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Attorneys for Plaintiff and the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA

NICOLE PARIS, an individual, on behalf of
herself and others similarly situated,

PLAINTIFF,

v.

ALLERGY & ASTHMA MEDICAL GROUP
OF THE BAY AREA, INC.; and DOES 1 thru
50, inclusive,

DEFENDANTS.

CASE NO. C22-02359

[Case Assigned for All Purposes to Hon.
Charles Treat in Dept. 12]

**DECLARATION OF LIANE
KATZENSTEIN LY IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

*[Filed concurrently with Motion for
Preliminary Approval of Settlement and
[Proposed] Order Thereon]*

Date: TBD

Time: TBD

Dept.: 12

Complaint Filed: November 1, 2022

FAC Filed: March 7, 2023

Trial Date: None Set

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I, Liane Katzenstein Ly, state and declare as follows:

1. I am an attorney admitted before all courts of the State of California and a partner in the law firm of Kingsley & Kingsley, APC, counsel of record for Plaintiff in this action. I am completely familiar with the present litigation, including the pleadings, discovery, and filings submitted in this matter. I make this Declaration from my own personal knowledge, and, if called upon, I could and would competently testify to the following.

2. I graduated from Florida State University in 2005 with a degree in English. I graduated from University of California, Davis School of Law in 2008. I am admitted to practice before the following Courts: United States District Court, Northern, Southern, Eastern, and Central of California; all of California State Courts.

3. I make this Declaration in support of Plaintiff's Motion for Preliminary Approval of the Class Action Settlement in the above-captioned case.

RELEVANT PROCEDURAL HISTORY

4. On November 1, 2022, Plaintiff NICOLE PARIS filed a Class Action Complaint seeking recovery for: (1) failure to provide meal breaks pursuant to Labor Code sections 226.7 and 512; (2) failure to provide rest breaks pursuant to Labor Code section 226.7; (3) failure to reimburse business related expenses pursuant to Labor Code section 2802; (4) failure to issue accurate itemized wage statements pursuant to Labor Code section 226(a); (4) penalties under Labor Code section 203; and (5) violation of Business & Professions Code section 17200.

5. Also on November 1, 2022, Plaintiff sent a notice letter, pursuant to Labor PAGA, to the Labor Workforce Development Agency (“LWDA”) regarding her intent to seek civil penalties for the same Labor Code violations above, under Labor Code section 2699, *et seq.*

6. On March 7, 2023, Plaintiff filed a First Amended Class and Representative Action Complaint adding an additional cause of action for penalties pursuant to Labor Code § 2699, *et seq.*, the Private Attorneys General Act (“PAGA”) based on the underlying Labor Code violations already pled. (Hereafter, the “Action”.)

7. Plaintiff brings the Class Action on behalf of a Proposed Class defined as: All

1 persons who are employed or have been employed as a non-exempt employee by Allergy &
2 Asthma Medical Group of the Bay Area, Inc., in the State of California since four (4) years prior
3 to the filing of this action to the present plus any additional time during which the statutes of
4 limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the
5 California Rules of Court, the ‘Emergency Rules Related to COVID-19’. (“Proposed Class”)

6 **THE DISCOVERY PROCESS**

7 8. The Parties have yet to engage in formal discovery, instead focusing their efforts
8 on resolving this case through early mediation. Defendant informally produced a sampling of time
9 and pay data for mediation purposes only.

10 9. Defendant denies any liability or wrongdoing of any kind associated with the claims
11 alleged in the Action, disputes the damages and penalties claimed by Plaintiff, and further contends
12 that, for any purpose other than settlement, Plaintiff’s claims are not appropriate for class or
13 representative action treatment. Defendant contends, among other things, that, at all times, it has
14 complied with the California Labor Code, and the Industrial Wage Commission Orders.

15 10. Based on their own independent investigation and evaluation, Class Counsel is of
16 the opinion that the Agreement with Defendant is fair, reasonable and adequate, and in the best
17 interest of the settlement classes in light of all known facts and circumstances, including the risk
18 of significant delay, defenses asserted by Defendant, uncertainties regarding a class and
19 representative action trial on the merits, and numerous potential appellate issues. Although
20 Defendant denies any liability, Defendant is agreeing to this Agreement solely to avoid the cost of
21 litigation.

22 11. Accordingly, the Parties and their counsel desire to fully, finally, and forever settle,
23 compromise, and discharge all disputes and claims arising from or relating to the Action on the
24 terms set forth here.

25 **CERTIFICATION FOR SETTLEMENT PURPOSES**

26 12. First, Defendant has agreed in the Agreement to provide a class list to the
27 Administrator containing each Class Member’s name, last-known mailing address, Social Security
28 Number, and PAGA Pay Periods for all putative class members after issuance of the preliminary

1 approval order.

2 13. Second, Settlement Class Members consist of Defendant's non-exempt employees,
3 and Defendant is required to keep records of its non-exempt employees' names, home addresses,
4 and Social Security numbers.

5 14. Third and finally, Defendant informally produced time and pay data for a random
6 sample (20%) for Settlement Class Members, which confirms that all Settlement Class Members
7 may be readily identified based on Defendant's records.

8 15. Therefore, Plaintiff is confident she will be able to establish that the proposed
9 settlement Class is ascertainable and sufficiently numerous.

10 16. Here, Plaintiff argues that there are questions of law and fact common to the
11 proposed settlement Class that predominate over any questions affecting only individual Class
12 Members.

13 17. These common questions include:

- 14 1) Whether Defendant failed to provide lawfully required meal periods and/or failed
15 to compensate employees one (1) hour's wages in lieu thereof;
- 16 2) Whether Defendant failed to provide lawfully required rest periods and/or failed to
17 compensate employees one (1) hour's wages in lieu thereof;
- 18 3) Whether Defendant failed to reimburse business-related expenses;
- 19 4) Whether Defendant failed to provide accurate itemized wage statements;
- 20 5) Whether Defendant failed to pay compensation due and owing upon termination
21 of employment;
- 22 6) Whether Defendant engaged in unfair competition; and,
- 23 7) Whether Defendant violated § 2699, *et seq.* of the Labor Code by engaging in the
24 acts previously alleged

25 18. Defendant maintained a company handbook containing uniform meal and rest
26 break policies for all hourly employees.

27 19. Plaintiff's challenge to Defendant's uniform practices involves common factual
28 and legal issues that are amenable to class treatment.

