees
7 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some
8 of the class action awards obtained by Class Counsel in similar employment actions throughout the
9 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total
10 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles
11 Superior Court, Case No. JCCP 4919), Judge Carolyn Kuhl awarded Class Counsel a one-third fee
12 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*
13 *Cases* (San Mateo Superior Court, Case No. JCCP 4945), Judge Marie Weiner awarded Class
14 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*
15 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307), Judge Edward Weil
16 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December
17 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.
18 BC672235), Judge William Highberger awarded Class Counsel a one-third fee award in a wage and
19 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange
20 County Superior Court Case No. JCCP 4957), Judge William Claster awarded Class Counsel a one-
21 third award in a wage and hour class settlement. On October 23, 2020, in *Ontiveros v. Baker*
22 *Concrete*, (Santa Clara Superior Court Case No. 18CV328679), Judge Brian Walsh awarded Class
23 Counsel a one-third fee award in a wage and hour class settlement. On December 3, 2020, in
24 *Blackshear v. California Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-
25 00245842), Judge Christopher Krueger awarded BNBD a one-third fee award in a wage and hour
26 class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case
27 No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third fee award in a wage and
28 hour class settlement. On September 24, 2021, in *Prologistics Wage and Hour Cases* (Los Angeles

1 Superior Court Case No. JCCP 4881), Judge William Claster awarded Class Counsel a one-third fee
2 award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour*
3 *Cases* (Los Angeles Superior Court Case No. JCCP4837), Judge David Cunningham awarded a
4 one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's Candies*
5 *Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP5004), Judge Maren Nelson
6 awarded a one-third fee award in a wage and hour class action settlement. On April 12, 2022, in
7 *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665), Judge Richard
8 Ulmer awarded a one-third fee award in a wage and hour class action settlement. On May 23, 2022,
9 in *Ettedgui v. WB Studio Enterprises Inc.*, (United States District Court, Central District of
10 California Case No. 2:20-cv-08053-MCS-JDE), District Judge Mark C. Scarsi awarded a one-third
11 fee award in a wage and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v.*
12 *Prometric LLC* (Los Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson
13 awarded a one-third fee award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D*
14 *Carwash Management LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge
15 Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement.
16 On August 10, 2022, in *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court
17 Case No. 34-2017-00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee
18 award in a wage and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v.*
19 *Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr.
20 awarded a one-third fee award in a wage and hour class action settlement. On November 4, 2022, in
21 *Infinity Energy Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge Keri
22 Katz awarded a one-third fee award in a wage and hour class action settlement. On February 1,
23 2023, in *Hogan v. AECOM Technical Services, Inc.* (Los Angeles Superior Court Case No.
24 19STCV40072), Judge Stuart Rice awarded a one-third fee award in a wage and hour class
25 settlement. On February 28, 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior
26 Court Case No. CGC-21-591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a
27 wage and hour class action settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings
28 County Superior Court Case No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee

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

19
20 35. Class Representative Service Payment - The reasonableness of the requested service
21 award is also established by reference to the amounts that other California courts have found to be
22 reasonable in wage and hour class action settlements since 2010: *Zamora v. Balboa Life &*
23 *Casualty, LLC*, Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding
24 \$25,000 service award); *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP
25 (AJWx)(C.D. Cal. Mar. 17, 2011)(awarding \$14,767 service award); *Magee v. American*
26 *Residential Services, LLC*, Case No. BC423798, Los Angeles County Superior Court (Apr. 21,
27 2011)(awarding \$15,000 service award); *Mares v. BFS Retail & Commercial Operations, LLC*,
28 Case No. BC375967, Los Angeles County Superior Court (June 24, 2010)(awarding \$15,000

1 service award); *Baker v. L.A. Fitness Int'l, LLC*, Case No. BC438654, L.A. County Superior Court
2 (Dec. 12, 2012)(awarding \$10,000 service awards to three named plaintiffs); *Blue v. Coldwell*
3 *banker Residential Brokerage Co.*, Case No. BC417335, Los Angeles County Superior Court (Mar.
4 21, 2011)(awarding \$10,000 service award); *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795,
5 Los Angeles County Superior Court (June, 11, 2010)(awarding \$10,000 service awards); *Coleman*
6 *v. Estes Express Lines, Inc.*, Case No. BC429042, Los Angeles County Superior Court (Oct. 3,
7 2013)(awarding \$10,000 service award); *Ethridge v. Universal Health Services, Inc.*, Case No.
8 BC391958, Los Angeles County Superior Court (May 27, 2011)(awarding \$10,000 service award);
9 *Hickson v. South Coast Auto Ins. Marketing, Inc.*, Case No. BC390395, Los Angeles County
10 Superior Court (Mar. 27, 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*,
11 Case No. BC422934, Los Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service
12 award); *Kambamba v. Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County
13 Superior Court, (Aug. 19, 2011)(awarding \$10,000 service award together with additional
14 compensation for their general release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los
15 Angeles County Superior Court (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose*
16 *Hills Mortuary, L.P.*, Case No. BC386500, Los Angeles County Superior Court, (Mar. 19,
17 2010)(awarding \$10,000 service award); *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No.
18 BC440282, Los Angeles County Superior Court (Feb. 22, 2013)(awarding \$10,000 service award);
19 *Silva v. Catholic Mortuary Services, Inc.*, Case No. BC408054, Los Angeles County Superior Court
20 (Feb. 8, 2011)(awarding \$10,000 enhancement award); *Weisbarth v. Banc West Investment Services,*
21 *Inc.*, Case No. BC422202, Los Angeles County Superior Court (May 24, 2013)(awarding \$10,000
22 service award); *Lazar v. Kaiser Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara
23 County Superior Court (Dec. 28, 2015) (awarding \$10,000 service award); *Acheson v. Express,*
24 *LLC*, Case No. 109CV135335, Santa Clara County Superior Court (Sept. 13, 2011)(awarding
25 \$10,000 service award); *Bejarano v. Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL
26 (Opx)(C.D. Cal. June 22, 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply*
27 *LLC*, Case No. CIVVS 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding
28 \$10,000 service award); *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep.

1 10, 2012)(awarding \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC
2 10005196, Riverside County Superior Court (July 16, 2013)(awarding \$10,000 service award);
3 *Kisliuk v. ADT Security Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10,
4 2011)(awarding \$10,000 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No.
5 JCCP 4582, Orange County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award);
6 *Barrett v. Doyon Security Services, LLC*, Case No. BS900199, BS900517, San Bernardino County
7 Superior Court (Apr. 23, 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*,
8 Santa Clara Superior Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service
9 award); *Taylor v. TIC - The Industrial Company*, U.S.D.C. Central District of California Case No.
10 EDCV 16-186-VAP (Aug. 1, 2018) (awarding \$10,000 service award).

