

1
2
3
4
5
6
7
8
9
10
11
12

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

13 LINDSAY ORIN, on behalf of herself
14 and all others similarly situated and on
15 behalf of the general public,

16 Plaintiff,

17 v.

18 CAL. DEL. U.S.A. INC., a California
19 corporation, and DOES 1 through 10,
20 inclusive,

21 Defendant.
22
23
24
25
26
27
28

Case No. 2:23-cv-03404-FMO-KS

**STIPULATION AND
SETTLEMENT OF CLASS,
COLLECTIVE AND
REPRESENTATIVE ACTION**

[Los Angeles County Superior Court
Case No. 23STCV07181]

[State Court
Complaint Filed: April 3, 2023]

1 **STIPULATION AND SETTLEMENT OF CLASS, COLLECTIVE**
2 **AND REPRESENTATIVE ACTION**

3 I. Subject to final approval by the Court, which counsel and the Parties agree to
4 diligently pursue and recommend in good faith, Plaintiff Lindsay Orin (“Plaintiff”),
5 individually and on behalf of all others similarly situated and alleged aggrieved
6 employees, on the one hand, and Defendant Cal. Del. U.S.A. Inc. (“Defendant”), on
7 the other hand (collectively, the “Parties” and individually, a “Party”), hereby agree
8 to the following binding settlement of the class, collective and representative action
9 designated Lindsay Orin v. Cal. Del. U.S.A. Inc., et al., United States District Court,
10 Central District of California, Case No. 2:23-cv-03404-FMO removed from the Los
11 Angeles Superior Court, Case No. 23STCV07181, as amended (the “Action”),
12 pursuant to the terms and conditions set forth below (the “Settlement,” “Settlement
13 Agreement” or “Agreement”). Upon the Effective Date, the payment by Defendant
14 of all monies due under the Agreement, and the conclusion of the Settlement
15 administration, Plaintiff shall file with the Court (1) a Satisfaction of Judgment; and
16 (2) a declaration from the Settlement Administrator certifying that all payments have
17 been distributed, as more fully set forth herein.

18 II. **Definitions.**

19 The following definitions are applicable to this Settlement Agreement.
20 Definitions contained elsewhere in this Settlement Agreement will also be effective:

21 A. **“Action.”**

22 The case titled Lindsay Orin v. Cal. Del. U.S.A. Inc., et al., United States
23 District Court, Central District of California, Case No. 2:23-cv-03404-FMO removed
24 from the Los Angeles Superior Court, Case No. 23STCV07181, as amended.

25 B. **“Aggrieved Employees.”**

26 All current and former non-exempt employees of Defendant employed in
27 California at any time during the PAGA Period.

28 C. **“Amended Complaint.”**

1 The amended complaint Plaintiff filed on July 19, 2023, after seeking
2 and receiving Court approval, to add a claim under the California Private Attorneys
3 General Act ("PAGA"), and any and all other claims/causes of action encompassed
4 by the Released Claims.

5 **D. "Attorneys' Fees and Costs."**

6 The attorneys' fees agreed upon by the Parties and approved by the
7 Court for Class Counsel's litigation and resolution of the Action, and all costs
8 incurred and to be incurred by Class Counsel in the Action, including, but not limited
9 to, costs associated with documenting the Settlement, securing the Court's approval
10 of the Settlement, any expert expenses, and securing an entry of judgment on all
11 claims in the Action which are covered by the Released Claims as defined herein.
12 Class Counsel will request attorneys' fees not to exceed one-third (1/3) of the Gross
13 Settlement Amount of \$250,000.00, which is estimated to be \$83,333.33. The costs
14 requested to be reimbursed will not exceed \$13,000.00. The attorneys' fees and costs
15 awarded are subject to the Court's approval. Defendant has agreed not to oppose
16 Class Counsel's request for attorneys' fees and reimbursement of costs and expenses
17 as set forth above. Such Attorneys' Fees and Costs shall be paid from the Gross
18 Settlement Amount. Class Counsel will be issued an IRS Form 1099 for the
19 Attorneys' Fees and Costs detailed in this Section and shall be solely and legally
20 responsible for paying all applicable taxes on the payment made pursuant to this
21 Section. Class Counsel will file their Motion for Attorneys' Fees and Costs and Class
22 Representative Enhancement Payment no later than the date of mailing of the Notice
23 of Class Action Settlement to Class Members.

24 **E. "Claims Administrator."**

25 ILYM Group, Inc. shall be the third-party class action settlement claims
26 administrator as agreed to by the Parties and approved by the Court for the purposes
27 of administering this Settlement. The Parties each represent that they do not have any
28

1 financial interest in the Claims Administrator or otherwise have a relationship with
2 the Claims Administrator that could create a conflict of interest.

3 **F. "Claims Administration Costs."**

4 The costs payable from the Gross Settlement Amount to the Claims
5 Administrator for administering this Settlement, including, but not limited to,
6 printing, distributing, and tracking documents for this Settlement, calculating
7 estimated amounts per Class Member, tax reporting, distributing the Gross Settlement
8 Amount, and providing necessary reports and declarations, and other duties and
9 responsibilities set forth herein to process this Settlement Agreement, and as
10 requested by the Parties. The Claims Administration Costs will be paid from the
11 Gross Settlement Amount, including, if necessary, any such costs in excess of the
12 amount represented by the Claims Administrator as being the maximum costs
13 necessary to administer the Settlement. The Claims Administration Costs are
14 currently estimated to be \$3,000. To the extent actual Claims Administration Costs
15 are greater than \$3,000, such excess amount will be deducted from the Gross
16 Settlement Amount, subject to the Court's approval. The Claims Administration
17 Costs will be paid no later than fifteen (15) calendar days following the Effective
18 Date.

19 **G. "Class Counsel."**

20 Attorneys for GAINES & GAINES, APLC shall be appointed Class
21 Counsel upon approval by the Court.

22 **H. "Class List."**

23 A complete list of all Class Members that Defendant will diligently and
24 in good faith compile from their records and provide to the Claims Administrator
25 within fourteen (14) calendar days after Preliminary Approval of this Settlement.
26 The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and
27 will include each Class Member's full name, most recent mailing address, telephone
28 number, Social Security number, dates of employment (*i.e.*, hire date and termination

1 date, if applicable), approximate number of workweeks, and any other relevant
2 information needed to calculate settlement payments.

3 **I. “Class Member(s)” or “Settlement Class.”**

4 All current and former non-exempt employees of Defendant employed in
5 California at any time during the Class Period.

6 **J. “Class Period.”**

7 The period from April 3, 2019 through the date of Preliminary Approval
8 or December 4, 2024, whichever occurs first.

9 **K. “Class Representative Enhancement Payment.”**

10 The amount to be paid to Plaintiff in recognition of her effort and work
11 in prosecuting the Action on behalf of Class Members and for her general release of
12 all claims. Subject to the Court granting Final Approval of this Settlement
13 Agreement, Plaintiff will request Court approval of a Class Representative
14 Enhancement Payment of \$10,000.00. Plaintiff will be issued an IRS Form 1099 in
15 connection with her respective Class Representative Enhancement Payment. Plaintiff
16 shall be solely and legally responsible for paying any and all applicable taxes on this
17 payment and shall hold Defendant harmless from any claim or liability for taxes,
18 penalties or interest arising as a result of the payment. The Class Representative
19 Enhancement Payment will be paid from the Gross Settlement Amount and will be in
20 addition to Plaintiff’s Individual Settlement Payment paid pursuant to the Settlement,
21 and is conditioned on Plaintiff’s execution of this Settlement Agreement. Defendant
22 makes no representations as to the tax treatment or legal effect of the payment called
23 for herein, and Plaintiff is not relying on any statement or representation by
24 Defendant or its counsel in this regard.

1 **L. “Defendant.”**

2 Cal. Del. U.S.A. Inc.

3 **M. “Effective Date.”**

4 The date on which the Final Award becomes final. For purposes of this
5 Section, the Final Award “becomes final” only after the Court grants the Motion for
6 Final Approval and upon service of the Notice of Entry of Order and/or Judgment.

7 **N. “Final Approval” or “Final Award.”**

8 The Court entering an Order Granting Final Approval of the Settlement
9 Agreement and Judgment.

10 **O. “Gross Settlement Amount.”**

11 The sum of \$250,000.00 to be paid by Defendant in full satisfaction of
12 all claims arising from the Action. The Gross Settlement Amount includes all
13 Settlement Payment Checks to Class Members, Individual PAGA Settlement
14 Payments to Aggrieved Employees, the Class Representative Enhancement Payment
15 to Plaintiff, Claims Administration Costs to the Claims Administrator, the Labor and
16 Workforce Development Agency (“LWDA”) Payment, and the Attorneys’ Fees and
17 Costs. Defendant will be responsible for any employer payroll taxes required by law,
18 separate and in addition to the Gross Settlement Amount, including the employer
19 FICA, FUTA, and SDI contributions on the wage portion of the Settlement Payment
20 Checks. The Gross Settlement Amount may increase based on the escalator provision
21 in paragraph XIX, below.

22 **P. “Individual Settlement Payment.”**

23 Each Class Member’s share of the Net Settlement Amount, which shall
24 be distributed to the Class Members, less employee portions of state and federal
25 withholding taxes, including the employee FICA, FUTA and SDI contributions and
26 any other applicable payroll deductions required by law as a result of the payment of
27 the amount allocated to such Class Member as set forth herein.
28

1 **Q. “LWDA Notice.”**

2 The Parties agree that Plaintiff will submit Notice to the Labor and
3 Workforce Development Agency (“LWDA”) of this Settlement along with a copy of
4 this Settlement Agreement concurrently with the filing of Plaintiff’s Motion for
5 Preliminary Approval, and will thereafter submit a copy of any judgment or any other
6 order (*e.g.*, the Final Award) providing for an award of civil penalties in conformity
7 with Labor Code Section 2699(I).