1 20. Here, Plaintiff maintains that the proposed Settlement Class Members suffered the
2 same injuries, in the same manner: (1) Settlement Class Members did not receive their meal and
3 rest periods as required; (2) Settlement Class Members were not reimbursed for business-related
4 expenses; (3) Settlement Class Members were not provided accurate itemized wage statements;
5 and (4) Settlement Class Members were not paid all wages owed upon termination/resignation.

6 21. Accordingly, for purposes of settlement, the evidence reviewed by Class Counsel
7 demonstrates that common meal and rest practices applied to the proposed Settlement Class
8 Members and certification for settlement purposes is appropriate.

9 22. Plaintiff worked as an “hourly non-exempt employee” for Defendant in the Walnut
10 Creek, CA location.

11 23. Plaintiff alleges that she: (1) worked without being provided meal/rest periods as
12 required by law; (2) worked without being reimbursed for costs associated with personal cellphone
13 usage; (3) worked without being provided accurate itemized wage statements; and (4) worked
14 without being paid all wages due upon separation. She also alleges that she experienced derivative
15 claims for unfair business competition (B&P Code §17200) and Labor Code §2699, *et seq.*

16 24. Plaintiff also contends that her claims are typical of those of the settlement Class.

17 25. Plaintiff believes that she is capable of fairly representing and adequately protecting
18 the interests of the proposed Settlement Class Members.

19 26. The members of the proposed settlement Class all worked for Defendant during the
20 relevant time period and incurred the same type of alleged damages with regard to Defendant’s
21 alleged violations of the law.

22 27. Moreover, Plaintiff has agreed to serve as Class Representative and has retained
23 qualified Counsel who is experienced in prosecuting wage and hour class actions.

24 28. This demonstrates her commitment to bringing about the best possible results for
25 the benefit of the proposed settlement Class.

26 29. Plaintiff has provided her Counsel with all necessary and pertinent information.

27 30. She has been a very active participant in the litigation including having frequent
28 contact with Settlement Class Members, responding to informal discovery, and working closely

1 with Class Counsel to develop the theories of liability.

2 31. Plaintiff has provided her Counsel with all necessary and pertinent information.

3 32. Therefore, Plaintiff believes that she has and will continue to adequately represent
4 the proposed Settlement Class Members.

5 33. In this regard, the superiority of class treatment is evident here because individual
6 pursuit of class members' claims may not be economically viable.

7 34. The only alternative to certification would be to force approximately 262
8 employees to join this action, file individual, uniform actions, or abandon their legal rights
9 altogether.

10 35. Plaintiff maintains that this economic reality would result in a windfall for
11 Defendant if this case were not certified.

12 **THE PROPOSED SETTLEMENT**

13 36. The "Settlement Class Member" means a member of the Class, as either a
14 Participating Class Member or Non-Participating Class Member (including a Non-Participating
15 Class Member who qualifies as an Aggrieved Employee).

16 37. The Class Period is May 7, 2018 through September 28, 2023.

17 38. As of August 29, 2023 (the date of mediation), and based on documents and other
18 information produced by Defendant, there are approximately 262 Settlement Class Members.

19 39. For purposes of the Agreement, the Aggrieved Employees are defined as: "all
20 current or former non-exempt employees who worked for Defendant in the State of California at
21 any time from March 7, 2022 (one year prior from the March 7, 2023 filing of Plaintiff's First
22 Amended Complaint) through September 28, 2023." ("Aggrieved Employee" or "PAGA
23 Member").

24 40. The PAGA Period is from March 7, 2022 through September 28, 2023.

25 41. As of August 29, 2023 (the date of mediation), and based on documents and other
26 information produced by Defendant, there are approximately 4,853 PAGA pay periods.

27 42. As detailed fully in the Agreement, the Settlement provides for Defendant to pay a
28 Gross Settlement Amount of \$480,000.00, which includes the sum of the Individual Class

1 Payments, the Class Representative service award, the Class Counsel Award, PAGA Payment, and
2 the Settlement Administration Costs.

3 43. The Net Settlement Amount is the Gross Settlement Amount, less Class Counsel
4 Award, Class Representative Enhancement, PAGA Payment, and Settlement Administration
5 Costs.

6 **KULLAR ANALYSIS**

7 44. The proposed settlement satisfies each of the *Kullar* factors.

8 45. This discovery permitted Class Counsel to fairly evaluate the strength of the case
9 and the risks associated with ongoing litigation.

10 46. Class Counsel is experienced in handling wage and hour class actions and, after
11 weighing all of the following factors, supports this Agreement.

12 47. Plaintiff alleges that this understaffing resulted in missed and/or late meal periods.

13 48. Plaintiff and the Proposed Class consistently worked shifts over five (5) hours.

14 49. Plaintiff maintains that Defendant failed to provide Plaintiff and the Proposed Class
15 with proper meal periods of not less than thirty (30) minutes as required by the Labor Code during
16 the relevant time period.

17 50. Defendant has had a consistent policy of requiring Plaintiff and the Proposed Class
18 to remain at their post, without relief, while taking meal breaks during each scheduled shift.

19 51. Plaintiff was only able to take meal breaks when another employee was there to
20 relieve her. Plaintiff also never received meal premiums for these violations.

21 52. Defendant has had a consistent policy of paying meal period premiums if any, at
22 the base rate and not the blended rate in violation of Labor Code §§ 226.7 and 512.

23 53. Defendant denies these allegations and argues that Plaintiff and the class received
24 all complaint rest periods.

25 54. Plaintiff and the Proposed Class Members' rest period claims arise from a common
26 course of conduct wherein Defendant did not provide employees with the opportunity to take first,
27 second, and/or third 10-minute rest breaks in compliance with California law.

28 55. Plaintiff and the Proposed Class consistently worked shifts without being provided

1 compliant rest periods.

2 56. Defendant failed to provide Plaintiff and the Class with rest breaks of not less than
3 ten (10) minutes as required by the Labor Code during the relevant time period.

4 57. Plaintiff and the Proposed Class were required by Defendant to remain at their post,
5 without relief, during rest periods in violation of Labor Code.

6 58. Defendant denies these allegations and argues that Plaintiff and the class received
7 all complaint rest periods.

8 59. Here, Defendant has failed to reimburse Plaintiff and the Proposed Class for the
9 cost of using their personal cellphones for business related purposes.

10 60. Plaintiff alleges that Defendant required Plaintiff and the Proposed Class to be
11 available by cellphone and answer/use their cellphones to communicate with patients while
12 working, and this was necessary to perform their job duties.

13 61. Plaintiff also alleges that she had to communicate with pharmaceutical
14 representatives to schedule meetings for Defendant. The pharmaceutical representatives would
15 message or call her on her personal cellphone to schedule these meetings.

