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Attorneys for Plaintiff SITARA NAYABKHIL,
individually, and on behalf of all similarly
aggrieved employees and the putative class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO**

SITARA NAYABKHIL, individually, and on
behalf of other members of the general public
similarly situated,

Plaintiff,

vs.

SAN FRANCISCO SPCA, dba, SFSPCA, a
California 501(c)(3) non-profit organization;
DOES 1 through 25, inclusive,

Defendants.

Case No.: CGC-23-609950

Assigned to the Hon. Jeffrey S. Ross, Department 606

**DECLARATION OF KAREN I. GOLD IN
SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT, ATTORNEYS' FEES
AND COSTS, ENHANCEMENT PAYMENT,
AND SETTLEMENT ADMINISTRATION
COSTS**

Date: March 6, 2025

Time: 9:30 a.m.

Dept.: 606

Complaint Filed: October 24, 2023

FAC Filed: December 22, 2023

Trial Date: Not Set

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1. I am an attorney duly licensed to practice law in all Courts of the State of California. I am a Senior Trial Attorney & Team Lead with Blackstone Law, APC (“Blackstone”), attorneys of record for Plaintiff Tyler Emery (“Plaintiff”).

Procedural History of the Action

4. On September 7, 2023, Defendant sent a letter to the LWDA and to Plaintiff's counsel contending that Defendant cured one of the several violations listed in the Original PAGA Letter. Specifically, Defendant contended that it revised all employees' wage statements from August 7, 2019, to present to include Defendant's registered fictitious business name on the wage statements and provided employees access to their revised wage statements.

6. On September 20, 2023, the LWDA sent Plaintiff’s counsel and Defendant’s counsel a letter entitled “Decision on Cure Dispute.” The letter advised of the LWDA’s decision that Defendant cured the “alleged violations of Labor Code section 226, subdivision (a)(8)” which mandates that a wage statement include the name and address of the legal entity that is the employer. The letter further

1 stated: “The LWDA takes no position on the merits of any other alleged violation.”

2 7. On October 18, 2023, Plaintiff provided a supplemental written notice (“Supplemental
3 PAGA Letter”) to the LWDA and to Defendant regarding Defendant’s alleged failure to pay out vested
4 and unused vacation pay to employees at their final rate of pay upon employees’ resignation or
5 termination. Together, the Original PAGA Letter and Supplemental PAGA Letter are referred to as
6 the “PAGA Letter”

7 8. On October 24, 2023, Plaintiff filed a Class & Collective Action Complaint in the
8 action entitled *Sitara Nayabkhil v. San Francisco SPCA, dba, SFSPCA, San Francisco County*
9 *Superior Court*, Case No. CGC-23-609950 (“Action”), thereby commencing a putative class and
10 PAGA action against Defendant.

11 9. On December 22, 2023, Plaintiff filed a First Amended Class & Collective Action
12 Complaint (“Operative Complaint”) in the Action against Defendant to add a cause of action for
13 unpaid vacation time. The Operative Complaint alleges thirteen (13) causes of action for: (1) Violation
14 of 29 U.S.C. §§ 2101, et seq. (Federal WARN Act); (2) Violation of Cal. Labor Code §§ 1400, et seq.
15 (California WARN Act); (3) Violation of Cal. Labor Code §§ 510 and 1198 (Unpaid Overtime
16 Wages); (4) Violation of Cal. Labor Code §§ 1194, 1197, and 11971. (Unpaid Minimum Wages); (5)
17 Violation of Cal. Labor Code §§ 226.7 and 512(a) (Meal Break Violations); (6) Violation of Cal. Labor
18 Code § 226.7 (Rest Break Violations); (7) Violation of Cal. Labor Code §§ 204 and 210 (Wages Not
19 Timely Paid); (8) Violation of Cal. Labor Code § 226(a) (Wage Statement Violations); (9) Violation
20 of Cal. Labor Code §§ 201, 202, and 203 (Final Wages Not Timely Paid); (10) Violation of Cal. Labor
21 Code § 227.3 (Unpaid Vacation Time); (11) Violation of Cal. Labor Code §§ 2800 and 2802 (Failure
22 to Reimburse Expenses); (12) Violation of Cal. Business and Professions Code §§ 17200 et seq.
23 (Unfair and Unlawful Business Practices); and (13) Violation of Cal. Labor Code §§ 2698 et seq.
24 (“Private Attorneys General Act”).

25 10. On April 9, 2024, Plaintiff and Defendant (together, the “Parties”) participated in
26 mediation conducted by Jeffrey A. Ross, Esq. (“Mediator”), a neutral and well-respected mediator
27 with extensive experience in complex wage and hour matters. After a full day of mediation, and with
28 the help of the Mediator, the Parties were able to reach an agreement to resolve this dispute on a class

1 and PAGA basis.

2 11. On or around June 27, 2024, the Parties executed a Class Action and PAGA
3 Representative Action Settlement and Release (“Settlement Agreement”). Attached hereto as **Exhibit**
4 **1** is a true and correct copy of the fully executed Settlement Agreement.

5 12. On September 9, 2024, Class Counsel submitted a copy of the Settlement Agreement
6 to the LWDA through its online submission portal in compliance with California Labor Code §
7 2699(l)(2). The LWDA has not objected to or otherwise responded to the submissions.

8 13. On September 9, 2024, Plaintiff filed a Motion for Preliminary Approval of Class
9 Action and PAGA Settlement (“Motion for Preliminary Approval”) and supporting documents. A true
10 and correct copy of the Motion for Preliminary Approval is attached hereto as **Exhibit 2**.

11 14. On September 24, 2024, the Court entered the Order Granting Preliminary Approval of
12 Class Action and PAGA Settlement (“Preliminary Approval Order”), thereby preliminarily approving
13 the terms of the Settlement Agreement, the Notice of Class Action Settlement (“Class Notice”), and
14 the proposed administration procedures and associated deadlines. A true and correct copy of the
15 Preliminary Approval Order is attached hereto as **Exhibit 3**.

16 **The Settlement Is Fair and Reasonable**

17 ***Discovery and Informed Arms-Length Negotiations***

18 15. The Parties’ settlement negotiations were at all times made at arm’s-length and were
19 adversarial. The Settlement was reached following a full day of mediation with a highly respected
20 mediator with substantial experience mediating wage and hour cases, and Plaintiff engaged in
21 additional negotiations in order to finalize the long-form agreement presently before the Court.

22 16. The Parties engaged in extensive informal discovery prior to reaching a settlement at
23 the mediation. Prior to mediation, Defendant produced putative class members’ time and pay data, as
24 well as Defendant’s employee handbook, relevant wage and hour policies, and information to
25 determine the total number of putative class members, the number of current versus former employees,
26 the total workweeks worked by the putative class members, and the average rate of pay for the putative
27 class members.

28 17. This allowed Plaintiff’s counsel to conduct an informed assessment and analysis of the

1 strengths and weaknesses of the claims and the potential class-wide damages.

2 18. Based on the information exchanged, the Parties extensively briefed issues regarding
3 class certification and liability and provided their analyses to the mediator who helped the Parties
4 debate the strengths and weakness of their respective positions. At all times, Plaintiff was willing and
5 prepared to litigate this matter through class certification and trial if the Parties had been unable to
6 reach a favorable resolution. Additionally, and as explained in detail below, settlement negotiations
7 were conducted by highly capable and experienced counsel. Class Counsel are respected members of
8 the California State Bar with strong records of vigorous and effective advocacy and are experienced
9 in handling complex wage and hour class action litigation. Accordingly, Class Counsel had sufficient
10 information and experience to act intelligently in negotiating the Settlement.

11 19. Although the investigation and information discovered supports Plaintiff's contentions,
12 Defendant raised potential defenses and other circumstances that impacted the risk of proceeding on
13 a class-wide basis. Consideration of these risks factored into the decision to enter the Settlement.

14 20. My colleagues and I were aware of Defendant's defenses and arguments and have also
15 taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and
16 delays inherent in such litigation, including those involved in class and/or representative adjudication.
17 Plaintiff further recognizes the burdens of proof necessary to establish liability for the claims asserted
18 in the Action, Defendant's defenses, and the difficulties in establishing entitlement to monetary
19 recovery. Plaintiff has also considered the Parties' settlement discussions, as well as the evaluations
20 of the mediator, who is experienced and well-regarded in complex labor and employment matters.

21 21. Defendant denied and continues to deny any liability and wrongdoing of any kind
22 associated with the claims alleged in the Class and PAGA Actions, and further denies that class
23 certification is appropriate for any purpose other than the Settlement. Defendant believes that it would
24 ultimately prevail in the Action. Defendant proffered defenses to both certification and to the merits
25 of Plaintiff's claims. Defendant contended that Plaintiff's claims are not suitable for class certification
26 because individual issues would predominate should this case go to trial. As with all class actions,
27 these complex cases raise difficult management and proof issues and, accordingly, there is a significant
28 risk that the Court may deny class certification.

1 22. My office also recognized that, even if Plaintiff prevailed at class certification, proving
2 the amount of wages due to each Class Member would be an expensive, time-consuming, and
3 extremely uncertain proposition. In order to prove liability and damages, my office would need to
4 request and analyze hundreds of pages of documents, obtain the Class Members' contact information,
5 contact them, and obtain declarations. Plaintiff also faced the very real risk that Defendant would
6 engage in settlements with current and former employees using the "Pickup Stix" procedure.
7 Obtaining the cooperation of current employees would also be difficult, given the likely reluctance to
8 aid prosecution of a lawsuit against a current employer. On the other hand, Defendant would likely
9 be able to obtain the cooperation of its employees. Moreover, even if Plaintiff prevailed at class
10 certification and trial, possible appeals would substantially delay any recovery by the Class.

11 23. Therefore, I submit that the Settlement is fair, reasonable, and adequate. The
12 Settlement is in the best interest of the Class Members, the PAGA Employees, and the State of
13 California, and is within the accepted range of recoveries for this type of litigation given the inherent
14 risk of litigation, the risk of obtaining and maintaining class certification, and the costs of further
15 litigation.

16 ***Proposed Class Counsel***

17 Karen Gold

18 24. I graduated *cum laude* from UCLA in 2005 with a Bachelor of Science degree in
19 Cognitive Science and a Specialization in Computing. I received my law degree from Boston
20 University School of Law and was admitted to the California State Bar in 2008.

21 25. Upon graduation, I joined Cox Castle & Nicholson, LLP, and worked there for
22 approximately a decade as a general litigation attorney focused primarily on high-stakes sophisticated
23 cases including class action defense matters. Thereafter, I spent several years working for Marlin &
24 Saltzman, LLP, which is a well-known plaintiff-side wage and hour law firm in Los Angeles, before
25 transitioning over to Blackstone Law as a Senior Trial Attorney and Team Lead.

26 26. Throughout my career, I have managed and/or am currently managing over one
27 hundred complex litigation cases, ranging from employment matters to corporate and general business
28 litigation matters. On many of those cases, I was the only or primary attorney managing the case and

1 thus obtained extensive experience overseeing these types of actions. In that capacity, I was often the
2 primary contact for clients; took and defended many depositions; propounded and responded to
3 discovery; prepared and opposed pleadings and motions, including dispositive and class certification
4 motions; strategized on all cases; attended hearings; attended mediations; coordinated with class action
5 administrators; prepared and worked with experts; participated in trial prep and trials; and engaged in
6 all other intricate facets of litigation. Super Lawyers honored me as a Southern California Rising Star
7 from 2015 through 2018.

8 27. As a Senior Trial Attorney and Team Lead at Blackstone Law, I currently oversee and
9 handle over 100 wage-and-hour putative class actions and/or representative actions under PAGA
10 seeking relief on behalf of California employees and the State of California.

11 28. My billable rate is \$985. I am informed and believe that this is within the range of
12 reasonable prevailing rates for attorneys with my education and experience in this area of law in
13 Southern California.

14 Jonathan M. Genish

15 29. Jonathan M. Genish is the founder and owner of Blackstone Law. Mr. Genish is a 2008
16 graduate of the Benjamin N. Cardozo School of Law, and he was admitted to the California Bar that
17 same year.

18 30. During law school, Mr. Genish clerked at the litigation firm Oved & Oved, LLP and
19 was published several times in various small publications. Upon graduation, Mr. Genish was rehired
20 by Freedman & Taitelman, LLP as an associate and remained employed there from September 2008
21 through August 2015. During his tenure, Mr. Genish managed hundreds (perhaps thousands) of
22 complex litigation cases, though his primary area of expertise was employment, both single plaintiff
23 and representative actions.

24 31. On the vast majority of his cases, Mr. Genish was the only or primary attorney
25 managing the case and thus obtained extensive experience. In that capacity, he conducted wage and
26 hour and wrongful termination labor and employment intakes; was the primary contact for all clients;
27 took and defended hundreds (if not thousands) of depositions; propounded and responded to all
28 discovery; prepared and opposed all motions and pleadings, including dispositive and certification

1 motions; strategized on all cases; attended all hearings; attended all mediations; coordinated with class
2 action administrators; prepared and worked with experts; first and second chaired multiple trials and
3 arbitrations; and engaged in all other intricate facets of litigation. During that time, he represented a
4 wide range of clients from sole proprietorships to Fortune 500 companies in state, federal, complex,
5 and appellate courts. Many of the cases Mr. Genish managed were highly publicized, with articles
6 written about them in the Los Angeles Times, Deadline, The Hollywood Reporter, Business Insider,
7 Law360, and others. Super Lawyers has regularly honored him as a Southern California Rising Star
8 since 2012.

9 32. In February 2018, Mr. Genish started the law firm of Blackstone Law, APC,
10 representing plaintiffs in individual and representative employment litigation. The firm maintains
11 many highly pedigreed attorneys working on almost exclusively labor and employment class actions,
12 California Labor Code Private Attorney General Act of 2004 (“PAGA”) cases, and individual matters,
13 with roughly 15% of the firm focused on other complex general litigation matters. Mr. Genish has
14 considerable experience in handling class and representative action lawsuits throughout his career and
15 has been approved as counsel in a number of cases.

16 33. Mr. Genish is currently the managing partner at Blackstone Law, APC, overseeing
17 roughly 500 labor and employment cases, approximately 80% of which include a wage and hour
18 component. The majority of those cases are wage-and-hour putative class actions or representative
19 PAGA actions seeking relief on behalf of thousands of California employees.

20 34. Mr. Genish’s billable rate is \$1,150. I am informed and believe that this is within the
21 range of reasonable prevailing rates for attorneys with his education and experience in this area of law
22 in Southern California.

23 Marissa Mayhood

24 35. Marissa Mayhood is a Senior Attorney at Blackstone Law. She graduated from
25 Pepperdine University School of Law with a juris doctorate and a certificate in dispute resolution from
26 Pepperdine’s Straus Institute. Ms. Mayhood spent approximately five years working for Marlin &
27 Saltzman, LLP, which is a well-known plaintiff-side wage and hour law firm in Los Angeles. While
28 working for Marlin & Saltzman, LLP, she litigated and helped settle a \$72.5 million case, *Utne v.*

1 *Home Depot U.S.A., Inc.*, United States District Court for the Northern District of California, Case
2 No. 3:16-cv-01854-RS, and was approved as class counsel. I am informed and believe that her hourly
3 rate of \$750 is reasonable based on her education and experience and is in line with the market rate.

4 Blackstone Law

5 36. Blackstone Law, APC has been approved as class counsel in numerous class action and
6 PAGA actions that have since been resolved, the most recent of which are as follows:

- 7 • *David Williams v. Rancho Nicasio, LLC*, Marin County Superior Court, Case No.
8 CIV2203067, approved as class counsel in final settlement of wage and hour class and
9 PAGA action.
- 10 • *Bobby Birdi v. Lucid USA, Inc.*, Alameda County Superior Court, Case No.
11 21CV003541, approved as class counsel in final settlement of wage and hour class and
12 PAGA action.
- 13 • *Alexis Cardoza v. BHFC Operating LLC*, Los Angeles County Superior Court, Case No.
14 21STCV34040, approved as counsel in settlement of representative wage and hour action
15 pursuant to PAGA.
- 16 • *Theresa Bendorf, et al. v. Sea World LLC, et al.*, San Diego County Superior Court, Case
17 No. 37-2021-00034922-CU-OE-CTL, preliminarily approved as class counsel, in
18 association with other counsel, in settlement of wage and hour class and PAGA action.
- 19 • *Victor De La Cruz v. Northwest Pipe Company*, San Bernardino County Superior Court,
20 Case No. CIVSB2211140, preliminarily approved as class counsel in settlement of wage
21 and hour class and PAGA action.
- 22 • *Maria Ayala, et al. v. SDH Services West, LLC*, Kern County Superior Court, Case No.
23 BCV-21-101933, approved as class counsel in final settlement of wage and hour class
24 action.
- 25 • *Alfredo Sanchez v. Greenworld, Inc.*, Riverside County Superior Court, Case No.
26 CVRI2105756, approved as class counsel in final settlement of wage and hour class and
27 PAGA action.
- 28 • *Michael Bravo v. Michels Pacific Energy, Inc.*, Santa Clara County Superior Court, Case

No. 22CV403427, preliminarily approved as class counsel in settlement of wage and hour class and PAGA action.

- *Oscar Bryant v. Midwest Construction Services, Inc. dba Trillium*, San Bernardino County Superior Court, Case No. CIVSB2121529, approved as class counsel in final settlement of wage and hour class action.
- *Matthew Savattieri v. AMI Expeditionary Healthcare, LLC, et al.*, Los Angeles County Superior Court, Case No. 21STCV33372, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Lexy Barajas, et al. v. H. W. Hunter, Inc.*, Los Angeles County Superior Court, Case No. 22STCV01892, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.
- *Alejandro Valdez v. C.H.I. Automart, Inc.*, Los Angeles County Superior Court, Case No. 21STCV40168, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Sheizan Bawa v. Meathead Movers, Inc.*, Orange County Superior Court, Case No. 30-2021-01211895-CU-OE-CXC, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.
- *Tanisha Lopez, et al. v. Restorix Health, Inc.*, Los Angeles County Superior Court, Case No. 21STCV33067, approved as class counsel, in association with other counsel, in final settlement of wage and hour class and PAGA action.
- *Perla Soto, et al. v. Nippon Express U.S.A., Inc.*, Los Angeles County Superior Court, Case No. 21STCV24902, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Angel Garcia, et al. v. J&B Investments, Inc., et al.*, San Bernardino County Superior Court, Case No. CIVSB2208601, approved as class counsel, in association with other counsel, in final settlement of wage and hour class and PAGA action.
- *Sindy Aviles, et al. v. Freeway Insurance Services America, LLC*, Los Angeles County Superior Court, Case No. 21STCV34864, approved as counsel, in association with other

counsel, in settlement of representative wage and hour action pursuant to PAGA.

- *Alexander Gnaedig, et al. v. Favorite Healthcare Staffing, Inc.*, Los Angeles County Superior Court, Case No. 21STCV20904, approved as class counsel, in association with other counsel, in final settlement of wage and hour class and PAGA action.
- *Richard Evans v. My Paint Stop, LLC, et al.*, Contra Costa County Superior Court, Case No. MSC21-01812, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Jose Luis Parada George v. Main Electric Supply Company, LLC, et al.*, Orange County Superior Court, Case No. 30-2021-01220136-CU-OE-CXC, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.
- *Samia Salazar Yunis v. Sharif Jewelers*, Sacramento County Superior Court, Case No. 34-2020-00290080, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Daniel Analco v. Felix Chevrolet, LP, et al.*, Los Angeles County Superior Court, Case No. 21STCV36654, approved as class counsel in final settlement of wage and hour class and PAGA action.
- *Sasha Aiono v. Benefit Cosmetics*, Los Angeles County Superior Court, Case No. 21STCV33719, approved as counsel in settlement of representative wage and hour action pursuant to PAGA.
- *Travis Sanford v. Santa Cruz Seaside Company*, Santa Cruz Superior Court, Case No. 23CV01762, approved as class counsel in final settlement of wage and hour class and PAGA action.

Junior Attorneys, Paralegal(s), and Staff

37. Junior attorneys, a paralegal and various staff members assisted with numerous discreet tasks related to this case on an as-needed basis. Their time is not included in the lodestar amount provided below as only those attorneys tasked with overseeing this litigation were included below.

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on this matter to date engaged in a multitude of tasks including, *inter alia*: (1) communicating with the client; (2) performing preliminary legal research, (3) drafting the operative class action & PAGA complaint, (4) drafting the PAGA notice, (5) locating and interviewing witnesses, (6) negotiating with defense counsel to schedule the mediation and obtain the necessary informal discovery documents sufficiently in advance of mediation; (7) hiring and interfacing with a damages expert to calculate a damages model for use at mediation and multiple revisions and iterations of the same; (8) reviewing and analyzing all documents produced by Defendant; (9) thoroughly researching the legal and factual theories and investigating additional potential avenues of liability; (10) drafting a comprehensive mediation brief; (11) preparing for and attending mediation; (12) following-up on conversations and negotiations with the mediator and opposing counsel; (13) negotiating the terms of the long form settlement agreement and Class Notice documents; (14) obtaining administrative quotes from potential Settlement Administrators; (15) researching and drafting a Motion for Preliminary Approval and all supporting documents; (16) preparing for and attending the hearing on the Motion for Preliminary Approval; (17) interfacing with opposing counsel and the Settlement Administrator as necessary to effectuate the disbursement of class notice; (18) responding to questions from class members; and (19) drafting and reviewing the Motion for Final Approval and all supporting documents.

42. A summary of Blackstone's estimated lodestar to-date to complete these tasks is as follows:

<u>Attorney</u>	<u>Position</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Jonathan M. Genish	Partner	72.50	\$1,150	\$83,375
Karen I. Gold	Senior Counsel	186.75	\$985	\$183,948
Marissa Mayhood	Senior Associate	276.50	\$750	\$207,375

43. I expect my team to spend an additional 35 hours at a blended rate for myself and Ms. Mayhood of \$867.50, resulting in an additional \$30,362.50 in attorneys' fees to be incurred finalizing the motion for final approval and supporting documents, preparing for and attending the Final Approval Hearing, managing the Settlement through its conclusion, including anticipated communications with defense counsel, the Settlement Administrator, our client, and Class Members, as well as any additional procedural issues that require attention. Based thereon, the total amount of Blackstone Law's estimated lodestar fees through closure of this case are approximately **\$505,060.50**.

1 44. One difficulty in determining the hourly rate of attorneys of similar skill and experience
2 in the relevant community is the scarcity of hourly fee-paying clients in class action litigation. As a
3 practical matter, few if any employees or consumers pay attorneys' fees on an hourly basis for such
4 litigation, and thus retainer agreements in such cases are based on a stepped-up contingency fee (with
5 the percentage increasing from one third to forty-five – and sometimes even fifty percent, which in
6 my experience is on par with personal injury contingency fee agreements – if the case goes to trial).
7 Therefore, based on my experience, there really is no customary hourly billing rate for work that is
8 routinely based on a contingent fee relationship, but the nature of class action work and the contingency
9 relationship should be strongly considered by the Court.

10 45. Wage and hour work presents a specialized, challenging and complex area of law that
11 is not within the knowledge of many lawyers. This kind of class action work requires specialized
12 learning and the willingness to take large risks, particularly in light of the very real possibility that
13 some portion of the cases accepted will result in little to no recovery, and therefore no fees to the firm.

14 46. As with all contingency cases, I understand that my firm had to consider its workload
15 when agreeing to pursue this litigation. Specifically, the firm had to be mindful of its attorneys'
16 caseload when it took on this matter, and necessarily had to forgo other cases when it decided to do
17 so, as my team and the other class action teams are currently at or near capacity.

18 ***Settlement Administration Costs***

19 47. In Plaintiff's Motion for Preliminary Approval, Plaintiff requested, and the Court
20 approved, Settlement Administration Costs not to exceed \$11,000.00. ILYM Group, Inc.'s anticipated
21 fees and costs for completion of the settlement administration, are \$9,550.00.

22 ***Allocation to the LWDA***

23 48. As part of the Settlement, Defendant has agreed to pay Ninety-Seven Thousand Five
24 Hundred Dollars and Zero Cents (\$97,500.00) to settle the claims of the PAGA Employees brought
25 pursuant to PAGA, of which the payment of \$73,125.00 (75% of the PAGA Amount) will be paid to
26 the LDWA for education and enforcement purposes.

27 ***Notice to the Class***

28 49. The Class Notice approved by the Court met the requirements for proper notice of

1 settlement to a class: it identified the Parties and described the Action, the Class, the Gross Settlement
2 Amount, the proposed method for distribution of the Gross Settlement Amount, the amounts proposed
3 to be paid as the Enhancement Payment to Plaintiff, the Settlement Administration Costs to the
4 Settlement Administrator, and the Attorneys' Fees and Costs to Class Counsel. The Class Notice
5 described the proposed Settlement with enough specificity to allow each Class Member to make an
6 informed choice whether to accept and participate in it. It also explained how and when Class
7 Members may object to or opt out of the Class Settlement. Finally, the Class Notice provided the date
8 and time of the hearing on final approval of the Settlement and informed Class Members how to obtain
9 additional information about the Settlement.

10
11 I declare under penalty of perjury under the laws of the State of California that the foregoing is
12 true and correct.

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14 Executed on February 5, 2025, at Westlake Village, California.

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17 Karen I. Gold
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EXHIBIT 1

1 **JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT**

2 This Joint Stipulation of Class Action and PAGA Settlement (“Settlement,” “Agreement,” or
3 “Settlement Agreement”) is made and entered into by and between Plaintiff Sitara Nayabkhil
4 (“Plaintiff” or “Class Representative”), individually, and on behalf of all others similarly situated and
5 on behalf of the State of California with respect to aggrieved employees, and Defendant The San
6 Francisco Society for the Prevention of Cruelty to Animals dba San Francisco SPCA (“Defendant”)
7 (together, Plaintiff and Defendant are referred to as “Parties” and individually as “Party”).