8 **R. “LWDA Payment” or “PAGA Settlement Amount.”**

9 The amount that the Parties have agreed to pay to the LWDA in
10 connection with the California Private Attorneys General Act of 2004 (“PAGA”).
11 The Parties have agreed that \$10,000.00 of the Gross Settlement Amount will be
12 allocated to the resolution of any claims arising under PAGA (“PAGA Settlement
13 Amount”) as set forth in the Released Aggrieved Employee Claims. Pursuant to
14 PAGA, \$7,500.00 (75%) of the PAGA Settlement Amount will be paid to the LWDA
15 and \$2,500.00 (25%) of the PAGA Settlement Amount will be distributed to
16 Aggrieved Employees. The 25% portion of the PAGA Settlement Amount is referred
17 to as “Aggrieved Employees Amount.”

18 **S. “Net Settlement Amount.”**

19 The portion of the Gross Settlement Amount remaining after deduction
20 of the approved Class Representative Enhancement Payment, Claims Administration
21 Costs, LWDA Payment, and the Attorneys’ Fees and Costs.

22 **T. “Notice of Class Action Settlement.”**

23 The document substantially in the form attached as Exhibit 1 that will be
24 mailed to Class Members’ last known addresses and which will provide Class
25 Members with information regarding the Action and information regarding the
26 Settlement.

1 **U. “Notice of Objection.”**

2 The Court may hear from any Class Member who attends the final
3 approval hearing and asks to speak regarding his or her objection. In order for any
4 Class Member to object to this Settlement, or any term of it, the person making the
5 objection must not submit a request for exclusion (i.e., must not opt out). While not
6 required, the preferred method by which any Class member may to object to this
7 Settlement, or any term of it, is that the objecting Class Member, by no later than the
8 Response Deadline, mail or fax to the Settlement Administrator a written statement of
9 the grounds of objection, signed by the objecting Class Member or his or her
10 attorney, along with all supporting papers. All such objections and written notices of
11 intention to appear should be signed and contain the Class Member’s name and
12 address and the address of counsel, if any. If submitted in this manner, the objection
13 should clearly explain why the settlement class member objects to the Settlement and
14 state whether the Class Member (or someone on their behalf) intends to appear at the
15 Final Approval Hearing. The Settlement Administrator shall immediately upon
16 receipt transmit to the Parties’ counsel copies of all objections and supporting papers.
17 The Parties then shall file any objections received in this manner and all supporting
18 papers with the Court concurrently with the Motion for Final Approval. A Class
19 Member may appear personally or through an attorney, at his or her own expense, at
20 the Final Approval hearing to present his or her objection directly to the Court. If a
21 Class Member objects to this Settlement, the Class Member will remain a member of
22 the Settlement Class and if the Court approves this Agreement, the Class Member
23 will be bound by the terms of the Settlement and Final Approval in the same way and
24 to the same extent as a settlement class member who does not object. The Court
25 retains final authority with respect to the consideration and admissibility of any Class
26 Member objections.

27 Neither the Parties nor their counsel will solicit or otherwise encourage
28 Class Members to submit written objections to the Settlement Agreement or appeal

1 from the Order and Judgment. Class Counsel will not represent any Class Members
2 with respect to any such objections to this Settlement.

3 **V. “Notice Packet.”**

4 The Notice of Class Action Settlement, Individual Settlement Payment
5 calculations, and Individual PAGA Payment calculations to include workweek
6 information.

7 **W. “PAGA Period.”**

8 The period from March 27, 2022 through the date of Preliminary Approval
9 or December 4, 2024, whichever occurs first.

10 **X. “Plaintiff.”**

11 Plaintiff Lindsay Orin.

12 **Y. “Plaintiff’s Released Claims.”**

13 Upon the Effective Date, and as a condition of receiving any portion of
14 her Class Representative Enhancement Payment, Plaintiff shall fully and finally
15 release the Released Parties from any and all claims, known and unknown, under
16 federal, state and/or local law, statute, ordinance, regulation, common law, or other
17 source of law, including but not limited to claims arising from or related to her
18 employment with Defendant and her compensation while an employee of Defendant.
19 Plaintiff’s Released Claims include, but are not limited to, all claims arising from or
20 related to the Action. Plaintiff’s Released Claims include all claims for unpaid
21 wages, including, but not limited to, failure to pay minimum wages, straight time
22 compensation, overtime compensation, double-time compensation, and interest; the
23 calculation of the regular rate of pay; wages related to alleged illegal time rounding;
24 failure to pay wages at least twice each calendar month; failure to timely pay wages;
25 failure to timely pay final wages; missed/short/late/interrupted meal period, rest
26 period, and/or recovery period wages/premiums; failure to provide meal periods;
27 failure to authorize and permit rest periods and/or recovery periods; the calculation of
28 meal period, rest period, and/or recovery period premiums; reimbursement for all

1 necessary business expenses, including work-related cell-phone expenses and car
2 mileage for work-related travel; payment for all hours worked, including off-the-
3 clock work; wage statements; deductions; failure to keep accurate records; failure to
4 provide suitable seating; failure to maintain temperature providing reasonable
5 comfort; unlawful deductions and/or withholdings from wages; unfair business
6 practices; penalties, including, but not limited to, recordkeeping penalties, wage
7 statement and payroll reporting penalties, minimum-wage penalties, and waiting-time
8 penalties; and attorneys' fees and costs. Plaintiff's Released Claims include all
9 claims arising under the California Labor Code (including, but not limited to, sections
10 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 204.1, 204.2, 206, 210, 216, 218, 218.5,
11 218.6, 221, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 246, 247.5, 248.5, 256, 450, 510,
12 511, 512, 515, 516, 558, 558.1, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1194.3,
13 1197, 1197.1, 1197.2, 1198, 1198.5, 2698 *et seq.*, 2699 *et seq.*, 2802, and 2804); all
14 claims arising under: the Wage Orders of the California Industrial Welfare
15 Commission; the California Private Attorneys General Act of 2004 (PAGA);
16 California Business and Professions Code section 17200, *et seq.*; the California Civil
17 Code, to include sections 3287, 3336 and 3294; 8 CCR §§ 3203, 11070, 11090,
18 11100; California Code of Civil Procedure § 1021.5; all state and local ordinances
19 related to COVID-19 right of recall; the California common law of contract; the
20 FLSA, 29 U.S.C. §§ 201, *et seq.*; 29 CFR 778.223; 29 CFR 778.315; federal common
21 law; and the Employee Retirement Income Security Act, 29 U.S.C. §§ 1001, *et seq.*
22 (ERISA). Plaintiff's Released Claims also include all claims for lost wages and
23 benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and
24 costs arising under federal, state, or local laws for discrimination, harassment,
25 retaliation, and wrongful termination, such as, by way of example only, (as amended)
26 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964, the Americans with
27 Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and
28

1 the California Fair Employment and Housing Act (FEHA); and the law of contract
2 and tort. This release excludes the release of claims not permitted by law.

3 Plaintiff's Released Claims include all claims, whether known or
4 unknown. Even if Plaintiff discovers facts in addition to or different from those that
5 she now knows or believes to be true with respect to the subject matter of Plaintiff's
6 Released Claims, those claims will remain released and forever barred. Thus,
7 Plaintiff expressly waives and relinquish the provisions, rights and benefits of section
8 1542 of the California Civil Code, which reads:

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

14 **Z. "Released Aggrieved Employee Claims."**

15 As of the date of the Order Granting Final Approval, and only after the
16 Settlement has been fully funded by Defendant, all Aggrieves Employees shall fully
17 and finally release Released Parties of the Released Aggrieved Employee Claims.

18 The Released Aggrieved Employee Claims include all claims, rights, demands,
19 liabilities and causes of action under PAGA which are alleged in the operative First
20 Amended Complaint, and March 27, 2023 LWDA exhaustion letter identified on the
21 LWDA's website as LWDA-CM-944652-23, and all claims, rights, demands,
22 liabilities and causes of action under PAGA which could be alleged based on the facts
23 set forth in the First Amended Complaint, for all periods of employment in a non-
24 exempt position in California during the PAGA Period. This includes claims arising
25 under PAGA for unpaid wages, including, failure to pay minimum wages, straight time
26 compensation, overtime compensation, double-time compensation, and interest;
27 reimbursement for all necessary business expenses; failure to provide accurate wage
28 statements; unfair business practices; penalties, including, but not limited to, statutory

1 penalties, recordkeeping penalties, wage statement penalties, minimum-wage
2 penalties, and waiting-time penalties; and attorneys' fees and costs; all claims related
3 to the PAGA Released Claims which are asserted in the Lawsuit or which could have
4 been asserted based on the factual allegations pled in the Lawsuit arising under: the
5 California Labor Code (including, but not limited to, sections 201, 202, 203, 218.5,
6 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1,
7 1198, and 2802), and Wage Order 4-2001 of the California Industrial Welfare
8 Commission ("PAGA Released Claims"). This release excludes the release of claims
9 not permitted by law and excludes all claims for unpaid wages and statutory penalties.
10 Aggrieved Employees shall not be able to exclude themselves from the PAGA portion
11 of this settlement and the PAGA Released Claims, and Aggrieved Employees shall
12 receive their PAGA portion of the settlement even if they opt-out of the class action
13 settlement.

14 **AA. "Preliminary Approval."**

15 The Court's order granting preliminary approval of the Settlement
16 Agreement.

17 **BB. "Qualified Settlement Account."**

18 The fund established by the Claims Administrator pursuant to Internal
19 Revenue Code Section 1.468B-1.

20 **CC. "Released Class Claims."**

21 As of the date of the Order Granting Final Approval, and only after the
22 Settlement has been fully funded by Defendant, all Class Members shall fully and
23 finally release Released Parties of the Released Class Claims.