16 62. These cellphones were not provided by Defendant, and Defendant failed to
17 reimburse Plaintiff and the Proposed Class for the costs associated with using these personal
18 cellphones.

19 63. Defendant denies Plaintiff's allegations about requiring employees' availability by
20 personal cellphone, employees having to use their personal cellphones to communicate with
21 patients, and employees having to communicate with pharmaceutical representatives via personal
22 cellphones.

23 64. Plaintiff alleges that Defendant issued to Plaintiff and the Proposed Class itemized
24 wage statements that did not include all applicable hourly rates in effect during the pay period and
25 the corresponding number of hours worked at each hourly rate by the employee.

26 65. Plaintiff and the Proposed Class are issued wage statements that do not accurately
27 show meal and rest premiums as a result of the claims alleged above and when they are provided,
28 they are not provided at the proper rate. Thus, Plaintiff brings a derivative wage statement claim.

1 66. Here, Plaintiff and numerous Proposed Class Members are no longer employed by
2 Defendant.

3 67. Defendant failed to pay all wages owed and due upon their termination and/or
4 resignation.

5 68. Defendant denies Plaintiff's allegations regarding wages due at termination.

6 69. The Parties discounted the PAGA claim for multiple reasons.

7 70. First, the aggrieved employees' PAGA claims are derivative of all the foregoing
8 class claims.

9 71. Second, a court has discretion to award less than the maximum penalty.

10 72. Finally, the settlement Class is compensated for these violations in the proposed
11 Agreement, and thus any PAGA recovery for these same violations would be duplicative.

12 73. As such, the Agreement's contemplated PAGA payment of \$5,000.00 is
13 appropriate.

14 74. There is significant expense associated with the class certification process, which
15 the Parties can avoid by entering into the contemplated Agreement now.

16 75. If the Court did eventually certify a class, trial of a case involving approximately
17 262 Settlement Class Members would require the retention of expensive expert witnesses, the
18 accrual of extensive litigation costs, and a significant time overlay by the parties.

19 76. Moreover, given the complexity and unsettled nature of the issues in this case it is
20 likely that any outcome at trial would have resulted in a lengthy and costly appeal. An appeal
21 would result in further delay for the Settlement Class Members who are waiting for a resolution in
22 this matter.

23 77. This case has not been certified to be tried as a class action. While Plaintiff believes
24 there is strong evidence to support certification of several possible subclasses (especially a rest
25 period class), certification is always hard fought and subject to judicial discretion. Moreover, in
26 class actions, decertification is always a possibility. In attempting to certify a class, the parties
27 would need to conduct multiple depositions, including of the Class Representative and of several
28 person(s) most knowledgeable regarding Defendant's meal and rest policies. There is a risk for

1 both sides as to what these depositions will reveal and whether they will support class certification
2 to the extent expected.

3 78. It was very difficult for the Parties to reach this Settlement of \$480,000.00.

4 79. This Settlement is the result of adversarial, non-collusive, and arms-length
5 negotiations. The Parties arrived at the settlement after extensive investigation and discovery,
6 careful evaluation of the law, risks, and all information substantiating the amount of penalties
7 reasonably likely to be awarded to the class were the trier of fact to find Defendant liable, and the
8 assistance of an experienced mediator.

9 80. The full value of the Meal Period claim, without any discount, was approximately
10 \$567,224.00, according to Plaintiff's calculations.

11 81. This amount is comprised of late meal violations, missed meal violations, and short
12 meal violations with an offset for meal premiums paid.

13 82. For the reasons above, especially the risks associated with class certification,
14 Plaintiff determined that accepting a discount of the full amount was appropriate.

15 83. The full value of the Rest Period claim, without any discount, was approximately
16 \$3,187,918.00, according to Plaintiff's calculations.

17 84. This amount assumes a 100% violation rate for all class members.

18 85. Given, that the policy maintained by Defendant was accurate, and given that there
19 are no records to look to for violations, Plaintiff determined that accepting a steep discount of the
20 full amount was appropriate.

21 86. With regard to the Reimbursement Claim analysis, Plaintiff believed that it was
22 reasonable to value the potential reimbursement at \$30.00 per month, per employee, for
23 reimbursement of personal cellphone usage. This brought the damages for this claim to
24 \$217,410.00.

25 87. Plaintiff valued the Wage Statement Claim, without discount, at \$476,900.

26 88. Plaintiff used \$100 for each wage statement issued (pay period) during the one year
27 period which results in this estimated exposure of for class members.

28 89. This figure is overstated because Labor Code §226(e)(1) uses \$50 for the initial pay

1 period (not \$100) and puts a \$4,000 cap on wage statement penalties per employee.

2 90. Due to the risk discussed above that 226(a) liability would not attach under *Naranjo*
3 and *Maldonado*, Plaintiff determined that a steep discount of this claim was fair for settlement
4 purposes.

5 91. Plaintiff valued the Waiting Time Claim, tied to the Wage/Overtime claim, at
6 \$799,807.

7 92. Considering the derivate nature of Labor Code §203 and the dispute over whether
8 class members were owed any wages, Plaintiff determined that accepting a discount on this claim
9 was appropriate.

10 93. Finally, Plaintiff calculated the value of the PAGA claim at \$947,200.00 for
11 Settlement Class Members (using \$100 per pay period).

12 94. The main risk taken into account with PAGA is the discretionary nature of the
13 penalty award.

14 95. A judge can award the statutory maximum of \$100 for the initial violation and \$200
15 thereafter or – in theory – one cent per wage statement.

16 96. While there is a dearth of available authority, in Plaintiff's view, were she to
17 succeed on any of the underlying Labor Code violations, it is not likely that a Judge would also
18 award a large amount of penalties of top of any damages recovered.

19 97. Per Plaintiff's assessment, the maximum potential value of all of Plaintiff's and the
20 Settlement Class Members' claims was approximately \$6,196,459.00.

21 98. However, as a result of the forgoing risks on the merits and class certification, Class
22 Counsel believes the Gross Settlement Amount of \$480,000.00 is fair and reasonable.

23 **ATTORNEY COMPETENCE**

24 99. Kingsley & Kingsley is experienced in prosecuting employment litigation, and
25 since 2000 we have focused our practice on wage, hour, and working condition violations. My
26 firm is well versed in class action litigation and has diligently and aggressively pursued this action.
27 Kingsley & Kingsley currently serves as class counsel for several dozens of pending class action
28 lawsuits in Northern, Central, Eastern, and Southern California in both State and Federal Court.