8 This Settlement Agreement shall be binding on Plaintiff, Settlement Class Members (as
9 defined herein), the State of California as to the employment of PAGA Employees (as defined herein),
10 and Defendant, subject to the terms and conditions hereof and the approval of the Court.

11 **RECITALS**

12 1. On August 7, 2023, Plaintiff provided written notice to the California Labor and
13 Workforce Development Agency (“LWDA”) by online submission and to Defendant by U.S. Certified
14 Mail, pursuant to California Labor Code Section 2699.3, of the specific provisions of the California
15 Labor Code alleged to have been violated by Defendant, and on October 18, 2023, Plaintiff provided
16 a supplemental notice as well (together, “PAGA Letter”). On October 24, 2023, Plaintiff filed a Class
17 & Collective Action Complaint in the action entitled *Sitara Nayabkhil v. San Francisco SPCA, dba,*
18 *SFSPCA*, San Francisco County Superior Court Case No. CGC-23-609950 (“Action”), thereby
19 commencing a putative class and representative action under the Private Attorneys General Act of
20 2004 pursuant to California Labor Code Sections 2698, *et seq.* (“PAGA”) against Defendant. On
21 December 22, 2023, Plaintiff filed a First Amended Class & Collective Action Complaint (“Operative
22 Complaint”) in the Action. The Operative Complaint alleges thirteen (13) causes of action for: (1)
23 Violation of 29 U.S.C. §§ 2101, *et seq.* (Federal WARN Act); (2) Violation of Cal. Labor Code §§
24 1400, *et seq.* (California WARN Act); (3) Violation of Cal. Labor Code §§ 510 and 1198 (Unpaid
25 Overtime Wages); (4) Violation of Cal. Labor Code §§ 1194, 1197, and 11971. (Unpaid Minimum
26 Wages); (5) Violation of Cal. Labor Code §§ 226.7 and 512(a) (Meal Break Violations); (6) Violation
27 of Cal. Labor Code § 226.7 (Rest Break Violations); (7) Violation of Cal. Labor Code §§ 204 and 210
28 (Wages Not Timely Paid); (8) Violation of Cal. Labor Code § 226(a) (Wage Statement Violations);

(9) Violation of Cal. Labor Code §§ 201, 202, and 203 (Final Wages Not Timely Paid); (10) Violation of Cal. Labor Code § 227.3 (Unpaid Vacation Time); (11) Violation of Cal. Labor Code §§ 2800 and 2802 (Failure to Reimburse Expenses); (12) Violation of Cal. Business and Professions Code §§ 17200 *et seq.* (Unfair and Unlawful Business Practices); and (13) Violation of Cal. Labor Code §§ 2698 *et seq.* (“Private Attorneys General Act”).

2. Defendant denies all materials allegations set forth in the Action and has asserted numerous affirmative defenses. Notwithstanding, in the interest of avoiding further litigation, Defendant desires to fully and finally settle the Action, Released Class Claims (as defined herein), and Released PAGA Claims (as defined herein).

3. Class Counsel diligently investigated the class and PAGA claims against Defendant, including any and all applicable defenses and the applicable law. The investigation included, *inter alia*, the exchange of information, data, and documents, and review of corporate policies and practices. The Parties have engaged in sufficient informal discovery and investigation to assess the relative merits of the claims and contentions of the Parties.

4. On April 9, 2024, the Parties participated in mediation with Jeffrey A. Ross, Esq. (the “Mediator”), a respected mediator of complex wage and hour actions, and with the assistance of the Mediator’s evaluations, the Parties reached the settlement that is memorialized herein. The Parties’ settlement discussions were conducted at arms’ length, and the Settlement is the result of an informed and detailed analysis of Defendant’s potential liability and exposure in relation to the costs and risks associated with continued litigation. Based on Class Counsel’s investigation and evaluation, Class Counsel believes that the settlement with Defendant for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class Members, State of California, and PAGA Employees in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation and various defenses asserted by Defendant.

5. The Parties expressly acknowledge that this Settlement Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by Defendant. If for any reason this Settlement Agreement is

not approved, it will be of no force or effect, and the Parties shall be returned to their original respective positions.

DEFINITIONS

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

a. “Attorneys’ Fees and Costs” means attorneys’ fees approved by the Court for Class Counsel’s litigation and resolution of the Action and all actual costs and expenses incurred and to be incurred by Class Counsel in connection with the Action, as set forth in Paragraph 9.

b. “Class” or “Class Member(s)” means all current and former hourly-paid and/or non-exempt employees who worked for Defendant in the State of California at any time during the Class Period.

c. “Class Counsel” means Jonathan M. Genish, Karen I. Gold, Marissa A. Mayhood, and Ashley H. Cruz of Blackstone Law, APC, who will seek to be appointed counsel for the Class.

d. “Class List” means a complete list of all Class Members that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet containing the following information for each Class Member: (1) full name; (2) last known mailing address; (3) Social Security number; (4) dates worked for Defendant during the Class Period; and (5) such other information as is necessary for the Settlement Administrator to calculate Workweeks and Pay Periods (if applicable).

e. “Class Notice” means the Notice of Class Action Settlement, substantially in the form attached hereto as “**Exhibit A**.”

f. “Class Period” means the period from October 24, 2019 through June 16, 2024.

g. “Class Settlement” means the settlement and resolution of all Released Class Claims.

h. “Court” means the Superior Court of the State of California for the County of San Francisco.

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1 i. “Defendant’s Counsel” means Hieu T. Williams and Jenna M. Rogenski of
2 Hirschfeld Kraemer LLP.

3 j. “Dispute” means a letter submitted by a Class Member disputing the number of
4 Workweeks and/or Pay Periods to which they have been credited, which must: (a) contain the case
5 name and number of the Action; (b) contain the Class Member’s full name, signature, address, and
6 telephone number; (c) clearly state that the Class Member disputes the number of Workweeks and/or
7 Pay Periods credited to the Class Member and what the Class Member contends is the correct number;
8 and (d) be returned by mail to the Settlement Administrator at the specified address, postmarked on or
9 before the Response Deadline.

10 k. “Effective Date” means the following: (i) if no Settlement Class Member
11 objects to the Class Settlement, then the Effective Date will be the date of Final Approval; or (ii) if
12 any Settlement Class Member objects to the Class Settlement, the Effective Date will be the sixty-first
13 (61st) calendar day after the date of Final Approval, provided no appeal is initiated by an objector; or
14 (iii) if a timely appeal is initiated by an objector, then the Effective Date will be the day after final
15 resolution of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting
16 in final judicial approval of the Settlement.

17 l. “Employer Taxes” means the employer’s share of taxes and contributions in
18 connection with the wages portion of Individual Settlement Shares, which shall be paid by Defendant
19 in addition to the Gross Settlement Amount.

20 m. “Enhancement Payment” means the amount to be paid to Plaintiff, in
21 recognition of her effort and work in prosecuting the Action on behalf of Class Members and PAGA
22 Employees, as set forth in Paragraph 10.

23 n. “Final Approval” means the determination by the Court that the Settlement is
24 fair, reasonable, and adequate, and entry of the Final Approval Order and Judgment based thereon.

25 o. “Final Approval Hearing” means the hearing at which the Court will consider
26 and determine whether the Settlement should be granted Final Approval.

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p. “Final Approval Order and Judgment” means the order granting final approval of the Settlement and entering judgment thereon, in a form and content mutually agreed to by the Parties, and subject to approval by the Court.

q. “Gross Settlement Amount” means the amount of One Million Nine Hundred Fifty Thousand Dollars and Zero Cents (\$1,950,000.00) to be paid by Defendant in full satisfaction of the Action, Released Class Claims, and Released PAGA Claims, which includes all Attorneys’ Fees and Costs, Enhancement Payment, PAGA Amount, Settlement Administration Costs, and Net Settlement Amount to be paid to the Settlement Class Members. Defendant shall pay the Employer Taxes separately and in addition to the Gross Settlement Amount. The Gross Settlement Amount is non-reversionary; no portion of the Gross Settlement Payment will return to Defendant. The Gross Settlement Amount is subject to increase, as provided in Paragraph 13.

r. “Individual PAGA Payment” means the *pro rata* share of the PAGA Employee Amount that a PAGA Employee may be eligible to receive under the PAGA Settlement, to be calculated in accordance with Paragraph 15.

s. “Individual Settlement Payment” means the net payment of each Settlement Class Member’s Individual Settlement Share, after reduction for the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share, as provided in Paragraph 16.

t. “Individual Settlement Share” means the *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to receive under the Class Settlement, to be calculated in accordance with Paragraph 14.

u. “LWDA Payment” means the amount of Seventy-Three Thousand One Hundred Twenty-Five Dollars and Zero Cents (\$73,125.00), i.e., 75% of the PAGA Amount, that the Parties have agreed to pay to the LWDA under the PAGA Settlement, as set forth in Paragraph 11.

v. “Net Settlement Amount” means the portion of the Gross Settlement Amount that is available for distribution to Settlement Class Members, which is the Gross Settlement Amount less the Court-approved Attorneys’ Fees and Costs, Enhancement Payment, PAGA Amount, and Settlement Administration Costs.

1 w. “Notice of Objection” means a Settlement Class Member’s written objection to
2 the Class Settlement, which must: (a) contain the case name and number of the Action; (b) contain the
3 objector’s full name, signature, address, and telephone number; (c) contain a written statement of all
4 grounds for the objection accompanied by any legal support for such objection; (d) contain copies of
5 any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail
6 to the Settlement Administrator at the specified address, postmarked on or before the Response
7 Deadline.

8 x. “PAGA Amount” means the allocation of Ninety-Seven Thousand Five
9 Hundred Dollars and Zero Cents (\$97,500.00) from the Gross Settlement Amount for the PAGA
10 Settlement. Seventy-five percent (75%) of the PAGA Amount, or \$73,125.00, will be paid to the
11 LWDA (i.e., the LWDA Payment) and the remaining twenty-five percent (25%), or \$24,375.00, will
12 be distributed to the PAGA Employees (i.e., the PAGA Employee Amount).

13 y. “PAGA Employee(s)” means all current and former hourly-paid and/or non-
14 exempt employees who worked for Defendant in the State of California at any time during the PAGA
15 Period.

16 z. “PAGA Employee Amount” means the amount of Twenty-Four Thousand
17 Three Hundred Seventy-Five Dollars and Zero Cents (\$24,375.00), i.e., 25% of the PAGA Amount,
18 to be distributed to PAGA Employees on a *pro rata* basis based on their Pay Periods.

19 aa. “PAGA Period” means the period from August 7, 2022 through June 16, 2024.

20 bb. “PAGA Settlement” means the settlement and resolution of all Released PAGA
21 Claims.

22 cc. “Pay Periods” means the number of pay periods each PAGA Employee worked
23 for Defendant as an hourly-paid and/or non-exempt employee in California during the PAGA Period.
24 Pay Periods will be calculated by the Settlement Administrator based on each PAGA Employee’s start
25 date or the beginning of the PAGA Period, whichever is later, and separation date or the last day of
26 the PAGA Period, whichever is earlier, based on the Class List provided by Defendant. In order to be
27 counted as a Pay Period, the PAGA Employee must have worked at least one day in that bi-weekly
28 pay period.

1 dd. “Preliminary Approval” means the date on which the Court enters the
2 Preliminary Approval Order.

3 ee. “Preliminary Approval Order” means the order granting preliminary approval
4 of the Settlement, in a form and content mutually agreed to by the Parties, and subject to approval by
5 the Court.

6 ff. “Released Class Claims” means any and all claims and damages which were
7 alleged or which could have been alleged based on the factual allegations in the Operative Complaint,
8 arising during the Class Period, including claims for Defendant’s alleged failure to pay overtime and
9 minimum wages, failure to provide meal and rest periods and associated premiums, failure to pay paid
10 sick leave, failure to timely pay wages during employment, failure to provide accurate wage
11 statements, failure to timely pay final wages, failure to pay vacation pay, and failure to reimburse
12 necessary business-related expenses, in violation of California Labor Code Sections 201, 202, 203,
13 204, 226(a), 226.7, 227.3, 510, 512(a), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the applicable
14 Industrial Welfare Commission Wage Order(s), and for violations of the California Business and
15 Professions Code sections 17200, *et seq.* based on the aforementioned California Labor Code
16 violations. The Released Class Claims specifically excludes any and all claims and damages for
17 violations of U.S.C. Sections 2101, *et seq.* (Federal WARN Act) and California Labor Code Sections
18 1400, *et seq.* (California WARN Act), as Plaintiff has agreed to dismiss these claims without prejudice.

19 gg. “Released PAGA Claims” means any and all claims arising from any of the
20 factual allegations in the PAGA Letter and/or Operative Complaint, arising during the PAGA Period,
21 for civil penalties under the Private Attorneys General Act of 2004, California Labor Code Sections
22 2698, *et seq.*, including for Defendant’s alleged failure to pay overtime and minimum wages, failure
23 to provide meal and rest periods and associated premiums, failure to pay paid sick leave, failure to
24 timely pay wages during employment, failure to provide accurate wage statements, failure to timely
25 pay final wages, failure to pay vacation pay, failure to maintain complete and accurate payroll records,
26 and failure to reimburse necessary business-related expenses, in violation of California Labor Code
27 Sections 201, 202, 203, 204, 226(a), 226.7, 227.3, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198,
28 2800, and 2802, and the applicable Industrial Welfare Commission Wage Order(s). The Released

1 PAGA Claims specifically excludes any and all claims for violations of U.S.C. Sections 2101, *et seq.*
2 (Federal WARN Act) and California Labor Code Sections 1400, *et seq.* (California WARN Act), as
3 Plaintiff has agreed to dismiss these claims without prejudice.

4 hh. “Released Parties” means Defendant and its current and former officers,
5 directors, members, insurers, shareholders, subsidiaries, affiliates, predecessors, successors, and
6 assigns.

7 ii. “Request for Exclusion” means a letter submitted by a Class Member indicating
8 a request to be excluded from the Class Settlement, which must: (a) contain the case name and number
9 of the Action; (b) contain the Class Member’s full name, signature, address, and telephone number;
10 (c) clearly state that the Class Member does not wish to be included in the Class Settlement; and (d)
11 be returned by mail to the Settlement Administrator at the specified address, postmarked on or before
12 the Response Deadline.

13 jj. “Response Deadline” means the deadline by which Class Members must submit
14 a Request for Exclusion, Notice of Objection, and/or Dispute, which shall be the date that is forty-five
15 (45) calendar days from the initial mailing of the Class Notice by the Settlement Administrator to
16 Class Members, unless the 45th day falls on a Sunday or Federal holiday, in which case the Response
17 Deadline will be extended to the next day on which the United States Postal service is open. The
18 Response Deadline may also be extended by express agreement between Class Counsel and
19 Defendant’s Counsel. Under no circumstances, however, will the Settlement Administrator have the
20 authority to extend the Response Deadline. In the event that a Class Notice is re-mailed to a Class
21 Member, the Response Deadline for that Class Member shall be extended fifteen (15) calendar days
22 from the original Response Deadline.

23 kk. “Settlement Administrator” means ILYM Group, Inc., or any other third-party
24 class action settlement administrator agreed to by the Parties and approved by the Court for purposes
25 of administering the Settlement. The Parties and their counsel each represent that they do not have
26 any financial interest in the Settlement Administrator or otherwise have a relationship with the
27 Settlement Administrator that could create a conflict of interest.

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11. “Settlement Administration Costs” means the costs payable from the Gross Settlement Amount to the Settlement Administrator for administering the Settlement, as set forth in Paragraph 12.

mm. “Settlement Class” or “Settlement Class Member(s)” means all Class Members who do not submit a timely and valid Request for Exclusion.

nn. “Workweeks” means the number of weeks each Class Member worked for Defendant as an hourly-paid and/or non-exempt employee in California during the Class Period. Workweeks will be calculated by the Settlement Administrator based on each Class Member’s start date or the beginning of the Class Period, whichever is later, and separation date or the last day of the Class Period, whichever is earlier, based on the Class List provided by Defendant. In order to be counted as a Workweek, the Class Member must have worked at least one day in that week.

CLASS CERTIFICATION

7. For the purposes of this Settlement only, the Parties stipulate to the certification of the Class.

8. The Parties agree that certification for the purpose of settlement is not an admission that certification is proper under Section 382 of the California Code of Civil Procedure. Should, for whatever reason, the Court not grant Final Approval, the Parties' stipulation to class certification as part of the Settlement shall become null and void ab initio and shall have no bearing on, and shall not be admissible in connection with, the issue of whether or not certification would be inappropriate in a non-settlement context.

TERMS OF THE AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

9. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or motion by Class Counsel for attorneys' fees in the amount up to thirty-three and one-third percent (33 1/3%) of the Gross Settlement Amount (i.e., \$650,000.00 if the Gross Settlement Amount is \$1,950,000.00) and reimbursement of actual costs and expenses associated with Class Counsel's litigation and settlement of the Action, in an amount not to exceed Twenty Thousand Dollars and Zero

Cents (\$20,000.00), both of which will be paid from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred by Class Counsel in connection with the litigation of the Action, including without limitation all work performed and costs incurred to date, and all work to be performed and all costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. The Settlement Administrator shall issue an IRS Form 1099 to Class Counsel for the Attorneys' Fees and Costs. Any portion of the requested Attorneys' Fees and Costs that is not awarded by the Court to Class Counsel shall be reallocated to the Net Settlement Amount for the benefit of the Settlement Class Members.

10. Enhancement Payment. Defendant agrees not to oppose or impede any application or motion by Plaintiff for an Enhancement Payment in the amount up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00). The Enhancement Payment, which will be paid from the Gross Settlement Amount, subject to Court approval, will be in addition to her Individual Settlement Payment as a Settlement Class Member and Individual PAGA Payment as a PAGA Employee. Plaintiff shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiff for the Enhancement Payment. Any portion of the requested Enhancement Payment that is not awarded by the Court to Plaintiff shall be reallocated to the Net Settlement Amount for the benefit of the Settlement Class Members.

11. PAGA Amount. Subject to approval by the Court, the Parties agree that the amount of Ninety-Seven Thousand Five Hundred Dollars and Zero Cents (\$97,500.00) shall be allocated from the Gross Settlement Amount toward penalties under the Private Attorneys General Act, California Labor Code Sections 2698, *et seq.* (i.e., the PAGA Amount), of which seventy-five percent (75%), or \$73,125.00, will be paid to the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%), or \$24,375.00, will be distributed to PAGA Employees (i.e., the PAGA Employee Amount) on a *pro rata* basis, based on the total number of Pay Periods worked by each PAGA Employee during the PAGA

1 Period (i.e., the Individual PAGA Payments).

2 12. Settlement Administration Costs. The Settlement Administrator will be paid for the
3 reasonable costs of administration of the Settlement and distribution of payments under the Settlement,
4 which is currently not to exceed Eleven Thousand Dollars and Zero Cents (\$11,000.00). These costs,
5 which will be paid from the Gross Settlement Amount, subject to Court approval, will include, *inter*
6 *alia*, translating the Class Notice to Spanish, printing, distributing, and tracking Class Notices and
7 other documents for the Settlement, calculating and distributing payments due under the Settlement,
8 issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and
9 remittances, providing necessary reports and declarations, and other duties and responsibilities set
10 forth herein to process the Settlement, and as requested by the Parties. To the extent the actual
11 Settlement Administrator's costs are greater than the estimated amount stated herein, such excess
12 amount will be deducted from the Gross Settlement Amount, subject to approval by the Court. Any
13 portion of the estimated, designated, and/or awarded Settlement Administration Costs which are not
14 in fact required to fulfill payment to the Settlement Administrator to undertake the required settlement
15 administration duties shall be reallocated to the Net Settlement Amount for the benefit of the
16 Settlement Class Members.

17 13. Escalator Clause. Defendant has estimated that there are approximately 530 Class
18 Members who worked a total of approximately 45,028 Workweeks during the Class Period. If it is
19 determined by the Settlement Administrator that the total number of Workweeks worked by the Class
20 Members during the Class Period actually exceeds 45,028 by more than 20% (i.e., by more than 54,034
21 Workweeks), then Defendant shall, at its option, either (a) increase the Gross Settlement Amount on
22 a *pro rata* basis equal to the percentage increase in the number of Workweeks worked by the Class
23 Members above 20%; or (b) cut off the Class Period and PAGA Period as of the date that 54,034
24 Workweeks is reached. For example, if the number of Workweeks increases by 21% to 54,484
25 Workweeks, then Defendant may choose to either (a) increase the Gross Settlement Amount by 1%;
26 or (b) cut off the Class Period and PAGA Period as of the date that 54,034 Workweeks is reached.

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1 14. Individual Settlement Share Calculations. Individual Settlement Shares will be
2 calculated and apportioned from the Net Settlement Amount based on the Class Members' number of
3 Workweeks, as follows:

4 a. After Preliminary Approval, the Settlement Administrator will divide the Net
5 Settlement Amount by the Workweeks of all Class Members to yield the "Estimated Workweek
6 Value," and multiply each Class Member's individual Workweeks by the Estimated Workweek Value
7 to yield each Class Member's estimated Individual Settlement Share that each Class Member may be
8 entitled to receive under the Class Settlement.

9 b. After Final Approval, the Settlement Administrator will divide the final Net
10 Settlement Amount by the Workweeks of all Settlement Class Members to yield the "Final Workweek
11 Value," and multiply each Settlement Class Member's individual Workweeks by the Final Workweek
12 Value to each Settlement Class Member's final Individual Settlement Share.

13 15. Individual PAGA Payment Calculations. Individual PAGA Payments will be
14 calculated and apportioned from the PAGA Employee Amount based on the PAGA Employees'
15 number of Pay Periods, as follows: The Settlement Administrator will divide the PAGA Employee
16 Amount, i.e., 25% of the PAGA Amount, by the Pay Periods of all PAGA Employees to yield the
17 "Pay Period Value," and multiply each PAGA Employee's individual Pay Periods by the Pay Period
18 Value to yield each PAGA Employee's Individual PAGA Payment.

19 16. Tax Treatment of Individual Settlement Shares and Individual PAGA Payments. Each
20 Individual Settlement Share will be allocated as follows: twenty percent (20%) wages and eighty
21 percent (80%) penalties, interest, and non-wage damages. The portion allocated to wages will be
22 reported on an IRS Form W-2 and the portions allocated to penalties, interest, and non-wage damages
23 will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator. The Settlement
24 Administrator will withhold the employee's share of taxes and withholdings with respect to the wages
25 portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their
26 Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of these taxes
27 and withholdings). The Employer Taxes will be paid separately and in addition to the Gross
28 Settlement Amount. Each Individual PAGA Payment will be allocated as one hundred percent (100%)

penalties and will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator.

17. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to Plaintiff, Settlement Class Members, PAGA Employees, and Class Counsel any tax forms (i.e., IRS Forms W-2, IRS Forms 1099, etc.) as may be required by law for all amounts paid pursuant to this Settlement Agreement. The Settlement Administrator will also be responsible for calculating the Employer Taxes and forwarding all payroll taxes and other legally required withholdings to the appropriate government authorities.

18. Tax Liability. Plaintiff, Class Counsel, Defendant, and Defendant's Counsel do not intend anything contained in this Settlement Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement Agreement be relied on as such. Plaintiff, Settlement Class Members, and PAGA Employees are not relying on any statement, representation, or calculation by Defendant, the Settlement Administrator, or Class Counsel in this regard. Plaintiff, Settlement Class Members, and PAGA Employees understand and agree that Plaintiff, Settlement Class Members, and PAGA Employees will be solely responsible for the payment of any taxes and penalties assessed on the payments described in this Settlement Agreement. Plaintiff, Settlement Class Members, and PAGA Employees should consult with their tax advisors concerning the tax consequences of any payment they receive under the Settlement.

19. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE

(INCLUDING TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS SETTLEMENT AGREEMENT.

20. Settlement Awards Do Not Trigger Additional Benefits. All payments made under the Settlement shall be deemed to be paid to the payee solely in the year in which such payments actually are issued to the payee. It is expressly understood and agreed that payments made under this Settlement shall not in any way entitle Plaintiff, Settlement Class Members, or any PAGA Employee to additional compensation or benefits under any new or additional compensation or benefits, or any bonus, contest, or other compensation or benefit plan or agreement in place during the Class Period, nor will it entitle Plaintiff, Settlement Class Members, or any PAGA Employee to any increased retirement, 401K benefits or matching benefits, or deferred compensation benefits (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the Class Period).

21. Duties of the Parties with Respect to Obtaining Preliminary Approval of the Settlement. Upon execution of this Settlement Agreement, Plaintiff will obtain a hearing date from the Court for Plaintiff's motion for preliminary approval of the Settlement, which Plaintiff and Class Counsel will be responsible for drafting, and submit this Settlement Agreement to the Court in support of said motion. Class Counsel will provide Defendant's Counsel a draft of the preliminary approval motion seven (7) calendar days before filing it with the Court. Defendant agrees not to oppose the motion for

preliminary approval of the Settlement consistent with this Settlement Agreement. By way of said motion, Plaintiff will apply for the entry of the Preliminary Approval Order seeking the following:

- a. Conditionally certifying the Class for settlement purposes only;
- b. Granting Preliminary Approval of the Settlement;
- c. Preliminarily appointing Plaintiff as the representative of the Class;
- d. Preliminarily appointing Class Counsel as counsel for the Class;
- e. Approving as to form and content, the mutually-agreed upon and proposed Class Notice and directing its mailing by First Class U.S. Mail;
- f. Approving the manner and method for Class Members to request exclusion from or object to the Class Settlement as contained herein and within the Class Notice;
- g. Scheduling a Final Approval Hearing at which the Court will determine whether Final Approval of the Settlement should be granted.