24 The Released Class Claims include any and all claims, rights, demands,
25 liabilities and causes of action alleged in the operative First Amended Complaint, and
26 all claims, rights, demands, liabilities and causes of action which could be alleged
27 based on the facts set forth in the First Amended Complaint, for all periods of
28 employment in a non-exempt position in California during the Settlement Class

1 Period. This includes claims for unpaid wages, including, failure to pay minimum
2 wages, straight time compensation, overtime compensation, double-time
3 compensation, and interest; reimbursement for all necessary business expenses;
4 failure to provide accurate wage statements; unfair business practices; penalties,
5 including, but not limited to, civil penalties apart from those as described in
6 Paragraph Z, above, statutory penalties, recordkeeping penalties, wage statement
7 penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees
8 and costs; all claims related to the Released Claims which are asserted in the Lawsuit
9 or which could have been asserted based on the factual allegations pled in the Action
10 arising under: the California Labor Code (including, but not limited to, sections 201,
11 202, 203, 218.5, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194,
12 1194.2, 1197, 1197.1, 1198, and 2802), Wage Order 4-2001 of the California
13 Industrial Welfare Commission; the Fair Labor Standards Act (including, but not
14 limited to, 29 U.S.C. sections 206 and 207); and California Business and Professions
15 Code section 17200, et seq based on the foregoing. This release excludes the release
16 of claims not permitted by law and excludes all claims arising under PAGA. Only
17 Settlement Class Members who cash their settlement checks by affirmatively opting
18 in to the FLSA collective action will be bound by the FLSA release included in the
19 Class Released Claims. The following language will be printed on the reverse of each
20 Settlement Payment Check, or words to this effect: "By endorsing or otherwise
21 negotiating this check, I acknowledge that I read, understood, and agree to the terms
22 set forth in the Notice of Class Action Settlement and I consent to join in the Fair
23 Labor Standards Act ("FLSA") portion of the [Lawsuit], elect to participate in the
24 settlement of the FLSA claims, and agree to release all of my FLSA claims that are
25 covered by the Settlement."

26 Upon entry of Judgment, Class Members who opt-in to the FLSA release are
27 precluded from filing a wage and hour action under the Fair Labor Standards Act
28 against the Released Parties for claims and/or causes of action encompassed by the

1 Released Claims which are extinguished and precluded pursuant to the holding in
2 *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (2018).

3
4 **DD. “Released Parties.”**

5 Defendant and its past, present, and future parents, subsidiaries,
6 affiliated companies (including but not limited to, An. Del. U.S.A., and all of its
7 subsidiaries and affiliates), agents, managing agents, employees, servants, officers,
8 directors, owners (whether direct or indirect), general partners, limited partners,
9 trustees, representatives, shareholders, stockholders, members, mortgagees or ground
10 lessors, attorneys, parents, subsidiaries, equity sponsors, related
11 companies/corporations and/or partnerships, divisions, assigns, predecessors,
12 successors, insurers, consultants, joint venturers, joint employers, potential and/or
13 alleged joint employers, temporary staffing agencies, dual employers, potential and/or
14 alleged dual employers, co-employers, potential and/or alleged co-employers,
15 common law employers, potential and alleged common law employers, contractors,
16 affiliates, service providers, alter-egos, potential and/or alleged alter-egos, vendors,
17 affiliated organizations, any person and/or entity with potential or alleged to have
18 joint liability, and all of their respective past, present and future employees, directors,
19 officers, members, owners, agents, representatives, payroll agencies, attorneys,
20 stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns
21 and any and all persons and/or entities acting under, by, through or in concert with
22 any of them.

23 **EE. “Request for Exclusion.”**

24 A notice submitted by a Class Member requesting to be excluded from
25 the Settlement. A Request for Exclusion is a letter from a Class Member or his/her
26 representative that reasonably communicates the Class Member’s election to be
27 excluded from the Settlement and includes the Class Member’s name, address and
28 email address or telephone number. To be valid, a Request for Exclusion must be

1 timely faxed, emailed, or postmarked by the Response Deadline. The date of the
2 postmark email or fax receipt confirmation will be the exclusive means to determine
3 whether a Request for Exclusion has been timely submitted. A Class Member who
4 does not submit a timely and valid Request for Exclusion from the Settlement will be
5 deemed a Class Member and will be bound by all terms of the Settlement Agreement
6 if the Settlement is granted Final Approval by the Court. Any Class Member who
7 timely submits a valid Request for Exclusion will not receive a Settlement Payment
8 Check, and will not be bound by the terms of the Settlement Agreement or Judgment
9 (with the exception of claims arising under PAGA). Aggrieved Employees eligible
10 for a portion of the PAGA Settlement Amount will receive their share of the
11 employee portion of the PAGA Settlement Amount and will be deemed to have
12 released the Released Aggrieved Employee Claims, regardless of whether they
13 submit a Request for Exclusion.

14 **FF. "Response Deadline."**

15 The deadline by which Class Members must mail or fax to the Claims
16 Administrator valid Requests for Exclusion, Notices of Objection to the Settlement,
17 or workweek disputes. The Response Deadline will be forty-five (45) calendar days
18 from the initial mailing of the Notice Packet by the Claims Administrator, unless the
19 60th day falls on a Sunday or Federal holiday, in which case the Response Deadline
20 will be extended to the next day on which the U.S. Postal Service is open. The
21 Response Deadline for Requests for Exclusion, Notices of Objection, or workweek
22 disputes will be extended fifteen (15) calendar days for any Class Member who is re-
23 mailed a Notice Packet by the Claims Administrator, unless the 15th day falls on a
24 Sunday or Federal holiday, in which case the Response Deadline will be extended to
25 the next day on which the U.S. Postal Service is open. The Response Deadline may
26 also be extended by express agreement between Class Counsel and Defendant.
27 Under no circumstances, however, will the Claims Administrator have the authority
28

1 to unilaterally extend the deadline for Class Members to submit a Request for
2 Exclusion, Notice of Objection to the Settlement, or workweek disputes.

3 **GG. "Settlement Payment Check."**

4 The payment to Class Members who do not request exclusion. The back
5 of the Settlement Payment Check shall state, immediately below the space where the
6 check is to be endorsed by the payee: "By endorsing or otherwise negotiating this
7 check, I acknowledge that I read, understood, and agree to the terms set forth in the
8 Notice of Class Action Settlement and I consent to join in the Fair Labor Standards
9 Act ("FLSA") portion of the [Action], elect to participate in the settlement of the
10 FLSA claims, and agree to release all of my FLSA claims that are covered by the
11 Settlement."

12 **III. Funding of the Gross Settlement Amount.**

13 Within twenty-one (21) calendar days after the Effective Date of the
14 Settlement, Defendant will make a one-time deposit of the Gross Settlement Amount
15 into a Qualified Settlement Account to be established by the Claims Administrator as
16 well as an amount sufficient to pay the employer's share of payroll taxes with respect
17 to the wages portion of the Individual Settlement Payments. Within fourteen (14)
18 calendar days of the funding of the Settlement, the Claims Administrator will issue
19 payments to: (a) Class Members who have not timely and validly requested
20 exclusion; (b) Aggrieved Employees; (c) the LWDA; (d) Plaintiff; and (e) Class
21 Counsel. The Claims Administrator will also issue a payment to itself for Court-
22 approved services performed in connection with the Settlement. Defendant has no
23 obligation to deposit such funds prior to the deadline set forth herein. Prior to issuing
24 checks to Class Members, the Claims Administrator will run the Class Members'
25 most updated addresses against the National Change of Address Database to obtain
26 the most current address for mailing the checks. If a check is returned as
27 undeliverable from Class Members whose Notice Packet was returned and no new
28 address was ascertained, then no further steps need to be taken. For other checks

1 returned, the Claims Administrator shall conduct a skip trace or other similar search
2 to locate an updated address and the Claims Administrator shall re mail the check
3 within seven (7) business days of return of the check.

4 **IV. Attorneys' Fees and Costs.**

5 Defendant agree not to oppose or impede any application by Class
6 Counsel for attorneys' fees of not more than one-third (1/3) of the Gross Settlement
7 Amount (estimated to be \$83,333.33), or the reimbursement of costs and expenses
8 associated with Class Counsel's litigation and settlement of the claims covered by the
9 Action not to exceed \$13,000.00. No counsel shall be entitled to attorneys' fees or
10 costs for work performed in the Action other than as provided in this Settlement
11 Agreement. The instant Settlement Agreement is the exclusive means for recovery of
12 attorneys' fees and costs incurred in the Action by any attorney, law firm and/or other
13 legal services provider except for the event that either party is required to seek to
14 enforce this settlement agreement or the judgment.

15 **V. Class Representative Enhancement Payment.**

16 In exchange for a general release and in recognition of her effort and
17 work in prosecuting the Action on behalf of Class Members, Defendant agrees not to
18 oppose or impede any application or motion for a Class Representative Enhancement
19 Payment in the amount of up to \$10,000.00 for Plaintiff. The Class Representative
20 Enhancement Payment will be paid from the Gross Settlement Amount and will be in
21 addition to Plaintiff's Individual Settlement Payment paid pursuant to the Settlement.
22 Plaintiff will be solely and legally responsible to pay any and all applicable taxes on
23 the payment made pursuant to this Section and will indemnify and hold Defendant
24 harmless from any claim or liability for taxes, penalties, or interest arising as a result
25 of the payment.

26
27
28

1 **VI. Claims Administration Costs.**

2 The Claims Administrator will be paid for the reasonable costs of
3 administration of the Settlement and distribution of payments from the Gross
4 Settlement Amount, which are currently estimated to be \$3,000.

5 The Parties hereby acknowledge that the Claims Administration Costs
6 may increase above the current estimate of \$3,000 and that any such additional
7 Claims Administration Costs that are approved by the Parties' counsel and the Court
8 shall be taken out of the Gross Settlement Amount.