Below is a small, but representative sampling of wage and hour cases handled by my firm:

- a. *Goodman v. Crystal Ventures, Inc.* (No. BC245561, L.A. Super. Ct.) In January 2002, Hon. Anthony Mohr granted final approval of settlement in the gross amount of \$255,000 and the court approved the attorneys' fee request of 33 1/3%.
- b. *Johnston v. The Cheesecake Factory* (No. BC316180, L.A. Super. Ct.) In December 2005, Honorable Rita Miller granted final approval of Settlement in the gross amount of \$4,000,000 and the court granted attorneys' fees request of 30%.
- c. *Tumino v. HOB Entertainment* (No. BC327962, L.A. Super. Ct.) In May 2006, the Honorable Conrad R. Aragon granted final approval of Settlement in the gross amount of \$1,000,000 and the court granted attorneys' fees request of 30%.
- d. *Ryan v. Hilton Hotels Corporation*, (No. BC364260, L.A. Super. Ct.) In March 2008, the Honorable Mary Thornton House granted final approval of Settlement in the gross amount of \$1,675,000.00 and the court granted attorneys' fees request of 33 1/3%.
- e. *Gerritson v. Styles For Less, Inc.*, (No. BC402921, L.A. Super. Ct.) In September 2010, the Hon. Kenneth R. Freeman granted final approval of Settlement in the gross amount of \$2,000,000.00, and the court granted attorneys' fees request of 33.3%.
- f. *Lewis v. Collabrus, Inc., et al.*, (No. 109CV-142927, Santa Clara Super. Ct.) In March 2012, the Honorable James P. Kleinberg granted final approval of Settlement in the gross amount of \$2,000,000.00, and the court granted attorneys' fees request of 33.3%.
- g. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (No. BC402739, L.A. Super. Ct.) In June 2013, the Honorable Lee Smally Edmund granted final approval of Settlement in the gross amount of \$4,700,000.00, and the court granted attorneys' fees request of 38%.
- h. *Anderson v. Total Renal Care, Inc.*, (No. BC388335, L.A. Super. Ct.) In January 2014, the Honorable William F. Highberger granted final approval of Settlement in

the gross amount of \$1,500,000.00 and the court granted attorneys' fees request of 33.33%.

- i. *Rojas, et al. v. Sunview Vineyards of California, Inc.*, Eastern District (1:09-cv-00705 AWIJLT). This certified class action was approved for final settlement by the Honorable Anthony W. Ishii in October 2015, in the gross amount of \$4,550,000.00, with attorneys' fees approved in the amount of \$1,137,500.00.
- j. *Westbrook v. International Surfacing Systems*, (No. RG10510015, Alameda Super. Ct.) In August 2015, the Hon. Wynne Carvill granted final approval of Settlement in the gross amount of \$995,000.00, and the court granted attorney's fees request of 33.33%.
- k. *Kane et al. v. Valley Slurry Seal*, (No. CV08-2483, Yolo Super. Ct.) In March 2016 after a class trial with a verdict in the class's favor, the Honorable Daniel P. Maguire, awarded Kingsley & Kingsley and co-counsel \$996,232.72 in attorney's fees.
- l. *Aparacio v. Abercrombie & Fitch Stores, Inc.*, (No. BC499281, L.A. Super. Ct.) In June 2016, the Hon. Kenneth Freeman granted final approval of Settlement in the gross amount of \$2,000,000.00, and the court granted attorney's fees request of 33.33%.
- m. *Isaguirre v. Guess?, Inc., Los Angeles Superior Court (BC357631)*. The matter was proposed for final settlement by the Honorable Richard L. Fruin on February 19, 2016, in the gross amount of \$5,250,000.
- n. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (BC402739). The matter was approved for final settlement by the Honorable Lee Smally Edmund in June 2013, in the gross amount of \$4,700,000.00, with attorney's fees request of 38%.
- o. *Munoz, et al. v. Giumarra Vineyards Corporation*, United States District Court for the Eastern District of California (Case No.: 1:09-cv-00703 - AWI – JLT). The matter was approved for final settlement by the Honorable Anthony W. Ishii in

November 2017, in the gross amount of \$6,100,000.00, plus interest, with attorney's fees benchmark award of \$1,525,000.

- p. *Pineda, et al. v. Grimmway Enterprises, Inc.*, Kern County Superior Court (BCV-15-101333). The matter was approved for final settlement before the Hon. Stephen D. Schuett, Dept. 10, in January 2018, in the gross amount of \$9,000,000 with attorneys' fees request of 33.33%.

100. Kingsley & Kingsley, APC filed its first class certification motion in the year 2000 and since that time has been appointed class counsel on dozens of wage and hour class actions that have been approved for class certification. Since 2012, Kingsley & Kingsley, APC has moved for class certification in 15 matters and has successfully obtained class certification in 15 of those cases. A brief sampling of which includes:

- a. *Lewis v. Collabrus, Inc.*, Santa Clara County Superior Court (109CV-142927), approved for Class Certification in 2011.
- b. *Melendrez v. JK Communications*, No. BC497692, (L.A. Super. Ct., filed December 19, 2012) (court granted contested class certification and appointed Kingsley & Kingsley as class counsel).
- c. *Amaro, et al v. Gerawan Farming, Inc.*, No. 1:14-cv-00147-DAD-SAB (E.D. Cal., filed February 3, 2014) (court granted contested class certification and appointed Kingsley & Kingsley as class counsel).
- d. *Suarez v. Mazatlan, Inc.*, No. 37-2015-00002978-CU-OE-CTL (S.D. Super. Ct., filed January 27, 2015) (court granted contested class certification and appointed Kingsley & Kingsley as class counsel).
- e. *Ruiz v. Daniel C. Salas Harvesting, Inc.*, Kings County Superior Court (16 C 0214). contested class certification granted in June 2020.
- f. *Weldon v. Geo Corrections & Detentions, LLC*, Kern County Superior Court (BCV-16-102833), contested class certification granted in 2018.
- g. *Patton v. Skyler Electric*, Nevada County Superior Court, (CU17-082544), contested class certification granted in June 2020.

1 h. *Hameister v. Jaco Oil Company*, Kern County Superior Court (BCV-17-102876),
2 contested class certification granted in August 2020.

3 101. Class Counsel is experienced in the handling of wage and hour class actions and
4 supports this Settlement. Based on its analysis, Class Counsel believes that this settlement is fair
5 and reasonable and in the best interest of the Class.

6 102. After factoring in the risks explained above, Class Counsel believes that the
7 proposed settlement is fair and reasonable.