11
12 36. Potentially Related Other Actions - I am unaware of any other related cases pending
13 against Defendant which would be impacted by this settlement. (Agreement at ¶ 2.10.)

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15 37. Administration - The estimate from Apex Class Action is was selected, as it provided
16 for a capped estimate of \$7,990 to perform settlement administration for a class of up to 180, with
17 any difference between the actual expenses and the budget of \$10,000 to be retained in the Net
18 Settlement Amount for distribution to the Class. Submitted herewith is a true and correct copy of
19 the Declaration of Sean Hartranft from Apex Class Action, which includes their estimate for
20 administration along with the other issues required by paragraph 7.2 of the Agreement. I have used
21 Apex Class Action successfully as the administrator in more than ten class settlements in the last
22 couple years and know them to be competent and experienced. My firm has no relationship or
23 connection with Apex Class Action, and thus no conflict of interest exists.

24
25 Service on the LWDA:

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

1 I declare under penalty of perjury under the laws of the State of California that the foregoing
2 is true and correct. Executed this 27th day of June, 2024, at La Jolla, California.

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4 /s/ Kyle Nordrehaug
5 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 Tiana Sell (“Plaintiff”) and defendant EBlock Corporation (“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 consolidated Class and Representative Action lawsuit alleging wage and hour violations against Defendant captioned *Tiana Sell v. EBlock Corporation*, Case No. 23CV409729 (consolidated with Case No. 23CV410279), initiated on January 10, 2023 and pending in Superior Court of the State of California, County of Santa Clara.
- 1.2. “Administrator” means Apex Class Action Administration, 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, Aparajit Bhowmik, Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche, and Trevon G. Moran 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 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 20, 2020 through the earlier of preliminary approval or January 26, 2024.
- 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 Santa Clara.
- 1.17. “Defendant” means EBlock Corporation.
- 1.18. “Defense Counsel” means Andrew McNaught and Robin Devaux of Seyfarth Shaw LLP.

- 1.19. “Effective Date” means the date by when both of the following have occurred: (a) 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 (c) 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 Five Hundred Thirty-Two Thousand Five Hundred Dollars (\$532,500) 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 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.
- 1.24. “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.
- 1.25. “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.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “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.
- 1.29. “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.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period of time from November 21, 2021 through the earlier of preliminary approval or January 26, 2024.
- 1.32. “PAGA” means the Private Attorneys General Act (California Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notice” means the Plaintiff’s November 15, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$3,750) and the 75% to LWDA (\$11,250) in settlement of PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.36. “Plaintiff” means Tiana Sell, the named plaintiff in the Action.
- 1.37. “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.
- 1.38. “Released Class Claims” means (i) all claims that were alleged, or reasonably could have been alleged during the Class Period, based on the facts stated in the Operative Complaint, including: claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay final wages at the time of termination/end of employment; (6) failure to

furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) unfair business practices; (9) failure to pay sick pay wages; and, (10) claims for statutory penalties for violation of California Labor Code sections 201-204, 210, 218, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 233, 246, 510, 512, 1174, 1174.5, 1194, 1194.2, 1195, 1197, 1197.1, 1198, 2802. 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 Class claims based on facts occurring outside the Class Period. The Parties are aware of the holding in *Rangel v. PLS Check Cashers of Cal., Inc.* 889 F.3d 1106 (9th Cir. 2018) which held that claims under the Fair Labor Standards Act for unpaid wages or overtime are barred by a settlement by virtue of the res judicata doctrine.

- 1.39. "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged during the PAGA Period, based on the facts stated in the Operative Complaint and the PAGA Notice including claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay final wages at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) unfair business practices; (9) failure to pay sick pay wages; (10) claims for penalties under the Private Attorneys General Act for violation of California Labor Code sections 201-204, 210, 218, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 233, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1195, 1197, 1197.1, 1198, 2698 et seq., 2800, 2802, or any applicable Wage Order. 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 PAGA claims outside of the PAGA Period.
- 1.40. "Released Parties" means: Defendant and any of its past, present, and future direct or indirect parents, subsidiaries, predecessors, successors, and affiliates, as well as each of their past, present, and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendant.
- 1.41. "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.
- 1.42. "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 7 calendar days beyond the Response Deadline has expired.

1.43. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.

1.44. “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

Plaintiff’s Class Action

2.1. On January 10, 2023, Plaintiff commenced this Action by filing a Class Action Complaint against Defendant in the Superior Court of the State of California, County of Santa Clara (the “Class Action”). 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 California Labor 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; and
- (i) Failure to pay sick pay wages in violation of California Labor Code §§ 201-204, 233, 246

2.2. On February 16, 2023, Defendant filed an Answer to Plaintiff’s Class Action Complaint, asserting forty-one (41) affirmative defenses.

Plaintiff’s PAGA Action

2.3. On January 25, 2023, Plaintiff filed a separate Representative Action Complaint against Defendant (the “PAGA Action”). Plaintiff’s Representative Action Complaint asserted one cause of action against Defendant for Civil Penalties Pursuant to Labor Code §§ 2699, *et seq.* for violations of Labor Code §§ 201, 202, 203, 204, *et seq.*, 210, 218,

226(a), 226.7, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s).

Consolidation and Amended Complaint

- 2.4. On March 14, 2023, the Court Ordered the Class Action and PAGA Action be consolidated with the first-filed Class Action as the lead case.
- 2.5. As part of this Agreement, the Parties stipulated to the filing of a Consolidated First Amended Complaint in the Class Action that adds the claims and parties originally in the PAGA Action. The Consolidated First Amended Complaint shall be the operative complaint in the Action (the “Operative Complaint”), which was filed on December 18, 2023.
- 2.6. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

Mediation and Settlement

- 2.7. On October 26, 2023, the Parties participated in an all-day mediation presided over by Michael Dickstein, Esq., a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, was 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.
- 2.8. 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.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.9. 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.

2.10. 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 \$532,500 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.

(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 \$177,550, and a Class Counsel Litigation Expenses Payment of not more than \$25,000. 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 \$10,000 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 \$10,000 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 \$15,000 to be paid from the Gross Settlement Amount, with 75% (\$11,250) allocated to the LWDA PAGA Payment and 25% (\$3,750) 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 (\$3,750) 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.
 - 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 (37% as penalties and

unreimbursed expenses; 38% as interest) (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 333 Class Members who collectively worked a total of 25,100 Workweeks during the Class Period , and 263 Aggrieved Employees who worked a total of 7,911 PAGA Pay Periods during the PAGA Period.
- 4.2. Class Data. Not later than 15 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 14 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 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 and 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.