9 **VII. Labor and Workforce Development Agency Payment/PAGA Settlement**
10 **Amount.**

11 Subject to Court approval, the Parties agree that \$10,000.00 of the Gross
12 Settlement Amount will be designated for satisfaction of PAGA claims (the "PAGA
13 Settlement Amount") and release of the Released Aggrieved Employee Claims.
14 Pursuant to the PAGA, \$7,500.00 (75%) of the PAGA Settlement Amount will be
15 paid to the LWDA and \$2,500.00 (25%) of the PAGA Settlement Amount will be
16 paid to Aggrieved Employees as part of the Net Settlement Amount.

17 **VIII. Net Settlement Amount.**

18 The Net Settlement Amount will be used to satisfy Individual Settlement
19 Payments to Class Members from the Settlement Class in accordance with the terms
20 of this Settlement.

21 **IX. Individual Settlement Payment Calculations.**

22 Individual Settlement Payments will be calculated and apportioned from
23 the Net Settlement Amount based on the number of workweeks a Class Member
24 worked in a non-exempt position in California during the Class Period and based on
25 the number of Individual Pay Periods an Aggrieved Employee worked in a non-
26 exempt position in California during the PAGA Period. Specific calculations of
27 Individual Settlement Payments will be made as follows:
28

1 (a) The Claims Administrator will calculate the total number of weeks
2 worked (weeks in which at least one day was worked) by each
3 Class Member (“Individual Workweeks”) and the total number of
4 weeks worked by all Class Members (“Class Workweeks”) during
5 the Class Period.

6 (b) To determine each Class Member’s Individual Settlement
7 Payment, the Claims Administrator will use the following
8 formula: Individual Settlement Payment = (Individual Workweeks
9 ÷ Class Workweeks) × Net Settlement Amount.

10 Non-Participating Class Members will not receive any Individual
11 Settlement Payments. The Administrator will retain amounts equal to their Individual
12 Settlement Payments in the Net Settlement Amount for distribution to Participating
13 Class Members on a pro rata basis.

14 The Individual Settlement Payments made to Class Members under this
15 Settlement, and any other payments made pursuant to this Settlement, will not be
16 utilized to calculate any additional benefits under any benefit plans to which any
17 Class Members may be eligible, including, but not limited to, profit-sharing plans,
18 bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans,
19 PTO plans, and any other benefit plan. Rather, it is the Parties’ intention that this
20 Settlement Agreement will not affect any rights, contributions, or amounts to which
21 any Class Members may be entitled under any benefit plans.

22 PAGA Payments will be calculated and apportioned from the Aggrieved
23 Employees Amount within the Net Settlement Amount based on the number of
24 workweeks an Aggrieved Employee worked in a non-exempt position in California
25 during the PAGA Period. Specific calculations of PAGA Payments will be made as
26 follows:

27 (a) The Claims Administrator will calculate the total number of weeks
28 worked (weeks in which at least one day was worked) by each

1 Aggrieved Employee (“Individual Pay Periods”) and the total
2 number of weeks worked by all Aggrieved Employees (“Total Pay
3 Periods”) during the Class Period.

- 4 (b) To determine each Aggrieved Employees Individual PAGA
5 Payment, the Claims Administrator will use the following
6 formula: $\text{PAGA Payment} = (\text{Individual Pay Periods} \div \text{Total Pay}$
7 $\text{Periods}) \times \text{Aggrieved Employees Amount}.$

8 The Individual Settlement Payment will be reduced by any required deductions
9 for each Class Member as set forth herein, including employee-side tax withholdings
10 or deductions. The class portion of the Individual Settlement Payments will be
11 allocated as follows: one-third (1/3) to wages, one-third (1/3) to interest, and one-
12 third (1/3) to penalties. The PAGA portion will be allocated 100% to penalties.

13
14 **X. Claims Administration Process.**

15 1. The Parties agree to cooperate in the administration of the
16 Settlement and to make all reasonable efforts to control and minimize the costs and
17 expenses incurred in administration of the Settlement. The Claims Administrator will
18 provide the following services:

- 19 a. Establish and maintain a Qualified Settlement Account.
20 b. Calculate the Individual Settlement Payment each Class Member
21 is eligible to receive.
22 c. Translate the Notice Packet into Spanish by request of Class
23 Members.
24 d. Print and mail the Notice Packet.
25 e. Establish and maintain a toll-free information telephone support
26 line to assist Class Members who have questions regarding the
27 Notice Packet.
28

- f. Establish and maintain a website with information to assist Class Members, including the posting of notice of final judgment.
 - g. Conduct additional address searches for mailed Notice Packets that are returned as undeliverable.
 - h. Process Requests for Exclusion, calculate Class Members' Individual Settlement Payment, field inquiries from Class Members, and administer any Requests for Exclusion. This service will include settlement proceed calculation, printing and issuance of Settlement Payment Checks, and preparation of IRS W-2 and 1099 Tax Forms. Basic accounting for and payment of employee tax withholdings and forwarding all payroll taxes and penalties to the appropriate government authorities will also be included as part of this service.
 - i. Issuing to Plaintiff, Class Members, and Plaintiff's Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Settlement.
 - j. Provide declarations and/or other information to the Court as requested by the Parties and/or the Court.
 - k. Provide weekly status reports to counsel for the Parties.
2. Within fourteen (14) days of Preliminary Approval, Defendant will provide the Class List to the Claims Administrator.
 3. Within fourteen (14) calendar days after receiving the Class List from Defendant, the Claims Administrator will mail a Notice Packet to all Class Members via regular First-Class U.S. Mail, using the last known mailing addresses identified in the Class List.
 4. Prior to mailing, the Claims Administrator will perform a search based on the National Change of Address Database for information to update and correct any known or identifiable address changes. Within seven (7) days of

1 receiving a returned Notice Packet, the Claims Administrator must re-mail the Notice
2 Packet via regular First-Class U.S. Mail to the forwarding address affixed thereto and
3 the Claims Administrator will indicate the date of such re-mailing on the Notice
4 Packet. If no forwarding address is provided, the Claims Administrator will promptly
5 attempt to determine the correct address using a skip-trace, or other search using the
6 name, address and/or Social Security number of the Class Member involved, and will
7 then perform a single re-mailing. Those Class Members who receive a re-mailed
8 Notice Packet, whether by skip-trace or by request, will have between the later of (a)
9 an additional fifteen (15) calendar days or (b) the Response Deadline to postmark a
10 Request for Exclusion or Notice of Objection to the Settlement.

11 5. All Class Members will be mailed a Notice Packet containing the
12 forms attached as Exhibit 1 as approved by the Court.

13 6. Class Members will have an opportunity to dispute the
14 information provided in their Notice Packets. To the extent Class Members dispute
15 the number of workweeks to which they have been credited or the amount of their
16 Individual Settlement Payment, Class Members may produce evidence to the Claims
17 Administrator showing that such information is inaccurate. Absent evidence
18 rebutting Defendant's records, Defendant's records will be presumed determinative.
19 However, if a Class Member produces evidence to the contrary, the Claims
20 Administrator will evaluate the evidence submitted by the Class Member and will
21 make the final decision as to the number of eligible workweeks that should be applied
22 and/or the Individual Settlement Payment to which the Class Member may be
23 entitled. The workweek dispute must be returned by mail or fax to the Claims
24 Administrator at the specified address or facsimile number and postmarked or faxed
25 on or before the Response Deadline. The date of the postmark or fax receipt
26 confirmation will be the exclusive means to determine whether a workweek dispute
27 has been timely submitted. All such disputes are to be resolved not later than
28 fourteen (14) calendar days after the Response Deadline.

1 7. Defective Submissions. If a Class Member's Request for
2 Exclusion is defective as to the requirements listed herein, that Class Member will be
3 given an opportunity to cure the defect(s). The Claims Administrator will mail the
4 Class Member a cure letter within three (3) business days of receiving the defective
5 submission to advise the Class Member that his or her submission is defective and
6 that the defect must be cured to render the Request for Exclusion valid. The Class
7 Member will have until the later of (a) the Response Deadline or (b) fifteen (15)
8 calendar days from the date of the cure letter, whichever date is later, to postmark or
9 fax a revised Request for Exclusion.

10 8. Request for Exclusion Procedures. Any Class Member wishing to
11 opt-out from the Settlement Agreement must sign and postmark, email or fax a
12 written Request for Exclusion to the Claims Administrator within the Response
13 Deadline. The date of the postmark on the return mailing envelope or the fax receipt
14 confirmation will be the exclusive means to determine whether a Request for
15 Exclusion has been timely submitted. All Requests for Exclusion will be submitted
16 to the Claims Administrator, who will certify jointly to Class Counsel and
17 Defendant's Counsel the Requests for Exclusion that were timely submitted. The
18 Administrator may not reject a Request for Exclusion as invalid because it fails to
19 contain all the information specified in the Class Notice. The Administrator shall
20 accept any Request for Exclusion as valid if the Administrator can reasonably
21 ascertain the identity of the person as a Class Member and the Class Member's desire
22 to be excluded. The Administrator's determination shall be final and not appealable
23 or otherwise susceptible to challenge. If the Administrator has reason to question the
24 authenticity of a Request for Exclusion, the Administrator may demand additional
25 proof of the Class Member's identity. The Administrator's determination of
26 authenticity shall be final and not appealable or otherwise susceptible to challenge.
27 Any Class Member who does not timely seek exclusion will be bound by the terms of
28 this Settlement Agreement. Any Class Member who timely submits a valid Request

1 for Exclusion will not receive payment from the Settlement, and will not be bound by
2 the terms of the Settlement Agreement or Judgment (with the exception of the PAGA
3 Released Claims if they are an Aggrieved Employee). Class Members eligible for a
4 portion of the PAGA Settlement will receive their share of the employee portion of
5 the PAGA Settlement Amount and will be deemed to have released any claims
6 arising out of PAGA, regardless of whether they submit a Request for Exclusion.