8 103. This allocation distributes Settlement funds proportionally to each class member's
9 damages and should therefore be approved as fair, adequate, and reasonable.

10 **SERVICE AWARD TO THE NAMED PLAINTIFF**

11 104. The Class Representative is entitled to an enhancement for her valiant effort and
12 time expended in this matter. The time spent by Nicole Paris is significant and includes researching
13 and retaining competent counsel; providing information to Class Counsel regarding the nature of
14 the work at Defendant; compiling relevant documents; working closely with Class Counsel to
15 develop the theories of liability and martial relevant evidence; regularly discussing the status of
16 the case with Class Counsel; providing informal discovery responses; and responding promptly to
17 Class Counsel's communications regarding settlement.

18 105. As set forth in the Agreement, Plaintiff will also be entering into a general release
19 of liability pursuant to Civil Code Section 1542.

20 Class Counsel considers this to be a fair and reasonable enhancement. The enhancement
21 takes into consideration the time, effort, and expense incurred by Plaintiff in coming forward to
22 litigate this matter on behalf of all Settlement Class Members. Plaintiff will provide a detailed
23 declaration with the Final Approval Motion detailing her participation and further justification for
24 the enhancement.

25 **SUBMISSION TO THE LABOR WORKFORCE DEVELOPMENT AGENCY**

26 106. Proof of submission of Plaintiff's Motion, all related documents, and copy of the
27 email from the LWDA confirming receipt is attached to the Declaration of Liane Katzenstein Ly
28 as Exhibit "3."

EXHIBITS

107. Attached hereto as Exhibit “1” is a true and correct copy of the fully-executed Class Action and PAGA Settlement Agreement (“Settlement” or “Agreement”).

108. 109. Attached hereto as Exhibit “2” is a true and correct copy of the Administrator’s, Apex, bid.

109. Attached hereto as Exhibit “3” is a true and correct copy of the proof of submission of Plaintiff’s Motion, all related documents, and copy of the email from the LWDA confirming receipt.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

This Declaration was executed this 3rd day of January, 2024, in Los Angeles, California.



Liane Katzenstein Ly

EXHIBIT "1"

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff NICOLE PARIS (“Plaintiff”) and Defendant ALLERGY & ASTHMA MEDICAL GROUP OF THE BAY AREA, INC. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Nicole Paris, an individual, on behalf of herself and others similarly situated, PLAINTIFF, v. Allergy & Asthma Medical Group of the Bay Area, Inc.; and DOES 1 thru 50, inclusive, DEFENDANTS* Case No. C22-02359 initiated on November 1, 2022 and pending in Superior Court of the State of California, County of Contra Costa.
- 1.2. “Administrator” means Apex, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” or “PAGA Member” means all current or former non-exempt employees who worked for Defendant in the State of California at any time from March 7, 2022 (one year prior from the March 7, 2023 filing of Plaintiff’s First Amended Complaint) through September 28, 2023.
- 1.5. “Class” means all current or former non-exempt employees who worked for Defendant in the State of California at any time from May 7, 2018 through September 28, 2023.
- 1.6. “Class Counsel” means Kingsley & Kingsley, APC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute 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, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL form, to be mailed to Class Members in English, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from May 7, 2018 to September 28, 2023.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Contra Costa.
- 1.16. “Defendant” means named Defendant ALLERGY & ASTHMA MEDICAL GROUP OF THE BAY AREA, INC.
- 1.17. “Defense Counsel” means Gordon Rees Scully Mansukhani, LLP.
- 1.18. “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.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means \$480,000.00, which is the total amount Defendant agrees to pay under the Settlement, and shall not be increased, except as provided in Paragraph 10 below. The Gross Settlement Amount will be used to pay

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

- 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 Workweeks worked during the PAGA Period.
- 1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 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 remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 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 from March 7, 2022 through September 28, 2023.
- 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698, et seq.).
- 1.33. "PAGA Notice" means Plaintiff's November 1, 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 (\$1,250.00) and the 75% to LWDA (\$3,750.00) 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 from the Settlement.
- 1.36. “Plaintiff” means NICOLE PARIS, the named plaintiff in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. “Released Class Claims” means the claims being released as described in Paragraph 6.2 below.
- 1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 6.3 below.
- 1.41. “Released Parties” means the following: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.
- 1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43. “Response Deadline” means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are re-sent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.44. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45. “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On November 1, 2022, Plaintiff commenced this Action by filing a Complaint (“Complaint”) alleging causes of action against Defendant for (1) failure to provide meal breaks pursuant to Labor Code sections 226.7 and 512; (2) failure to provide rest breaks pursuant to Labor Code section 226.7; (3) failure to reimburse expenses pursuant to Labor Code § 2802; (4) failure to provide accurate itemized wage statements pursuant to Labor Code section 226(a); (5) waiting time penalties pursuant to Labor Code section 203; and (6) violation of Business & Professions Code section 17200. On March 7, 2023, Plaintiff

filed a First Amended Complaint alleging an additional cause of action against Defendant for penalties pursuant to the Private Attorney General Act of 2004 (“PAGA”) (Lab. Code §§ 2699, et seq.). The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint”). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. On August 29, 2023, the Parties participated in an all-day mediation presided over by Francis “Tripper” J. Ortman III, which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, pertinent documents and data for the Class and PAGA Members so that the Parties could fully investigate the claims at issue and understand their strengths and weaknesses. 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*”).
- 2.5. The Court has not granted class certification.
- 2.6. 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 10 below, Defendant promises to pay \$480,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. 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. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
 - 3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000.00 (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.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33-1/3%, which is currently estimated to be \$160,000.00 and a Class Counsel Litigation Expenses Payment of not more than \$17,000.00. 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.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$7,500.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$7,500.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. 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.

3.2.4.1. Tax Allocation of Individual Class Payments. 33.33% (or 1/3%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 33.33% (or 1/3%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class

Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$5,000.00 to be paid from the Gross Settlement Amount, with 75% (\$3,750.00) allocated to the LWDA PAGA Payment and 25% (\$1,250.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$1,250.00) 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.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 262 Class Members who collectively worked a total of 29,244 Workweeks.

4.2. Class Data. Not later than 15 calendar 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 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 \$100,000.00 to the Administrator within 30 calendar days of the Court's Order granting Preliminary Approval of the Settlement, and the remainder of the Gross Settlement Amount, \$380,000.00, within 30 calendar days of the later of the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within 14 calendar 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. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
- 4.4.1. 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 date (not less than 180 calendar days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2. 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 calendar days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. 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). If the Court does not approve of such, the Parties will agree upon a cy pres recipient within the meaning of CCP § 384.