22. Notice of Settlement to the LWDA. Pursuant to California Labor Code § 2699(1)(2), Class Counsel shall notify the LWDA of the Settlement upon filing the motion for preliminary approval of the Settlement.

23. Delivery of Class List. Within twenty-one (21) calendar days of Preliminary Approval, Defendant will provide the Class List to the Settlement Administrator.

24. Notice by First-Class U.S. Mail.

a. Within seven (7) calendar days after receiving the Class List from Defendant, the Settlement Administrator will perform a search based on the National Change of Address Database or any other similar services available, such as provided by Experian, for information to update and correct for any known or identifiable address changes, and will mail a Class Notice in English and Spanish (in the form attached as **Exhibit A** to this Settlement Agreement) to all Class Members via First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator.

b. Any Class Notice returned to the Settlement Administrator as undeliverable on or before the Response Deadline will be sent promptly via First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on

1 the Class Notice. If no forwarding address is provided, the Settlement Administrator will promptly
2 attempt to determine the correct address using a skip-trace or other search, using the name, address,
3 and/or Social Security number of the Class Member, and perform a single re-mailing within five (5)
4 calendar days.

5 c. Compliance with the procedures described herein above shall constitute due and
6 sufficient notice to Class Members of the Settlement and shall satisfy the requirements of due process.
7 Nothing else shall be required of or done by the Parties, Class Counsel, or Defendant's Counsel to
8 provide notice of the Settlement.

9 25. Disputes Regarding Workweeks and/or Pay Periods. Class Members will have an
10 opportunity to dispute the number of Workweeks and/or Pay Periods to which they have been credited,
11 as reflected in their respective Class Notices, by submitting a timely and valid Dispute to the
12 Settlement Administrator, by mail, postmarked on or before the Response Deadline. The date of the
13 postmark on the return mailing envelope will be the exclusive means to determine whether a Dispute
14 has been timely submitted. Absent evidence rebutting the accuracy of Defendant's records and data
15 as they pertain to the number of Workweeks and/or Pay Periods to be credited to a disputing Class
16 Member, Defendant's records will be presumed to be correct and determinative of the dispute.
17 However, if a Class Member produces information and/or documents to the contrary, the Settlement
18 Administrator will evaluate the materials submitted by the Class Member and the Settlement
19 Administrator will resolve and determine the number of eligible Workweeks and/or Pay Periods that
20 the disputing Class Member should be credited with under the Settlement. The Settlement
21 Administrator's decision on such disputes will be final and non-appealable.

22 26. Requesting Exclusion from the Class Settlement. Any Class Member wishing to be
23 excluded from the Class Settlement must submit a timely and valid Request for Exclusion to the
24 Settlement Administrator, by mail, postmarked on or before the Response Deadline. The date of the
25 postmark on the return mailing envelope will be the exclusive means to determine whether a Request
26 for Exclusion has been timely submitted. The Settlement Administrator will certify jointly to Class
27 Counsel and Defendant's Counsel the number of timely and valid Requests for Exclusion that are
28 submitted, and also identify the individuals who have submitted a timely and valid Request for

1 Exclusion in a declaration that is to be filed with the Court in advance of the Final Approval Hearing.
2 At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members
3 to request exclusion from the Class Settlement. Any Class Member who submits a Request for
4 Exclusion is prohibited from making any objection to the Class Settlement. Any Class Member who
5 submits a timely and valid Request for Exclusion will not be bound by the Class Settlement and will
6 not be issued an Individual Settlement Payment. Any Class Member who does not affirmatively
7 request exclusion from the Class Settlement by submitting a timely and valid Request for Exclusion
8 will be bound by all of the terms of the Class Settlement, including and not limited to those pertaining
9 to the Released Class Claims, as well as any judgment that may be entered by the Court if it grants
10 Final Approval to the Settlement. Notwithstanding the above, all PAGA Employees will be bound to
11 the PAGA Settlement and will be issued their Individual PAGA Payment, irrespective of whether they
12 submit a Request for Exclusion.

13 27. Objecting to the Class Settlement. To object to the Class Settlement, Settlement Class
14 Members must submit a timely and complete Notice of Objection to the Settlement Administrator, by
15 mail, postmarked on or before the Response Deadline. The date of the postmark on the return mailing
16 envelope will be the exclusive means to determine whether a Notice of Objection has been timely
17 submitted. The Settlement Administrator will certify jointly to Class Counsel and Defendant's
18 Counsel the number of Notices of Objection that are submitted (specifying which ones were timely
19 and complete and which were not), and also attach them to a declaration that is to be filed with the
20 Court in advance of the Final Approval Hearing. At no time will any of the Parties or their counsel
21 seek to solicit or otherwise encourage Settlement Class Members to object to the Class Settlement or
22 appeal from the Final Approval Order and Judgment. Settlement Class Members, individually or
23 through counsel, may also present their objection orally at the Final Approval Hearing, regardless of
24 whether they have submitted a Notice of Objection and without any prior notice. If the Settlement
25 Administrator receives both a Request for Exclusion and a Notice of Objection, the Settlement
26 Administrator will honor the submission that is received first and disregard the other.

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1 28. Reports by the Settlement Administrator. The Settlement Administrator shall provide
2 weekly reports to counsel for the Parties providing: (a) the number of undeliverable and re-mailed
3 Class Notices; (ii) the number of Class Members who have submitted Disputes; (iii) the number of
4 Class Members who have submitted Requests for Exclusion; and (iv) the number of Settlement Class
5 Members who have submitted Notices of Objection. Additionally, the Settlement Administrator will
6 provide to counsel for the Parties any updated reports regarding the administration of the Settlement
7 Agreement as needed or requested, and immediately notify the Parties when it receives a request from
8 an individual or any other entity regarding inclusion in the Class and/or Settlement or regarding a
9 Dispute.

10 29. Defendant's Right to Rescind. If more than ten percent (10%) of the Class Members
11 submit timely and valid Requests for Exclusion, Defendant may elect to rescind the Settlement
12 Agreement. Defendant must exercise this right of rescission in writing that is provided to Class
13 Counsel within fourteen (14) calendar days of the Settlement Administrator notifying the Parties of
14 the number of Class Members who have submitted timely and valid Requests for Exclusion following
15 the Response Deadline. If Defendant exercises this option, Defendant shall pay any costs of settlement
16 administration owed to the Settlement Administrator incurred up to that date.

17 30. Certification of Completion. Upon completion of administration of the Settlement, the
18 Settlement Administrator will provide a written declaration under oath to certify such completion to
19 the Court and counsel for all Parties.

20 31. Duties of the Parties with Respect to Obtaining Final Approval of the Settlement. After
21 the Response Deadline, a Final Approval Hearing will be conducted to determine whether Final
22 Approval of the Settlement should be granted, along with the amounts properly payable for: (a)
23 Individual Settlement Shares; (b) Individual PAGA Payments; (c) LWDA Payment; (d) Attorneys'
24 Fees and Costs; (e) Enhancement Payment; and (f) Settlement Administration Costs. The Final
25 Approval Hearing will not be held earlier than thirty (30) calendar days after the Response Deadline.
26 Plaintiff and Class Counsel will be responsible for drafting the motion seeking Final Approval of the
27 Settlement. Class Counsel will provide Defendant's Counsel a draft of the final approval motion
28 seven (7) calendar days before filing it with the Court. By way of said motion, Plaintiff will apply for

1 the entry of the Final Approval Order and Judgment, which will provide for, in substantial part, the
2 following:

3 a. Approval of the Settlement as fair, reasonable, and adequate, and directing
4 consummation of its terms and provisions;

5 b. Certification of the Settlement Class;

6 c. Approval of the application for Attorneys' Fees and Costs to Class Counsel;

7 d. Approval of the application for Enhancement Payment to Plaintiff;

8 e. Directing Defendant to fund all amounts due under the Settlement Agreement
9 and ordered by the Court; and

10 f. Entering judgment in the Action, while maintaining continuing jurisdiction, in
11 conformity with California Rules of Court 3.769 and the Settlement Agreement.

12 32. Funding of the Gross Settlement Amount. No later than five (5) business days after
13 this Settlement Agreement is fully executed, Defendant will deposit the Gross Settlement Amount into
14 a Qualified Settlement Fund ("QSF") within the meaning of Treasury Regulation Section 1.468B-1,
15 *et seq.*, to be established by the Settlement Administrator. No later than five (5) business days after
16 Final Approval, Defendant will deposit the Employer Taxes into the QSF. Defendant shall provide
17 all information necessary for the Settlement Administrator to calculate necessary payroll taxes
18 including its official name, 8-digit state unemployment insurance tax ID number, and other
19 information requested by the Settlement Administrator, no later than five (5) business days after Final
20 Approval.

21 33. Distribution of the Gross Settlement Amount. Within five (5) business days after the
22 Effective Date, the Settlement Administrator will issue the Individual Settlement Payments to
23 Settlement Class Members, Individual PAGA Payments to PAGA Employees, LWDA Payment to the
24 LWDA, Enhancement Payment to Plaintiff, Attorneys' Fees and Costs to Class Counsel, and
25 Settlement Administration Costs to itself. The Settlement Administrator shall also set aside the
26 Employer Taxes and all employee-side payroll taxes, contributions, and withholding, and timely
27 forward these to the appropriate government authorities.

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1 34. Settlement Checks. The Settlement Administrator will be responsible for undertaking
2 appropriate deductions, required tax reporting, and issuing the Individual Settlement Payments by way
3 of check to the Settlement Class Members and the Individual PAGA Payments by way of check to the
4 PAGA Employees in accordance with this Settlement Agreement. When issuing payments, the
5 Settlement Administrator may combine the Individual Settlement Payment and Individual PAGA
6 Payment into one check if the intended recipient for both payments is one individual. Settlement Class
7 Members and PAGA Employees are not required to submit a claim to be issued an Individual
8 Settlement Payment and/or Individual PAGA Payment. Each Individual Settlement Payment and
9 Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180)
10 calendar days from the date the checks are issued, and thereafter, shall be canceled. Any funds
11 associated with such canceled checks shall be distributed by the Settlement Administrator to the State
12 of California's Unclaimed Property Division in the name of the Settlement Class Member and/or
13 PAGA Employee. The Parties agree that this disposition results in no "unpaid residue" under
14 California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to
15 Settlement Class Members, whether or not they cash their settlement checks. Therefore, Defendant
16 will not be required to pay any interest on such amounts. The Settlement Administrator shall undertake
17 amended and/or supplemental tax filings and reporting required under applicable local, state, and
18 federal tax laws that are necessitated due to the cancelation of any Individual Settlement Payment
19 and/or Individual PAGA Payment checks. Settlement Class Members whose Individual Settlement
20 Payment checks are canceled shall, nevertheless, be bound by the Class Settlement, and PAGA
21 Employees whose Individual PAGA Payment checks are cancelled shall, nevertheless, be bound by
22 the PAGA Settlement.

23 35. Class Settlement Release. Upon the Effective Date and the full funding of the Gross
24 Settlement Amount, Plaintiff and all Settlement Class Members will be deemed to have fully, finally,
25 and forever released, settled, compromised, relinquished, and discharged the Released Parties of all
26 Released Class Claims.

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1 36. PAGA Settlement Release. Upon the Effective Date and the full funding of the Gross
2 Settlement Amount, Plaintiff, the State of California with respect to all PAGA Employees, and all
3 PAGA Employees will be deemed to have fully, finally, and forever released, settled, compromised,
4 relinquished, and discharged the Released Parties of all Released PAGA Claims.

5 37. Plaintiff's General Release. Upon the Effective Date and the full funding of the Gross
6 Settlement Amount, Plaintiff, individually and on her own behalf, will be deemed to have fully, finally,
7 and forever released, settled, compromised, relinquished, and discharged the Released Parties from
8 any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees,
9 damages, or causes of action of any kind or nature whatsoever, known or unknown, suspected or
10 unsuspected, asserted or unasserted, which Plaintiff, at any time of execution of this Settlement
11 Agreement, had or claimed to have or may have, including but not limited to any and all claims arising
12 out of, relating to, or resulting from her employment and/or separation of employment with the
13 Released Parties, including any claims arising under any federal, state, or local law, statute, ordinance,
14 rule, or regulation or Executive Order relating to employment, including, but in no way limited to, any
15 claim under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 1981; the Americans
16 with Disabilities Act; the Family and Medical Leave Act; the Employee Retirement Income Security
17 Act; the California Family Rights Act; the California Fair Employment and Housing Act; all claims
18 for wages or penalties under the Fair Labor Standards Act; all claims for wages or penalties under the
19 California Labor Code; Business and Professions Code sections 17200 *et seq.*; all laws relating to
20 violation of public policy, retaliation, or interference with legal rights; any and all other employment
21 or discrimination laws; whistleblower claims; any tort, fraud, or constitutional claims; and any breach
22 of contract claims or claims of promissory estoppel. It is agreed that this is a general release and is to
23 be broadly construed as a release of all claims, provided that, notwithstanding the foregoing, this
24 Paragraph expressly does not include a release of any claims that cannot be released hereunder by law.
25 Plaintiff understands and expressly agrees that this Settlement Agreement extends to claims that she
26 has against Defendant, of whatever nature and kind, known or unknown, suspected or unsuspected,
27 vested or contingent, past, present, or future, arising from or attributable to an incident or event,
28 occurring in whole or in part, on or before the execution of this Settlement Agreement. Any and all

rights granted under any state or federal law or regulation limiting the effect of this Settlement Agreement, including the provisions of Section 1542 of the California Civil Code, ARE HEREBY EXPRESSLY WAIVED. Section 1542 of the California Civil Code reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

38. Final Approval Order and Judgment. The Parties shall provide the Settlement Administrator with a copy of the Final Approval Order and Judgment once it is entered by the Court, and the Settlement Administrator shall post the Final Approval Order and Judgment on its website for sixty (60) calendar days. No individualized notice of the Final Approval Order and Judgment to the Class will be required.

39. Continued Jurisdiction. After entry of the judgment pursuant to the Settlement, the Court will have continuing jurisdiction pursuant to Rule 3.769 of the California Rules of Court and Section 664.6 of the California Code of Civil Procedure, for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) settlement administration matters, and (c) such post-judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

40. Effects of Termination or Rescission of Settlement. Termination or rescission of the Settlement Agreement shall have the following effects:

a. The Settlement Agreement shall be void and shall have no force or effect, and no Party shall be bound by any of its terms;

b. In the event the Settlement Agreement is terminated, Defendant shall have no obligation to make any payments to any Party, Class Member, or attorney, except that the terminating Party shall pay the Settlement Administrator for services rendered up to the date the Settlement Administrator is notified that the Settlement has been terminated;

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c. The Preliminary Approval Order, Final Approval Order and Judgment, including any order certifying the Class, shall be vacated;

d. The Settlement Agreement and all negotiations, statements, and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Action prior to the execution of the Settlement Agreement;

e. Neither this Settlement Agreement, nor any ancillary documents, actions, statements, or filings in furtherance of the Settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever; and

f. Any documents generated to bring the Settlement into effect, will be null and void, and any order or judgment entered by the Court in furtherance of this Settlement Agreement will likewise be treated as void from the beginning.

41. Dismissal of Federal and California WARN Act. Plaintiff agrees to dismiss the claims for violations of 29 U.S.C. Sections 2101, *et seq.* (Federal WARN Act) and California Labor Code Sections 1400, *et seq.* (California WARN Act) alleged in the Operative Complaint *without* prejudice upon Final Approval.

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

43. Exhibits Incorporated by Reference. The terms of this Settlement include the terms set forth in any attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Settlement Agreement are an integral part of the Settlement.

44. Limitation on Publicity. Plaintiff and Class Counsel agree that, prior to filing the motion for preliminary approval, they will keep the terms of this Settlement confidential. Plaintiff and Class Counsel will not publicize this Settlement by name (i.e., identifying: (i) Defendant by name; (2) its industry (non-profit humane society); and (3) its location in California or San Francisco), whether through a press release, posting on Class Counsel's website, social media, or any other public means. Nothing herein is intended to prevent Plaintiff and Class Counsel from including the foregoing

1 information in the motion for preliminary approval, motion for final approval, and/or Class Notice.
2 Nothing herein is intended to prevent Plaintiff from discussing this Settlement with her spouse,
3 attorneys, or tax advisers. Nothing herein is intended to prevent Class Counsel from citing this
4 Settlement in the Action or including publicly available information regarding this Settlement as
5 evidence supporting their qualifications, experience, and competence as counsel in wage and hour
6 and/or class and PAGA matters in public court filings nor affects in any way the ability of Class
7 Counsel to communicate with putative class members in the Action or the Court. Furthermore,
8 Plaintiff and Class Counsel will undertake any and all disclosures required to be made to the LWDA
9 in conformity with PAGA.

10 45. Entire Agreement. This Settlement Agreement and any attached exhibits constitute the
11 entirety of the Parties' agreement relating to the settlement and transaction completed thereby, and all
12 prior or contemporaneous agreements, understandings, representations, and statements, whether oral
13 or written and whether by a Party or such Party's legal counsel, are merged herein. No other prior or
14 contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties
15 expressly recognize California Civil Code § 1625 and California Code of Civil Procedure § 1856(a),
16 which provide that a written agreement is to be construed according to its terms and may not be varied
17 or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written
18 representations or terms will modify, vary, or contradict the terms of this Settlement Agreement.

19 46. Interim Stay of Proceedings. The Parties agree to hold in abeyance all proceedings in
20 the Action (including with respect to California Code of Civil Procedure § 583.310), except such
21 proceedings necessary to implement and complete this Settlement Agreement, pending the Final
22 Approval Hearing to be conducted by the Court.

23 47. Amendment or Modification. Prior to the filing of the motion for preliminary approval
24 of the Settlement, the Parties may not amend or modify any provision of this Settlement Agreement
25 except by written agreement signed by counsel for all Parties. After the filing of the motion for
26 preliminary approval of the Settlement, the Parties may not amend or modify any provision of this
27 Settlement Agreement except by written agreement signed by counsel for all the Parties and subject
28 to Court approval. A waiver or amendment of any provision of this Settlement Agreement will not
constitute a waiver of any other provision.

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1 48. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
2 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
3 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
4 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
5 effectuate the terms of this Settlement Agreement. The Parties warrant that they understand and have
6 full authority to enter into this Settlement Agreement, and further intend that this Settlement
7 Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible
8 and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation
9 confidentiality provisions that otherwise might apply under state or federal law.

10 49. Signatories. It is agreed that because the members of the Class are so numerous, it is
11 impossible or impractical to have each Settlement Class Member or PAGA Employee execute this
12 Settlement Agreement. The Class Notice will advise all Class Members of the binding nature of the
13 Class Settlement as to the Settlement Class Members and the binding nature of the PAGA Settlement
14 as to the PAGA Employees, and the releases provided for by this Settlement Agreement shall have
15 the same force and effect as if this Settlement Agreement were executed by each Settlement Class
16 Member and PAGA Employee.

17 50. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
18 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

19 51. California Law Governs. All terms of this Settlement Agreement and attached exhibits
20 hereto will be governed by and interpreted according to the laws of the State of California.

21 52. Execution and Counterparts. This Settlement Agreement is subject only to the
22 execution of all Parties. However, this Settlement Agreement may be executed in one or more
23 counterparts. All executed counterparts and each of them, including facsimile, electronic, and scanned
24 copies of the signature page, will be deemed to be one and the same instrument.

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

1 regarding the fairness and reasonableness of this Settlement Agreement. In addition, if necessary to
2 obtain approval of the Settlement, the Mediator may execute a declaration supporting the Settlement
3 and the reasonableness of the Settlement and the Court may, in its discretion, contact the Mediator to
4 discuss the Settlement and whether or not the Settlement is objectively fair and reasonable.

5 54. Invalidity of Any Provision. Before declaring any provision of this Settlement
6 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
7 possible consistent with applicable precedents so as to define all provisions of this Settlement
8 Agreement valid and enforceable.

9 55. Plaintiff's Cooperation. Plaintiff agrees to sign this Settlement Agreement and, by
10 signing this Settlement Agreement, is hereby bound by the terms herein and agrees to fully cooperate
11 to implement the Settlement.

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

26 57. Captions. The captions and paragraph numbers in this Settlement Agreement are
27 inserted for the reader's convenience, and in no way define, limit, construe, or describe the scope or
28 intent of the provisions of this Settlement Agreement.

1 58. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
2 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be
3 construed more strictly against one Party than another merely by virtue of the fact that it may have
4 been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length
5 negotiations between the Parties, all Parties have contributed equally to the preparation of this
6 Settlement Agreement.

7 59. Representation By Counsel. The Parties acknowledge that they have been represented
8 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and
9 that this Settlement Agreement has been executed with the consent and advice of counsel, and
10 reviewed in full.

11 60. All Terms Subject to Final Court Approval. All amounts and procedures described in
12 this Settlement Agreement herein will be subject to final Court approval.

13 61. Notices. All notices, demands, and other communications to be provided concerning
14 the Settlement Agreement shall be in writing and deemed to have been duly given as of the third
15 business day after mailing by First Class U.S. Mail, or the day sent by email or messenger, addressed
16 as follows:

17 To Plaintiff and Class Counsel:

18 Jonathan M. Genish

19 jgenish@blackstonepc.com

20 Karen I. Gold

21 kgold@blackstonepc.com

22 Marissa A. Mayhood

23 mmayhood@blackstonepc.com

24 Ashley H. Cruz

25 acruz@blackstonepc.com

26 **BLACKSTONE LAW, APC**

27 8383 Wilshire Boulevard, Suite 745

28 Beverly Hills, California 90211

Tel: (310) 622-4278 / Fax: (855) 786-6356

To Defendant:

Hieu T. Williams

hwilliams@hkemploymentlaw.com

Jenna M. Rogenski

jrogenski@hkemploymentlaw.com

HIRSCHFELD KRAEMER LLP

456 Montgomery Street, Suite 200

San Francisco, California 94104
Tel: (415) 835-9000 / Fax: (415) 834-0443

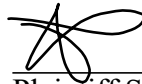
62. Cooperation and Execution of Necessary Documents. All Parties and their counsel will cooperate with each other in good faith and use their best efforts to implement the Settlement, including and not limited to, executing all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the Mediator and then the Court to resolve such disagreement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action and PAGA Settlement between Plaintiff and Defendant:

IT IS SO AGREED.

PLAINTIFF SITARA NAYABKHIL

Dated: 06/27/2024



Plaintiff Sitara Nayabkhil

**DEFENDANT THE SAN FRANCISCO
SOCIETY FOR THE PREVENTION OF
CRUELTY TO ANIMALS DBA SAN
FRANCISCO SPCA**

Dated: _____

Full Name: _____

Title: _____

On behalf of Defendant The San Francisco
Society for the Prevention of Cruelty to Animals
dba San Francisco SPCA

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San Francisco, California 94104
Tel: (415) 835-9000 / Fax: (415) 834-0443

62. Cooperation and Execution of Necessary Documents. All Parties and their counsel will cooperate with each other in good faith and use their best efforts to implement the Settlement, including and not limited to, executing all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the Mediator and then the Court to resolve such disagreement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action and PAGA Settlement between Plaintiff and Defendant:

IT IS SO AGREED.

PLAINTIFF SITARA NAYABKHIL

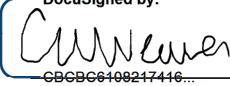
Dated: _____

Plaintiff Sitara Nayabkhil

**DEFENDANT THE SAN FRANCISCO
SOCIETY FOR THE PREVENTION OF
CRUELTY TO ANIMALS DBA SAN
FRANCISCO SPCA**

Dated: 6/25/2024

DocuSigned by:


CBCBC8408247416...

Full Name: Carrie Weaver

Title: Chief People & Inclusion Officer
On behalf of Defendant The San Francisco
Society for the Prevention of Cruelty to Animals
dba San Francisco SPCA

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1 **APPROVED AS TO FORM ONLY:**

2 **BLACKSTONE LAW, APC**

3
4 Dated: June 26, 2024



Jonathan M. Genish
Karen I. Gold
Attorneys for Plaintiff Sitara Nayabkhil
and Proposed Class Counsel

7 **HIRSCHFELD KRAEMER LLP**

8
9 Dated: 6/25/2024

DocuSigned by:



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Hieu T. Williams
Jenna M. Rogenski
Attorneys for Defendant The San Francisco
Society for the Prevention of Cruelty to Animals
dba San Francisco SPCA

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

Sitara Nayabhil v. San Francisco SPCA, dba, SFSPCA **Superior Court of California for the County of San Francisco, Case No. CGC-23-609950**

PLEASE READ THIS CLASS NOTICE CAREFULLY.

You have received this Class Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment.

This Class Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the Class Settlement, object to the Class Settlement, and/or dispute the number of Workweeks and/or Pay Periods that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Sitara Nayabhil ("Plaintiff") and Defendant The San Francisco Society for the Prevention of Cruelty to Animals dba San Francisco SPCA ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") in the case entitled *Sitara Nayabhil v. San Francisco SPCA, dba, SFSPCA*, San Francisco County Superior Court Case No. CGC-23-609950 ("Action"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" or "Class Member(s)" means all current and former hourly-paid and/or non-exempt employees who worked for Defendant in the State of California at any time during the Class Period.

"Class Period" means the period from October 24, 2019 through June 16, 2024.

"Class Settlement" means the settlement and resolution of all Released Class Claims.

"PAGA Employee(s)" means all current and former hourly-paid and/or non-exempt employees who worked for Defendant in the State of California at any time during the PAGA Period.