7 **XI. NULLIFICATION OF THE SETTLEMENT AGREEMENT.**

8 1. Defendant's Option to Nullify the Settlement Agreement. If ten
9 percent (10%) or more of the Class Members opt out of the Settlement (or are
10 otherwise excluded), Defendant, in their sole discretion, shall have the option of
11 nullifying the Settlement Agreement. In such a case, the Parties and any funds to be
12 awarded under this Settlement Agreement shall be returned to their respective
13 statuses as of the date and time immediately prior to the execution of this Agreement,
14 and the Parties shall proceed in all respects as if this Settlement Agreement had not
15 been executed, except that any fees already incurred by the Claims Administrator
16 shall be paid by Defendant.

17 2. Nullification of the Settlement Agreement. In the event: (i) the
18 Court does not enter the Preliminary Approval Order and approve the Released
19 Claims specified herein; (ii) the Court does not finally approve the Settlement as
20 provided herein; (iii) Defendant exercise their option to nullify the Settlement
21 Agreement based on an excessive number of opt-outs, as described in the above
22 Section; or (iv) the Settlement does not become final for any other reason (*e.g.*, an
23 objection by the LWDA), this Settlement Agreement shall be null and void. A
24 reduction of the Attorneys' Fees and Costs and/or any Class Representative
25 Enhancement Payment(s) shall not be grounds for nullification of this Settlement. If
26 the Settlement is nullified, any order or judgment entered by the Court in furtherance
27 of this Settlement Agreement shall be treated as void from the beginning, and the
28 Stipulations and Recitals contained herein shall be of no force or effect, and shall not

1 be treated as an admission by the Parties or their counsel. In such a case, the Parties
2 and any funds to be awarded under this Settlement Agreement shall be returned to
3 their respective statuses as of the date and time immediately prior to the execution of
4 this Settlement Agreement, and the Parties shall proceed in all respects as if this
5 Settlement Agreement had not been executed, except that any fees already incurred
6 by the Claims Administrator shall be paid equally by both Parties. The Parties agree
7 that they will cooperate and take all steps necessary in order to obtain preliminary
8 and/or final approval in the event that the Court raises issues or questions about this
9 Settlement or anything pertaining to this Settlement (including, but not limited to, the
10 motion for preliminary approval and motion for final approval).

11 3. Settlement Terms Bind All Class Members Who Do Not Opt Out.

12 Any Class Member who does not affirmatively opt out of the Settlement Agreement
13 by submitting a timely and valid Request for Exclusion will be bound by all its terms,
14 including those pertaining to the Released Claims.

15 **XII. Certification Reports Regarding Individual Settlement Payment**
16 **Calculations.**

17 1. The Claims Administrator will provide Defendant's counsel and
18 Class Counsel a weekly report which certifies: (a) the number of Class Members who
19 have submitted valid Requests for Exclusion; (b) any objections submitted to the
20 Settlement along with a copy of any such objection; and (c) whether any Class
21 Member has submitted a challenge to any information contained in his/her Notice
22 Packet. Additionally, the Claims Administrator will provide to counsel for both
23 Parties any updated reports regarding the administration of the Settlement Agreement
24 as needed or requested.

25 2. Uncashed Settlement Checks. Any checks issued by the Claims
26 Administrator to Class Members will be negotiable for one-hundred eighty (180)
27 calendar days. After one-hundred eighty (180) calendar days from the date of
28 mailing, the checks shall become null and void, and any monies remaining in the
distribution account shall be distributed to the Controller of the State of California to

1 be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et*
2 *seq.*, for the benefit of those Settlement Class members or Aggrieved Employees who
3 did not cash their checks until such time that they claim their property. The Parties
4 agree that this disposition results in no “unpaid residue” under California Civil
5 Procedure Code § 384, as the entire Settlement Payment will be paid out to
6 Settlement Class members, whether or not they all cash their Settlement Checks.
7 Therefore, Defendant will not be required to pay any interest on said amount.

8 3. Certification of Completion. Upon completion of administration
9 of the Settlement, the Claims Administrator will provide a written declaration under
10 oath to certify such completion to the Court and counsel for all Parties.

11 **XIII. Tax Treatment of Individual Settlement Payments.**

12 The PAGA Payments will be allocated as 100% penalties and reported on an
13 IRS-Form 1099. All Individual Settlement Payments will be allocated as follows:
14 one-half (1/2) of each Individual Settlement Payment will be allocated as wages and
15 one-half (1/2) will be allocated as non-wages. The portion allocated to wages will be
16 reported on an IRS Form W-2 and the portion allocated to non-wages will be reported
17 on an IRS Form-1099 by the Claims Administrator. The Individual Settlement
18 Payments will be reduced by any required legal deductions for each Class Member.
19 All standard employee payroll deductions will be made for state and federal
20 withholding taxes, including any other applicable payroll deductions owed by the
21 Class Members as a result of the wage component, resulting in a net wage
22 component. The Claims Administrator will issue a check and W-2 Form to each
23 Class Member for the wage component. The Claims Administrator will issue a
24 second check and IRS Form-1099 for the remaining non-wages component. No
25 withholding shall be made on the non-wages portion of the Individual Settlement
26 Payment. The Claims Administrator shall be responsible for issuing the payments
27 and calculating and withholding all required state and federal taxes. The Claims
28 Administrator shall determine the eligibility for, and the amounts of, any Individual

1 Settlement Payments under the terms of this Settlement Agreement. Any disputes not
2 resolved by the Claims Administrator concerning the administration of the Settlement
3 will be resolved by the Court, under the laws of the State of California. Prior to any
4 such involvement of the Court, counsel for the Parties will confer in good faith to
5 resolve the dispute without the necessity of involving the Court.

6 **XIV. Administration of Taxes by the Claims Administrator.**

7 1. Tax Liability. Defendant makes no representation as to the tax
8 treatment or legal effect of the payments called for hereunder, and Plaintiff and Class
9 Members are not relying on any statement, representation, or calculation by
10 Defendant or by the Claims Administrator in this regard. Plaintiff and Class
11 Members understand and agree they will be solely responsible for the payment of
12 their share of any taxes and penalties assessed on the payments described herein.

13 2. Circular 230 Disclaimer. EACH PARTY TO THIS
14 SETTLEMENT AGREEMENT (FOR PURPOSES OF THIS SECTION, THE
15 “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS SETTLEMENT
16 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER
17 PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF
18 THIS SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION
19 OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
20 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
21 WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE
22 CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
23 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230
24 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY
25 (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN,
26 INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING
27 TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT,
28 (B) HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED

1 UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
2 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT
3 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY
4 ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY
5 TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING
6 PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS
7 IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF
8 ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS
9 OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
10 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX
11 TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING
12 ANY TRANSACTION CONTEMPLATED BY THIS SETTLEMENT
13 AGREEMENT.

14 **XV. Releases.**

15 1. No Prior Assignments. The Parties and their counsel represent,
16 covenant, and warrant that they have not directly or indirectly assigned, transferred,
17 encumbered, or purported to assign, transfer, or encumber to any person or entity any
18 portion of any liability, claim, demand, action, cause of action or right herein released
19 and discharged.

20 2. It is the desire of Plaintiff, Class Members (except those who
21 exclude themselves from the Settlement), and Defendant to fully, finally, and forever
22 settle, compromise, and discharge the Released Class Claims and Released Aggrieved
23 Employee Claims. Upon fully funding the Gross Settlement Amount, and except as
24 to such rights or claims as may be created by this Settlement Agreement, the Class
25 Members shall fully release and discharge the Released Parties from any and all
26 Released Class Claims for the entire Class Period and the Aggrieved Employees shall
27 fully release and discharge the Released Parties from any and all Released Aggrieved
28 Employee Claims for the entire PAGA Period. This release shall be binding on all

1 Class Members who have not timely submitted a valid and complete Request for
2 Exclusion, including each of their respective attorneys, agents, executors,
3 representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to
4 the benefit of the Released Parties, who shall have no further or other liability or
5 obligation to any Class Member with respect to the Released Class Claims, except as
6 expressly provided herein.

7 **XVI. Preliminary Approval Hearing.**

8 1. Plaintiff will obtain a hearing before the Court to request
9 Preliminary Approval of the Settlement Agreement and the entry of a Preliminary
10 Approval Order for: (a) conditional certification of the Settlement Class for
11 settlement purposes only, (b) Preliminary Approval of the proposed Settlement
12 Agreement, and (c) setting a date for a Final Approval/Settlement Fairness Hearing.

13 2. The Preliminary Approval Order will provide for the Notice
14 Packet to be sent to all Class Members as specified herein. In conjunction with the
15 Preliminary Approval Hearing, Plaintiff will submit this Settlement Agreement and
16 will include the proposed Notice Packet.

17 3. Class Counsel will be responsible for drafting all documents
18 necessary to obtain Preliminary Approval, subject to review by Defendant's counsel.
19 Any failure by the Court to fully and completely approve the Settlement Agreement
20 which has the effect of preventing the full and complete approval of the Settlement
21 Agreement as written and agreed to by the Parties will result in this Settlement
22 Agreement, and all obligations under this Settlement Agreement, being nullified and
23 voided.

24 **XVII. Final Settlement Approval Hearing and Entry of Judgment.**

25 1. Upon expiration of the Response Deadline, and with the Court's
26 permission, a Final Approval/Settlement Fairness Hearing will be conducted to
27 determine the Final Approval of the Settlement Agreement along with the amounts
28 properly payable for: (a) Individual Settlement Payments and Individual PAGA

1 Payments; (b) the LWDA payment; (c) the Attorneys' Fees and Costs; (d) the Class
2 Representative Enhancement Payment; and (e) all Claims Administration Costs.