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 data as to the number of Class Members and the number of Workweeks for the Class during the Class Period, as well number of Class Members who signed arbitration agreements with Defendant and a predecessor in interest to Defendant.
- 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. (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 and/or the Administrator. In their Declarations, Plaintiff and Class Counsel 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 Administration to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action Administration 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 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 the purposes of calculating payroll tax withholdings and providing reports to the 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 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 7 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 7 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 of 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 7 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 7 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 providing 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. The Gross Settlement Amount will increase proportionally with added Class Members and/or added Workweeks if the actual number of Workweeks in the Class Period is more than 10 percent of the estimate stated herein in paragraph 4.1.

10. DEFENDANT’S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% 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(1), 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 California Code of Civil Procedure 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. It is acknowledged by all Parties that Defendant is participating in this settlement to avoid the expense, inconvenience, and delay of further litigation. 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. Publicity and Confidentiality. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree not to issue a press release or otherwise notify the media about the terms of the Settlement or advertise or market any of the terms of the Settlement through written, recorded, or electronic communications. Class Counsel will not disclose the settlement, its terms, or the parties on their website or otherwise. However,

the Parties are not precluded from discussing with or disclosing the terms of the settlement to: (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 with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the lawsuit exists and has been 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. This paragraph also does not prevent Counsel from undertaking submissions and disclosures that are required to obtain approval of the Settlement, including and not limited to, submission of the Settlement to the LWDA in conformity with the PAGA statute.

- 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 or State 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 Plaintiffs 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

To Defendant:

SEYFARTH SHAW LLP
Andrew M. McNaught
Robin E. Devaux
560 Mission Street, 31st Floor
San Francisco, California 94105
Tel.: (415) 397-2823
Fax: (415) 397-8549
E-Mail: amcnaught@seyfarth.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, 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 signing of the Memorandum of Understanding 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: Dec 21, 2023

Tiana Sell

Tiana Sell (Dec 21, 2023 14:24 PST)

Plaintiff Tiana Sell

Dated: _____

[name]

For Defendant _____

Dated: 1/4/24

Kyle Nordrehaug

Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP

Attorney for Plaintiff

Dated: _____

Attorney for Defendant

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: _____

Plaintiff _____

Dated: 1/3/2024

DocuSigned by:

77A947D4BE9A47B
Jaimesen Heins [name]
For Defendant EBlock Corporation

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: 1/4/2024



Andrew M. McNaught
Attorney for Defendant

EXHIBIT A

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

EXHIBIT “A”

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

***Sell v. EBlock Corporation, Superior Court of the State of California,
County of Santa Clara, Case No. 23CV409729 (consolidated with Case No. 23CV410279)***

The Superior Court for the State of California authorized this Notice.

READ IT CAREFULLY!

It is 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 EBlock Corporation (“Defendant”) for alleged wage and hour violations. The Action was filed by Plaintiff Tiana Sell (“Plaintiff”) and seeks payment of (1) wages and other relief for the Class of all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the Class Period, which is November 20, 2020 through January 26, 2024 (“Class Members”), and (2) civil penalties under the California Private Attorney General Act (“PAGA”) for all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period, which is November 21, 2021 through January 26, 2024 (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payment 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 no amount is stated for your share of the PAGA Penalties, then according to Defendant’s records you are not eligible for a share of the PAGA Penalties under the Settlement because you did not work for Defendant during the PAGA Period.)

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. You will be deemed to have carefully read and understood this

Notice. 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 in exchange requires Class Members 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 three 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 against Defendant as described 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. 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.
- (3) **Object to the Settlement.** You may object to the Settlement, either in writing or verbally at the hearing. In order to object to the Settlement, you must remain in the Class. Instructions on how to object are provided below.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and 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). Additional information is set forth below.
You Can Opt-out of the Class Settlement but not the PAGA Settlement	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. If you request exclusion, you will receive no money from the Class Settlement and you will not be bound by the Class Settlement. 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.
The Response Deadline is	However, you cannot opt-out of the PAGA portion of the proposed

_____.	Settlement. If you are an Aggrieved Employee and exclude yourself, you will still be paid your share of the PAGA Penalties and will remain subject to the release of the Released PAGA Claims regardless of whether you submit a request for exclusion.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by the Response Deadline (_____)	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 8 of this Notice.
You Can Participate in the Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the Santa Clara County Superior Court, located at 191 North First Street, San Jose, CA 95113, in Department 19 before Judge Theodore C. Zayner. This hearing may change as explained below in Section 9. Class Members may appear at the final approval hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.sccscourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized. You do not have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost). Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 9 of this Notice.
You Can Challenge the Calculation of Your Workweeks / Pay Periods Written Challenges Must	The amount of your Individual Class Payment and your share of the PAGA Penalties (if any) depend on how many workweeks you worked at least one day during the Class Period and how many pay periods you worked at least one day during the PAGA Period, respectively. The number of Class Period 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.

be Submitted by the Response Deadline ()	
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1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of the above-captioned action pending in the Superior Court of the State of California, in and for the County of Santa Clara (the “Court”), has been reached between Plaintiff and Defendant and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement.

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

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

The “Class Period” is November 20, 2020 through January 26, 2024.

2. What is this class action lawsuit about?

On January 10, 2023, Plaintiff filed a class action complaint against Defendant in the Superior Court of the State of California, County of Santa Clara Case No. 23CV409729 (hereinafter “Class Action”). Plaintiff asserted the following class claims against Defendant: unfair competition, failure to pay minimum wages, failure to pay overtime wages, failure to provide required meal periods and unpaid premiums, failure to provide required rest periods and unpaid premiums, failure to provide accurate itemized wage statements, failure to reimburse employees for required expenses, failure to pay wages when due, and failure to pay sick wages.

On January 25, 2023, Plaintiff filed a Representative Action Complaint against Defendant in the Superior Court of the State of California, County of Santa Clara, asserting a single cause of action for violation of the Private Attorneys General Act, Cal. Labor Code §§ 2698, et seq. (“PAGA”), Case No. 23CV410279 (hereinafter “Action” or “PAGA Action”).

On March 14, 2023, the Court Ordered the Class Action and PAGA Action be consolidated with the first-filed Class Action as the lead case. On December 18, 2023, Plaintiff filed a Consolidated First Amended Complaint in the Class Action which consolidated the claims alleged in both the PAGA Action and the Class Action. The Consolidated First Amended Complaint is the operative complaint in the Action (the “Operative Complaint”).