4.4.4. 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. RELEASES 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, Class Members, and Class Counsel 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 Complaint and Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff’s PAGA Notice, or ascertained during the Action and released under 6.2, below. (“Plaintiff’s Release.”) Plaintiff’s Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, 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.

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

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

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 (i) any and all claims that were asserted in the Action, or could have been asserted in this Action during the Class Period for all claims that were asserted in the Action, or that arise

from or could have been asserted based on the facts, circumstances, transactions, events, occurrences, acts, disclosures, statements, omissions, or failures to act alleged in Plaintiff's Complaint and operative First Amended Complaint, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law. The Released Claims specifically include, but are not limited to Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 2802, 2699, and the related IWC Wage Orders and Business & Professions Code §§ 17200, et seq., and include claims based on alleged violations of these Labor Code and Wage Order provisions and all other claims, such as those under the California Labor Code, Wage Orders, regulations, and/or other provisions of law, that could have been pleaded based on the facts asserted in the Action, including: (1) failure to provide meal breaks pursuant to Labor Code §§ 226.7 and 512; (2) failure to provide rest breaks pursuant to Labor Code § 226.7; (3) failure to reimburse expenses pursuant to Labor Code § 2802; (4) violation of Labor Code § 226(a) regarding inaccurate wage statements; (5) penalties pursuant to Labor Code § 203 regarding failure to timely pay wages upon separation of employment; (6) violation of Business & Professions Code § 17200 regarding unfair competition; (7) penalties pursuant to Labor Code § 2699, et seq.; and (8) interest, fees, and costs (collectively, the "Released Claims"). The enumeration of these specific statutes shall neither enlarge or narrow the scope of res judicata based on the claims that were asserted in the Action or could have been asserted in the Action based on the facts and circumstances alleged in any Complaint on file in the Action. Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

- 6.3 Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from any and all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the PAGA Notice during the PAGA Period.

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

- 7.1 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, or the Administrator; and (vi) 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)); and all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient.

7.2 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 calendar 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.

7.3 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, where appropriate and consistent with the MOU executed August 29, 2023.

8. SETTLEMENT ADMINISTRATION.

8.1 Selection of Administrator. The Parties have jointly selected Apex to serve as the Administrator and verified that, as a condition of appointment, Apex 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 purposes of calculating payroll tax withholdings and providing reports to 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.

- 8.4.1 No later than three (3) calendar 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.
- 8.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 calendar 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.
- 8.4.3 Not later than 3 calendar 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.
- 8.4.4 The deadlines for Class Members’ written objections, challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 calendar days beyond the 60 calendar days otherwise 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.
- 8.4.5 If the Administrator, Defendant, 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 calendar days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever is later.

8.5 Requests for Exclusion (Opt-Outs).

8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 calendar days after the Administrator mails the Class Notice (plus an additional 14 calendar 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.

8.5.2 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.

8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.5.4 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.

8.6 Challenges to Calculation of Workweeks. Each Class Member shall have 60 calendar days after the Administrator mails the Class Notice (plus an additional 14 calendar 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 of the challenges.

8.7 Objections to Settlement.

8.7.1 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.

8.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 calendar days after the Administrator's mailing of the Class Notice (plus an additional 14 calendar days for Class Members whose Class Notice was re-mailed).

8.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

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.

8.8.1 Email Address and Toll-Free Number. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes, and emails.

8.8.2 Requests 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 5 calendar 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; and (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

8.8.3 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 the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

8.8.4 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 shall consult with Defense Counsel and Class Counsel to assess the accuracy of any workweek challenges and obtain any additional documentation needed to evaluate any workweek challenges prior to making a determination. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

8.8.5 Administrator’s Declaration. Not later than 14 calendar 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), and 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.

8.8.6 Final Report by Settlement Administrator. Within 10 calendar days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 calendar 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.

9. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE

9.1 Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, there are 262 Class Members and 29,244 Total Workweeks during the Class Period.

9.2 Increase in Compensable workweeks. Upon receipt of the Class Data, in the event that the number of Compensable workweeks exceed this estimate by more than 10%, the Administrator shall notify Defense Counsel to confirm the accuracy of the assessment and provide documentation for any corrections. To the extent the number of Compensable workweeks in the Class Period increases by more than 10%, Defendant shall increase the Gross Settlement Amount by a proportionate amount beyond the first 10%. For example, if the number of workweeks increase by 15%, Defendant shall increase the Gross Settlement Amount by 5%.

10. DEFENDANT’S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds five (5) percent 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 Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than thirty days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

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

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 five 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 the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Administrator 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 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 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 a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

13. **ADDITIONAL PROVISIONS.**

13.1 No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval, or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement, and

Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 13.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically, or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with a third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members. Other than as specifically set forth above, the Parties and their counsel agree that they will not initiate or have any contact with the press, respond to any press inquiry, or have any communication with the press about this case until after Final Approval. Plaintiff's counsel will not utilize this case in any way in their marketing or advertising materials or website until after Final Approval.
- 13.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees 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 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8 No 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 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

- 13.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing, and the substance of any phone calls regarding or interpreting this agreement will be confirmed in writing, and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Kingsley & Kingsley, APC
Eric B. Kingsley
Liane Katzenstein Ly
16133 Ventura Blvd., Suite 1200
Encino, CA 91436

To Defendant:

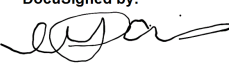
Gordon Rees Scully Mansukhani, LLP
Amber Eklof
Melanie Frakes
275 Battery Street, Suite 2000
San Francisco, CA 94111

- 13.16 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.

- 13.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Plaintiff

Dated: October 25, 2023

DocuSigned by:

83A467AE63A447E...

Nicole Paris

Defendant

Dated: _____

Allergy & Asthma Medical Group of the Bay
Area, Inc.

- 13.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing, and the substance of any phone calls regarding or interpreting this agreement will be confirmed in writing, and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Kingsley & Kingsley, APC
Eric B. Kingsley
Liane Katzenstein Ly
16133 Ventura Blvd., Suite 1200
Encino, CA 91436

To Defendant:

Gordon Rees Scully Mansukhani, LLP
Amber Eklof
Melanie Frakes
275 Battery Street, Suite 2000
San Francisco, CA 94111

- 13.16 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.

- 13.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Plaintiff

Dated: _____

Nicole Paris

Defendant

October 26, 2023 | 10:56 AM PDT
Dated: _____

DocuSigned by:

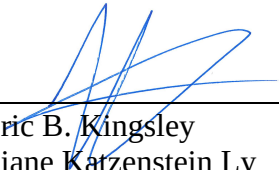
Roy Anthony Orden

23FBECF1FEC24BA

Roy Anthony Orden, MD
Administrative Partner
Allergy & Asthma Medical Group of the Bay Area, Inc.