"PAGA Period" means the period from August 7, 2022 through June 16, 2024.

"PAGA Settlement" means the settlement and resolution of all Released PAGA Claims.

II. BACKGROUND OF THE ACTION

On August 7, 2023, Plaintiff provided written notice to the California Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the California Labor Code that Plaintiff contends were violated, and on October 18, 2023, Plaintiff provided a supplemental notice as well (together, "PAGA Letter"). On October 24, 2023, Plaintiff commenced a putative class and representative action under the Private Attorneys General Act of 2004 pursuant to California Labor Code Sections 2698, *et seq.* ("PAGA") by filing a Class & Collective Action Complaint in the Action. On December 22, 2023, Plaintiff filed a First Amended Class & Collective Action Complaint ("Operative Complaint") in the Action.

Plaintiff contends that Defendant failed to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, pay paid sick leave, timely pay wages during employment and upon termination, provide accurate wage statements, pay vacation pay, and reimburse business expenses, and thereby engaged in unfair business practices in violation of the California Business and Professions Code section 17200, *et seq.*, and conduct that gives rise to penalties under PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution, penalties, interest, and attorneys' fees and costs.

Defendant denies all of the allegations in the Action or that it violated any law.

The Parties participated in mediation with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into a Joint Stipulation of Class Action and PAGA Settlement (“Settlement” or “Settlement Agreement”).

On [Date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed ILYM Group, Inc. as the administrator of the Settlement (“Settlement Administrator”), Plaintiff Sitara Nayabkhal as representative of the Class (“Class Representative”), and the following Plaintiff’s attorneys as counsel for the Class (“Class Counsel”):

Jonathan M. Genish
Karen I. Gold
Marissa A. Mayhood
Ashley H. Cruz
Blackstone Law, APC
8383 Wilshire Boulevard, Suite 745
Beverly Hills, California 90211
Tel: (310) 622-4278 / Fax: (855) 786-6356

If you are a Class Member, you need not take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks and/or Pay Periods credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are a PAGA Employee, you do not need to take any action to receive an Individual PAGA Payment; you will not have the opportunity to object or seek exclusion from the PAGA Settlement and all PAGA Employees will be bound to the PAGA Settlement if the Court grants final approval of the Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff, Class Members, or PAGA Employees. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members, the State of California, and PAGA Employees.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is One Million Nine Hundred Fifty Thousand Dollars and Zero Cents (\$1,950,000.00) (the “Gross Settlement Amount”). The portion of the Gross Settlement Amount that is available for payment to Class Members is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys’ fees, in an amount not to exceed 33 1/3% (thirty-three and one-third percent) of the Gross Settlement Amount (i.e., \$650,000.00 if the Gross Settlement Amount is \$1,950,000.00), and reimbursement of litigation costs and expenses, in an amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) to Class Counsel; (2) Enhancement Payment in an amount not to exceed Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to Plaintiff for her services in the Action; (3) the amount of Ninety-Seven Thousand Five Hundred Dollars and Zero Cents (\$97,500.00) allocated toward civil penalties under PAGA (“PAGA Amount”), of which the LWDA will be paid 75% (\$73,125.00) (“LWDA Payment”) and the remaining 25% (\$24,375.00) will be distributed to PAGA Employees (“PAGA Employee Amount”); and (4) Settlement Administration Costs in an amount not to exceed Eleven Thousand Dollars and Zero Cents (\$11,000.00) to the Settlement Administrator.

Class Members are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”) based on the number of weeks each Class Member worked for Defendant as an hourly-paid and/or non-exempt employee in California during the Class Period (“Workweeks”). The Settlement Administrator has divided the Net Settlement Amount by the Workweeks of all Class Members to yield the “Estimated Workweek Value,” and multiplied each Class Member’s individual Workweeks by the Estimated Workweek Value to yield an estimated Individual Settlement Share that each Class Member may be entitled to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion

(“Settlement Class Members”) will be issued their final Individual Settlement Payment.

Each Individual Settlement Share will be allocated as twenty percent (20%) as wages, which will be reported on an IRS Form W-2, and eighty percent (80%) as penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099 (if applicable). Each Individual Settlement Share will be subject to reduction for the employee’s share of payroll taxes and withholdings with respect to the wages portion of the Individual Settlement Shares resulting in a net payment to the Settlement Class Member (“Individual Settlement Payment”). The employer’s share of taxes and contributions in connection with the wages portion of Individual Settlement Shares (“Employer Taxes”) will be paid by Defendant separately and in addition to the Gross Settlement Amount.

PAGA Employees are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the PAGA Employee Amount (“Individual PAGA Payment”) based on the number of pay periods each PAGA Employee worked for Defendant as an hourly-paid and/or non-exempt employee in California during the PAGA Period (“Pay Periods”). The Settlement Administrator had divided the PAGA Employee Amount, i.e., 25% of the PAGA Amount, by the Pay Periods of all PAGA Employees to yield the “Pay Period Value,” and multiplied each PAGA Employee’s individual Pay Periods by the Pay Period Value to yield each PAGA Employee’s Individual PAGA Payment.

Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, will not be subject to taxes or withholdings, and will be reported on IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members and Individual PAGA Payments will be mailed to PAGA Employees at the address that is on file with the Settlement Administrator. **If the address to which this Class Notice was mailed is not correct, or if you move after you receive this Class Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Workweeks and Pay Periods (if applicable) Based on Defendant’s Records

According to Defendant’s records:

- **From October 24, 2019 through June 16, 2024 (i.e., the Class Period), you are credited as having worked [REDACTED] Workweeks.**
- **From August 7, 2022 through June 16, 2024 (i.e., the PAGA Period), you are credited as having worked [REDACTED] Pay Periods.**

If you wish to dispute the Workweeks and/or Pay Periods credited to you, you must submit your dispute in writing to the Settlement Administrator (“Dispute”). The Dispute must: (a) contain the case name and number of the Action (*Nayabkhal v. San Francisco SPCA, dba, SFSPCA*, Case No. CGC-23-609950); (b) contain your full name, signature, address, and telephone number; (c) clearly state that you dispute the number of Workweeks and/or Pay Periods credited to you and what you contend is the correct number; and (d) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B below, postmarked **on or before [Response Deadline]**.

C. Your Estimated Individual Settlement Share and Individual PAGA Payment (if applicable)

As explained above, your estimated Individual Settlement Share and Individual PAGA Payment (if applicable) is based on the number of Workweeks and Pay Periods (if applicable) credited to you.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ [REDACTED]. The Individual Settlement Share is subject to reduction for the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [REDACTED] and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Share and Individual PAGA Payment (if applicable) reflected in this Class Notice is only an estimate. Your actual Individual Settlement Payment and Individual PAGA Payment (if applicable) may be higher or lower.

D. Release of Claims

Upon the Effective Date and the full funding of the Gross Settlement Amount, Plaintiff and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims.

Upon the Effective Date and the full funding of the Gross Settlement Amount, Plaintiff, the State of California with respect to all PAGA Employees, and all PAGA Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

“Released Class Claims” means any and all claims and damages which were alleged or which could have been alleged based on the factual allegations in the Operative Complaint, arising during the Class Period, including claims for Defendant’s alleged failure to pay overtime and minimum wages, failure to provide meal and rest periods and associated premiums, failure to pay paid sick leave, failure to timely pay wages during employment, failure to provide accurate wage statements, failure to timely pay final wages, failure to pay vacation pay, and failure to reimburse necessary business-related expenses, in violation of California Labor Code Sections 201, 202, 203, 204, 226(a), 226.7, 227.3, 510, 512(a), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Order(s), and for violations of the California Business and Professions Code sections 17200, *et seq.* based on the aforementioned California Labor Code violations. The Released Class Claims specifically excludes any and all claims and damages for violations of U.S.C. Sections 2101, *et seq.* (Federal WARN Act) and California Labor Code Sections 1400, *et seq.* (California WARN Act), as Plaintiff has agreed to dismiss these claims without prejudice.

“Released PAGA Claims” means any and all claims arising from any of the factual allegations in the PAGA Letter and/or Operative Complaint, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code Sections 2698, *et seq.*, including for Defendant’s alleged failure to pay overtime and minimum wages, failure to provide meal and rest periods and associated premiums, failure to pay paid sick leave, failure to timely pay wages during employment, failure to provide accurate wage statements, failure to timely pay final wages, failure to pay vacation pay, failure to maintain complete and accurate payroll records, and failure to reimburse necessary business-related expenses, in violation of California Labor Code Sections 201, 202, 203, 204, 226(a), 226.7, 227.3, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the applicable Industrial Welfare Commission Wage Order(s). The Released PAGA Claims specifically excludes any and all claims for violations of U.S.C. Sections 2101, *et seq.* (Federal WARN Act) and California Labor Code Sections 1400, *et seq.* (California WARN Act), as Plaintiff has agreed to dismiss these claims without prejudice.

“Released Parties” means Defendant and its current and former officers, directors, members, insurers, shareholders, subsidiaries, affiliates, predecessors, successors, and assigns.

E. Attorneys’ Fees and Costs to Class Counsel

Class Counsel will seek attorneys’ fees in an amount not to exceed thirty-three and one-third percent (33 1/3%) of the Gross Settlement Amount (i.e., \$650,000.00 if the Gross Settlement Amount is \$1,950,000.00) and reimbursement of litigation costs and expenses in an amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) (collectively, “Attorneys’ Fees and Costs”), subject to approval by the Court. The Attorneys’ Fees and Costs granted by the Court will be paid from the Gross Settlement Amount. Class Counsel has been prosecuting the Action on behalf of Plaintiff, Class Members, and PAGA Employees on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Enhancement Payment to Plaintiff

Plaintiff will seek the amount of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) (“Enhancement Payment”), in recognition of her services in connection with the Action. The Enhancement Payment will be paid from the Gross Settlement Amount, subject to approval by the Court, and if awarded, it will be paid to Plaintiff in addition to her Individual Settlement Payment and Individual PAGA Payment that she is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Eleven Thousand Dollars and Zero Cents (\$11,000.00) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Notices of Objection, and Disputes, calculating Individual Settlement Shares, Individual Settlement Payments, and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Class Settlement and receive money from the Class Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement and if the Court grants final approval of the Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released Class Claims against the Released Parties as described in Section III.D above.

If you are a PAGA Employee and the Court grants final approval of the Settlement, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released PAGA Claims against the Released Parties as described in Section III.D above.

As a Class Member and PAGA Employee (if applicable), you will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Class Settlement

Class Members may request to be excluded from the Class Settlement by submitting a letter (“Request for Exclusion”) to the Settlement Administrator, at the following address:

[Settlement Administrator]
[Mailing Address]

A Request for Exclusion must: (a) contain the case name and number of the Action (*Nayabkhil v. San Francisco SPCA, dba, SFSPCA*, Case No. CGC-23-609950); (b) contain your full name, signature, address, and telephone number; (c) clearly state that you do not wish to be included in the Class Settlement; and (d) be returned by mail to the Settlement Administrator at the specified address above, postmarked **on or before [Response Deadline]**.

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be issued an Individual Settlement Payment, will not be bound by the Class Settlement (and the release of Released Class Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Class Members who do not submit a timely and valid Request for Exclusion will be deemed Settlement Class Members and will be bound by all terms of the Class Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. PAGA Employees will be bound to the PAGA Settlement (and the release of Released PAGA Claims described in Section III.D above) and will still be issued an Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.

C. Object to the Class Settlement

You can object to the Class Settlement as long as you have not submitted a Request for Exclusion by submitting a written objection (“Notice of Objection”) to the Settlement Administrator.

The Notice of Objection must: (a) contain the case name and number of the Action (*Nayabkhil v. San Francisco SPCA, dba, SFSPCA*, Case No. CGC-23-609950); (b) contain your full name, signature, address, and telephone number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B above, postmarked **on or before [Response Deadline]**.

You may also appear at the Final Approval Hearing and present your objection orally, regardless of whether you have submitted a Notice of Objection and without any prior notice.

If you submit both a Request for Exclusion and Notice of Objection, the Settlement Administrator will honor the submission that is received first and disregard the other.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 613 of the San Francisco County Superior Court, located at Civil Center Courthouse, 400 McAllister St., San Francisco, California 94102, on **[date]**, at **[time]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and grant the Attorneys’ Fees and Costs to Class Counsel, Enhancement Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The Final Approval Hearing may be continued without further notice to the Class Members and PAGA Employees. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

You can find more information regarding appearing remotely through CourtCall online at: <https://courtcall.com/schedule/>.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers, which are on file with the Court.

You may view the Settlement Agreement and other documents filed in the Action for free by visiting the civil clerk’s office located at Civil Center Courthouse, 400 McAllister St., San Francisco, California 94012, during business hours, or online by visiting the following website: <https://sf.courts.ca.gov/online-services/case-information>, clicking “Access Now” under Civil Case Query and typing in the Court Case Number “CGC-23-609950.”

You may also visit the Settlement Administrator’s website at **[redacted]** for key documents in the Action.

PLEASE DO NOT TELEPHONE THE COURT, THE JUDGE, OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: **[INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.**

EXHIBIT 2

Jonathan M. Genish (State Bar No. 259031)
jgenish@blackstonepc.com
Karen I. Gold (State Bar No. 258360)
kgold@blackstonepc.com
Ashley H. Cruz (State Bar No. 306235)
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Attorneys for Plaintiff SITARA NAYABKHIL,
individually, and on behalf of other members of
the general public similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO**

SITARA NAYABKHIL, individually, and on
behalf of other members of the general public
similarly situated,

Plaintiffs,

vs.

SAN FRANCISCO SPCA, dba, SFSPCA, a
California 501(c)(3) non-profit organization;
DOES 1 through 25, inclusive,

Defendants.

Case No.: CGC-23-609950

*Assigned for All Purposes to the Honorable
Andrew Y.S. Cheng, Dept. 613*

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

Date: October 2, 2024
Time: 9:30 a.m.
Dept.: 613

Complaint Filed: October 24, 2023
FAC Filed: December 22, 2023
Trial Date: Not Set

**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*
09/09/2024
Clerk of the Court
BY: VERA MU
Deputy Clerk

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on **October 2, 2024** at **9:30 a.m.** in **Department 613** of the above-captioned Court located at 400 McAllister Street, San Francisco, California 94102 pursuant to California Code of Civil Procedure section 382 and Rule 3.769 of the California Rules of Court, Plaintiff Sitara Nayabkhil (“Plaintiff”) will and hereby does move the Court for an Order granting preliminary approval of the proposed class action and PAGA settlement between Plaintiff and Defendant The San Francisco Society for the Prevention of Cruelty of Animals dba San Francisco SPCA (“Defendant”).

Plaintiff requests that the Court enter an Order:

1. Preliminarily approving the Joint Stipulation of Class Action and PAGA Settlement (“Settlement” or “Settlement Agreement”) attached as Exhibit 3 to the Declaration of Karen I. Gold in Support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement (“Gold Decl.”);
2. Certifying the Class for Settlement purposes;
3. Appointing Plaintiff Sitara Nayabkhil as the Class Representative for Settlement purposes;
4. Appointing Jonathan M. Genish, Karen I. Gold, Ashley H. Cruz, and Marissa A. Mayhood of Blackstone Law, APC as Class Counsel for Settlement purposes;
5. Approving the proposed Notice of Class Action Settlement (“Class Notice”), attached as Exhibit A to the Settlement Agreement, to be mailed to the Class;
6. Approving the opt-out and objection procedures provided in the Settlement Agreement and set forth in the Class Notice;
7. For each Class Member, directing Defendant to furnish their full name, last known mailing address, Social Security number, dates worked during the Class Period, and such other information as is necessary for the Settlement Administrator to calculate Workweeks and Pay Periods (if applicable) to the Settlement Administrator within twenty-one (21) calendar days after entry of the order granting preliminary approval of the Settlement;
8. Approving the proposed deadlines for the settlement administration process; and
9. Setting a Final Approval Hearing.

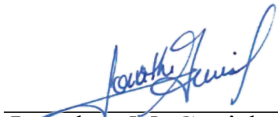
1 Pursuant to California Labor Code section 2699(1)(2), on August 28, 2024, a copy of the
2 Settlement was submitted to the California Labor and Workforce Development Agency (“LWDA”) via
3 online submission through the LWDA’s website. Gold Decl., ¶ 57, Exh. 4.

4 This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the
5 Declaration of Karen I. Gold, the Declaration of Plaintiff Sitara Nayabkhil, the Declaration of Lisa
6 Mullins (ILYM Group, Inc.), the pleadings and other records on file with the Court in this matter, and
7 any other further evidence or argument that the Court may properly receive at or before the hearing.

8
9 Respectfully submitted,

10 Dated: September 9, 2024

BLACKSTONE LAW, APC

11
12 By: 

13 Jonathan M. Genish
14 Karen I. Gold
Ashley H. Cruz
Marissa A. Mayhood

15 *Attorneys for* Plaintiff SITARA NAYABKHIL,
16 individually, and on behalf of other members of
17 the general public similarly situated and aggrieved
18 employees pursuant to the California Private
19 Attorneys General Act
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Sitara Nayabkhil ("Plaintiff") seeks preliminary approval of the Joint Stipulation of Class
4 Action and PAGA Settlement ("Settlement" or "Settlement Agreement") entered into between Plaintiff
5 and Defendant The San Francisco Society for the Prevention of Cruelty to Animals dba San Francisco
6 SPCA ("Defendant") (together, with Plaintiff, the "Parties"). Declaration of Karen I. Gold in Support of
7 Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("Gold Decl."), Ex.

8 3. The Settlement terms are outlined as follows:

- 9
- 10 • Class Size: Approximately 530 individuals.
 - 11 • Gross Settlement Amount: One Million Nine Hundred Fifty Thousand Dollars and Zero
12 Cents (\$1,950,000.00).
 - 13 • Attorneys' Fees and Costs: Attorneys' fees of thirty-three and one-third percent (33 1/3%) of
14 the Gross Settlement Amount (\$650,000.00 if the Gross Settlement Amount is
15 \$1,950,000.00) plus actual litigation costs and expenses not to exceed Twenty Thousand
16 Dollars and Zero Cents (\$20,000.00), to be paid from the Gross Settlement Amount.
 - 17 • Enhancement Payment: Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00)
18 to Plaintiff Sitara Nayabkhil, to be paid from the Gross Settlement Amount.
 - 19 • Settlement Administration Costs: Not to exceed Eleven Thousand Dollars and Zero Cents
20 (\$11,000.00), to be paid from the Gross Settlement Amount.
 - 21 • PAGA Amount: Ninety-Seven Thousand Five Hundred Dollars and Zero Cents (\$97,500.00)
22 from the Gross Settlement Amount, 75% of which will be paid to the Labor and Workforce
23 Development Agency ("LWDA") and the remaining 25% to be paid to the PAGA
24 Employees.
 - 25 • Estimated Net Settlement Amount: One Million One Hundred Sixty-Four Thousand Dollars
26 and Zero Cents (\$1,164,000.00) to be distributed to Settlement Class Members.

27 As set forth herein, the Settlement is the product of informed discovery and arms-length
28 negotiations, and provides a fair, adequate, and reasonable recovery for the Class. Plaintiff therefore
respectfully requests that the Court grant preliminary approval of the Settlement, conditionally certify the
Class, approve the proposed Notice of Class Action Settlement ("Class Notice"), and set a hearing date

1 for final settlement approval, among other requested relief.

2 II. FACTUAL AND PROCEDURAL BACKGROUND

3 Defendant is a non-profit animal welfare organization in San Francisco that offers dogs and cats
4 for adoption as well as veterinary care. Plaintiff was employed by Defendant as an hourly-paid, non-
5 exempt employee from approximately June 2019 to approximately October 2022. Declaration of Plaintiff
6 Sitara Nayabkhil in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement
7 (“Nayabkhil Decl.”), ¶ 2. Plaintiff held various positions at Defendant, with her most recent title being
8 Inpatient Services Coordinator. *Id.*

9 On August 7, 2023, Plaintiff provided written notice to the LWDA and to Defendant, pursuant to
10 California Labor Code Section 2699.3, of the specific provisions of the California Labor Code alleged to
11 have been violated by Defendant (“Original PAGA Letter”). Gold Decl., ¶ 10, Exh. 1.

12 On September 7, 2023, Defendant sent a letter to the LWDA and to Plaintiff’s counsel contending
13 that Defendant cured one of the several violations listed in the Original PAGA Letter. Gold Decl., ¶ 11.
14 Specifically, Defendant contended that it revised all employees’ wage statements from August 7, 2019 to
15 present to include Defendant’s registered fictitious business name on the wage statements and provided
16 employees access to their revised wage statements. *Id.*

17 On September 8, 2023, Plaintiff sent a letter to the LWDA contending that Defendant’s action in
18 revising its employees’ wage statements failed to fully cure the alleged violation of California Labor
19 Code section 226(a), as Defendant still failed to accurately record and pay all hours worked by the
20 aggrieved employees, rendering the wage statements non-compliant. Gold Decl., ¶ 12.

21 On September 20, 2023, the LWDA sent Plaintiff’s counsel and Defendant’s counsel a letter
22 entitled “Decision on Cure Dispute.” Gold Decl., ¶ 13. The letter advised of the LWDA’s decision that
23 Defendant cured the “alleged violations of Labor Code section 226, subdivision (a)(8)” which mandates
24 that a wage statement include the name and address of the legal entity that is the employer. *Id.* The letter
25 further stated: “The LWDA takes no position on the merits of any other alleged violation.” *Id.*

26 On October 18, 2023, Plaintiff provided a supplemental written notice (“Supplemental PAGA
27 Letter”) to the LWDA and to Defendant regarding Defendant’s alleged failure to pay out vested and
28 unused vacation pay to employees at their final rate of pay upon employees’ resignation or termination.

Gold Decl., ¶ 14, Exh. 2. Together, the Original PAGA Letter and Supplemental PAGA Letter are referred to as the “PAGA Letter”. Gold Decl., ¶ 14; Settlement Agreement, ¶ 1.

On October 24, 2023, Plaintiff filed a Class & Collective Action Complaint in the action entitled *Sitara Nayabkhil v. San Francisco SPCA, dba, SFSPCA*, San Francisco County Superior Court, Case No. CGC-23-609950 (“Action”), thereby commencing a putative class and PAGA action against Defendant. Gold Decl., ¶ 15.

On December 22, 2023, Plaintiff Filed a First Amended Class & Collective Action Complaint (“Operative Complaint”) in the Action against Defendant to add a cause of action for unpaid vacation time. Gold Decl., ¶ 16. The Operative Complaint alleges thirteen (13) causes of action for: (1) Violation of 29 U.S.C. §§ 2101, *et seq.* (Federal WARN Act); (2) Violation of Cal. Labor Code §§ 1400, *et seq.* (California WARN Act); (3) Violation of Cal. Labor Code §§ 510 and 1198 (Unpaid Overtime Wages); (4) Violation of Cal. Labor Code §§ 1194, 1197, and 11971. (Unpaid Minimum Wages); (5) Violation of Cal. Labor Code §§ 226.7 and 512(a) (Meal Break Violations); (6) Violation of Cal. Labor Code § 226.7 (Rest Break Violations); (7) Violation of Cal. Labor Code §§ 204 and 210 (Wages Not Timely Paid); (8) Violation of Cal. Labor Code § 226(a) (Wage Statement Violations); (9) Violation of Cal. Labor Code §§ 201, 202, and 203 (Final Wages Not Timely Paid); (10) Violation of Cal. Labor Code § 227.3 (Unpaid Vacation Time); (11) Violation of Cal. Labor Code §§ 2800 and 2802 (Failure to Reimburse Expenses); (12) Violation of Cal. Business and Professions Code §§ 17200 *et seq.* (Unfair and Unlawful Business Practices); and (13) Violation of Cal. Labor Code §§ 2698 *et seq.* (“Private Attorneys General Act”). *Id.*

On April 9, 2024, the Parties participated in a mediation conducted by Jeffrey A. Ross, Esq. (“Mediator”), a neutral and well-respected mediator with extensive experience in complex wage and hour matters. Gold Decl., ¶ 17. After a full day of mediation, and with the help of the Mediator, the Parties were able to reach an agreement to resolve this dispute on a class and PAGA basis. *Id.*

On June 27, 2024, the Parties executed the Settlement Agreement. Gold Decl., ¶ 18, Exh. 3.

III. THE SETTLEMENT TERMS

A. Class Definition

For purposes of settlement only, the Parties have agreed that the Class shall be defined as “all current and former hourly-paid and/or non-exempt employees who worked for Defendant in the State of

California at any time during the Class Period” (“Class Members” or “Class”). Gold Decl., ¶ 19; Settlement Agreement, ¶ 6(b). The Class Period is defined as the period from October 24, 2019 through June 16, 2024. Gold Decl., ¶ 19; Settlement Agreement, ¶ 6(f). Based on information provided by Defendant, it is estimated that there are a total of five hundred and thirty (530) Class Members. Gold Decl., ¶ 19; Settlement Agreement, ¶ 13.

B. Amount of Settlement

The Parties have agreed to settle the class and PAGA claims at issue in the Operative Complaint, with the exception of the first and second causes of action (WARN Act claims), for a non-reversionary Gross Settlement Amount of One Million Nine Hundred Fifty Thousand Dollars and Zero Cents (\$1,950,000.00), exclusive of employer-side payroll taxes. Gold Decl., ¶ 20; Settlement Agreement, ¶ 6(q).