Defendant denies that it has done anything wrong and disputes all the claims in the Action. Specifically, Defendant contends that Plaintiff and the Class Members were, at all times, properly compensated for wages under California law; that Plaintiff and the Class Members were provided with meal and rest periods in compliance with California law; that Defendant did not fail to pay to Class Members any wages allegedly due at the time of their termination; that Defendant did not fail to reimburse Class Members for required expenses; that Defendant

complied with California wage statement requirements; that Defendant did not violate California Business and Professions Code section 17200 *et seq.*; that Defendant is not liable for any of the penalties sought or that could be sought in the Action; and that this Action cannot be maintained as a class or representative action.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firm Blumenthal Nordrehaug Bhowmik De Blouw LLP to serve as Class Counsel.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with the business operations of Defendant, the Parties concluded that it is in their best interests and the interests of the Class to settle the Action now on the terms summarized in this Class Notice. The Settlement was reached after mediation and arm's-length negotiations between the Parties. The Plaintiff and Class Counsel think the settlement is in the best interest of all Class Members.

Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, who expressly denies all liability.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an "all in" amount of Five Hundred Thirty-Two Thousand Five Hundred Dollars (\$532,500) (the "Gross Settlement Amount") to fund the settlement of the Action. The Gross Settlement Amount includes all payments of Individual Class Payments to Class Members, 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 fully fund the Gross Settlement Amount no later than 14 days after the Effective Date. The Effective Date is the date the Judgment is entered, unless there are objections or an appeal, in which case the Effective Date is the date the Judgment is final and 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, 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.

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 Amount, 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 \$10,000, 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 \$177,550, and an additional amount to reimburse actual litigation costs incurred by the Plaintiff not to exceed \$25,000. 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, or such lesser amount as may be approved by the Court, to compensate for services on behalf of the Class in initiating and prosecuting the Action, and for the risks Plaintiff 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 \$15,000 relating to Plaintiff's claim under PAGA, \$11,250 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA"). The remaining \$3,750 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 (\$3,750) 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 (November 21, 2021 through January 26, 2024).

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 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 alleged non-wages, expense reimbursement, interest and penalties (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 remitted to a non-profit charity as the cy pres beneficiary, and the Parties have proposed the Interdisciplinary Center for Healthy Workplaces as this cy pres beneficiary.

4. What Do I Release Under the Settlement?

Released Class Claims. As of the Effective Date and upon full finding of the Gross Settlement Amount by Defendant, 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 (i) all claims that were alleged, or reasonably could have been alleged during the Class Period, based on the facts stated in the Operative Complaint, including: claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay final wages at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse

employees for business expenses; (8) unfair business practices; (9) failure to pay sick pay wages; and, (10) claims for statutory penalties for violation of California Labor Code sections 201-204, 210, 218, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 233, 246, 510, 512, 1174, 1174.5, 1194, 1194.2, 1195, 1197, 1197.1, 1198, 2802. 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 Class 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 or 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 Actions will apply to you and legally bind you.

Released PAGA Claims. As of the Effective Date and upon full funding of the Gross Settlement Amount by Defendant, 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 during the PAGA Period, based on the facts stated in the Operative Complaint and the PAGA Notice including claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay final wages at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) unfair business practices; (9) failure to pay sick pay wages; (10) claims for penalties under the Private Attorneys General Act for violation of California Labor Code sections 201-204, 210, 218, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 233, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1195, 1197, 1197.1, 1198, 2698 et seq., 2800, 2802, or any applicable Wage Order. 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 PAGA claims outside of the PAGA Period.

Released Parties. The Released Parties are: Defendant and any of its past, present, and future direct or indirect parents, subsidiaries, predecessors, successors, and affiliates, as well as each of their past, present, and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendant.

5. How much will my payment be?

Defendant's records reflect that you worked << _____ >> Workweeks during the Class Period (November 20, 2020 through January 26, 2024).

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 (November 21, 2021 through January 26, 2024). 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]. The address for the Administrator is _____. 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.

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. If your address is incorrect or has changed, you must notify the Administrator. The Administrator is: Apex Class Action _____ (800) _____.

The Court will hold a Final Approval Hearing on _____ at _____ to decide whether to approve the Settlement and fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payment to Plaintiff. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately two months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient.

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 subject to the release of the Released PAGA Claims regardless of whether they submit a request for exclusion.

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 *Sell v. EBlock Corporation* lawsuit. The request to opt-out should state the Class Member's full name. Please include the name and number of the case, which is *Sell v. EBlock Corporation*, Case No. 23CV409729. 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 for Attorneys' Fees, Litigation Expenses and Service Award stating (a) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (b) the amount Plaintiff is requesting as a 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 under "Class Notices" for *Sell v. EBlock Corporation* or on the via the Case Information Portal for the California Superior Court for the County of Santa Clara (<https://cmportal.scscourt.org/Portal>) and entering the Case No. 23CV409729.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and for Attorneys' 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, *Sell v. EBlock Corporation*, Case No. 23CV409729, and include your name. The Administrator's contact information is as follows:

Administrator:

Name of Company: Apex Class Action

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. Class Members may appear at the final approval hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact class

counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized.

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

COUNSEL FOR DEFENDANT:

Andrew M. McNaught
Robin E. Devaux
Seyfarth Shaw LLP
560 Mission Street, 31st Floor
San Francisco, California 94105
Email: amcnaught@seyfarth.com

9. Can I Attend the Final Approval Hearing?

The Court will hold a Final Approval Hearing at _____ (Pacific Time) on _____, in Department 19 of the Superior Court of California, County of Santa Clara County Superior Court, located at 191 North First Street, San Jose, CA 95113, before Judge Theodore C. Zayner. 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.

Class Members may appear at the final approval hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.sccscourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized.

It is 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 under "Class Notices" for *Sell v. EBlock Corporation*. In addition, hearing dates are posted on the Internet via the Case Query page for the California Superior Court for the County of Santa Clara (<https://www.sfsuperiorcourt.org/>) and entering the Case No. 23CV409729.

10. How Can I Get More Information?

You may call the Administrator at _____ or write to *Sell v. EBlock Corporation* 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 awards, the motion for final approval or other Settlement documents by going to Class Counsel's website at www.bamlawca.com under "Class Notices" for *Sell v. EBlock Corporation* where these documents will be posted. You may get more details by examining the Court's file on the Internet via the Case Information Portal for the California Superior Court for the County of Santa Clara (<https://cmportal.sccscourt.org/Portal>) and entering the Case No. 23CV409729. If you wish to view the Court files in person, you should go to the Clerk's Office located at 191 North First Street, San Jose, CA 95113.