DATED: October 25, 2023

KINGSLEY & KINGSLEY, APC

By: 

Eric B. Kingsley
Liane Katzenstein Ly
Attorneys for Plaintiff and the Proposed Class

DATED: _____

GORDON REES SCULLY MANSUKHANI, LLP

By: _____

Amber Eklof
Melanie Frakes
Attorneys for Defendant Allergy & Asthma Medical
Group of the Bay Area, Inc.

DATED: _____

KINGSLEY & KINGSLEY, APC

By: _____

Eric B. Kingsley
Liane Katzenstein Ly
Attorneys for Plaintiff and the Proposed Class

DATED: October 26, 2023

GORDON REES SCULLY MANSUKHANI, LLP

By: _____


Amber Eklof
Melanie Frakes
Attorneys for Defendant Allergy & Asthma Medical
Group of the Bay Area, Inc.

EXHIBIT A

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

Nicole Paris, an individual, on behalf of herself and others similarly situated Plaintiff v. Allergy & Asthma Medical Group of the Bay Area, Inc.; and DOES 1 thru 50, inclusive, Defendants,
Case No. C22-02359

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

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Allergy & Asthma Medical Group of the Bay Area, Inc. (abbreviate name: “Defendant” or “Allergy & Asthma” is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by a former employee Nicole Paris (“Plaintiff”) and seeks payment of alleged (1) back wages and other relief for all current and former non-exempt employees who worked for Defendant in California between May 7, 2018 through September 28, 2023 (“Class” or “Class Members”); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all current or former non-exempt employees who worked for Defendant in the State of California at any time from March 7, 2022 through September 28, 2023 (“Aggrieved Employees” or “PAGA Members”). Allergy & Asthma denies these allegations and contends that all employees have been appropriately compensated in accordance with California law. A court has not ruled on Plaintiff’s allegations or Allergy & Asthma’s defenses.

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

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

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

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

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

The above estimates are based on Defendant's records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a Judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement and Receive Payment	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but Not the PAGA Settlement The Opt-Out Deadline Is [date]	If you don't want to participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. If you opt-out of the settlement, you will not receive payment as a Class Member. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but Not the PAGA Settlement Written Objections Must Be Submitted by [date]	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 7 of this Notice.
You Can Participate in the [date] Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on [date]. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone, or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must Be Submitted by [date]	The amount of your Individual Class Payment and PAGA Payment (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 Pay Periods you worked according to Defendant’s records are stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [date]. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff Nicole Paris is a former Allergy & Asthma employee. The Action alleges Defendant violated California labor laws by failing to provide meal and rest breaks pursuant to Labor Code section 512 and 226.7; failing to reimburse business related expenses pursuant to Labor Code § 2802; failing to provide accurate itemized wage statements pursuant to Labor Code section 226(a); incurring waiting time penalties pursuant to Labor Code section 203; and violating Business & Professions Code section 17200. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: Kingsley & Kingsley, APC (“Class Counsel”).

Defendant strongly denies Plaintiff’s claims, denies it has done anything wrong, and denies it failed to pay wages or provide meal or rest breaks, or failed to reimburse employees for expenses, or that Plaintiff is entitled to any derivative penalties, and contends it complied with all applicable laws.

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

So far, the Court has made no determination on the merits of Plaintiff's claims, class certification outside of the Settlement, or on the merits of Defendant's defenses. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an agreement (to settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. This Settlement is the result of extensive settlement discussions between the Parties. Both sides agree that, in light of the risks and costs associated with further litigation, this Settlement is fair and appropriate under the circumstances. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a Judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

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

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

1. Defendant Will Pay \$480,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 14 calendar days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$160,000.00 (33 1/3% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$17,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

- B. Up to \$10,000.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
- C. Up to \$7,500.00 to the Administrator for services administering the Settlement.
- D. Up to \$5,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

- 3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
- 4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 33.33% (or 1/3%) of each Individual Class Payment to taxable wages ("Wage Portion") and 66.67% (or 2/3%) to interest and penalties. ("Non-Wage Portion.") The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

- 5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.
- 6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [date], that you wish to opt-out. If you opt out, you will not receive a Class Payment from the Settlement Fund. The easiest way to notify

the Administrator is to send a written and signed Request for Exclusion by the [date] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

You cannot opt out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

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

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all claims that were asserted in the Action, or could have been asserted in this Action during the Class Period for all claims that were asserted in the Action, or that arise from or could have been asserted based on the facts, circumstances, transactions, events, occurrences, acts, disclosures, statements, omissions, or failures to act alleged in Plaintiff's operative Complaint and First Amended Complaint, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance,

regulation, common law, or other source of law. The Released Claims specifically include, but are not limited to Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 2802, 2699, and the related IWC Wage Orders and Business & Professions Code §§ 17200, et seq., and include claims based on alleged violations of these Labor Code and Wage Order provisions, and all other claims, such as those under the California Labor Code, Wage Orders, regulations, and/or other provisions of law, that could have been pleaded based on the facts asserted in the Action, including: (1) failure to provide meal breaks pursuant to Labor Code §§ 226.7 and 512; (2) failure to provide rest breaks pursuant to Labor Code § 226.7; (3) failure to reimburse expenses pursuant to Labor Code § 2802; (4) violation of Labor Code § 226(a) regarding inaccurate wage statements; (5) penalties pursuant to Labor Code § 203 regarding failure to timely pay wages upon separation of employment; (6) violation of Business & Professions Code § 17200 regarding unfair competition; (7) penalties pursuant to Labor Code §§ 2699, et seq.; and (8) interest, fees, and costs (collectively, the “Released Claims”). The enumeration of these specific statutes shall neither enlarge or narrow the scope of res judicata based on the claims that were asserted in the Action or could have been asserted in the Action based on the facts and circumstances alleged in any Complaint on file in the Action. Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

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

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

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from any and all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the PAGA Notice during the PAGA Period.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$1,250.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees, and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until [date] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email, or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

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

6. HOW DO I 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 16 court days before the [date] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses, and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses, and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [need details] or the Court's website [need details].

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses, and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [date].** 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 as Nicole Paris v. Allergy & Asthma Medical Group of the Bay Area, Inc. and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

7. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [date] at [time] in Department 39 of the Contra Costa Superior Court, Martinez-Wakefield Taylor Courthouse located at 725 Court Street, Martinez, CA 94553. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel, and Defense Counsel before making a decision.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [www.etc.] beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

8. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<https://odyportal.cc-courts.org/Portal/Home/Dashboard/29>) and entering the Case Number for the Action, Case No. C22-02359.