3 2. Depending on the Court's availability, the Parties will request that
4 the Final Approval Hearing will be held approximately thirty (30) calendar days after
5 the Response Deadline. A violation of this provision shall not serve as grounds for
6 nullification of this Agreement.

7 3. Class Counsel will be responsible for drafting all documents
8 necessary to obtain Final Approval, subject to Defendant's counsel's review. Class
9 Counsel will also be responsible for drafting the Attorneys' Fees and Costs
10 application to be heard at the Final Approval/Settlement Fairness Hearing. Any
11 failure by the Court to fully and completely approve the Settlement Agreement will
12 result in this Settlement Agreement entered into by the Parties, and all obligations
13 under this Settlement Agreement, being nullified and voided. Upon such failure, any
14 order or judgment entered by the Court in furtherance of this Settlement Agreement
15 shall be treated as void from the beginning, and the Stipulations and Recitals
16 contained herein shall be of no force or effect and shall not be treated as an admission
17 by the Parties or their counsel. In such a case, the Parties and any funds to be
18 awarded under this Settlement Agreement shall be returned to their respective
19 statuses as of the date and time immediately prior to the execution of this Settlement
20 Agreement, and the Parties shall proceed in all respects as if this Settlement
21 Agreement had not been executed, except that any fees already incurred by the
22 Claims Administrator shall be paid equally by both Parties.

23 **XVIII. Judgment and Continued Jurisdiction.**

24 The Court shall retain jurisdiction with respect to the interpretation,
25 implementation, and enforcement of the terms of this Settlement Agreement and all
26 orders and judgments entered in connection therewith, and the Parties and their
27 counsel hereto submit to the jurisdiction of the Court for purposes of interpreting,
28

1 implementing, and enforcing the Settlement embodied in this Settlement Agreement
2 and all orders and judgments entered in connection therewith.

3 **XIX. Escalator Clause**

4 Defendant understands and believes there are approximately 6,200
5 workweeks by Class Members from April 3, 2019 through September 24, 2023. If it is
6 determined that the actual number of workweeks through September 24, 2023 exceeds
7 6,200 by more than ten percent (10%) (i.e., exceeds 6,820), then, Defendant shall
8 increase the Gross Settlement Amount by \$36.66 for each workweek in excess of 6,820
9 through September 24, 2023. Alternatively, Defendant may choose to cut off the Class
10 Period on the date on which the workweek total reached 6,820.

11 **XX. Other Provisions.**

12 1. Exhibits Incorporated by Reference. The terms of this Settlement
13 include the terms set forth in any attached Exhibits, which are incorporated by this
14 reference as though fully set forth herein. Any Exhibits to this Settlement are an
15 integral part of the Settlement.

16 2. Entire Agreement. This Settlement Agreement any attached
17 Exhibits and Plaintiff's individual settlement agreement constitute the entirety of the
18 Parties' settlement terms. No other prior or contemporaneous written or oral
19 agreements may be deemed binding on the Parties.

20 3. Amendment or Modification. This Settlement Agreement may be
21 amended or modified only by a written instrument signed by counsel for all Parties or
22 their successors-in-interest and approved by the Court.

23 4. Authorization to Enter Into Settlement Agreement. Counsel for
24 all Parties warrant and represent they are expressly authorized by the Parties whom
25 they represent to negotiate this Settlement Agreement and to take all appropriate
26 action required or permitted to be taken by such Parties pursuant to this Settlement
27 Agreement to effectuate its terms and to execute any other documents required to
28 effectuate the terms of this Settlement Agreement. The Parties and their counsel will

1 cooperate with each other and use their best efforts to effect the implementation of
2 the Settlement. If the Parties are unable to reach agreement on the form or content of
3 any document needed to implement the Settlement, or on any supplemental
4 provisions that may become necessary to effectuate the terms of this Settlement, the
5 Parties may seek the assistance of Michael Ludwig, Esq. (mediator) to resolve such
6 disagreement.

7 5. Binding on Successors and Assigns. This Settlement Agreement
8 will be binding upon, and inure to the benefit of, the successors or assigns of the
9 Parties hereto, as previously defined.

10 6. California Law Governs. All terms of this Settlement Agreement
11 and Exhibits hereto will be governed by and interpreted according to the laws of the
12 State of California.

13 7. Execution and Counterparts. This Settlement Agreement is
14 subject only to the execution of all Parties. However, the Settlement Agreement may
15 be executed in one or more counterparts. All executed counterparts and each of them,
16 including electronic signatures (*e.g.*, DocuSign), facsimile and scanned copies of the
17 signature page, will be deemed to be one and the same instrument. The Parties
18 expressly agree to the use of authorized electronic signature (*e.g.*, DocuSign).

19 8. Acknowledgement that the Settlement is Fair and Reasonable.
20 The Parties believe this Settlement Agreement is a fair, adequate, and reasonable
21 settlement of the Action and have arrived at this Settlement after arm's-length
22 negotiations and in the context of adversarial litigation, taking into account all
23 relevant factors, present and potential. The Parties further acknowledge that they are
24 each represented by competent counsel and that they have had an opportunity to
25 consult with their counsel regarding the fairness and reasonableness of this
26 Settlement.

27 9. Invalidity of Any Provision. Before declaring any provision of
28 this Settlement Agreement invalid, the Court will first attempt to construe the

1 provision as valid to the fullest extent possible consistent with applicable precedents
2 so as to define all provisions of this Settlement Agreement valid and enforceable.

3 10. Class Action Certification for Settlement Purposes Only. The
4 Parties agree to stipulate to class certification only for purposes of the Settlement. If,
5 for any reason, the Settlement is not approved, the stipulation to certification will be
6 void. The Parties further agree that certification for purposes of the Settlement is not
7 an admission that class action certification is proper under the standards applied to
8 contested certification motions and that this Settlement Agreement will not be
9 admissible in this or any other proceeding as evidence that either: (a) a class action
10 should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other
11 than according to the Settlement's terms.

12 11. Non-Admission of Liability. The Parties enter into this Settlement
13 Agreement to resolve the dispute that has arisen between them and to avoid the
14 burden, expense, and risk of continued litigation. In entering into this Settlement
15 Agreement, Defendant does not admit, and specifically denies, it has violated any
16 federal, state, or local law; violated any regulations or guidelines promulgated
17 pursuant to any statute or any other applicable laws, regulations or legal
18 requirements; breached any contract; violated or breached any duty; engaged in any
19 misrepresentation or deception; or engaged in any other unlawful conduct with
20 respect to their employees. Neither this Settlement Agreement, nor any of its terms
21 or provisions, nor any of the negotiations connected with it, shall be construed as an
22 admission or concession by Defendant of any such violations or failures to comply
23 with any applicable law. Except as necessary in a proceeding to enforce the terms of
24 this Settlement Agreement, this Settlement Agreement and its terms and provisions
25 shall not be offered or received as evidence in any action or proceeding to establish
26 any liability or admission on the part of Defendant or to establish the existence of any
27 condition constituting a violation of, or a non-compliance with, federal, state, local or
28 other applicable law.

1 12. Captions. The captions and section numbers in this Settlement
2 Agreement are inserted for the reader's convenience, and in no way define, limit,
3 construe or describe the scope or intent of the provisions of this Settlement
4 Agreement.

5 13. Waiver. No waiver of any condition or covenant contained in this
6 Settlement Agreement or failure to exercise a right or remedy by any of the Parties
7 hereto will be considered to imply or constitute a further waiver by such party of the
8 same or any other condition, covenant, right or remedy.

9 14. Enforcement Action. If one or more of the Parties institutes any
10 legal action or other proceeding against any other Party or Parties to enforce the
11 provisions of this Settlement or to declare rights and/or obligations under this
12 Settlement, the successful Party or Parties will be entitled to recover from the
13 unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert
14 witness fees incurred in connection with any enforcement Action, pursuant to C.C.P.
15 § 664.6.

16 15. Mutual Preparation. The Parties have had a full opportunity to
17 negotiate the terms and conditions of this Settlement Agreement. Accordingly, this
18 Settlement Agreement will not be construed more strictly against one Party than
19 another merely by virtue of the fact that it may have been prepared by counsel for one
20 of the Parties, it being recognized that, because of the arm's-length negotiations
21 between the Parties, all Parties have contributed to the preparation of this Settlement
22 Agreement.

23 16. Representation by Counsel. The Parties acknowledge that they
24 have been represented by counsel throughout all negotiations that preceded the
25 execution of this Settlement Agreement and that this Settlement Agreement has been
26 executed with the consent and advice of counsel and reviewed in full. Further,
27 Plaintiff and Class Counsel warrant and represent that there are no liens on the
28 Settlement Agreement.

1 17. All Terms Subject to Final Court Approval. All amounts and
2 procedures described in this Settlement Agreement herein will be subject to final
3 Court approval.

4 18. Cooperation and Execution of Necessary Documents. All Parties
5 will cooperate in good faith and execute all documents to the extent reasonably
6 necessary to effectuate the terms of this Settlement Agreement.

7 19. Confidentiality. Neither Plaintiff nor Plaintiff's Counsel shall
8 issue any press release or announcement of any kind related in any way to the
9 Settlement. Plaintiff and Plaintiff's Counsel agree that, prior to Preliminary Approval
10 of the Settlement, they will keep the terms of this Settlement confidential except for
11 purposes of communicating with Plaintiff only. Plaintiff shall be informed that the
12 Settlement is confidential and shall be advised to keep the Settlement confidential.
13 From and after Preliminary Approval of the Settlement, the Class Members
14 (including Plaintiff and Class Counsel) may: (1) as required by law; (2) as required
15 under the terms of the Settlement; or (3) as required under counsel's duties and
16 responsibilities as Class Counsel, comment regarding the specific terms of the
17 Settlement. In all other cases, Plaintiff and Class Counsel agree to limit their
18 statements regarding the terms of the Settlement, whether oral, written or electronic
19 (including the world wide web), to say the Class Action has been resolved and that
20 Plaintiff and Class Counsel are satisfied with the Settlement terms. Nothing in this
21 Section is intended to interfere with Class Counsel's duties and obligations to
22 faithfully discharge their duties as Class Counsel, including but not limited to,
23 communicating with Class Members regarding the Settlement. This Settlement shall
24 not be advertised or mentioned on any source, including Plaintiff's Counsels'
25 personal or firm website(s).