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 a non-profit charity as the cy pres beneficiary. The Parties have proposed the Interdisciplinary Center for Healthy Workplaces as this cy pres beneficiary.
- **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 SANTA CLARA

TIANA SELL, an individual, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiff,

v.

EBLOCK CORPORATION, a Corporation;
and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: **23CV409729**
[Consolidated with Case No. 23CV410279]

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Theodore C. Zayner
Dept.: 19

Action Filed: January 10, 2023
Trial Date: Not set

PRELIMINARY APPROVAL ORDER

1 This matter came before the Honorable Theodore C. Zayner of the Superior Court of the
2 State of California, in and for the County Santa Clara, on _____[DATE], for the motion by
3 Plaintiff Tiana Sell (“Plaintiff”) for preliminary approval of the class settlement with Defendant
4 EBlock Corporation (“Defendant”). The Court, having considered the briefs, argument of counsel
5 and all matters presented to the Court and good cause appearing, hereby GRANTS Plaintiff’s
6 Motion for Preliminary Approval of Class Action Settlement.

7 **IT IS HEREBY ORDERED:**

8 1. The Court preliminarily approves the Class Action and PAGA Settlement
9 Agreement (“Agreement”) submitted as Exhibit #1 to the Declaration of Kyle Nordrehaug in
10 Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement. This
11 preliminary approval is based on the Court’s determination that the Settlement set forth in the
12 Agreement is within the range of possible final approval, pursuant to the provisions of section 382
13 of the California Code of Civil Procedure and California Rules of Court, rule 3.769.

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

16 3. The Gross Settlement Amount is Five Hundred Thirty-Two Thousand Five
17 Hundred Dollars (\$532,500). It appears to the Court on a preliminary basis that the settlement
18 amount and terms are fair, adequate and reasonable as to all potential Class Members when
19 balanced against the probable outcome of further litigation and the significant risks relating to
20 certification, liability and damages issues. It further appears that investigation and research have
21 been conducted such that counsel for the Parties are able to reasonably evaluate their respective
22 positions. It further appears to the Court that settlement at this time will avoid substantial
23 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the
24 further prosecution of the Action. It further appears that the Agreement has been reached as the
25 result of serious and non-collusive, arms-length negotiations. The Court therefore preliminarily
26 finds that the Settlement is fair, adequate, and reasonable when balanced against the probable
27

1 outcome of further litigation and the significant risks relating to certification, liability, and
2 damages issues.

3 4. The Agreement specifies an attorneys' fees award not to exceed one-third of the
4 Gross Settlement Amount, an award of litigation expenses incurred not to exceed Twenty-Five
5 Thousand Dollars (\$25,000), and a proposed Class Representative Service Payment to the Plaintiff
6 in an amount not to exceed Twelve Thousand Five Hundred Dollars (\$12,500). The Court will not
7 approve the amount of attorneys' fees and litigation expenses, nor the amount of any service
8 award, until the Final Approval Hearing. Plaintiff will be required to present evidence supporting
9 these requests prior to final approval.

10 5. The Court recognizes that Plaintiff and Defendant stipulate and agree to
11 certification of a class for settlement purposes only. This stipulation will not be deemed
12 admissible in this or any other proceeding should this Settlement not become final. For settlement
13 purposes only, the Court conditionally certifies the following Class: "all individuals who were
14 employed by Defendant in California and classified as a non-exempt employee at any time during
15 the Class Period." The Class Period is November 20, 2020 through January 26, 2024.

16 6. 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;
22 (d) the Plaintiff can fairly and adequately protect the interests of the members of the Class; (e) a
23 class action is superior to other available methods for the efficient resolution of this controversy;
24 and (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiff is an
25 adequate representative of the Class.

26 7. The Court provisionally appoints Plaintiff as the representative of the Class. The
27 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,

1 Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche, and Trevon G. Moran of Blumenthal
2 Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

3 8. The Court hereby approves, as to form and content, the Court Approved Notice of
4 Class Action Settlement and Hearing Date for Final Court Approval (“Class Notice”), submitted
5 as Exhibit A to the Agreement. The Court finds that the Class Notice appears to fully and
6 accurately inform the Class of all material elements of the proposed Settlement, of the Class
7 Members’ right to be excluded from the Class by submitting a written opt-out request, and of each
8 Class Member’s right and opportunity to object to the Settlement. The Court further finds that the
9 distribution of the Class Notice substantially in the manner and form set forth in the Agreement
10 and this Order meets the requirements of due process, is the best notice practicable under the
11 circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The
12 Court orders the mailing of the Class Notice by first class mail, pursuant to the terms set forth in
13 the Agreement. If a Class Notice Packet is returned because of an incorrect address, the
14 Settlement Administrator will promptly search for a more current address for the Class Member
15 and re-mail the Class Notice Packet to the Class Member.

16 9. The Court hereby appoints Apex Class Action LLC as Administrator for the
17 Settlement. No later than fifteen (15) calendar days after issuance of this Order, Defendant shall
18 provide an electronic spreadsheet with the Class Data to the Administrator. This information will
19 otherwise remain confidential and will not be disclosed to anyone, except as required to applicable
20 taxing authorities, to carry out the procedures in the Agreement, or pursuant to Defendant’s
21 express written authorization or by order of the Court. The Administrator will perform address
22 updates and verifications as necessary prior to the mailing of the Class Notice. Using best efforts
23 to mail it as soon as possible, and in no event later than fourteen (14) calendar days after receiving
24 the Class Data spreadsheet, the Administrator will mail the Class Notice Packet to all Class
25 Members via first-class U.S. Mail.

26 10. The Court hereby preliminarily approves the proposed procedure for exclusion
27 from the Settlement. Any Class Member may individually choose to opt-out of and be excluded
28

1 from the Class as provided in the Class Notice by following the instructions set forth in the Class
2 Notice. All requests for exclusion must be sent to the Administrator and postmarked by no later
3 than the Response Deadline, which is sixty (60) calendar days after the Administrator initially
4 mails the Class Notice Packets to the Class Members. If the Class Notice Packet is re-mailed, this
5 Response Deadline will be extended an additional fourteen (14) calendar days. Any person who
6 chooses to opt-out of and be excluded from the Class will not be entitled to any recovery under the
7 Settlement and will not be bound by the Settlement or have any right to object, appeal or comment
8 thereon. Aggrieved Employees shall be sent their Individual PAGA Payment and will be subject to
9 the release of the Released PAGA Claims regardless of whether they opt-out of the Class. Class
10 Members who have not requested exclusion shall be bound by all determinations of the Court, the
11 Agreement, and the Judgment. A request for exclusion applies only to the individual submitting
12 the request for exclusion, and any attempt to effect an opt-out on behalf of any other individual or
13 individuals (including a group, class, or subclass of individuals) is not permitted and will be
14 deemed invalid.