C. Allocation and Funding of the Gross Settlement Amount

The Gross Settlement Amount is a common fund and therefore includes all requested costs, fees, and other allocations. Gold Decl., ¶ 20; Settlement Agreement, ¶ 6(q). The Gross Settlement Amount includes: (1) Class Counsel’s fees in the amount of thirty-three and one-third percent (33 1/3%) of the Gross Settlement Amount (i.e., \$650,000.00 if the Gross Settlement Amount is \$1,950,000.00); (2) Class Counsel’s actual litigation costs and expenses, not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00); (3) Settlement Administration Costs, not to exceed Eleven Dollars and Zero Cents (\$11,000.00); (4) Enhancement Payment in the amount of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00); and (5) PAGA Amount in the amount of Ninety-Seven Thousand Five Hundred Dollars and Zero Cents (\$97,500.00). Gold Decl., ¶ 20; Settlement Agreement, ¶¶ 6(q), 9, 10, 11, and 12. After the above-estimated amounts are deducted from the Gross Settlement Amount, the Net Settlement Amount that will be available for Class Members is currently estimated to be One Million One Hundred Sixty-Four Thousand Dollars and Zero Cents (\$1,164,000.00). Gold Decl., ¶ 20; Settlement Agreement, ¶ 6(v). Additionally, 25% of the PAGA Amount (“PAGA Employee Amount”), which is \$24,375.00 out of \$97,500.00, will be fully distributed to all current and former hourly-paid and/or non-exempt employees who worked for Defendant in the State of California at any time during the PAGA Period (“PAGA Employees”). Gold Decl., ¶ 20; Settlement Agreement, ¶¶ 6(x) and 11. The “PAGA

Period” is defined as the period from August 7, 2022 through June 16, 2024. Gold Decl., ¶ 20; Settlement Agreement, ¶ 6(aa).

Based on information from Defendant, it is estimated that the Class Members worked a total of 45,028 Workweeks during the period during the Class Period. Gold Decl., ¶ 21; Settlement Agreement, ¶ 13. If it is determined by the Settlement Administrator that the total number of Workweeks worked by the Class Members during the Class Period actually exceeds 45,028 by more than 20% (i.e., by more than 54,034 Workweeks), then Defendant shall, at its option, either (1) increase the Gross Settlement Amount on a *pro rata* basis equal to the percentage increase in the number of Workweeks worked by the Class Members above 20%; or (b) cut off the Class Period and PAGA Period as of the date that 54,034 Workweeks is reached. For example, if the number of Workweeks increases by 21% to 54,484 Workweeks, then Defendant may choose to either (a) increase the Gross Settlement Amount by 1%; or (b) cut off the Class Period and PAGA Period as of the date that 54,034 Workweeks is reached. Gold Decl., ¶ 21; Settlement Agreement, ¶ 13.

The Net Settlement Amount will be distributed and paid to all Class Members who do not submit a timely and valid Request for Exclusion (“Settlement Class Members”) on a *pro rata* basis based on the number of weeks each Class Member worked for Defendant as an hourly-paid and/or non-exempt employee in California during the Class Period (“Workweeks”). Gold Decl., ¶ 22; Settlement Agreement, ¶¶ 6(mm) and 6(nn). The *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to receive under the Class Settlement (“Individual Settlement Share”) will be calculated by the Settlement Administrator, in accordance with the Settlement Agreement. Gold Decl., ¶ 22; Settlement Agreement, ¶¶ 6(t) and 14.

The PAGA Employee Amount will be distributed and paid to all PAGA Employees on a *pro rata* basis based on the number of pay periods each PAGA Employee worked for Defendant as an hourly-paid and/or non-exempt employee in California during the PAGA Period (“Pay Periods”). Gold Decl., ¶ 23; Settlement Agreement, ¶¶ 6(z), 6(cc), and 11. The *pro rata* share of the PAGA Employee Amount that a PAGA Employee may be eligible to receive under the PAGA Settlement (“Individual PAGA Payment”) will be calculated by the Settlement Administrator, in accordance with the Settlement Agreement. Gold Decl., ¶ 23; Settlement Agreement, ¶¶ 6(r) and 15.

1 Each Individual Settlement Share will be allocated as twenty percent (20%) wages and eighty
2 percent (80%) penalties, interest, and non-wage damages. Gold Decl., ¶ 24; Settlement Agreement, ¶ 16.
3 The portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated to
4 penalties, interest, and non-wage damages will be reported on an IRS Form 1099 (if applicable) by the
5 Settlement Administrator. Gold Decl., ¶ 24; Settlement Agreement, ¶ 16. The Settlement Administrator
6 will withhold the employee's share of taxes and withholdings with respect to the wages portion of the
7 Individual Settlement Shares, and issue checks to Settlement Class Members for their net payment of
8 their Individual Settlement Share ("Individual Settlement Payment"). Gold Decl., ¶ 24; Settlement
9 Agreement, ¶¶ 6(s) and 16. The employer's share of taxes and contributions in connection with the wages
10 portion of Individual Settlement Shares will be paid by Defendant separately and in addition to the Gross
11 Settlement Amount. Gold Decl., ¶ 24; Settlement Agreement, ¶¶ 6(l), 6(q), and 16. Each Individual
12 PAGA Payment will be allocated as one hundred percent (100%) penalties and will be reported on an
13 IRS Form 1099 (if applicable) by the Settlement Administrator. Gold Decl., ¶ 24; Settlement Agreement,
14 ¶ 16.

15 The Settlement Agreement is a non-reversionary and non-claims made settlement. Gold Decl., ¶
16 25; Settlement Agreement, ¶¶ 6(q) and 34. The Net Settlement Amount will be fully distributed to
17 Settlement Class Members and the PAGA Amount will be fully distributed to the LWDA and PAGA
18 Employees, in accordance with the Settlement Agreement. Gold Decl., ¶ 25; Settlement Agreement, ¶¶
19 14 and 15. No money will revert to Defendant. Gold Decl., ¶ 25; Settlement Agreement, ¶ 6(q).

20 Each Individual Settlement Payment and Individual PAGA Payment check will be valid and
21 negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and
22 thereafter, shall be canceled. Gold Decl., ¶ 26; Settlement Agreement, ¶ 34. Any funds associated with
23 such canceled checks will be distributed by the Settlement Administrator to the State of California's
24 Unclaimed Property Division in the name of the Settlement Class Member and/or PAGA Employee.
25 Gold Decl., ¶ 26 Settlement Agreement, ¶ 34.

26 **D. Released Claims**

27 Upon the Effective Date and the full funding of the Gross Settlement Amount, Plaintiff and all
28 Settlement Class Members will be deemed to have fully, finally, and forever released, settled,

1 compromised, relinquished, and discharged the Released Parties of all Released Class Claims. Settlement
2 Agreement, ¶¶ 6(k) and 35.

3 Upon the Effective Date and the full funding of the Gross Settlement Amount, Plaintiff, the State
4 of California with respect to all PAGA Employees, and all PAGA Employees will be deemed to have
5 fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released
6 Parties of all Released PAGA Claims. Settlement Agreement, ¶¶ 6(k) and 36.

7 “Released Class Claims” means any and all claims and damages which were alleged or which
8 could have been alleged based on the factual allegations in the Operative Complaint, arising during the
9 Class Period, including claims for Defendant’s alleged failure to pay overtime and minimum wages,
10 failure to provide meal and rest periods and associated premiums, failure to pay paid sick leave, failure
11 to timely pay wages during employment, failure to provide accurate wage statements, failure to timely
12 pay final wages, failure to pay vacation pay, and failure to reimburse necessary business-related expenses,
13 in violation of California Labor Code Sections 201, 202, 203, 204, 226(a), 226.7, 227.3, 510, 512(a),
14 1194, 1197, 1197.1, 1198, 2800, and 2802, and the applicable Industrial Welfare Commission Wage
15 Order(s), and for violations of the California Business and Professions Code sections 17200, *et seq.* based
16 on the aforementioned California Labor Code violations. Settlement Agreement, ¶ 6(ff). The Released
17 Class Claims specifically excludes any and all claims and damages for violations of U.S.C. Sections
18 2101, *et seq.* (Federal WARN Act) and California Labor Code Sections 1400, *et seq.* (California WARN
19 Act), as Plaintiff has agreed to dismiss these claims without prejudice. *Id.*

20 “Released PAGA Claims” means any and all claims arising from any of the factual allegations in
21 the PAGA Letter and/or Operative Complaint, arising during the PAGA Period, for civil penalties under
22 the Private Attorneys General Act of 2004, California Labor Code Sections 2698 *et seq.*, including for
23 Defendant’s alleged failure to pay overtime and minimum wages, failure to provide meal and rest periods
24 and associated premiums, failure to pay paid sick leave, failure to timely pay wages during employment,
25 failure to provide accurate wage statements, failure to timely pay final wages, failure to pay vacation pay,
26 failure to maintain complete and accurate payroll records, and failure to reimburse necessary business-
27 related expenses, in violation of California Labor Code Sections 201, 202, 203, 204, 226(a), 226.7, 227.3,
28 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the applicable Industrial Welfare

Commission Wage Order(s). Settlement Agreement, ¶ 6(gg). The Released PAGA Claims specifically excludes any and all claims for violations of U.S.C. Sections 2101, *et seq.* (Federal WARN Act) and California Labor Code Sections 1400, *et seq.* (California WARN Act), as Plaintiff has agreed to dismiss these claims without prejudice. *Id.*

“Released Parties” means Defendant and its current and former officers, directors, members, insurers, shareholders, subsidiaries, affiliates, predecessors, successors, and assigns. Settlement Agreement, ¶ 6 (hh).

IV. STANDARD OF REVIEW FOR PRELIMINARY APPROVAL

The settlement of a class action requires court approval. *See Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996). “In general, questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court’s broad discretion.” *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 234-35 (2001) (disapproved on other grounds).

The review and approval of a proposed class action settlement involves a two-step process. *See* Cal. Rules of Court, Rule 3.769(c). First, counsel submit the proposed terms of the settlement and the Court makes a preliminary assessment of whether the settlement appears to be sufficiently within the range of a fair settlement to justify providing notice of the proposed settlement to class members. After notice is provided to the class, the Court must conduct a second inquiry into whether the proposed settlement is fair, reasonable, and adequate. *Id.*

The initial evaluation of the settlement at the preliminary approval step “is not a fairness hearing.” *Armstrong v. Board of School Directors of City of Milwaukee*, 616 F.2d 305, 314 (7th Cir. 1980). Rather, the limited purpose of this initial inquiry is to determine, at a threshold level, only whether the proposed settlement is within the range of possible approval and, as a result, “whether there is any reason to notify the class members of the proposed settlement and to proceed with a fairness hearing.” A presumption of fairness exists where: (1) the settlement is reached through arm’s length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. *See In re Microsoft I-V Cases*, 135 Cal. App. 4th 706, 723 (2006).

1 Preliminary approval does not require a court to make a final determination that the settlement is
2 fair, reasonable, and adequate. Rather, that decision is made only at the final approval stage, after notice
3 of the settlement has been given to the class members and they have had an opportunity to object or
4 exclude themselves from the settlement. *See* Cal. Rules of Court, Rule 3.769(g). In considering a
5 potential class settlement, the court need not reach any ultimate conclusions on the issues of fact and law
6 which underlie the merits of the dispute and need not engage in a trial on the merits. *See Officers for*
7 *Justice v. Civil Service Commission*, 688 F.2d 615, 625 (9th Cir. 1982).

8 **V. THE SETTLEMENT IS PRESUMED FAIR**

9 **A. The Settlement Was Reached as a Result of Arm's-Length Bargaining**

10 California courts recognize that “a presumption of fairness exists where . . . [a] settlement is
11 reached through arm's-length bargaining.” *Wershba*, 91 Cal.App.4th at 245; *see also Clark v. Am.*
12 *Residential Servs. LLC*, 175 Cal.App.4th 785, 799 (2009). Here, the Parties' settlement negotiations
13 were at all times made at arm's-length and were adversarial. Gold Decl., ¶ 27. The Settlement was
14 reached after completing a full day of mediation with a highly respected mediator with substantial
15 experience mediating wage and hour cases, and Plaintiff engaged in additional negotiations in order to
16 finalize the long-form agreement presently before the Court. *Id.*

17 **B. Sufficient Investigation and Discovery by Experienced Class Counsel**

18 Courts typically assess the status of discovery in determining whether a class action settlement
19 agreement is fair, reasonable, and adequate. *Dunk*, 48 Cal.App.4th at 1801. Prior to mediation,
20 Defendant produced putative class members' time and pay data, as well as Defendant's employee
21 handbook, relevant wage and hour policies, and information on the total number of putative class
22 members, the total number of former employees, the total number of hours worked by the putative class
23 members, the total number of shifts worked by the putative class members, and the average rate of pay
24 for the putative class members. Gold Decl., ¶ 28.

25 This allowed Plaintiff's counsel to conduct an informed assessment and analysis of the strengths
26 and weaknesses of the claims and the potential class-wide damages. Gold Decl., ¶ 29. Based on
27 information exchanged, the Parties extensively briefed issues regarding class certification and liability
28 and provided their analyses to the Mediator who helped the Parties debate the strengths and weakness of

1 their respective positions. Gold Decl., ¶ 30. Additionally, settlement negotiations were conducted by
2 highly capable and experienced counsel. Gold Decl., ¶¶ 2-9 and 53. Accordingly, Class Counsel had
3 sufficient information and experience to act intelligently in negotiating the Settlement.

4 **C. The Settlement is Fair and Reasonable in Light of the Parties' Respective Legal Positions**
5 **and Recovery Risks**

6 A settlement is not judged against what might have been recovered had a plaintiff prevailed at
7 trial, nor does the settlement have to obtain 100% of the damages sought to be fair and reasonable.
8 *Wershba*, 91 Cal.App.4th at 246, 250. In evaluating the reasonableness of a settlement, a trial court must
9 consider “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further
10 litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the
11 extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the
12 presence of a governmental participant, and the reaction of the class members to the proposed settlement.”
13 *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008).

14 Here, the reasonableness of the Settlement is underscored by the fact that Defendant has legal and
15 factual grounds for defending the Action. Based upon Class Counsel’s experience litigating similar
16 complex matters, Plaintiff reasonably expected a vigorous and lengthy defense to both class certification
17 and the merits of the Action absent a settlement. Gold Decl., ¶¶ 32-33.

18 **1. Class Counsel’s Analysis of the Maximum Available Liability and Damages**

19 Class Counsel hired an expert consultant, who assisted Class Counsel in analyzing all available
20 data and estimated Defendant’s maximum potential exposure to be approximately \$10,068,268, assuming
21 the litigation was successful at trial on all claims at issue and every employee had a violation for each
22 claim on every shift worked, and then reduced this exposure analysis based on the challenges facing the
23 likelihood of obtaining class certification, prevailing at trial, and other attendant risks. *Id.*, ¶ 31. This
24 estimate is based off an estimated maximum liability for all claims at issue and the total aggregate
25 workweeks during the relevant time period, less interest, and based on the analysis of the data which was
26 extrapolated out for all putative class members across the entire putative class period, which included:
27 \$1,608,850 for meal period violations less meal period premiums paid; \$3,303,887 for rest period
28 violations; \$1,296,486 for unpaid off-the-clock work; \$24,154 for unpaid overtime wages at the required

regular rate of pay; \$1,419,588 for unpaid overtime wages for invalid alternative workweek schedules; \$13,121 for unpaid meal break premiums and sick pay at the required regular rate of pay; \$277,320 for unreimbursed business expenses; \$1,563,412 for waiting time penalties; and \$561,450 in wage statement penalties. Gold Decl., ¶ 31. Plaintiff further estimated that Defendant faced an additional exposure of \$661,400 in potential, non-stacked (i.e., one penalty, per employee, per pay period during the PAGA statutory period) PAGA penalties. *Id.* Together with the PAGA penalties, Defendant's maximum potential exposure totaled \$10,729,668 in damages. *Id.*

2. Class Counsel's Risk-Based Analysis and Risk-Based Adjustments

While Plaintiff believes that Defendant faced significant exposure, substantial barriers to a recovery existed. Defendant contended that Plaintiff's claims are not suitable for class certification because individual issues and affirmative defenses would predominate should this case go to trial. Gold Decl., ¶ 34; *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012); *Duran v. U.S. Bank Nat. Assn.*, 59 Cal.4th 1, 35-36 (2014); *Wal-Mart Stores, Inc. v. Dukes*, 131 S.Ct. 2541, 2551 (2011). While Plaintiff and Class Counsel disagree with Defendant's predictions, they also recognize that there is a significant risk that the Court may deny class certification. Gold Decl., ¶ 34.

i. Meal Periods

Plaintiff's meal period claims assert that Defendant failed to provide lawful meal periods. Plaintiff's theory of liability for meal period violations was based on allegations that Defendant's practices failed to allow Class Members to take meal breaks in the manner required under California law. Gold Decl., ¶ 35; *See Bradley v. Networkers Int'l, LLC*, 211 Cal.App.4th 1129, 1150 (2012) (holding that "the lack of a meal/rest break policy and uniform failure to authorize such breaks are matters of common proof."). Plaintiff's analysis of the time data revealed that in 32.7% of all shifts there was at least one unique meal period violation. Gold Decl., ¶ 35.

Defendant contended that its policies and practices at all times during the Class Period were lawful. Gold Decl., ¶ 36. Additionally, Defendant claimed that Plaintiff's estimated meal break violations may be inflated because some Class Members signed a meal period waiver during their onboarding. *Id.* Defendant further argued that the rate of purported meal period violations reflected in the data would require individualized inquiry and that such inquiry would prohibit a class from being

certified. *Id.* Additionally, the records showed that Defendant had paid meal premiums for 34% of the recorded meal break violations. *Id.*

ii. *Rest Periods*

Plaintiff argued that Defendant failed to schedule, permit, or authorize compliant rest periods. *Id.*, ¶ 37. Plaintiff alleged that Plaintiff and other Class Members were unable to take their rest breaks because of their heavy workloads and the lack of adequate relief staff. *Id.* Plaintiff reported that she was unable to take a rest break on a near-daily basis. *Id.* Further, for the instances in which Class Members were able to take rest breaks, they were frequently interrupted or cut short. *Id.* Plaintiff's damages analysis on this claim was based on an alleged 100% violation rate. *Id.*

As with the meal period allegations, Defendant contended that it had a lawful written rest period policy, provided compliant rest breaks, and relieved Class Members of all duties as required under California law. *Id.*, ¶ 38. Defendant also contended that given the lack of records demonstrating rest period violations, there were legitimate concerns in certifying these claims. *Id.*

iii. *Off-The-Clock Work*

Plaintiff minimum and overtime wages claims were largely based on unrecorded, off-the-clock work performed by the Class Members both between shifts and during purported meal periods. *Id.*, ¶ 39. For example, Plaintiff alleged that she was required to respond to work-related calls and messages while clocked out. *Id.* Defendant contended that the individualized nature of why this work was performed and the individualized nature of damages presented substantial concerns regarding the manageability of the case and the risk the Court could find these issues prevented certification. *Id.* The estimated damages for this claim were based on an assumption that all Class Members worked off the clock for at least one hour per week. *Id.*

iv. *Unpaid Overtime*

Plaintiff's overtime wage claim was also based on unpaid overtime in connection with schedules of four days per week, ten hours per day (a "4/10" schedule) worked by Class Members without a valid alternative workweek schedule in place. Gold Decl., ¶ 40. It appeared from Defendant's company policy that some portion of the Class was covered by an alternative workweek schedule, but details surrounding the adoption and scope of the alternative workweek schedule were unclear to Plaintiff. *Id.* Defendant

1 contended that all Class Members who worked a 4/10 schedule did so under a proper alternative
2 workweek schedule. *Id.*

3 *v. Regular Rate*

4 Plaintiff's unpaid wage claims were also based on Defendant having failed to factor all forms of
5 non-discretionary compensation into the regular rate of pay for the purpose of paying overtime
6 compensation, meal and rest break penalties, sick pay, and vacation time pay. *Id.*, ¶ 41. For instance,
7 swing shift differentials, overnight differentials, dental differentials, bilingual differentials, and referral
8 bonuses were not properly included in the regular rate of pay. *Id.* Defendant contended that the
9 individualized nature of these damages presented substantial concerns regarding the manageability of the
10 case and the risk the Court could find these issues prevented certification. *Id.*

11 *vi. Unreimbursed Business Expenses*

12 Plaintiff alleged that Defendant failed to reimburse necessary business expenses, including for
13 use of personal cell phones and electronic devices, the upkeep and maintenance of uniforms, and the
14 purchase of home computer setups so that they could perform their job functions. *Id.*, ¶ 42. Defendant
15 contended that these expenses were not common to all Class Members and that the cost of uniform upkeep
16 was not a reimbursable expense. *Id.* Defendant further contended that it had policies and practices of
17 reimbursing employees for necessary business expenses. *Id.*

18 *vii. Unpaid Vacation Time*

19 Plaintiff's unpaid vacation time claims were based on Defendant having failed to provide Plaintiff
20 and class members with compensation at their final rate of pay for unused vested paid vacation days
21 pursuant to Labor Code Section 227.3. Defendant provided Plaintiff with a copy of its PTO policy, which
22 provides that Defendant pays out all accrued and unused PTO upon the end of employment, and a sample
23 of records that contained evidence of payment of accrued and unused PTO. Defendant contended that
24 any alleged damages were not common to all class members, and the individualized nature of these
25 alleged damages presented substantial concerns regarding the manageability of the case and the risk the
26 Court could find these issues prevented certification.

27 *viii. WARN Act Claims*

28 Defendant declined to provide data regarding Plaintiff's WARN Act claims, contending that no

1 layoff event triggered the federal or California WARN Acts. *Id.*, ¶ 43. As such, these claims were
2 excluded from the Settlement Agreement. *Id.* Additionally, Plaintiff has agreed to dismiss the federal
3 and California Warn Act claims alleged in the Operative Complaint without prejudice upon final approval
4 of the Settlement. Gold Decl., ¶ 43; Settlement Agreement, ¶ 41.

5 *ix. Derivative Claims*

6 As with all derivative claims, success depends on the success of the underlying claims. Gold
7 Decl., ¶ 44. Here, Plaintiff's claims for inaccurate wage statements and failure to pay all wages due upon
8 termination would only succeed if the underlying claims for failure to pay wages for off-the-clock work,
9 failure to pay overtime, failure to pay vacation time pay, and failure to pay premiums for all meal and
10 rest periods not lawfully provided were successful. *Id.* Therefore, these claims were subject to the same
11 risks of failure as discussed above. *Id.* Also, even if Plaintiff prevailed on her underlying claims, she
12 would still be required to demonstrate that Defendant's violations of California Labor Code section 203
13 were *willful* violations. Gold Decl., ¶ 44; *See, e.g., Choate v. Celite Corp.*, 215 Cal App. 4th 1460, 1468
14 (2013) (holding that "an employer's reasonable, good faith belief that wages are not owed may negate a
15 finding of willfulness"). Wage statement claims have also seen varying treatment at the appellate level
16 because such claims have an element of discretion attached to them rather than a pure calculation of
17 damages after liability is proven. Gold Decl. ¶ 44; *Jaimez v. DAIOHS USA, Inc.*, 181 Cal.App.4th 1286
18 (2010) *with Price v. Starbucks Corp.*, 192 Cal.App.4th 1136 (2011). Accordingly, these derivative
19 claims, which comprised a substantial portion of Defendant's estimated liability, were therefore
20 uncertain. Gold Decl. ¶ 44.

21 Class Counsel also recognized that, even if Plaintiff prevailed at class certification, proving the
22 amount of wages due to Class Members would be an expensive, time-consuming, and uncertain
23 proposition. *Id.*, ¶ 45. In order to prove liability and damages, Class Counsel will need to request and
24 analyze thousands of pages of documents, obtain the Class Members' contact information, contact them,
25 and obtain their declarations at great expense. *Id.* Obtaining the cooperation of current employees would
26 also be difficult, given the likely reluctance to aid prosecution of a lawsuit against a current employer.
27 *Id.* On the other hand, Defendant would likely be able to obtain the cooperation of its employees. *Id.*
28 Moreover, even if Plaintiff prevailed at class certification and trial, possible appeals would substantially

1 delay any recovery by the Class. *Id.*

2 Therefore, taking into account how each of the above risks potentially affected Plaintiff's ability
3 to obtain class certification, then prove the underlying violations, and the cost and delay in recovering the
4 alleged potential damages, Class Counsel discounted Defendant's estimated liability by 60% to
5 \$4,291,867. Gold Decl., ¶ 46. The merits-based risk factors further reduced Defendant's estimated
6 liability by an additional 45%. *Id.* This resulted in an adjusted estimated liability of \$2,360,527. *Id.* In
7 light thereof, the settlement amount of \$1,950,000.00 is a significant settlement. *Id.*

8 Class Counsel also contemplated the risks of proceeding with the PAGA claims and potential
9 liability Defendant could face from these claims as part of the global resolution. *Id.*, ¶ 47. Existing case
10 law makes PAGA claims subject to the same defenses and risks as Plaintiff's underlying wage claims.
11 Gold Decl., ¶ 47; see, *Elliot v. Spherion Pac. Work, LLC*, 572 F.Supp.2d 1169, 1181-82 (C.D. Cal. 2008)
12 ("Plaintiff's claim under [PAGA] is wholly dependent upon her other claims. Because all of Plaintiff's
13 other claims fail as a matter of law, so does her PAGA claim"). Class Counsel anticipated that even if
14 successful on the merits at trial, the imposition of cumulative civil penalties based on the alleged wage
15 and hour violations could be considered unjust, arbitrary and oppressive, or confiscatory, and that
16 Defendant would argue that it made a good faith attempt to comply with its legal obligations warranting
17 a reduction in penalties. Gold Decl., ¶ 47. Class Counsel also anticipated Defendant would argue that
18 the violations per pay period were low, warranting an additional reduction in civil penalties. *Id.* Finally,
19 Class Counsel was also mindful of the fact that PAGA is fundamentally not intended to be compensatory
20 in nature, but is instead intended to facilitate enforcement of California's labor laws by financing state
21 activities and educating and deterring non-compliance. *Id.*

22 Therefore, after considering this multitude of factors, Class Counsel concluded that it was in the
23 best interest of the State of California and the PAGA Employees to enter into the Settlement, and to
24 allocate Ninety-Seven Thousand Five Hundred Dollars and Zero Cents (\$97,500.00) of the Gross
25 Settlement Amount towards the PAGA claims, which represents approximately 5% of the Gross
26 Settlement Amount. *Id.*, ¶ 48. This percentage of the settlement is well within the range of wage and
27 hour settlements regularly approved in both state and federal court for cases that include both a class and
28 PAGA action. *Id.* Typically, such hybrid cases allocate only 1% of the gross settlement value to resolve

1 PAGA claims, and, indeed, settlements allocations as little as 0.22% of the gross settlement amount have
2 been approved as reasonable by courts. Gold Decl., ¶ 48. Moreover, the overall relief obtained by the
3 Settlement is significant, not only from a monetary perspective, but also because it fulfills the public
4 policy objectives of PAGA—to promote enforcement of California’s labor laws, provide funds to the
5 state, and deter future non-compliance by the employer. *Id.*

6 Therefore, the Settlement is in the best interest of the Class Members, the PAGA Employees, and
7 the State of California and is within the accepted range of recoveries for this type of litigation given the
8 inherent risk of litigation, the risk of obtaining and maintaining class certification, and the costs of further
9 litigation. *Id.*, ¶ 49.