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

Class Counsel:

Eric B. Kingsley
eric@kingsleykingsley.com
Liane Katzenstein Ly
liane@kingsleykingsley.com
Kingsley & Kingsley, APC
16133 Ventura Blvd., Suite 1200
Encino, CA 91436
(818) 990-8300

Settlement Administrator:

[Name of Company]
[Email Address]
[Mailing Address]
[Telephone]
[Fax Number]

9. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

10. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT "2"



Quotation Request:

Liane Katzenstein Ly
Kingsley & Kingsley, APLC
liane@kingsleykingsley.com
818.990.8300

Case Name:

Allergy & Asthma

Date:

Wednesday, September 6, 2023

RFP Number:

83000001

Prepared By:

Sean Hartranft
Apex Class Action LLC
Sean@apexclassaction.com
949.878.3676

Settlement Specifications

Estimated Class Size:	300
Certified Language Translation:	No
Static Settlement Website	Yes
Percentage of Undeliverable Mail	20%

Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
Data Analytics and Standardization				
Import and Standardize Data*	Per Hour	\$125.00	2	\$250.00
Data Analyst	Per Hour	\$150.00	2	\$300.00
*Data provided must be in a workable format. Apex can standardized provided data at an additional cost of \$150/hr.				
			Sub Total:	\$550.00

Mailing of Class Notice				
Form Set Up	Per Hour	\$120.00	1	\$120.00
Print & Mail Class Notice	Per Piece	\$1.50	300	\$450.00
USPS First Class Postage	Per Piece	\$0.66	300	\$198.00
Remail Undeliverable Mail (Skip-Trace)	Per Piece	\$2.00	60	\$120.00
Receive and Process Undeliverable Mail	Per Hour	\$75.00	0	\$0.00
Process Class Member Correspondence via mail, e-mail & fax	Per Piece	\$75.00	1	\$75.00
NCOA Address Update (USPS)	Static Rate	\$54.00	1	\$54.00
			Sub Total:	\$1,017.00

Project Management				
Project Management	Per Hour	\$150.00	2	\$300.00
Project Coordinator	Per Hour	\$90.00	2	\$180.00
Data Analyst and Reporting	Per Hour	\$140.00	1	\$140.00
			Sub Total:	\$620.00



Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
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Toll-Free Contact Center, Website & Reporting				
Bilingual Toll-Free Contact Center	Static Rate	\$55.00	1	\$55.00
Settlement Website: Static Apex URL	Static Rate	\$500.00	1	\$500.00
Settlement Status Reports	Static Rate	\$750.00	1	Waived
			Sub Total:	\$555.00

Distribution & Settlement Fund Management				
Settlement Calculations (Preliminary and Final)	Per Hour	\$120.00	3	\$360.00
Account Management and Reconciliation	Per Hour	\$140.00	3	\$420.00
Print & Mail Distribution Settlement Check (W-2/1099)	Per Piece	\$1.50	300	\$450.00
USPS First Class Postage	Per Piece	\$0.66	300	\$198.00
Remail Distribution to Updated Address (Skip Trace)	Per Piece	\$2.00	30	\$60.00
Individual Income Tax Preparation & Reporting	Per Hour	\$100.00	8	\$800.00
QSF Income Tax Reporting (per calendar year)	Per Year	\$1,250.00	1	\$1,250.00
Unclaimed Funds: State Controller's Unclaimed Property Fund	Static Rate	\$500.00	1	\$500.00
			Sub Total:	\$4,038.00

Post Distribution Reconciliation				
Bank Account Reconciliation	Per Hour	\$135.00	2	\$270.00
Project Management Reconciliation	Per Hour	\$100.00	2	\$200.00
Declarations	Per Hour	\$120.00	2	\$240.00
			Sub Total:	\$710.00

TOTAL ESTIMATED ADMINISTRATION COST:				\$7,490.00
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Thank you for your business!



Terms & Conditions

The following Terms and Conditions govern the provision of all services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. **Services:** Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").

2. **Payment Terms:** As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.

3. **Incurred Expenses:** In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.

4. **Invoicing:** Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In case of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.

5. **Case Duration:** The duration of these Terms and Conditions, except for the data storage obligations stated in Section 13, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.

6. **Termination of Services:** Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (i) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.

7. **Independent Contractor:** As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.

8. **Apex warrants that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services. It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.**

9. **Limitation of Liability:** The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.

10. **Indemnification:** The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.

11. **Confidentiality:** Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of these terms may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the parties concerning confidentiality. These terms may only be amended in writing and signed by both parties.

12. **Ownership of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex. It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.**

13. **Upon the completion of the administration and unless retention instructions are ordered by the court, Apex will notify the client that it will destroy and/or return all confidential information and property within 90 days upon the client's written request. Alternatively, the material may be stored for one year at a monthly fee of \$1.50 per storage box for paper documents and \$0.01 per image for electronic copies over a period of three years, which compensates Apex for its electronic and hard-copy storage costs. Apex will not be liable for any damages, liability, or expenses incurred in connection with any delay in delivery of, or damage to disks, magnetic tapes, or any input data provided by the client or its representatives unless Apex has agreed in writing to assume such responsibility.**

14. **COMPLETE AGREEMENT.** These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.

15. **This provision outlines the requirements for providing notice or other communication under this agreement. All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.**

16. **Force Majeure:** In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.

17. **The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions. No choice of law or conflict of laws provisions shall affect this governing law provision.**

18. **Severability:** This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.

19. **Nonwaiver:** This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.

(Proof of Submission to the LWDA)

EXHIBIT "3"

(PROOF OF SERVICE)
[CCP 1013(a)(3)]
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On January 3, 2024, I served all interested parties in this action the following documents described as: **DECLARATION OF LIANE KATZENSTEIN LY IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Matthew Wayne, Esq.
Amber A. Eklof, Esq.
Melanie Frakes, Esq.
GORDON REES SCULLY MANSUKHANI
275 Battery Street, Suite 2000
San Francisco, CA 94111
mwayne@grsm.com
aeklof@grsm.com
mfrakes@grsm.com

☐ **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage fully prepaid at Encino, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ **BY ELECTRONIC SERVICE:** I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

☒ **BY ELECTRONIC MAIL TRANSMISSION:** I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the below email address(es).

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 3, 2024, at Woodland Hills, California.



Michelle Tanzer