15 11. Any Class Member who has not opted-out may appear at the Final Approval
16 Hearing and may object or express the Class Member's views regarding the Settlement and may
17 present evidence and file briefs or other papers that may be proper and relevant to the issues to be
18 heard and determined by the Court as provided in the Class Notice. Class Members will have
19 until the Response Deadline set forth in the Class Notice to submit their written objections to the
20 Administrator in accordance with the instructions in the Class Notice. If the Class Notice is re-
21 mailed, the Response Deadline will be extended an additional fourteen (14) calendar days.
22 Alternatively, Class Members may appear at the Final Approval Hearing to make an oral
23 objection.

24 12. A Final Approval Hearing shall be held before this Court on _____
25 _____ at _____ in Department 19 at the of the Santa Clara County Superior Court
26 to determine all necessary matters concerning the Settlement, including: whether the proposed
27 settlement of the Action on the terms and conditions provided for in the Agreement is fair,
28

adequate and reasonable and should be finally approved by the Court; whether the Final Approval Order and Judgment should be entered herein; whether the plan of allocation contained in the Agreement should be approved as fair, adequate and reasonable to the Class Members; and to finally approve attorneys' fees and costs, the service awards, and the expenses of the Administrator. The motion for final approval of the class settlement and for attorneys' fees, costs and service award shall be filed with the Court and served on all counsel no later than sixteen (16) court days before the hearing and shall be heard at the Final Approval Hearing.

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

14. In the event the Settlement does not become effective in accordance with the terms of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to become effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties shall revert to their respective positions as of before entering into the Agreement, and expressly reserve their respective rights regarding the prosecution and defense of this Action, including all available defenses and affirmative defenses, and arguments that no claim in the Action could be certified as a class action and/or managed as a representative action. In such an

1 event, the Court's orders regarding the Settlement, including this Order, shall not be used or
2 referred to in litigation or otherwise for any purpose.

3 15. The Court reserves the right to adjourn or continue the date of the Final Approval
4 Hearing and all dates provided for in the Agreement without further notice to Class Members and
5 retains jurisdiction to consider all further applications arising out of or connected with the
6 proposed Settlement.

7 16. The Action is stayed and all trial and related pre-trial dates are vacated, subject to
8 further orders of the Court at the Final Approval Hearing.

9 **IT IS SO ORDERED.**

10
11 Dated: _____

HON. THEODORE C. ZAYNER
JUDGE, SUPERIOR COURT OF CALIFORNIA

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

TIANA SELL, an individual, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiff,

v.

EBLOCK CORPORATION, a Corporation;
and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 23CV409729

[Consolidated with Case No. 23CV410279]

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

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Theodore C. Zayner
Dept.: 19

Action Filed: January 10, 2023
Trial Date: Not set

FINAL APPROVAL ORDER AND JUDGMENT

1 The motion of Plaintiff Tiana Sell (“Plaintiff”) for an order finally approving the class
2 action settlement of this action between Plaintiff and Defendant EBlock Corporation
3 (“Defendant”) came on for hearing on _____ before the Honorable Theodore C.
4 Zayner.

5 The motion is GRANTED, as set forth below.

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 Class Action
11 and PAGA Settlement Agreement (the “Agreement”).

12 2. This Court has jurisdiction over the subject matter of this litigation pending before
13 the California Superior Court for the County of Santa Clara, and over all Parties to this litigation,
14 including the Class.

15 3. Based on a review of the papers submitted by Plaintiff and a review of the
16 applicable law, the Court finds that the Gross Settlement Amount of Five Hundred Thirty-Two
17 Thousand Five Hundred Dollars (\$532,500) and the terms set forth in the Agreement are fair,
18 reasonable, and adequate.

19 4. The Court further finds that the Settlement was the result of arm’s length
20 negotiations conducted after Class Counsel had adequately investigated the claims and became
21 familiar with the strengths and weaknesses of those claims. In particular, the amount the
22 Settlement, the significant risks relating to certification, liability, and damages issues, and the
23 assistance of an experienced mediator in the settlement process, among other factors, support the
24 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

25 **Preliminary Approval of the Settlement**

26 5. On _____, the Court granted preliminary approval of the Agreement. At
27 this same time, the Court approved conditional certification of the Class for settlement purposes
28

1 only. The Court also approved the form and method of the Class Notice, appointed Plaintiff as the
2 Class Representative, appointed Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,
3 Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche, and Trevon G. Moran of Blumenthal
4 Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class, and appointed ILYM Group
5 as the Administrator.

6 **Notice to the Class**

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

18 7. The Response Deadline for opting out of the Class or submitting written objections
19 to the Settlement was _____, which Response Deadline was extended by 14 days in the
20 event of a re-mailing. There was an adequate interval between notice and the deadline to permit
21 Class Members to choose what to do and act on their decision. A full opportunity has been
22 afforded to the Class Members to participate in this hearing, and all Class Members and other
23 persons wishing to be heard have been heard. Class Members also have had a full and fair
24 opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the
25 Court determines that all Class Members who did not timely and properly submit a request for
26 exclusion in accordance with the Agreement are bound by the Settlement and this Final Approval
27 Order and Judgment.

1 **Fairness Of Settlement**

2 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
3 48 Cal.App.4th 1794, 1801 (1996).

4 a. The settlement was reached through arm's-length bargaining between the
5 parties during an all-day mediation before Michael Dickstein, a respected and experienced
6 mediator of wage and hour class actions. There has been no collusion between the parties in
7 reaching the proposed settlement.

8 b. Plaintiff's investigation and discovery have been sufficient to allow the
9 Court and counsel to act intelligently.

10 c. Counsel for both Parties are experienced in similar employment class action
11 litigation. All counsel recommended approval of the Agreement.

12 d. [There were no objectors/the percentage of objectors and requests for
13 exclusion is small. ____ objections were received. _____ requests for exclusion were
14 received].

15 9. The consideration to be given to the Class Members under the terms of the
16 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
17 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
18 Members' claims, given the uncertainties and significant risks of the litigation and the delays
19 which would ensue from continued prosecution of the action.

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

22 **Attorneys' Fees and Costs**

23 11. A Class Counsel Fees Payment award of \$_____, and Class Counsel
24 Litigation Expenses Payment award of \$_____ are reasonable, in light of the
25 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
26 achieved by Class Counsel. The requested award has been supported by Class Counsel's lodestar
27 and billing statement.