10 VI. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED

11 Code of Civil Procedure Section 382 provides that three basic requirements must be met in order
12 to sustain any class action: (1) there must be an ascertainable class; (2) there must be a well-defined
13 community of interest in the question of law or fact affecting the parties to be represented; and (3)
14 certification will provide substantial benefits to litigants and the courts, i.e., proceeding as a class action
15 is superior to other methods. *See Dunk*, 48 Cal.App.4th at 1806. Plaintiff contends that the Action, which
16 is based upon Defendant’s wage and hour policies and practices, satisfies the class certification
17 requirements under California Code of Civil Procedure section 382. Defendant denies Plaintiff’s
18 allegations, but for purposes of the Settlement only, Defendant has stipulated to certification of the Class.

19 A. An Ascertainable Class Exists Which is So Numerous That Joinder of All Members is 20 Impracticable

21 Whether an ascertainable class exists turns on three factors: (1) the class definition, (2) the size of
22 the class, and (3) the means of identifying the class members. *See Miller v. Woods*, 148 Cal.App.3d 862,
23 873 (1983). In this case, all three considerations strongly favor class certification. Here, the Class is
24 defined as “all current and former hourly-paid and/or non-exempt employees who worked for Defendant
25 in the State of California at any time during the Class Period.” Gold Decl., ¶ 19; Settlement Agreement,
26 ¶ 6(b). This provides a clear and definite scope for the proposed class.

27 Next, the Class is sufficiently numerous. There is no magic number that satisfies the numerosity
28 requirement. Courts have certified classes with as few as ten or twenty-eight class members. *Rose v.*

1 *City of Hayward*, 126 Cal.App.3d 926, 934 (1981); *Bowles v. Superior Court*, 44 Cal. 2d 574 (1995);
2 *Hebbard v. Colgrove*, 28 Cal.App.3d 1017, 1030 (1972). Here, the estimated Class size of five hundred
3 and thirty (530) individuals meets the numerosity requirement. Gold Decl., ¶ 19; Settlement Agreement,
4 ¶ 13.

5 Finally, the question of whether class members are easily identifiable turns on whether a plaintiff
6 can establish “the existence of an ascertainable class.” *Daar v. Yellow Cab Co.*, 67 Cal.2d 695 at 706
7 (1967). The existence of an ascertainable class in this case can be established through Defendant’s payroll
8 records, and the Class definition is sufficiently specific to enable the Parties, Class Members, and the
9 Court to determine the parameters of the Class. *See Clothesrigger, Inc. v. GTE Corp.*, 191 Cal.App.3d
10 605, 617 (1987).

11 **B. The Class Shares a Well-Defined Community of Interest**

12 The community of interest requirement embodies three factors: (1) predominant questions of law
13 and fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives
14 who can adequately represent the class. *Dunk*, 48 Cal.App.4th at 1806. Here, all three requirements are
15 easily satisfied.

16 The commonality criterion requires the existence of common question of law or fact and is
17 generally established with the issues of predominance and typicality. *See Daar*, 67 Cal.2d 695, 706.
18 What is required is that a common question of fact or law exists which predominates over issues unique
19 to individual plaintiffs. The existence of individual issues or facts—generally present in any case arising
20 from employment—is not a bar to class certification as long as they do not render class litigation
21 unmanageable or predominate over the common issues. *See B.W.I. Custom Kitchen v. Owens-Illinois,*
22 *Inc.*, 191 Cal.App.3d 1341, 1354 (1987).

23 Here, Plaintiff’s claims present common issues of law and fact that predominate and warrant class
24 certification. Plaintiff alleges that Defendant denied compliant meal and rest periods to employees,
25 required employees to perform work off-the-clock, failed to fully compensate employees for overtime,
26 failed to properly use the regular rate of pay, and failed to reimburse business expenses. These policies
27 and practices meant that Defendant allegedly failed to pay minimum and overtime wages, and other
28 related claims. Plaintiff alleges that Defendant’s policies and practices were uniform as to all Class

1 Members. Thus, class treatment is appropriate.

2 To satisfy the typicality requirement, California law does not require that plaintiffs' claims be
3 identical to the other class members. Rather, the test of typicality for a class representative is whether
4 other members have the same or similar injury, whether the action is based on conduct which is not
5 unique to the named plaintiff, and whether other class members have been injured by the same course of
6 conduct. *See Seastrom v. Neways, Inc.*, 149 Cal.App.4th 1496, 1502 (2007). The typicality requirement
7 for a class representative refers to the nature of the claim or defense of the representative, and not to the
8 specific facts from which it arose or the relief sought. *See ibid.*

9 Here, Plaintiff alleges that her claims are similar to that of the other Class Members and that
10 Plaintiff's claims arise out of the same alleged course of conduct giving rise to the claims of the other
11 Class Members. Because Plaintiff's claims are based upon the same alleged conduct and business
12 practices as those of Class Members, the typicality requirement has been satisfied.

13 Finally, the question of adequacy of representation "depends on whether the plaintiff's attorney
14 qualifies to conduct the proposed litigation in the plaintiff's interest or not antagonistic to the interests of
15 the class." *McGee v. Bank of America*, 60 Cal.App.3d 442, 450 (1976). Here, these considerations are
16 satisfied. Class Counsel is well-regarded and is qualified and experienced in employment-related, class-
17 action litigation. Gold Decl., ¶¶ 2-9 and 53. Plaintiff will vigorously, adequately, and fairly represent
18 the interests of the Class. Plaintiff has, at all times, throughout the course of the litigation considered the
19 interests of the Class and understood that she must take steps to adequately represent the Class and their
20 interests. Naybkhil Decl., ¶ 11. Because Plaintiff's claims are typical of other Class Members and are
21 not based on unique circumstances, there is no antagonism between the interests of Plaintiff and the Class.

22 **C. A Class Action is Superior to a Multiplicity of Litigation**

23 Under the circumstances, proceeding as a class action is a superior means of resolving this dispute,
24 as the Class Members and the Court will derive substantial benefits. Class certification would serve as
25 the only means to deter and redress the alleged violations. *See Linder v. Thrifty Oil Co.*, 23 Cal.4th 429,
26 434 (2000) (relevant considerations include the probability that each class member will come forward to
27 prove his or her separate claim and whether the class approach would actually serve to deter and redress
28 the alleged wrongdoing). Further, individual actions arising out of the same operative facts would unduly

1 burden the courts and could result in inconsistent results. Therefore, class action proceedings are superior
2 to individual litigation.

3 **VII. THE REQUESTED ENHANCEMENT PAYMENT IS REASONABLE**

4 Plaintiffs in class action lawsuits are eligible for reasonable incentive payments as compensation
5 “for the expense or risk they have incurred in conferring a benefit on other members of the class.” *Munoz*
6 *v. BCI Coca-Cola Bottling Co.*, 186 Cal.App.4th 399, 412 (2010). Courts routinely grant approval of
7 class action settlement agreements containing enhancements for the class representative, which are
8 necessary to provide incentive to represent the class and are appropriate given the benefit the class
9 representatives help to bring about for the class. *See In re Online DVD Rental*, 779 F.3d 934, 947-948
10 (9th Cir. 2014) (approving incentive award 417 times larger than individual payments where incentive
11 award made up a mere .17% of the settlement); *Gaudin v. Saxon Mortgage Servs., Inc.*, 2015 WL
12 7454183, at *10 (N.D. Cal. Nov. 23, 2015) (finding service award of \$15,000 to be “fair and reasonable”).

13 Plaintiff initiated this litigation on behalf of her former co-workers who will now be entitled to
14 receive payment from the Settlement. Plaintiff invested substantial time and effort into litigation,
15 including reviewing documents and extensive discussions with Class Counsel. *Nayabkhil Decl.*, ¶¶ 3-5.
16 Further, the requested amount for Plaintiff is also reasonable given the average award and the benefit
17 gained by other Class Members. For these reasons, Plaintiff requests that an Enhancement Payment of
18 Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to Plaintiff be preliminarily approved
19 by the Court. *Gold Decl.*, ¶ 50; *Nayabkhil Decl.*, ¶ 13.

20 **VIII. THE REQUESTED ATTORNEYS’ FEES AND COSTS ARE REASONABLE**

21 Trial courts have “wide latitude” in assessing the value of attorneys’ fees and their decisions will
22 “not be disturbed on appeal absent a manifest abuse of discretion.” *Lealao v. Beneficial Cal, Inc.*, 82
23 Cal.App.4th 19, 41 (2000). California law provides that attorney fee awards should be equivalent to fees
24 paid in the legal marketplace to compensate for the result achieved and risk incurred. *Id.* at 47. In cases
25 where class members present claims against a common fund and the defendant agrees to a percentage of
26 the fund as part of the settlement, use of the percentage method is appropriate. *Id.* at 32.

27 Here, the requested attorneys’ fees of thirty-three and one-third percent (33 1/3%) of the Gross
28 Settlement Amount (i.e., \$650,000.00 if the Gross Settlement Amount is \$1,950,000.00) is disclosed to

1 Class Members in the proposed Class Notice. Settlement Agreement, Ex. A. The requested fee was
2 freely negotiated, is common in the legal marketplace, and is not opposed by Defendant. The Motion for
3 Final Approval will elaborate on the nature of the legal services provided and will also support Class
4 Counsel's request for the reimbursement of litigation costs and expenses not to exceed Twenty Thousand
5 Dollars and Zero Cents (\$20,000.00). Gold Decl., ¶ 51. The Attorneys' Fees and Costs that are not
6 ultimately approved by the Court shall instead be included in the Net Settlement Amount to be distributed
7 to Settlement Class Members. Settlement Agreement, ¶ 9.

8 **IX. THE CLASS NOTICE AND THE OPT-OUT AND OBJECTION PROCESS**
9 **MEETS DUE PROCESS REQUIREMENTS**

10 The Parties have jointly drafted the Class Notice, which will be mailed to the Class Members.
11 Settlement Agreement, Ex. A. The Class Notice will include information regarding the nature of the
12 Action, a summary of the terms of the Settlement, the Class definition, information on how to object to
13 and/or opt-out of the Class Settlement and to dispute Workweeks and/or Pay Periods, and the date of the
14 Final Approval Hearing. *Id.* The Class Notice will list each Class Member's total Workweeks and their
15 estimated Individual Settlement Share and each PAGA Employee's total Pay Periods and their estimated
16 Individual PAGA Payment. *Id.*

17 Within twenty-one (21) calendar days after entry of the preliminary approval order, Defendant
18 will provide a list in a formatted readable Microsoft Office Excel spreadsheet to the Settlement
19 Administrator containing the following information for each Class Member: (1) full name; (2) last known
20 mailing address; (3) Social Security number; (4) dates worked for Defendant during the Class Period;
21 and (5) such other information as is necessary for the Settlement Administrator to calculate Workweeks
22 and Pay Periods (if applicable) (collectively referred to as the "Class List"). *Id.*, ¶¶ 6(d) & 23. Within
23 seven (7) calendar days after receiving the Class List from Defendant, the Settlement Administrator will
24 perform a search based on the National Change of Address Database or any other similar services
25 available, such as provided by Experian, for information to update and correct for any known or
26 identifiable address changes, and will mail a Class Notice in English and Spanish to all Class Members
27 via First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement
28 Administrator. *Id.*, ¶ 24(a). The Parties have agreed to use ILYM Group, Inc. as the Settlement

1 Administrator. Gold Decl., ¶ 55; Settlement Agreement, ¶ 6(kk).

2 In determining whether to approve a settlement of a class action, a trial court has virtually
3 complete discretion as to the manner of giving notice to class members, and review on appeal is governed
4 by the abuse of discretion standard. *See In re Cellphone Fee Termination Cases*, 186 Cal.App.4th 1380
5 (2010). Here, Class Counsel is not aware of an alternative method of providing notice to the Class which
6 would result in a higher likelihood of actual notice. Gold Decl., ¶ 56. The original source of the mailing
7 addresses is from Class Members, who provided the information to Defendant. *Id.*

8 Class Members will have forty-five (45) calendar days after the initial mailing of the Class Notice
9 by the Settlement Administrator to submit a Request for Exclusion, Notice of Objection, and/or Dispute
10 (“Response Deadline”). Settlement Agreement, ¶ 6(jj).

11 Any Class Notice returned to the Settlement Administrator as undeliverable on or before the
12 Response Deadline will be sent promptly via First-Class U.S. Mail to the forwarding address affixed
13 thereto and the Settlement Administrator will indicate the date of such re-mailing on the Class Notice.
14 *Id.*, ¶ 24(b). If no forwarding address is provided, the Settlement Administrator will promptly attempt to
15 determine a correct address using a skip-trace or other search, using the name, address, and/or Social
16 Security number of the Class Member, and perform a single re-mailing within five (5) calendar days. *Id.*
17 In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class
18 Member shall be extended fifteen (15) calendar days from the original Response Deadline. *Id.*, ¶ 6(jj).

19 Class Members will have an opportunity to dispute the number of Workweeks and/or Pay Periods
20 to which they have been credited, as reflected in their respective Class Notices, by submitting a timely
21 and valid letter (“Dispute”) to the Settlement Administrator, by mail, postmarked on or before the
22 Response Deadline. *Id.*, ¶¶ 6(j) and 25. A Dispute must: (a) contain the case name and number of the
23 Action; (b) contain the Class Member’s full name, signature, address, and telephone number; (c) clearly
24 state that the Class Member disputes the number of Workweeks and/or Pay Periods credited to the Class
25 Member and what the Class Member contends is the correct number; and (d) be returned by mail to the
26 Settlement Administrator at the specified address, postmarked on or before the Response Deadline. *Id.*,
27 ¶ 6(j).

28 Any Class Member wishing to be excluded from the Class Settlement must submit a timely and

valid letter (“Request for Exclusion”) to the Settlement Administrator, by mail, postmarked on or before the Response Deadline. *Id.*, ¶¶ 6(ii) & 26. A Request for Exclusion must: (a) contain the case name and number of the Action; (b) contain the Class Member’s full name, signature, address, and telephone number; (c) clearly state that the Class Member does not wish to be included in the Class Settlement; and (d) be returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. *Id.*, ¶ 6(ii). Notwithstanding the above, all PAGA Employees will be bound to the PAGA Settlement will be issued their Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion. *Id.*, ¶ 26.

To object to the Class Settlement, Settlement Class Members must submit a timely and complete written objection (“Notice of Objection”) to the Settlement Administrator, by mail, postmarked on or before the Response Deadline. *Id.*, ¶¶ 6(w) & 27. A Notice of Objection must: (a) contain the case name and number of the Action; (b) contain the objector’s full name, signature, address, and telephone number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. *Id.*, ¶ 6(w). Settlement Class Members, individually or through counsel, may also present their objection orally at the Final Approval Hearing, regardless of whether they have submitted a Notice of Objection and without any prior notice. *Id.*, ¶ 27.

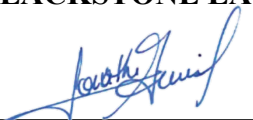
X. CONCLUSION

For all of the foregoing reasons, Plaintiff respectfully requests that this Court grant Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement and the relief requested herein.

Dated: September 9, 2024

Respectfully submitted,
BLACKSTONE LAW, APC

By:



Jonathan M. Genish

Karen I. Gold

Ashley H. Cruz

Marissa A. Mayhood

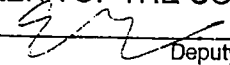
Attorneys for Plaintiff SITARA NAYABKHIL,
individually, and on behalf of other similarly situated
employees and aggrieved employees pursuant to the
California Private Attorneys General Act

EXHIBIT 3

FILED
San Francisco County Superior Court

SEP 24 2024

CLERK OF THE COURT

BY:  Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 613

SITARA NAYABKHIL, individually, and on
behalf of other members of the general public
similarly situated,

Plaintiff,

v.

SAN FRANCISCO SPCA (dba SFSPCA), a
California 501(c)(3) non-profit organization;
Does 1–25, inclusive,

Defendants.

Case No. CGC-23-609950

ORDER GRANTING MOTION FOR
PRELIMINARY APPROVAL

Before the Court is a motion by Sitara Nayabkhil (“Plaintiff”) for preliminary approval of the class settlement, including related PAGA penalties¹, reached with defendant San Francisco SPCA (“Defendant”). The unopposed motion for preliminary approval was set to be heard on October 2, 2024, at 9:30 a.m. in Department 613. Having read and considered the briefing, evidence, and pleadings on file in this proceeding, the Court **GRANTS** the motion for preliminary approval of the settlement agreement attached here as **Exhibit A** (the “Settlement Agreement”), **VACATES** the October 2, 2024, hearing,

¹ Although not subject to two-stage review like class settlements, settlements of PAGA claims are still subject to judicial review under Labor Code section 2699, subdivision (1)(2). (See generally *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 89.) Although PAGA actions are not class actions—more closely resembling *qui tam* proceedings—courts often review PAGA settlements using the class action criteria of fairness, adequacy, and reasonableness. (*Haralson v. U.S. Aviation Svcs. Corp.* (N.D. Cal. 2019) 383 F.Supp.3d 959, 971–72.) The Court references the PAGA penalties that are part and parcel of this settlement in holistically evaluating the global resolution of the class and PAGA claims, but the Court notes this distinction between the settlement components to ensure clarity.

1 **RESERVES** a final approval hearing for **March 6, 2025, at 9:30 a.m.**, and **ORDERS** as follows.

- 2 1. All terms or phrases used in this order shall have the same meaning as in the Settlement
3 Agreement unless otherwise specified.
- 4 2. For settlement purposes only, the Court finds the Settlement Class (defined below) meets the
5 requirements for certification under Code of Civil Procedure section 382. Specifically, for
6 settlement purposes: (1) the proposed Settlement Class is numerous and ascertainable; (2) there
7 are predominant common questions of law or fact; (3) Plaintiff's claims are typical of the
8 claims of the members of the proposed Settlement Class; and (4) a class action is superior to
9 other methods to efficiently adjudicate this controversy through settlement.
- 10 3. Based on the foregoing, the Court conditionally certifies the following Settlement Class: "All
11 current and former hourly-paid and/or non-exempt employees who worked for Defendant in
12 the State of California at any time from October 24, 2019, through June 16, 2024 (the Class
13 Period)."
- 14 4. The Court finds the settlement preliminarily appears to be within the range of possible final
15 approval as a fair, adequate, and reasonable settlement such that notice should be provided to
16 the Class.
- 17 5. For settlement purposes only, the Court appoints plaintiff Sitara Nayabkhil and preliminarily
18 finds Plaintiff will adequately represent the Settlement Class in accordance with Code of Civil
19 Procedure section 382.
- 20 6. For settlement purposes only, Blackstone Law, APC is designated as Class Counsel.
- 21 7. The Court appoints ILYM Group, Inc. as Settlement Administrator. ILYM shall carry out all of
22 the duties and responsibilities as set forth in the Settlement Agreement and this order,
23 including the provision of notice to Class Members.
- 24 8. The Court approves as to form and content the proposed form of notice attached to the Gold
25 Declaration along with the administration plan. Class Counsel and the Settlement
26 Administrator shall conduct a final proofread and ensure dates are populated correctly. The
27 Court finds that distribution of the approved notice in accordance with the plan set forth in the
28 Settlement Agreement (a) constitutes the best notice practicable under the circumstances,

(b) constitutes valid, due, and sufficient notice to all members of the Settlement Class, and
(c) complies fully with the requirements of Section 382 and California Rules of Court, rules
3.766 and 3.769.

9. On **March 6, 2025, at 9:30 a.m. in Department 613**, this Court will hold a Final Approval
Hearing to determine whether the Settlement Agreement should be finally approved as fair,
reasonable, and adequate, whether Class Counsel's application for fees and costs should be
approved, and whether Plaintiff's request for a service award should be approved.

a. The motion for final approval and motion for attorney's fees, costs, and service awards—
together with all supporting evidence—shall be filed no later than **February 6, 2025**. An
electronic courtesy copy of the proposed (1) final approval order, (2) order on fees, costs,
and service awards, and (3) judgment (in Word and PDF) shall be concurrently delivered
to the Department 613 email inbox.

b. The parties shall make reasonable efforts to notify the Court in advance and via email to
department613complexlit@sftc.org of the intent of any Class Member to appear on his or
her own, telephonically or in person, at the final approval hearing.

c. The Court reserves the right to adjourn or continue the date of the final approval hearing
without further notice to the Settlement Class.

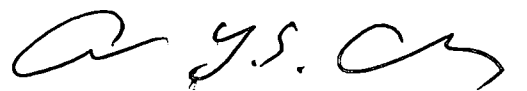
10. All discovery and pretrial proceedings and deadlines in this action are stayed and suspended
until further notice from the Court, except for such actions as are necessary to implement the
Settlement Agreement and this Preliminary Approval Order.

11. Class Counsel shall promptly deliver a copy of this order to the LWDA.

12. Defendant shall deliver the Class List to the Settlement Administrator within 21 days of this
order.

IT IS SO ORDERED.

Dated: September 24, 2024



ANDREW Y.S. CHENG
Judge of the Superior Court

Exhibit A

1 **JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT**

2 This Joint Stipulation of Class Action and PAGA Settlement (“Settlement,” “Agreement,” or
3 “Settlement Agreement”) is made and entered into by and between Plaintiff Sitara Nayabkhil
4 (“Plaintiff” or “Class Representative”), individually, and on behalf of all others similarly situated and
5 on behalf of the State of California with respect to aggrieved employees, and Defendant The San
6 Francisco Society for the Prevention of Cruelty to Animals dba San Francisco SPCA (“Defendant”)
7 (together, Plaintiff and Defendant are referred to as “Parties” and individually as “Party”).

8 This Settlement Agreement shall be binding on Plaintiff, Settlement Class Members (as
9 defined herein), the State of California as to the employment of PAGA Employees (as defined herein),
10 and Defendant, subject to the terms and conditions hereof and the approval of the Court.

11 **RECITALS**

12 1. On August 7, 2023, Plaintiff provided written notice to the California Labor and
13 Workforce Development Agency (“LWDA”) by online submission and to Defendant by U.S. Certified
14 Mail, pursuant to California Labor Code Section 2699.3, of the specific provisions of the California
15 Labor Code alleged to have been violated by Defendant, and on October 18, 2023, Plaintiff provided
16 a supplemental notice as well (together, “PAGA Letter”). On October 24, 2023, Plaintiff filed a Class
17 & Collective Action Complaint in the action entitled *Sitara Nayabkhil v. San Francisco SPCA, dba,*
18 *SFSPCA*, San Francisco County Superior Court Case No. CGC-23-609950 (“Action”), thereby
19 commencing a putative class and representative action under the Private Attorneys General Act of
20 2004 pursuant to California Labor Code Sections 2698, *et seq.* (“PAGA”) against Defendant. On
21 December 22, 2023, Plaintiff filed a First Amended Class & Collective Action Complaint (“Operative
22 Complaint”) in the Action. The Operative Complaint alleges thirteen (13) causes of action for: (1)
23 Violation of 29 U.S.C. §§ 2101, *et seq.* (Federal WARN Act); (2) Violation of Cal. Labor Code §§
24 1400, *et seq.* (California WARN Act); (3) Violation of Cal. Labor Code §§ 510 and 1198 (Unpaid
25 Overtime Wages); (4) Violation of Cal. Labor Code §§ 1194, 1197, and 11971. (Unpaid Minimum
26 Wages); (5) Violation of Cal. Labor Code §§ 226.7 and 512(a) (Meal Break Violations); (6) Violation
27 of Cal. Labor Code § 226.7 (Rest Break Violations); (7) Violation of Cal. Labor Code §§ 204 and 210
28 (Wages Not Timely Paid); (8) Violation of Cal. Labor Code § 226(a) (Wage Statement Violations);

1 (9) Violation of Cal. Labor Code §§ 201, 202, and 203 (Final Wages Not Timely Paid); (10) Violation
2 of Cal. Labor Code § 227.3 (Unpaid Vacation Time); (11) Violation of Cal. Labor Code §§ 2800 and
3 2802 (Failure to Reimburse Expenses); (12) Violation of Cal. Business and Professions Code §§ 17200
4 *et seq.* (Unfair and Unlawful Business Practices); and (13) Violation of Cal. Labor Code §§ 2698 *et*
5 *seq.* (“Private Attorneys General Act”).