26 The parties stipulate and agree, pursuant to California Code of Civil
27 Procedure section 583.330(a), to extend the time within which this action must be
28 brought to trial pursuant to Code of Civil Procedure sections 583.310 through

583.360, by that period of time from Preliminary Approval to the date of Final Approval or upon written notice from either party of an intent to resume litigation, and that said period of time shall not be included in the computation of the five-year period specified in Code of Civil Procedure section 583.310.

20. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law. Plaintiff, and not her respective representative(s), must personally execute this Settlement Agreement.

The Settlement Agreement consists of 37 pages with signatures appearing below.

Dated: 12 / 12 / 2023

PLAINTIFF LINDSAY ORIN



Plaintiff Lindsay Orin

CAL. DEL. U.S.A. INC.



Dated: 12/12/2023

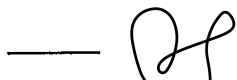
Roberto Lorenzini
Please Print Name of Authorized
Signatory

APPROVED AS TO FORM

GAINES & GAINES, APLC

Dated: 12/13/2023

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


Attorneys for Plaintiff Lindsay Orin

**SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP**

Dated: 12-12-2023


Matthew A. Tobias
Attorneys for Defendant Cal. Del. U.S.A.
Inc.

EXHIBIT 1

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

LINDSAY ORIN, on behalf of herself
and all others similarly situated and on
behalf of the general public,

Plaintiff,

v.

CAL. DEL. U.S.A. INC., a California
corporation, and DOES 1 through 10,
inclusive,

Defendant.

Case No. 2:23-cv-03404-FMO-KS

**NOTICE OF PENDENCY OF
PROPOSED CLASS ACTION
SETTLEMENT AND FINAL
HEARING**

[Los Angeles County Superior Court Case
No. 23STCV07181]

[State Court
Complaint Filed: April 3, 2023]

**YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT
PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE
AFFECTED.**

A California court authorized this notice. This is not a solicitation from a lawyer.

- A lawsuit was filed by Plaintiff Lindsay Orin (“Plaintiff”) alleging that Cal. Del. U.S.A. Inc. (“Defendant”) failed to pay all wages to non-exempt employees, including all minimum and overtime wages; failed to provide compliant meal and rest periods or premium compensation in lieu thereof; failed to timely issue final wages upon separation of employment; failed to issue accurate and complete itemized wage statements; failed to reimburse for necessary business expenses; engaged in violations of Business and Professions Code § 17200; engaged in violations of FLSA 29 U.S.C. §§ 206 and 207; and is subject to penalties under the Labor Code Private Attorneys General Act of 2004 (the “Action”).
- Defendant denies Plaintiff’s allegations in the Action and maintains it has appropriately paid all wages and has fully complied with the law, including all Labor Code obligations. By agreeing to the Settlement, Defendant in no way admits any violation of law or any liability whatsoever to Plaintiff or others and expressly denies all such liability. Defendant also understands the significant costs associated with further litigation of the Action.
- The Plaintiff and Defendant have agreed to a settlement to resolve the Action that has been preliminarily approved by the Court. If the Court grants final approval of the settlement, the settlement will provide \$250,000 to pay claims to all current and former non-exempt California employees of Cal. Del. U.S.A. Inc. (“Defendant”) at

any time between April 3, 2019 and [REDACTED] (“Class Members”), and all non-exempt employees of Defendant in California at any time between March 27, 2022 and [REDACTED] (“Aggrieved Employees”). Both Plaintiff and Defendant have agreed to the Settlement in light of all known facts and circumstances—including the cost and uncertainty associated with litigation.

- Lawyers for the employees will ask the Court to award them up to \$83,333.33 as attorney’s fees and \$13,000 as expenses for investigating the facts, litigating the case, and negotiating the settlement. This will be paid from the settlement amount.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing	You do not need to take any action if you wish to receive your settlement payment. If the settlement is approved by the Court, you will automatically be mailed a settlement check at the address on file with the Settlement Administrator. If your address has changed, you must notify the Settlement Administrator of your new address. In exchange for the settlement payment, you will release claims against the Defendant, as detailed below.
Exclude Yourself	To exclude yourself, you must send a written Request for Exclusion to the Settlement Administrator by the applicable deadline, as detailed below. If you request exclusion, you will receive no money from the class settlement. This is the only option that allows you to ever be part of any other lawsuit against Cal. Del. U.S.A. Inc. about the legal claims that were brought in this case. Even if you exclude yourself, you will still be an Aggrieved Employee subject to the PAGA settlement.
Object	Write to the Settlement Administrator about why you don’t like the settlement by the applicable deadline, as detailed below, and/or appear at the Final Approval Hearing to make an oral objection.
Go to a Hearing	Ask to speak in Court about the fairness of the settlement, as detailed below.

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed settlement of a class action lawsuit, and informs you of your legal rights under that proposed settlement. You are receiving this notice because you may be a member of the Class on whose behalf this class action lawsuit has been brought.

WHAT IS THIS LAWSUIT ABOUT?

On April 3, 2023, Plaintiff, a former employee of Defendant, filed this lawsuit in the Los Angeles County Superior Court. On or about May 8, 2023, this lawsuit was removed to the United States District Court, Central District of California. The lawsuit alleges violations of the California Labor Code, California Business and Professions Code, and the Fair Labor Standards Act. The lawsuit seeks to certify a class of all non-exempt employees of Defendant in California at any time between April 3, 2019 and [REDACTED] ("Class Period"). Specifically, the lawsuit alleges that members of the Class were not paid all wages, including all minimum and overtime wages due; provided compliant meal and rest periods or premium compensation in lieu thereof; timely issued final wages upon separation of employment; issued accurate and complete itemized wage statements; reimbursed for all business-related expenses; and related claims. The Settlement seeks recovery of wages, liquidated damages, damages, interest, statutory and civil penalties, restitution, attorney's fees, and costs. Defendant denies all of the material allegations in the lawsuit, denies any liability, and denies that it owes Class Members any remedies. The Court has not made a ruling on the merits of the case.

The lawyers for the parties are:

Plaintiff's Attorneys

Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Gaines & Gaines, APLC
4550 E. Thousand Oaks Blvd., Suite 100
Westlake Village, CA 91362
Phone: (866) 550-0855

Defendant's Attorneys

Matthew A. Tobias, Esq.
Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street, 43rd Floor
Los Angeles, CA 90071
Phone: (213) 617-5421

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Plaintiff believes she would have prevailed on her claims at a trial. Defendant does not believe that Plaintiff would have won anything from a trial. There has been no trial. Instead, both sides agreed

to a settlement, which is memorialized in the Stipulation and Settlement of Class, Collective and Representative Action (“Settlement” or “Settlement Agreement”), in order to avoid the further costs of litigation, risks, and uncertainty of a trial. Plaintiff and Plaintiff’s Attorneys believe the settlement is fair, reasonable, adequate, and in the best interests of all Class Members.

B. Who is in the Settlement Class? Who is an Aggrieved Employee?

The Settlement encompasses a class composed of all non-exempt employees of Defendant Cal. Del. U.S.A. Inc. in California at any time between April 3, 2019 and [REDACTED] (“Class Period”). It also encompasses Aggrieved Employees composed of all non-exempt employees of Defendant in California at any time between March 27, 2022 and [REDACTED] (“PAGA Period”).

C. What does the Settlement provide?

1. Gross Settlement Amount.

The Settlement provides that Defendant will pay \$250,000 (the “Gross Settlement Amount”) to settle the lawsuit.

2. Net Settlement Amount.

The “Net Settlement Amount” is the portion of the Gross Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Amount is the Gross Settlement Amount less the following amounts that will be requested at the Final Approval Hearing and are subject to comment or objection by Participating Class Members. The Court will set these amounts at the Final Approval Hearing.

(a) **Class Counsel’s Attorney’s Fees** in an amount set by the Court, not to exceed one-third of the Gross Settlement Amount (estimated at \$83,333.33);

(b) **Class Counsel’s Documented Litigation Costs/Expenses** in an amount set by the Court, not to exceed \$13,000;

(c) **Enhancement Payment to the Class Representative** in an amount set by the Court, not to exceed \$10,000 to Plaintiff for her service in the lawsuit;

(d) **Settlement Administration Costs** which are currently estimated to not exceed \$3,000, for administering the settlement; and

(e) **PAGA Settlement Amount** in the total amount of \$10,000 for the settlement of claims arising under the California Private Attorneys General Act (“PAGA”). Of that amount, 75% or \$7,500, shall be paid to the California Labor and Workforce Development Agency (“LWDA”). The remaining 25%, or \$2,500, shall be included in the Net Settlement Amount for payment to Aggrieved Employees.

3. Individual Settlement Payment Amount.

Your share of the Net Settlement Amount will be determined by the formula detailed in section E below.

D. What Are You Releasing Under the Settlement?

As of the date of the Order Granting Final Approval, and only after the Settlement has been fully funded by Defendant, all Class Members shall fully and finally release Released Parties of the Released Class Claims.