1 **Class Representative Service Payment**

2 12. The Agreement provides for a Class Representative Service Payment of not more
3 than \$12,500 to the Plaintiff, subject to the Court's approval. The Court finds that the Class
4 Representative Service Payment in the amount of \$_____to the Plaintiff is reasonable in light
5 of the risks and burdens undertaken by the Plaintiff in the litigation, for the time and effort in
6 bringing and prosecuting this matter on behalf of the Class, and for the execution of the release.

7 **Administration Expenses Payment**

8 13. The Administrator shall calculate and administer the payment to be made to the
9 Participating Class Members, transmit payment for attorneys' fees and costs to Class Counsel,
10 transmit the Class Representative Service Payment to the Plaintiff, distribute the PAGA Penalties,
11 issue any required tax reporting forms, calculate withholdings and perform the other remaining
12 duties set forth in the Agreement. The Administrator has documented \$_____ for the
13 Administration Expenses Payment, and this amount is reasonable in light of the work performed
14 by the Administrator.

15 **PAGA Penalties**

16 14. The PAGA Penalties amount of \$15,000 is approved and shall be paid out of the
17 Gross Settlement Amount, 75% of which shall be allocated and paid to the LWDA and 25% of
18 which shall be distributed to the Aggrieved Employees as Individual PAGA Payments. The
19 Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the
20 Aggrieved Employees' 25% share of PAGA Penalties (\$3,750) by the total number of PAGA Pay
21 Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the
22 result by each Aggrieved Employee's PAGA Pay Periods. The Aggrieved Employees are all
23 individuals who were employed by Defendant in California and classified as a non-exempt
24 employee at any time during the PAGA Period, which is November 21, 2021 through January 26,
25 2024. All Aggrieved Employees will be sent their share of the PAGA Penalties and will be
26 subject to the release of the Released PAGA Claims as set forth below, whether or not they opt out
27 of the Class Settlement.

1 II.
2 ORDERS

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

4 15. The certification of the Class for the purposes of settlement is confirmed. The Class
5 is defined as follows:

6 All individuals who were employed by Defendant in California and classified as a
7 non-exempt employee at any time during the Class Period (November 20, 2020
8 through January 26, 2024).

9 16. All persons who meet the foregoing definition are members of the Class, except
10 for those individuals who timely submitted a valid request for exclusion ("opt out") from the
11 Class. [INSERT REFERENCE TO IDENTIFY ANY OPT OUTS].

12 17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
13 best interest of the Class. Defendant shall fully fund the Gross Settlement Amount, and also fund
14 the amounts necessary to fully pay Defendant's share of payroll taxes in accordance with the
15 Agreement, by transmitting the funds to the Administrator no later than 14 days after the Effective
16 Date.

17 18. Class Counsel are awarded Class Counsel Fees Payment in the amount of \$_____
18 _____ and Class Counsel Litigation Expenses Payment in the amount of \$_____.
19 Class Counsel shall not seek or obtain any other compensation or reimbursement from Defendant,
20 Plaintiff or members of the Class.

21 19. The payment of the Class Representative Service Payment in the amount of
22 \$_____ to the Plaintiff is approved.

23 20. The payment of \$_____ to the Administrator as the Administration
24 Expenses Payment is approved.

25 21. The PAGA Penalties are approved and shall be allocated as set forth in the
26 Agreement.

27 22. A Participating Class Member must cash his or her Individual Class Payment check
28 within 180 days after the issuance of the checks. An Aggrieved Employee must cash his or her

FINAL APPROVAL ORDER AND JUDGMENT

1 Individual PAGA Payment check within 180 days after the issuance of the checks. If such checks
2 are not cashed within 120 days after the initial mailing of the checks, the Administrator will also
3 send the affected Participating Class Member and/or Aggrieved a reminder notice informing him
4 or her that unless the check is cashed in the next 60 days, it will expire and become non-
5 negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If the check
6 remains uncashed by the expiration of the 180 period, the funds from such uncashed checks shall
7 be paid to Interdisciplinary Center for Healthy Workplaces as the cy pres beneficiary.

8 23. The Agreement and this Settlement are not an admission by Defendant, nor is this
9 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
10 wrongdoing by Defendant or that this Action is appropriate for class treatment (other than for
11 settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any
12 document referred to herein, nor any action taken to carry out the Agreement is, may be construed
13 as, or may be used as an admission by or against Defendant of any fault, wrongdoing or liability
14 whatsoever. The entering into or carrying out of the Agreement, and any negotiations or
15 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an
16 admission or concession with regard to the denials or defenses by Defendant. Notwithstanding
17 these restrictions, Defendant may file in the Action or in any other proceeding this Final Approval
18 Order and Judgment, the Agreement, or any other papers and records on file in the Action as
19 evidence of the Settlement to support a defense of res judicata, collateral estoppel, release, or other
20 theory of claim or issue preclusion or similar defense as to the Released Class Claims and the
21 Released PAGA Claims.

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

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

8
9 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

10 26. The Court hereby enters final judgment in this case in accordance with the terms of
11 the Settlement, the Preliminary Approval Order, and this Final Approval Order and Judgment.

12 27. Except as set forth in the Agreement and this Final Approval Order and Judgment,
13 Plaintiff, and all members of the Class, shall take nothing in the Action.

14 28. Pursuant to California Code of Civil Procedure section 664.6, and without affecting
15 the finality of this Judgment in any way, the Court shall retain jurisdiction to construe, interpret,
16 implement and enforce the Agreement, to hear and resolve any contested challenge to a claim for
17 settlement benefits, and to supervise and adjudicate any dispute arising from or in connection with
18 the distribution of settlement benefits.

19 29. The Parties are authorized to agree to and to adopt such amendments, modifications
20 and expansions of the Agreement and all exhibits attached thereto which are consistent with this
21 Final Approval Order and Judgment and do not limit the rights of the Parties or Class Members
22 under the Agreement, subject to Court approval.

23 30. Each party shall bear its own attorneys' fees and costs, except as otherwise
24 provided in the Agreement and in this Final Approval Order and Judgment.