6 2. Defendant denies all materials allegations set forth in the Action and has asserted
7 numerous affirmative defenses. Notwithstanding, in the interest of avoiding further litigation,
8 Defendant desires to fully and finally settle the Action, Released Class Claims (as defined herein), and
9 Released PAGA Claims (as defined herein).

10 3. Class Counsel diligently investigated the class and PAGA claims against Defendant,
11 including any and all applicable defenses and the applicable law. The investigation included, *inter*
12 *alia*, the exchange of information, data, and documents, and review of corporate policies and practices.
13 The Parties have engaged in sufficient informal discovery and investigation to assess the relative
14 merits of the claims and contentions of the Parties.

15 4. On April 9, 2024, the Parties participated in mediation with Jeffrey A. Ross, Esq. (the
16 “Mediator”), a respected mediator of complex wage and hour actions, and with the assistance of the
17 Mediator’s evaluations, the Parties reached the settlement that is memorialized herein. The Parties’
18 settlement discussions were conducted at arms’ length, and the Settlement is the result of an informed
19 and detailed analysis of Defendant’s potential liability and exposure in relation to the costs and risks
20 associated with continued litigation. Based on Class Counsel’s investigation and evaluation, Class
21 Counsel believes that the settlement with Defendant for the consideration and on the terms set forth in
22 this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class
23 Members, State of California, and PAGA Employees in light of all known facts and circumstances,
24 including the risk of significant delay and uncertainty associated with litigation and various defenses
25 asserted by Defendant.

26 5. The Parties expressly acknowledge that this Settlement Agreement is entered into
27 solely for the purpose of compromising significantly disputed claims and that nothing herein is an
28 admission of liability or wrongdoing by Defendant. If for any reason this Settlement Agreement is

1 not approved, it will be of no force or effect, and the Parties shall be returned to their original respective
2 positions.

3 DEFINITIONS

4 6. The following definitions are applicable to this Settlement Agreement. Definitions
5 contained elsewhere in this Settlement Agreement will also be effective.

6 a. "Attorneys' Fees and Costs" means attorneys' fees approved by the Court for
7 Class Counsel's litigation and resolution of the Action and all actual costs and expenses incurred and
8 to be incurred by Class Counsel in connection with the Action, as set forth in Paragraph 9.

9 b. "Class" or "Class Member(s)" means all current and former hourly-paid and/or
10 non-exempt employees who worked for Defendant in the State of California at any time during the
11 Class Period.

12 c. "Class Counsel" means Jonathan M. Genish, Karen I. Gold, Marissa A.
13 Mayhood, and Ashley H. Cruz of Blackstone Law, APC, who will seek to be appointed counsel for
14 the Class.

15 d. "Class List" means a complete list of all Class Members that Defendant will
16 diligently and in good faith compile from its records and provide to the Settlement Administrator. The
17 Class List will be formatted in a readable Microsoft Office Excel spreadsheet containing the following
18 information for each Class Member: (1) full name; (2) last known mailing address; (3) Social Security
19 number; (4) dates worked for Defendant during the Class Period; and (5) such other information as is
20 necessary for the Settlement Administrator to calculate Workweeks and Pay Periods (if applicable).

21 e. "Class Notice" means the Notice of Class Action Settlement, substantially in
22 the form attached hereto as "Exhibit A."

23 f. "Class Period" means the period from October 24, 2019 through June 16, 2024.

24 g. "Class Settlement" means the settlement and resolution of all Released Class
25 Claims.

26 h. "Court" means the Superior Court of the State of California for the County of
27 San Francisco.

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1 i. "Defendant's Counsel" means Hieu T. Williams and Jenna M. Rogenski of
2 Hirschfeld Kraemer LLP.

3 j. "Dispute" means a letter submitted by a Class Member disputing the number of
4 Workweeks and/or Pay Periods to which they have been credited, which must: (a) contain the case
5 name and number of the Action; (b) contain the Class Member's full name, signature, address, and
6 telephone number; (c) clearly state that the Class Member disputes the number of Workweeks and/or
7 Pay Periods credited to the Class Member and what the Class Member contends is the correct number;
8 and (d) be returned by mail to the Settlement Administrator at the specified address, postmarked on or
9 before the Response Deadline.

10 k. "Effective Date" means the following: (i) if no Settlement Class Member
11 objects to the Class Settlement, then the Effective Date will be the date of Final Approval; or (ii) if
12 any Settlement Class Member objects to the Class Settlement, the Effective Date will be the sixty-first
13 (61st) calendar day after the date of Final Approval, provided no appeal is initiated by an objector; or
14 (iii) if a timely appeal is initiated by an objector, then the Effective Date will be the day after final
15 resolution of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting
16 in final judicial approval of the Settlement.

17 l. "Employer Taxes" means the employer's share of taxes and contributions in
18 connection with the wages portion of Individual Settlement Shares, which shall be paid by Defendant
19 in addition to the Gross Settlement Amount.

20 m. "Enhancement Payment" means the amount to be paid to Plaintiff, in
21 recognition of her effort and work in prosecuting the Action on behalf of Class Members and PAGA
22 Employees, as set forth in Paragraph 10.

23 n. "Final Approval" means the determination by the Court that the Settlement is
24 fair, reasonable, and adequate, and entry of the Final Approval Order and Judgment based thereon.

25 o. "Final Approval Hearing" means the hearing at which the Court will consider
26 and determine whether the Settlement should be granted Final Approval.

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1 p. “Final Approval Order and Judgment” means the order granting final approval
2 of the Settlement and entering judgment thereon, in a form and content mutually agreed to by the
3 Parties, and subject to approval by the Court.

4 q. “Gross Settlement Amount” means the amount of One Million Nine Hundred
5 Fifty Thousand Dollars and Zero Cents (\$1,950,000.00) to be paid by Defendant in full satisfaction of
6 the Action, Released Class Claims, and Released PAGA Claims, which includes all Attorneys’ Fees
7 and Costs, Enhancement Payment, PAGA Amount, Settlement Administration Costs, and Net
8 Settlement Amount to be paid to the Settlement Class Members. Defendant shall pay the Employer
9 Taxes separately and in addition to the Gross Settlement Amount. The Gross Settlement Amount is
10 non-reversionary; no portion of the Gross Settlement Payment will return to Defendant. The Gross
11 Settlement Amount is subject to increase, as provided in Paragraph 13.

12 r. “Individual PAGA Payment” means the *pro rata* share of the PAGA Employee
13 Amount that a PAGA Employee may be eligible to receive under the PAGA Settlement, to be
14 calculated in accordance with Paragraph 15.

15 s. “Individual Settlement Payment” means the net payment of each Settlement
16 Class Member’s Individual Settlement Share, after reduction for the employee’s share of taxes and
17 withholdings with respect to the wages portion of the Individual Settlement Share, as provided in
18 Paragraph 16.

19 t. “Individual Settlement Share” means the *pro rata* share of the Net Settlement
20 Amount that a Class Member may be eligible to receive under the Class Settlement, to be calculated
21 in accordance with Paragraph 14.

22 u. “LWDA Payment” means the amount of Seventy-Three Thousand One
23 Hundred Twenty-Five Dollars and Zero Cents (\$73,125.00), i.e., 75% of the PAGA Amount, that the
24 Parties have agreed to pay to the LWDA under the PAGA Settlement, as set forth in Paragraph 11.

25 v. “Net Settlement Amount” means the portion of the Gross Settlement Amount
26 that is available for distribution to Settlement Class Members, which is the Gross Settlement Amount
27 less the Court-approved Attorneys’ Fees and Costs, Enhancement Payment, PAGA Amount, and
28 Settlement Administration Costs.

1 w. “Notice of Objection” means a Settlement Class Member’s written objection to
2 the Class Settlement, which must: (a) contain the case name and number of the Action; (b) contain the
3 objector’s full name, signature, address, and telephone number; (c) contain a written statement of all
4 grounds for the objection accompanied by any legal support for such objection; (d) contain copies of
5 any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail
6 to the Settlement Administrator at the specified address, postmarked on or before the Response
7 Deadline.

8 x. “PAGA Amount” means the allocation of Ninety-Seven Thousand Five
9 Hundred Dollars and Zero Cents (\$97,500.00) from the Gross Settlement Amount for the PAGA
10 Settlement. Seventy-five percent (75%) of the PAGA Amount, or \$73,125.00, will be paid to the
11 LWDA (i.e., the LWDA Payment) and the remaining twenty-five percent (25%), or \$24,375.00, will
12 be distributed to the PAGA Employees (i.e., the PAGA Employee Amount).

13 y. “PAGA Employee(s)” means all current and former hourly-paid and/or non-
14 exempt employees who worked for Defendant in the State of California at any time during the PAGA
15 Period.

16 z. “PAGA Employee Amount” means the amount of Twenty-Four Thousand
17 Three Hundred Seventy-Five Dollars and Zero Cents (\$24,375.00), i.e., 25% of the PAGA Amount,
18 to be distributed to PAGA Employees on a *pro rata* basis based on their Pay Periods.

19 aa. “PAGA Period” means the period from August 7, 2022 through June 16, 2024.

20 bb. “PAGA Settlement” means the settlement and resolution of all Released PAGA
21 Claims.

22 cc. “Pay Periods” means the number of pay periods each PAGA Employee worked
23 for Defendant as an hourly-paid and/or non-exempt employee in California during the PAGA Period.
24 Pay Periods will be calculated by the Settlement Administrator based on each PAGA Employee’s start
25 date or the beginning of the PAGA Period, whichever is later, and separation date or the last day of
26 the PAGA Period, whichever is earlier, based on the Class List provided by Defendant. In order to be
27 counted as a Pay Period, the PAGA Employee must have worked at least one day in that bi-weekly
28 pay period.

1 dd. "Preliminary Approval" means the date on which the Court enters the
2 Preliminary Approval Order.

3 ee. "Preliminary Approval Order" means the order granting preliminary approval
4 of the Settlement, in a form and content mutually agreed to by the Parties, and subject to approval by
5 the Court.

6 ff. "Released Class Claims" means any and all claims and damages which were
7 alleged or which could have been alleged based on the factual allegations in the Operative Complaint,
8 arising during the Class Period, including claims for Defendant's alleged failure to pay overtime and
9 minimum wages, failure to provide meal and rest periods and associated premiums, failure to pay paid
10 sick leave, failure to timely pay wages during employment, failure to provide accurate wage
11 statements, failure to timely pay final wages, failure to pay vacation pay, and failure to reimburse
12 necessary business-related expenses, in violation of California Labor Code Sections 201, 202, 203,
13 204, 226(a), 226.7, 227.3, 510, 512(a), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the applicable
14 Industrial Welfare Commission Wage Order(s), and for violations of the California Business and
15 Professions Code sections 17200, *et seq.* based on the aforementioned California Labor Code
16 violations. The Released Class Claims specifically excludes any and all claims and damages for
17 violations of U.S.C. Sections 2101, *et seq.* (Federal WARN Act) and California Labor Code Sections
18 1400, *et seq.* (California WARN Act), as Plaintiff has agreed to dismiss these claims without prejudice.

19 gg. "Released PAGA Claims" means any and all claims arising from any of the
20 factual allegations in the PAGA Letter and/or Operative Complaint, arising during the PAGA Period,
21 for civil penalties under the Private Attorneys General Act of 2004, California Labor Code Sections
22 2698, *et seq.*, including for Defendant's alleged failure to pay overtime and minimum wages, failure
23 to provide meal and rest periods and associated premiums, failure to pay paid sick leave, failure to
24 timely pay wages during employment, failure to provide accurate wage statements, failure to timely
25 pay final wages, failure to pay vacation pay, failure to maintain complete and accurate payroll records,
26 and failure to reimburse necessary business-related expenses, in violation of California Labor Code
27 Sections 201, 202, 203, 204, 226(a), 226.7, 227.3, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198,
28 2800, and 2802, and the applicable Industrial Welfare Commission Wage Order(s). The Released

1 PAGA Claims specifically excludes any and all claims for violations of U.S.C. Sections 2101, *et seq.*
2 (Federal WARN Act) and California Labor Code Sections 1400, *et seq.* (California WARN Act), as
3 Plaintiff has agreed to dismiss these claims without prejudice.

4 hh. "Released Parties" means Defendant and its current and former officers,
5 directors, members, insurers, shareholders, subsidiaries, affiliates, predecessors, successors, and
6 assigns.

7 ii. "Request for Exclusion" means a letter submitted by a Class Member indicating
8 a request to be excluded from the Class Settlement, which must: (a) contain the case name and number
9 of the Action; (b) contain the Class Member's full name, signature, address, and telephone number;
10 (c) clearly state that the Class Member does not wish to be included in the Class Settlement; and (d)
11 be returned by mail to the Settlement Administrator at the specified address, postmarked on or before
12 the Response Deadline.

13 jj. "Response Deadline" means the deadline by which Class Members must submit
14 a Request for Exclusion, Notice of Objection, and/or Dispute, which shall be the date that is forty-five
15 (45) calendar days from the initial mailing of the Class Notice by the Settlement Administrator to
16 Class Members, unless the 45th day falls on a Sunday or Federal holiday, in which case the Response
17 Deadline will be extended to the next day on which the United States Postal service is open. The
18 Response Deadline may also be extended by express agreement between Class Counsel and
19 Defendant's Counsel. Under no circumstances, however, will the Settlement Administrator have the
20 authority to extend the Response Deadline. In the event that a Class Notice is re-mailed to a Class
21 Member, the Response Deadline for that Class Member shall be extended fifteen (15) calendar days
22 from the original Response Deadline.

23 kk. "Settlement Administrator" means ILYM Group, Inc., or any other third-party
24 class action settlement administrator agreed to by the Parties and approved by the Court for purposes
25 of administering the Settlement. The Parties and their counsel each represent that they do not have
26 any financial interest in the Settlement Administrator or otherwise have a relationship with the
27 Settlement Administrator that could create a conflict of interest.

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1 ll. “Settlement Administration Costs” means the costs payable from the Gross
2 Settlement Amount to the Settlement Administrator for administering the Settlement, as set forth in
3 Paragraph 12.

4 mm. “Settlement Class” or “Settlement Class Member(s)” means all Class Members
5 who do not submit a timely and valid Request for Exclusion.

6 nn. “Workweeks” means the number of weeks each Class Member worked for
7 Defendant as an hourly-paid and/or non-exempt employee in California during the Class Period.
8 Workweeks will be calculated by the Settlement Administrator based on each Class Member’s start
9 date or the beginning of the Class Period, whichever is later, and separation date or the last day of the
10 Class Period, whichever is earlier, based on the Class List provided by Defendant. In order to be
11 counted as a Workweek, the Class Member must have worked at least one day in that week.

12 **CLASS CERTIFICATION**

13 7. For the purposes of this Settlement only, the Parties stipulate to the certification of the
14 Class.

15 8. The Parties agree that certification for the purpose of settlement is not an admission
16 that certification is proper under Section 382 of the California Code of Civil Procedure. Should, for
17 whatever reason, the Court not grant Final Approval, the Parties’ stipulation to class certification as
18 part of the Settlement shall become null and void ab initio and shall have no bearing on, and shall not
19 be admissible in connection with, the issue of whether or not certification would be inappropriate in a
20 non-settlement context.

21 **TERMS OF THE AGREEMENT**

22 NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set
23 forth herein, the Parties agree, subject to the Court’s approval, as follows:

24 9. Attorneys’ Fees and Costs. Defendant agrees not to oppose or impede any application
25 or motion by Class Counsel for attorneys’ fees in the amount up to thirty-three and one-third percent
26 (33 1/3%) of the Gross Settlement Amount (i.e., \$650,000.00 if the Gross Settlement Amount is
27 \$1,950,000.00) and reimbursement of actual costs and expenses associated with Class Counsel’s
28 litigation and settlement of the Action, in an amount not to exceed Twenty Thousand Dollars and Zero

1 Cents (\$20,000.00), both of which will be paid from the Gross Settlement Amount. These amounts
2 will cover any and all work performed and any and all costs incurred by Class Counsel in connection
3 with the litigation of the Action, including without limitation all work performed and costs incurred
4 to date, and all work to be performed and all costs to be incurred in connection with obtaining the
5 Court's approval of this Settlement Agreement, including any objections raised and any appeals
6 necessitated by those objections. Class Counsel shall be solely and legally responsible for correctly
7 characterizing this compensation for tax purposes and for paying any taxes on the amounts received.
8 The Settlement Administrator shall issue an IRS Form 1099 to Class Counsel for the Attorneys' Fees
9 and Costs. Any portion of the requested Attorneys' Fees and Costs that is not awarded by the Court
10 to Class Counsel shall be reallocated to the Net Settlement Amount for the benefit of the Settlement
11 Class Members.

12 10. Enhancement Payment. Defendant agrees not to oppose or impede any application or
13 motion by Plaintiff for an Enhancement Payment in the amount up to Seven Thousand Five Hundred
14 Dollars and Zero Cents (\$7,500.00). The Enhancement Payment, which will be paid from the Gross
15 Settlement Amount, subject to Court approval, will be in addition to her Individual Settlement
16 Payment as a Settlement Class Member and Individual PAGA Payment as a PAGA Employee.
17 Plaintiff shall be solely and legally responsible for correctly characterizing this compensation for tax
18 purposes and for paying any taxes on the amounts received. The Settlement Administrator shall issue
19 an IRS Form 1099 to Plaintiff for the Enhancement Payment. Any portion of the requested
20 Enhancement Payment that is not awarded by the Court to Plaintiff shall be reallocated to the Net
21 Settlement Amount for the benefit of the Settlement Class Members.

22 11. PAGA Amount. Subject to approval by the Court, the Parties agree that the amount of
23 Ninety-Seven Thousand Five Hundred Dollars and Zero Cents (\$97,500.00) shall be allocated from
24 the Gross Settlement Amount toward penalties under the Private Attorneys General Act, California
25 Labor Code Sections 2698, *et seq.* (i.e., the PAGA Amount), of which seventy-five percent (75%), or
26 \$73,125.00, will be paid to the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%), or
27 \$24,375.00, will be distributed to PAGA Employees (i.e., the PAGA Employee Amount) on a *pro rata*
28 basis, based on the total number of Pay Periods worked by each PAGA Employee during the PAGA

1 Period (i.e., the Individual PAGA Payments).

2 12. Settlement Administration Costs. The Settlement Administrator will be paid for the
3 reasonable costs of administration of the Settlement and distribution of payments under the Settlement,
4 which is currently not to exceed Eleven Thousand Dollars and Zero Cents (\$11,000.00). These costs,
5 which will be paid from the Gross Settlement Amount, subject to Court approval, will include, *inter*
6 *alia*, translating the Class Notice to Spanish, printing, distributing, and tracking Class Notices and
7 other documents for the Settlement, calculating and distributing payments due under the Settlement,
8 issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and
9 remittances, providing necessary reports and declarations, and other duties and responsibilities set
10 forth herein to process the Settlement, and as requested by the Parties. To the extent the actual
11 Settlement Administrator's costs are greater than the estimated amount stated herein, such excess
12 amount will be deducted from the Gross Settlement Amount, subject to approval by the Court. Any
13 portion of the estimated, designated, and/or awarded Settlement Administration Costs which are not
14 in fact required to fulfill payment to the Settlement Administrator to undertake the required settlement
15 administration duties shall be reallocated to the Net Settlement Amount for the benefit of the
16 Settlement Class Members.

17 13. Escalator Clause. Defendant has estimated that there are approximately 530 Class
18 Members who worked a total of approximately 45,028 Workweeks during the Class Period. If it is
19 determined by the Settlement Administrator that the total number of Workweeks worked by the Class
20 Members during the Class Period actually exceeds 45,028 by more than 20% (i.e., by more than 54,034
21 Workweeks), then Defendant shall, at its option, either (a) increase the Gross Settlement Amount on
22 a *pro rata* basis equal to the percentage increase in the number of Workweeks worked by the Class
23 Members above 20%; or (b) cut off the Class Period and PAGA Period as of the date that 54,034
24 Workweeks is reached. For example, if the number of Workweeks increases by 21% to 54,484
25 Workweeks, then Defendant may choose to either (a) increase the Gross Settlement Amount by 1%;
26 or (b) cut off the Class Period and PAGA Period as of the date that 54,034 Workweeks is reached.

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1 14. Individual Settlement Share Calculations. Individual Settlement Shares will be
2 calculated and apportioned from the Net Settlement Amount based on the Class Members' number of
3 Workweeks, as follows:

4 a. After Preliminary Approval, the Settlement Administrator will divide the Net
5 Settlement Amount by the Workweeks of all Class Members to yield the "Estimated Workweek
6 Value," and multiply each Class Member's individual Workweeks by the Estimated Workweek Value
7 to yield each Class Member's estimated Individual Settlement Share that each Class Member may be
8 entitled to receive under the Class Settlement.

9 b. After Final Approval, the Settlement Administrator will divide the final Net
10 Settlement Amount by the Workweeks of all Settlement Class Members to yield the "Final Workweek
11 Value," and multiply each Settlement Class Member's individual Workweeks by the Final Workweek
12 Value to each Settlement Class Member's final Individual Settlement Share.

13 15. Individual PAGA Payment Calculations. Individual PAGA Payments will be
14 calculated and apportioned from the PAGA Employee Amount based on the PAGA Employees'
15 number of Pay Periods, as follows: The Settlement Administrator will divide the PAGA Employee
16 Amount, i.e., 25% of the PAGA Amount, by the Pay Periods of all PAGA Employees to yield the
17 "Pay Period Value," and multiply each PAGA Employee's individual Pay Periods by the Pay Period
18 Value to yield each PAGA Employee's Individual PAGA Payment.

19 16. Tax Treatment of Individual Settlement Shares and Individual PAGA Payments. Each
20 Individual Settlement Share will be allocated as follows: twenty percent (20%) wages and eighty
21 percent (80%) penalties, interest, and non-wage damages. The portion allocated to wages will be
22 reported on an IRS Form W-2 and the portions allocated to penalties, interest, and non-wage damages
23 will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator. The Settlement
24 Administrator will withhold the employee's share of taxes and withholdings with respect to the wages
25 portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their
26 Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of these taxes
27 and withholdings). The Employer Taxes will be paid separately and in addition to the Gross
28 Settlement Amount. Each Individual PAGA Payment will be allocated as one hundred percent (100%)

1 penalties and will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator.

2 17. Administration of Taxes by the Settlement Administrator. The Settlement
3 Administrator will be responsible for issuing to Plaintiff, Settlement Class Members, PAGA
4 Employees, and Class Counsel any tax forms (i.e., IRS Forms W-2, IRS Forms 1099, etc.) as may be
5 required by law for all amounts paid pursuant to this Settlement Agreement. The Settlement
6 Administrator will also be responsible for calculating the Employer Taxes and forwarding all payroll
7 taxes and other legally required withholdings to the appropriate government authorities.

8 18. Tax Liability. Plaintiff, Class Counsel, Defendant, and Defendant's Counsel do not
9 intend anything contained in this Settlement Agreement to constitute advice regarding taxes or
10 taxability, nor shall anything in this Settlement Agreement be relied on as such. Plaintiff, Settlement
11 Class Members, and PAGA Employees are not relying on any statement, representation, or calculation
12 by Defendant, the Settlement Administrator, or Class Counsel in this regard. Plaintiff, Settlement
13 Class Members, and PAGA Employees understand and agree that Plaintiff, Settlement Class
14 Members, and PAGA Employees will be solely responsible for the payment of any taxes and penalties
15 assessed on the payments described in this Settlement Agreement. Plaintiff, Settlement Class
16 Members, and PAGA Employees should consult with their tax advisors concerning the tax
17 consequences of any payment they receive under the Settlement.

18 19. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT
19 (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY
20 TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN
21 "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
22 SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE
23 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS
24 OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE
25 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
26 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART
27 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY
28 UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE

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

13 20. Settlement Awards Do Not Trigger Additional Benefits. All payments made under the
14 Settlement shall be deemed to be paid to the payee solely in the year in which such payments actually
15 are issued to the payee. It is expressly understood and agreed that payments made under this
16 Settlement shall not in any way entitle Plaintiff, Settlement Class Members, or any PAGA Employee
17 to additional compensation or benefits under any new or additional compensation or benefits, or any
18 bonus, contest, or other compensation or benefit plan or agreement in place during the Class Period,
19 nor will it entitle Plaintiff, Settlement Class Members, or any PAGA Employee to any increased
20 retirement, 401K benefits or matching benefits, or deferred compensation benefits (notwithstanding
21 any contrary language or agreement in any benefit or compensation plan document that might have
22 been in effect during the Class Period).

23 21. Duties of the Parties with Respect to Obtaining Preliminary Approval of the Settlement.
24 Upon execution of this Settlement Agreement, Plaintiff will obtain a hearing date from the Court for
25 Plaintiff's motion for preliminary approval of the Settlement, which Plaintiff and Class Counsel will
26 be responsible for drafting, and submit this Settlement Agreement to the Court in support of said
27 motion. Class Counsel will provide Defendant's Counsel a draft of the preliminary approval motion
28 seven (7) calendar days before filing it with the Court. Defendant agrees not to oppose the motion for

1 preliminary approval of the Settlement consistent with this Settlement Agreement. By way of said
2 motion, Plaintiff will apply for the entry of the Preliminary Approval Order seeking the following:

- 3 a. Conditionally certifying the Class for settlement purposes only;
- 4 b. Granting Preliminary Approval of the Settlement;
- 5 c. Preliminarily appointing Plaintiff as the representative of the Class;
- 6 d. Preliminarily appointing Class Counsel as counsel for the Class;
- 7 e. Approving as to form and content, the mutually-agreed upon and proposed
8 Class Notice and directing its mailing by First Class U.S. Mail;
- 9 f. Approving the manner and method for Class Members to request exclusion
10 from or object to the Class Settlement as contained herein and within the Class Notice;
- 11 g. Scheduling a Final Approval Hearing at which the Court will determine whether
12 Final Approval of the Settlement should be granted.