The Released Class Claims include any and all claims, rights, demands, liabilities and causes of action alleged in the operative First Amended Complaint, and all claims, rights, demands, liabilities and causes of action which could be alleged based on the facts set forth in the First Amended Complaint, for all periods of employment in a non-exempt position in California during the Settlement Class Period. This includes claims for unpaid wages, including, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; reimbursement for all necessary business expenses; failure to provide accurate wage statements; unfair business practices; penalties, including, but not limited to, civil penalties apart from those as described in Paragraph [REDACTED] of the settlement [REDACTED] statutory penalties, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys’ fees and costs; all claims related to the Released Claims which are asserted in the Lawsuit or which could have been asserted based on the factual allegations pled in the Action arising under: the California Labor Code (including, but not limited to, sections 201, 202, 203, 218.5, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and 2802), Wage Order 4-2001 of the California Industrial Welfare Commission; the Fair Labor Standards Act (including, but not limited to, 29 U.S.C. sections 206 and 207); and California Business and Professions Code section 17200, et seq based on the foregoing. This release excludes the release of claims not permitted by law and excludes all claims arising under PAGA. Only Settlement Class Members who cash their settlement checks by affirmatively opting in to the FLSA collective action will be bound by the FLSA release included in the Class Released Claims. The following language will be printed on the reverse of each Settlement Payment Check, or words to this effect: “By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action

Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the [Lawsuit], elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.”

Upon entry of Judgment, Class Members who opt-in to the FLSA release are precluded from filing a wage and hour action under the Fair Labor Standards Act against the Released Parties for claims and/or causes of action encompassed by the Released Claims which are extinguished and precluded pursuant to the holding in *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (2018).

The Released Parties are Defendant and its past, present, and future parents, subsidiaries, affiliated companies (including but not limited to, An. Del. U.S.A., and all of its subsidiaries and affiliates), agents, managing agents, employees, servants, officers, directors, owners (whether direct or indirect), general partners, limited partners, trustees, representatives, shareholders, stockholders, members, mortgagees or ground lessors, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, potential and/or alleged joint employers, temporary staffing agencies, dual employers, potential and/or alleged dual employers, co-employers, potential and/or alleged co-employers, common law employers, potential and alleged common law employers, contractors, affiliates, service providers, alter-egos, potential and/or alleged alter-egos, vendors, affiliated organizations, any person and/or entity with potential or alleged to have joint liability, and all of their respective past, present and future employees, directors, officers, members, owners, agents, representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns and any and all persons and/or entities acting under, by, through or in concert with any of them.

As of the date of the Order Granting Final Approval, and only after the Settlement has been fully funded by Defendant, all Aggrieved Employees shall fully and finally release Released Parties of the Released Aggrieved Employee Claims.

The Released Aggrieved Employee Claims include all claims, rights, demands, liabilities and causes of action under PAGA which are alleged in the operative First Amended Complaint, and March 27, 2023 LWDA exhaustion letter identified on the LWDA’s website as LWDA-CM-944652-23, and all claims, rights, demands, liabilities and causes of action under PAGA which could be alleged based on the facts set forth in the First Amended Complaint, for all periods of employment in a non-exempt position in California during the PAGA Period. This includes claims arising under PAGA for unpaid wages, including, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; reimbursement for all necessary business expenses; failure to provide accurate wage statements; unfair business practices; penalties, including, but not limited to, statutory penalties, recordkeeping penalties, wage

statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs; all claims related to the PAGA Released Claims which are asserted in the Lawsuit or which could have been asserted based on the factual allegations pled in the Lawsuit arising under: the California Labor Code (including, but not limited to, sections 201, 202, 203, 218.5, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and 2802), and Wage Order 4-2001 of the California Industrial Welfare Commission ("PAGA Released Claims"). This release excludes the release of claims not permitted by law and excludes all claims for unpaid wages and statutory penalties. Aggrieved Employees shall not be able to exclude themselves from the PAGA portion of this settlement and the PAGA Released Claims, and Aggrieved Employees shall receive their PAGA portion of the settlement even if they opt-out of the class action settlement.

E. How Is My Share Of The Settlement Calculated?

Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount based on the number of workweeks a Class Member worked in a non-exempt position in California during the Class Period and based on the number of Individual Pay Periods an Aggrieved Employee worked in a non-exempt position in California during the PAGA Period. Specific calculations of Individual Settlement Payments will be made as follows:

(a) The Claims Administrator will calculate the total number of weeks worked (weeks in which at least one day was worked) by each Class Member ("Individual Workweeks") and the total number of weeks worked by all Class Members ("Class Workweeks") during the Class Period.

(b) To determine each Class Member's Individual Settlement Payment, the Claims Administrator will use the following formula: Individual Settlement Payment = (Individual Workweeks ÷ Class Workweeks) × Net Settlement Amount.

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

The Individual Settlement Payments made to Class Members under this Settlement, and any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan.

Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

PAGA Payments will be calculated and apportioned from the Aggrieved Employees Amount within the Net Settlement Amount based on the number of workweeks an Aggrieved Employee worked in a non-exempt position in California during the PAGA Period. Specific calculations of PAGA Payments will be made as follows:

(a) The Claims Administrator will calculate the total number of weeks worked (weeks in which at least one day was worked) by each Aggrieved Employee ("Individual Pay Periods") and the total number of weeks worked by all Aggrieved Employees ("Total Pay Periods") during the Class Period.

(b) To determine each Aggrieved Employees Individual PAGA Payment, the Claims Administrator will use the following formula: PAGA Payment = (Individual Pay Periods ÷ Total Pay Periods) × Aggrieved Employees Amount.

The Individual Settlement Payment will be reduced by any required deductions for each Class Member as set forth herein, including employee-side tax withholdings or deductions. The class portion of the Individual Settlement Payments will be allocated as follows: one-third (1/3) to wages, one-third (1/3) to interest, and one-third (1/3) to penalties. The PAGA portion will be allocated 100% to penalties.

Settlement Class Payment: According to the records of Defendant, you worked [REDACTED] weeks while employed as a non-exempt employee in California from April 3, 2019 through [REDACTED]. Based on these weeks worked, you are entitled to an Individual Settlement Payment of approximately \$[REDACTED]. This amount is subject to change based on the final ruling of the Court.

PAGA Settlement Payment: According to the records of Defendant, you worked [REDACTED] weeks while employed as a non-exempt employee in California from March 27, 2022 through [REDACTED]. Based on these weeks worked, you are entitled to a PAGA Settlement Payment Amount of approximately \$[REDACTED]. This amount is subject to change based on the final ruling of the Court.

Please be advised that the individual data above is presumed to be correct unless you submit documentation proving otherwise. If you disagree with the data, please submit an explanation and evidence in support of your position to the Settlement Administrator no later than [REDACTED], 2023. In the event of a dispute, the Settlement Administrator will resolve the challenge with input from the Defendant and will make a final and binding determination without a hearing or right of appeal by you.

THE SETTLEMENT HEARING

The Court will conduct a final fairness hearing regarding the proposed settlement (the “Final Settlement Hearing”) on [REDACTED], at 8:30 a.m., in the Courtroom of Judge Fernando M. Olguin of the United States District Court, Central District of California, located at the United States Courthouse, 350 W. 1st Street, 6th Floor, Courtroom 6D, Los Angeles, CA 90012. The Court will determine: (i) whether the lawsuit should finally be certified as a class action for settlement purposes; (ii) whether the settlement should be given the Court’s final approval as fair, reasonable, adequate and in the best interests of the Settlement Class Members; (iii) whether the Settlement Class Members should be bound by the terms of the settlement; (iv) the amount of the attorney’s fees and costs to be awarded to Plaintiff’s Attorneys; and (v) the amount that should be awarded to Plaintiff as an Enhancement Award. At the Final Settlement Hearing, the Court will hear all properly filed objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, or to enter an appearance and represent yourself.

WHAT ARE YOUR OPTIONS?

- **OPTION 1 – DO NOTHING AND PARTICIPATE IN THE SETTLEMENT**

IF YOU TAKE NO ACTION IN RESPONSE TO THIS NOTICE, YOU WILL AUTOMATICALLY RECEIVE YOUR SHARE OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. If you move, you must update your address with the Settlement Administrator. If you disagree with pre-printed data indicated in section E above, you must submit an explanation and/or documentation to the Settlement Administrator to justify your position, postmarked no later than [REDACTED]. The Settlement Administrator’s address is [Settlement Administrator address].

- **OPTION 2 – OBJECT TO THE SETTLEMENT**

If you wish to remain a Settlement Class Member, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the Final

Settlement Hearing, you may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense. All written objections, supporting papers, and/or notices of intent to appear at the Final Approval Hearing must clearly identify the case name and number and be mailed to the Settlement Administrator at [Settlement Administrator address]. Written objections must be postmarked no later than [redacted].

• **OPTION 3 – EXCLUDE YOURSELF FROM THE SETTLEMENT**

You have a right to exclude yourself (“opt out”) from the Settlement Class, but if you choose to do so, you will not receive any benefits from the proposed settlement except you will participate in the PAGA portion thereof and be paid a share of the PAGA settlement. With that exception, you will not be bound by a judgment in this case and you will have the right to file your own lawsuit against the Defendant and pursue your own claims in a separate suit. You can opt out of the Class by mailing a letter to the Settlement Administrator at the above-stated address, such that it is postmarked no later than [redacted]. The letter must reasonably communicate your election to be excluded from the Settlement and include your name, address and email address or telephone number.

ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the detailed “Stipulation and Settlement of Class, Collective and Representative Action” which is on file with the Clerk of the Court and available by contacting Class Counsel at admin@gaineslawfirm.com. Plaintiff Orin’s application for attorneys’ fees and costs and class representative enhancement are also available for your review. The pleadings and other records in the Lawsuit may be examined at any time during regular business hours at the Office of the Clerk of the United States District Court, Central District, located at United States Courthouse, 350 W. 1st Street, 6th Floor, Los Angeles, CA 90012.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at [address], [telephone number].

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

**BY ORDER OF THE UNITED STATES DISTRICT
COURT, CENTRAL DISTRICT OF CALIFORNIA**