25 31. As of the Effective Date and upon full finding of the Gross Settlement Amount and
26 all employer payroll taxes owed on the Wage Portion of the Individual Class Payments by
27 Defendant, all Participating Class Members, on behalf of themselves and their respective former
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1 and present representatives, agents, attorneys, heirs, administrators, successors, and assigns,
2 release Released Parties (defined below) from the Released Class Claims. The “Released Class
3 Claims” are (i) all claims that were alleged, or reasonably could have been alleged during the
4 Class Period, based on the facts stated in the Operative Complaint, including: claims for (1) failure
5 to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or
6 pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in
7 lieu thereof; (5) failure to timely pay final wages at the time of termination/end of employment;
8 (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for
9 business expenses; (8) unfair business practices; (9) failure to pay sick pay wages; and, (10) claims
10 for statutory penalties for violation of California Labor Code sections 201-204, 210, 218, 218.5,
11 218.6, 221, 226, 226.3, 226.7, 227.3, 233, 246, 510, 512, 1174, 1174.5, 1194, 1194.2, 1195, 1197,
12 1197.1, 1198, 2802. Participating Class Members do not release any other claims, including
13 claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing
14 Act, unemployment insurance, disability, social security, workers’ compensation, or Class claims
15 based on facts occurring outside the Class Period. The “Released Parties” are Defendant and any
16 of its past, present, and future direct or indirect parents, subsidiaries, predecessors, successors, and
17 affiliates, as well as each of their past, present, and future officers, directors, employees, partners,
18 members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity
19 which could be jointly liable with Defendant.

20 32. As of the Effective Date and upon full funding of the Gross Settlement Amount and
21 all employer payroll taxes owed on the Wage Portion of the Individual Class Payments by
22 Defendant, all Aggrieved Employees and the LWDA are deemed to release, on behalf of
23 themselves and their respective former and present representatives, agents, attorneys, heirs,
24 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.
25 The “Released PAGA Claims” are all claims for PAGA penalties that were alleged, or reasonably
26 could have been alleged during the PAGA Period, based on the facts stated in the Operative
27 Complaint and the PAGA Notice including claims for (1) failure to pay minimum wages; (2)
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1 failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu
2 thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure
3 to timely pay final wages at the time of termination/end of employment; (6) failure to furnish
4 accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8)
5 unfair business practices; (9) failure to pay sick pay wages; (10) claims for penalties under the
6 Private Attorneys General Act for violation of California Labor Code sections 201-204, 210, 218,
7 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 233, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2,
8 1195, 1197, 1197.1, 1198, 2698 et seq., 2800, 2802, or any applicable Wage Order. The Released
9 PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for
10 wrongful termination, discrimination, unemployment insurance, disability and worker's
11 compensation, and PAGA claims outside of the PAGA Period.

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

13

14 Dated: _____

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16

HON. THEODORE C. ZAYNER
JUDGE, SUPERIOR COURT OF CALIFORNIA

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FINAL APPROVAL ORDER AND JUDGMENT

EXHIBIT #2

Blumenthal Nordrehaug Bhowmik De Blouw LLP

2255 Calle Clara, La Jolla, California 92037

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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

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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)

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

Admitted: 2011, California

Educated: Wayne State University (B.A. 2008); California Western School of Law (J.D. 2011)

Piya Mukherjee

Associate Attorney

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

Admitted: 2010, California

Educated: University of California, San Diego (B.S. 2006); University of Southern California, Gould School of Law (J.D. 2010)

Victoria Rivapalacio

Associate Attorney

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

Admitted: 2011, California

Educated: University of California at San Diego (B.A., 2003); George Washington University Law School (J.D. 2010)

Ricardo Ehmman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2018, California; 2004, Nevada

Educated: University of California, San Diego (B.A. 1998); Loyola Law School (J.D. 2001)

Jeffrey S. Herman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2011, California; 2016 Arizona

Educated: University of Michigan (B.A. 2008); California Western School of Law (J.D. 2011)

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Admitted: 2016, California

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Admitted: 2012, California

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Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: Arizona State University; University of San Diego School of Law

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Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, New Mexico

Educated: University of Southern California; California Western School of Law

Sergio Julian Puche

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2013, California

Educated: University of California, Irvine; California Western School of Law

Trevor Moran

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, California

Educated: University of Rhode Island; California Western School of Law

Adolfo Sanchez Contreras

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2024, California; 2014, Mexico

Educated: The Juarez University

REPORTED CASES

Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9th 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. 4th 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 (9th 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,

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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 #3

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WRITERS EXT:

1004

November 15, 2022

CA2769

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Eblock Corporation
Certified Mail #70222410000247761342
UNISEARCH, INC.
4 VENTURE STE 280
IRVINE, CA 92618

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 Eblock Corporation in California, including any employees staffed with Eblock Corporation by a third party, and classified as non-exempt employees during the time period of November 15, 2021 until a date as determined by the Court. Our offices represent Plaintiff Tiana Sell (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Eblock Corporation (“Defendant”). Plaintiff was employed by Defendant in California from June of 2022 to August 21, 2022. Plaintiff was at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. 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. 5th 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 Statue 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.

EXHIBIT #4

**BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP**

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Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

TIANA SELL, an individual, on behalf of herself
and on behalf of all persons similarly situated,

Plaintiff,

v.

EBLOCK CORPORATION, a Corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. **23CV409729**

[Consolidated with Case No. 23CV410279]

**STIPULATION REGARDING CY PRES
BENEFICIARY FOR SETTLEMEN**

Judge: Hon. Theodore C. Zayner
Dept.: 19

Action Filed: January 10, 2023
Trial Date: Not set

1 Plaintiff Tiana Sell (“Plaintiff”) and Defendant EBlock Corporation (“Defendant”) (collectively,
2 the “Parties”), by and through their respective counsel of record, hereby stipulate and agree as follows:

3 **RECITALS**

4 1. WHEREAS, pursuant to the requirements of the amended California Code of Civil
5 Procedure section 384(b) the Parties have agreed that Interdisciplinary Center for Healthy Workplaces, a
6 non-profit workplace advocacy organization, shall receive the unclaimed or abandoned class member
7 funds rather than the California Controller’s Unclaimed Property Fund.

8 **STIPULATION**

9 Paragraph 5.4 of the Class Action and PAGA Settlement Agreement between Plaintiff and
10 Defendant is amended to provide that the Interdisciplinary Center for Healthy Workplaces will be the *cy*
11 *pres* beneficiary pursuant to the California Code of Civil Procedure section 384(b) and shall be paid the
12 funds from settlement checks that remain uncashed after 180 days.

13 IT IS SO STIPULATED.

14 Dated: June 24, 2024

15 BLUMENTHAL NORDREHAUG BHOWMIK DE
16 BLOUW LLP

17 By: 
18 Kyle Nordrehaug

19 Attorneys for Plaintiff

20 Dated: June 24, 2024

21 SEYFARTH SHAW LLP

22 By: _____
23 Robin E. Devaux

24 Attorneys for Defendant EBlock Corporation
25
26
27
28