13 22. Notice of Settlement to the LWDA. Pursuant to California Labor Code § 2699(1)(2),
14 Class Counsel shall notify the LWDA of the Settlement upon filing the motion for preliminary
15 approval of the Settlement.

16 23. Delivery of Class List. Within twenty-one (21) calendar days of Preliminary Approval,
17 Defendant will provide the Class List to the Settlement Administrator.

18 24. Notice by First-Class U.S. Mail.

19 a. Within seven (7) calendar days after receiving the Class List from Defendant,
20 the Settlement Administrator will perform a search based on the National Change of Address Database
21 or any other similar services available, such as provided by Experian, for information to update and
22 correct for any known or identifiable address changes, and will mail a Class Notice in English and
23 Spanish (in the form attached as **Exhibit A** to this Settlement Agreement) to all Class Members via
24 First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement
25 Administrator.

26 b. Any Class Notice returned to the Settlement Administrator as undeliverable on
27 or before the Response Deadline will be sent promptly via First-Class U.S. Mail to the forwarding
28 address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on

1 the Class Notice. If no forwarding address is provided, the Settlement Administrator will promptly
2 attempt to determine the correct address using a skip-trace or other search, using the name, address,
3 and/or Social Security number of the Class Member, and perform a single re-mailing within five (5)
4 calendar days.

5 c. Compliance with the procedures described herein above shall constitute due and
6 sufficient notice to Class Members of the Settlement and shall satisfy the requirements of due process.
7 Nothing else shall be required of or done by the Parties, Class Counsel, or Defendant's Counsel to
8 provide notice of the Settlement.

9 25. Disputes Regarding Workweeks and/or Pay Periods. Class Members will have an
10 opportunity to dispute the number of Workweeks and/or Pay Periods to which they have been credited,
11 as reflected in their respective Class Notices, by submitting a timely and valid Dispute to the
12 Settlement Administrator, by mail, postmarked on or before the Response Deadline. The date of the
13 postmark on the return mailing envelope will be the exclusive means to determine whether a Dispute
14 has been timely submitted. Absent evidence rebutting the accuracy of Defendant's records and data
15 as they pertain to the number of Workweeks and/or Pay Periods to be credited to a disputing Class
16 Member, Defendant's records will be presumed to be correct and determinative of the dispute.
17 However, if a Class Member produces information and/or documents to the contrary, the Settlement
18 Administrator will evaluate the materials submitted by the Class Member and the Settlement
19 Administrator will resolve and determine the number of eligible Workweeks and/or Pay Periods that
20 the disputing Class Member should be credited with under the Settlement. The Settlement
21 Administrator's decision on such disputes will be final and non-appealable.

22 26. Requesting Exclusion from the Class Settlement. Any Class Member wishing to be
23 excluded from the Class Settlement must submit a timely and valid Request for Exclusion to the
24 Settlement Administrator, by mail, postmarked on or before the Response Deadline. The date of the
25 postmark on the return mailing envelope will be the exclusive means to determine whether a Request
26 for Exclusion has been timely submitted. The Settlement Administrator will certify jointly to Class
27 Counsel and Defendant's Counsel the number of timely and valid Requests for Exclusion that are
28 submitted, and also identify the individuals who have submitted a timely and valid Request for

1 Exclusion in a declaration that is to be filed with the Court in advance of the Final Approval Hearing.
2 At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members
3 to request exclusion from the Class Settlement. Any Class Member who submits a Request for
4 Exclusion is prohibited from making any objection to the Class Settlement. Any Class Member who
5 submits a timely and valid Request for Exclusion will not be bound by the Class Settlement and will
6 not be issued an Individual Settlement Payment. Any Class Member who does not affirmatively
7 request exclusion from the Class Settlement by submitting a timely and valid Request for Exclusion
8 will be bound by all of the terms of the Class Settlement, including and not limited to those pertaining
9 to the Released Class Claims, as well as any judgment that may be entered by the Court if it grants
10 Final Approval to the Settlement. Notwithstanding the above, all PAGA Employees will be bound to
11 the PAGA Settlement and will be issued their Individual PAGA Payment, irrespective of whether they
12 submit a Request for Exclusion.

13 27. Objecting to the Class Settlement. To object to the Class Settlement, Settlement Class
14 Members must submit a timely and complete Notice of Objection to the Settlement Administrator, by
15 mail, postmarked on or before the Response Deadline. The date of the postmark on the return mailing
16 envelope will be the exclusive means to determine whether a Notice of Objection has been timely
17 submitted. The Settlement Administrator will certify jointly to Class Counsel and Defendant's
18 Counsel the number of Notices of Objection that are submitted (specifying which ones were timely
19 and complete and which were not), and also attach them to a declaration that is to be filed with the
20 Court in advance of the Final Approval Hearing. At no time will any of the Parties or their counsel
21 seek to solicit or otherwise encourage Settlement Class Members to object to the Class Settlement or
22 appeal from the Final Approval Order and Judgment. Settlement Class Members, individually or
23 through counsel, may also present their objection orally at the Final Approval Hearing, regardless of
24 whether they have submitted a Notice of Objection and without any prior notice. If the Settlement
25 Administrator receives both a Request for Exclusion and a Notice of Objection, the Settlement
26 Administrator will honor the submission that is received first and disregard the other.

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1 28. Reports by the Settlement Administrator. The Settlement Administrator shall provide
2 weekly reports to counsel for the Parties providing: (a) the number of undeliverable and re-mailed
3 Class Notices; (ii) the number of Class Members who have submitted Disputes; (iii) the number of
4 Class Members who have submitted Requests for Exclusion; and (iv) the number of Settlement Class
5 Members who have submitted Notices of Objection. Additionally, the Settlement Administrator will
6 provide to counsel for the Parties any updated reports regarding the administration of the Settlement
7 Agreement as needed or requested, and immediately notify the Parties when it receives a request from
8 an individual or any other entity regarding inclusion in the Class and/or Settlement or regarding a
9 Dispute.

10 29. Defendant's Right to Rescind. If more than ten percent (10%) of the Class Members
11 submit timely and valid Requests for Exclusion, Defendant may elect to rescind the Settlement
12 Agreement. Defendant must exercise this right of rescission in writing that is provided to Class
13 Counsel within fourteen (14) calendar days of the Settlement Administrator notifying the Parties of
14 the number of Class Members who have submitted timely and valid Requests for Exclusion following
15 the Response Deadline. If Defendant exercises this option, Defendant shall pay any costs of settlement
16 administration owed to the Settlement Administrator incurred up to that date.

17 30. Certification of Completion. Upon completion of administration of the Settlement, the
18 Settlement Administrator will provide a written declaration under oath to certify such completion to
19 the Court and counsel for all Parties.

20 31. Duties of the Parties with Respect to Obtaining Final Approval of the Settlement. After
21 the Response Deadline, a Final Approval Hearing will be conducted to determine whether Final
22 Approval of the Settlement should be granted, along with the amounts properly payable for: (a)
23 Individual Settlement Shares; (b) Individual PAGA Payments; (c) LWDA Payment; (d) Attorneys'
24 Fees and Costs; (e) Enhancement Payment; and (f) Settlement Administration Costs. The Final
25 Approval Hearing will not be held earlier than thirty (30) calendar days after the Response Deadline.
26 Plaintiff and Class Counsel will be responsible for drafting the motion seeking Final Approval of the
27 Settlement. Class Counsel will provide Defendant's Counsel a draft of the final approval motion
28 seven (7) calendar days before filing it with the Court. By way of said motion, Plaintiff will apply for

1 the entry of the Final Approval Order and Judgment, which will provide for, in substantial part, the
2 following:

3 a. Approval of the Settlement as fair, reasonable, and adequate, and directing
4 consummation of its terms and provisions;

5 b. Certification of the Settlement Class;

6 c. Approval of the application for Attorneys' Fees and Costs to Class Counsel;

7 d. Approval of the application for Enhancement Payment to Plaintiff;

8 e. Directing Defendant to fund all amounts due under the Settlement Agreement
9 and ordered by the Court; and

10 f. Entering judgment in the Action, while maintaining continuing jurisdiction, in
11 conformity with California Rules of Court 3.769 and the Settlement Agreement.

12 32. Funding of the Gross Settlement Amount. No later than five (5) business days after
13 this Settlement Agreement is fully executed, Defendant will deposit the Gross Settlement Amount into
14 a Qualified Settlement Fund ("QSF") within the meaning of Treasury Regulation Section 1.468B-1,
15 *et seq.*, to be established by the Settlement Administrator. No later than five (5) business days after
16 Final Approval, Defendant will deposit the Employer Taxes into the QSF. Defendant shall provide
17 all information necessary for the Settlement Administrator to calculate necessary payroll taxes
18 including its official name, 8-digit state unemployment insurance tax ID number, and other
19 information requested by the Settlement Administrator, no later than five (5) business days after Final
20 Approval.

21 33. Distribution of the Gross Settlement Amount. Within five (5) business days after the
22 Effective Date, the Settlement Administrator will issue the Individual Settlement Payments to
23 Settlement Class Members, Individual PAGA Payments to PAGA Employees, LWDA Payment to the
24 LWDA, Enhancement Payment to Plaintiff, Attorneys' Fees and Costs to Class Counsel, and
25 Settlement Administration Costs to itself. The Settlement Administrator shall also set aside the
26 Employer Taxes and all employee-side payroll taxes, contributions, and withholding, and timely
27 forward these to the appropriate government authorities.

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1 34. Settlement Checks. The Settlement Administrator will be responsible for undertaking
2 appropriate deductions, required tax reporting, and issuing the Individual Settlement Payments by way
3 of check to the Settlement Class Members and the Individual PAGA Payments by way of check to the
4 PAGA Employees in accordance with this Settlement Agreement. When issuing payments, the
5 Settlement Administrator may combine the Individual Settlement Payment and Individual PAGA
6 Payment into one check if the intended recipient for both payments is one individual. Settlement Class
7 Members and PAGA Employees are not required to submit a claim to be issued an Individual
8 Settlement Payment and/or Individual PAGA Payment. Each Individual Settlement Payment and
9 Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180)
10 calendar days from the date the checks are issued, and thereafter, shall be canceled. Any funds
11 associated with such canceled checks shall be distributed by the Settlement Administrator to the State
12 of California's Unclaimed Property Division in the name of the Settlement Class Member and/or
13 PAGA Employee. The Parties agree that this disposition results in no "unpaid residue" under
14 California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to
15 Settlement Class Members, whether or not they cash their settlement checks. Therefore, Defendant
16 will not be required to pay any interest on such amounts. The Settlement Administrator shall undertake
17 amended and/or supplemental tax filings and reporting required under applicable local, state, and
18 federal tax laws that are necessitated due to the cancelation of any Individual Settlement Payment
19 and/or Individual PAGA Payment checks. Settlement Class Members whose Individual Settlement
20 Payment checks are canceled shall, nevertheless, be bound by the Class Settlement, and PAGA
21 Employees whose Individual PAGA Payment checks are cancelled shall, nevertheless, be bound by
22 the PAGA Settlement.

23 35. Class Settlement Release. Upon the Effective Date and the full funding of the Gross
24 Settlement Amount, Plaintiff and all Settlement Class Members will be deemed to have fully, finally,
25 and forever released, settled, compromised, relinquished, and discharged the Released Parties of all
26 Released Class Claims.

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1 36. PAGA Settlement Release. Upon the Effective Date and the full funding of the Gross
2 Settlement Amount, Plaintiff, the State of California with respect to all PAGA Employees, and all
3 PAGA Employees will be deemed to have fully, finally, and forever released, settled, compromised,
4 relinquished, and discharged the Released Parties of all Released PAGA Claims.

5 37. Plaintiff's General Release. Upon the Effective Date and the full funding of the Gross
6 Settlement Amount, Plaintiff, individually and on her own behalf, will be deemed to have fully, finally,
7 and forever released, settled, compromised, relinquished, and discharged the Released Parties from
8 any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees,
9 damages, or causes of action of any kind or nature whatsoever, known or unknown, suspected or
10 unsuspected, asserted or unasserted, which Plaintiff, at any time of execution of this Settlement
11 Agreement, had or claimed to have or may have, including but not limited to any and all claims arising
12 out of, relating to, or resulting from her employment and/or separation of employment with the
13 Released Parties, including any claims arising under any federal, state, or local law, statute, ordinance,
14 rule, or regulation or Executive Order relating to employment, including, but in no way limited to, any
15 claim under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 1981; the Americans
16 with Disabilities Act; the Family and Medical Leave Act; the Employee Retirement Income Security
17 Act; the California Family Rights Act; the California Fair Employment and Housing Act; all claims
18 for wages or penalties under the Fair Labor Standards Act; all claims for wages or penalties under the
19 California Labor Code; Business and Professions Code sections 17200 *et seq.*; all laws relating to
20 violation of public policy, retaliation, or interference with legal rights; any and all other employment
21 or discrimination laws; whistleblower claims; any tort, fraud, or constitutional claims; and any breach
22 of contract claims or claims of promissory estoppel. It is agreed that this is a general release and is to
23 be broadly construed as a release of all claims, provided that, notwithstanding the foregoing, this
24 Paragraph expressly does not include a release of any claims that cannot be released hereunder by law.
25 Plaintiff understands and expressly agrees that this Settlement Agreement extends to claims that she
26 has against Defendant, of whatever nature and kind, known or unknown, suspected or unsuspected,
27 vested or contingent, past, present, or future, arising from or attributable to an incident or event,
28 occurring in whole or in part, on or before the execution of this Settlement Agreement. Any and all

1 rights granted under any state or federal law or regulation limiting the effect of this Settlement
2 Agreement, including the provisions of Section 1542 of the California Civil Code, ARE HEREBY
3 EXPRESSLY WAIVED. Section 1542 of the California Civil Code reads as follows:

4 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR**
5 **OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
6 **FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM**
7 **OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH**
8 **THE DEBTOR OR RELEASED PARTY.**

9 38. Final Approval Order and Judgment. The Parties shall provide the Settlement
10 Administrator with a copy of the Final Approval Order and Judgment once it is entered by the Court,
11 and the Settlement Administrator shall post the Final Approval Order and Judgment on its website for
12 sixty (60) calendar days. No individualized notice of the Final Approval Order and Judgment to the
13 Class will be required.

14 39. Continued Jurisdiction. After entry of the judgment pursuant to the Settlement, the
15 Court will have continuing jurisdiction pursuant to Rule 3.769 of the California Rules of Court and
16 Section 664.6 of the California Code of Civil Procedure, for purposes of addressing: (a) the
17 interpretation and enforcement of the terms of the Settlement, (b) settlement administration matters,
18 and (c) such post-judgment matters as may be appropriate under court rules or as set forth in this
19 Settlement Agreement.

20 40. Effects of Termination or Rescission of Settlement. Termination or rescission of the
21 Settlement Agreement shall have the following effects:

22 a. The Settlement Agreement shall be void and shall have no force or effect, and
23 no Party shall be bound by any of its terms;

24 b. In the event the Settlement Agreement is terminated, Defendant shall have no
25 obligation to make any payments to any Party, Class Member, or attorney, except that the terminating
26 Party shall pay the Settlement Administrator for services rendered up to the date the Settlement
27 Administrator is notified that the Settlement has been terminated;

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1 c. The Preliminary Approval Order, Final Approval Order and Judgment,
2 including any order certifying the Class, shall be vacated;

3 d. The Settlement Agreement and all negotiations, statements, and proceedings
4 relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be
5 restored to their respective positions in the Action prior to the execution of the Settlement Agreement;

6 e. Neither this Settlement Agreement, nor any ancillary documents, actions,
7 statements, or filings in furtherance of the Settlement (including all matters associated with the
8 mediation) shall be admissible or offered into evidence in the Action or any other action for any
9 purpose whatsoever; and

10 f. Any documents generated to bring the Settlement into effect, will be null and
11 void, and any order or judgment entered by the Court in furtherance of this Settlement Agreement will
12 likewise be treated as void from the beginning.

13 41. Dismissal of Federal and California WARN Act. Plaintiff agrees to dismiss the claims
14 for violations of 29 U.S.C. Sections 2101, *et seq.* (Federal WARN Act) and California Labor Code
15 Sections 1400, *et seq.* (California WARN Act) alleged in the Operative Complaint *without* prejudice
16 upon Final Approval.

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

21 43. Exhibits Incorporated by Reference. The terms of this Settlement include the terms set
22 forth in any attached exhibits, which are incorporated by this reference as though fully set forth herein.
23 Any exhibits to this Settlement Agreement are an integral part of the Settlement.

24 44. Limitation on Publicity. Plaintiff and Class Counsel agree that, prior to filing the
25 motion for preliminary approval, they will keep the terms of this Settlement confidential. Plaintiff
26 and Class Counsel will not publicize this Settlement by name (i.e., identifying: (i) Defendant by name;
27 (2) its industry (non-profit humane society); and (3) its location in California or San Francisco),
28 whether through a press release, posting on Class Counsel's website, social media, or any other public
means. Nothing herein is intended to prevent Plaintiff and Class Counsel from including the foregoing

1 information in the motion for preliminary approval, motion for final approval, and/or Class Notice.
2 Nothing herein is intended to prevent Plaintiff from discussing this Settlement with her spouse,
3 attorneys, or tax advisers. Nothing herein is intended to prevent Class Counsel from citing this
4 Settlement in the Action or including publicly available information regarding this Settlement as
5 evidence supporting their qualifications, experience, and competence as counsel in wage and hour
6 and/or class and PAGA matters in public court filings nor affects in any way the ability of Class
7 Counsel to communicate with putative class members in the Action or the Court. Furthermore,
8 Plaintiff and Class Counsel will undertake any and all disclosures required to be made to the LWDA
9 in conformity with PAGA.

10 45. Entire Agreement. This Settlement Agreement and any attached exhibits constitute the
11 entirety of the Parties' agreement relating to the settlement and transaction completed thereby, and all
12 prior or contemporaneous agreements, understandings, representations, and statements, whether oral
13 or written and whether by a Party or such Party's legal counsel, are merged herein. No other prior or
14 contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties
15 expressly recognize California Civil Code § 1625 and California Code of Civil Procedure § 1856(a),
16 which provide that a written agreement is to be construed according to its terms and may not be varied
17 or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written
18 representations or terms will modify, vary, or contradict the terms of this Settlement Agreement.

19 46. Interim Stay of Proceedings. The Parties agree to hold in abeyance all proceedings in
20 the Action (including with respect to California Code of Civil Procedure § 583.310), except such
21 proceedings necessary to implement and complete this Settlement Agreement, pending the Final
22 Approval Hearing to be conducted by the Court.

23 47. Amendment or Modification. Prior to the filing of the motion for preliminary approval
24 of the Settlement, the Parties may not amend or modify any provision of this Settlement Agreement
25 except by written agreement signed by counsel for all Parties. After the filing of the motion for
26 preliminary approval of the Settlement, the Parties may not amend or modify any provision of this
27 Settlement Agreement except by written agreement signed by counsel for all the Parties and subject
28 to Court approval. A waiver or amendment of any provision of this Settlement Agreement will not
constitute a waiver of any other provision.

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1 48. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
2 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
3 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
4 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
5 effectuate the terms of this Settlement Agreement. The Parties warrant that they understand and have
6 full authority to enter into this Settlement Agreement, and further intend that this Settlement
7 Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible
8 and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation
9 confidentiality provisions that otherwise might apply under state or federal law.

10 49. Signatories. It is agreed that because the members of the Class are so numerous, it is
11 impossible or impractical to have each Settlement Class Member or PAGA Employee execute this
12 Settlement Agreement. The Class Notice will advise all Class Members of the binding nature of the
13 Class Settlement as to the Settlement Class Members and the binding nature of the PAGA Settlement
14 as to the PAGA Employees, and the releases provided for by this Settlement Agreement shall have
15 the same force and effect as if this Settlement Agreement were executed by each Settlement Class
16 Member and PAGA Employee.

17 50. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
18 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

19 51. California Law Governs. All terms of this Settlement Agreement and attached exhibits
20 hereto will be governed by and interpreted according to the laws of the State of California.

21 52. Execution and Counterparts. This Settlement Agreement is subject only to the
22 execution of all Parties. However, this Settlement Agreement may be executed in one or more
23 counterparts. All executed counterparts and each of them, including facsimile, electronic, and scanned
24 copies of the signature page, will be deemed to be one and the same instrument.

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

1 regarding the fairness and reasonableness of this Settlement Agreement. In addition, if necessary to
2 obtain approval of the Settlement, the Mediator may execute a declaration supporting the Settlement
3 and the reasonableness of the Settlement and the Court may, in its discretion, contact the Mediator to
4 discuss the Settlement and whether or not the Settlement is objectively fair and reasonable.

5 54. Invalidity of Any Provision. Before declaring any provision of this Settlement
6 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
7 possible consistent with applicable precedents so as to define all provisions of this Settlement
8 Agreement valid and enforceable.

9 55. Plaintiff's Cooperation. Plaintiff agrees to sign this Settlement Agreement and, by
10 signing this Settlement Agreement, is hereby bound by the terms herein and agrees to fully cooperate
11 to implement the Settlement.

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

26 57. Captions. The captions and paragraph numbers in this Settlement Agreement are
27 inserted for the reader's convenience, and in no way define, limit, construe, or describe the scope or
28 intent of the provisions of this Settlement Agreement.

1 58. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
2 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be
3 construed more strictly against one Party than another merely by virtue of the fact that it may have
4 been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length
5 negotiations between the Parties, all Parties have contributed equally to the preparation of this
6 Settlement Agreement.

7 59. Representation By Counsel. The Parties acknowledge that they have been represented
8 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and
9 that this Settlement Agreement has been executed with the consent and advice of counsel, and
10 reviewed in full.

11 60. All Terms Subject to Final Court Approval. All amounts and procedures described in
12 this Settlement Agreement herein will be subject to final Court approval.

13 61. Notices. All notices, demands, and other communications to be provided concerning
14 the Settlement Agreement shall be in writing and deemed to have been duly given as of the third
15 business day after mailing by First Class U.S. Mail, or the day sent by email or messenger, addressed
16 as follows:

17 To Plaintiff and Class Counsel:

18 Jonathan M. Genish

19 jgenish@blackstonepc.com

20 Karen I. Gold

21 kgold@blackstonepc.com

22 Marissa A. Mayhood

23 mmayhood@blackstonepc.com

24 Ashley H. Cruz

25 acruz@blackstonepc.com

26 **BLACKSTONE LAW, APC**

27 8383 Wilshire Boulevard, Suite 745

28 Beverly Hills, California 90211

 Tel: (310) 622-4278 / Fax: (855) 786-6356

To Defendant:

 Hieu T. Williams

 hwilliams@hkemploymentlaw.com

 Jenna M. Rogenski

 jrogenski@hkemploymentlaw.com

HIRSCHFELD KRAEMER LLP

 456 Montgomery Street, Suite 200

San Francisco, California 94104
Tel: (415) 835-9000 / Fax: (415) 834-0443

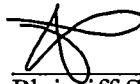
62. Cooperation and Execution of Necessary Documents. All Parties and their counsel will cooperate with each other in good faith and use their best efforts to implement the Settlement, including and not limited to, executing all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the Mediator and then the Court to resolve such disagreement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action and PAGA Settlement between Plaintiff and Defendant:

IT IS SO AGREED.

PLAINTIFF SITARA NAYABKHIL

Dated: 06/27/2024



Plaintiff Sitara Nayabkhil

**DEFENDANT THE SAN FRANCISCO
SOCIETY FOR THE PREVENTION OF
CRUELTY TO ANIMALS DBA SAN
FRANCISCO SPCA**

Dated: _____

Full Name: _____

Title: _____

On behalf of Defendant The San Francisco
Society for the Prevention of Cruelty to Animals
dba San Francisco SPCA

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San Francisco, California 94104
Tel: (415) 835-9000 / Fax: (415) 834-0443

62. Cooperation and Execution of Necessary Documents. All Parties and their counsel will cooperate with each other in good faith and use their best efforts to implement the Settlement, including and not limited to, executing all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the Mediator and then the Court to resolve such disagreement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action and PAGA Settlement between Plaintiff and Defendant:

IT IS SO AGREED.

PLAINTIFF SITARA NAYABKHIL

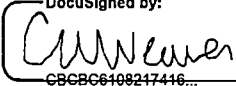
Dated: _____

Plaintiff Sitara Nayabkhil

**DEFENDANT THE SAN FRANCISCO
SOCIETY FOR THE PREVENTION OF
CRUELTY TO ANIMALS DBA SAN
FRANCISCO SPCA**

Dated: 6/25/2024

DocuSigned by:


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Full Name: Carrie Weaver

Title: Chief People & Inclusion Officer
On behalf of Defendant The San Francisco
Society for the Prevention of Cruelty to Animals
dba San Francisco SPCA

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1 **APPROVED AS TO FORM ONLY:**

2 **BLACKSTONE LAW, APC**

3
4 Dated: June 26, 2024



Jonathan M. Genish
Karen I. Gold
*Attorneys for Plaintiff Sitara Nayabkhil
and Proposed Class Counsel*

7 **HIRSCHFELD KRAEMER LLP**

8
9 Dated: 6/25/2024

DocuSigned by:



27C54D178B33400...

Hieu T. Williams
Jenna M. Rogenski
*Attorneys for Defendant The San Francisco
Society for the Prevention of Cruelty to Animals
dba San Francisco SPCA*

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.251)

I, Ericka Larnauti, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On September 24, 2024, I electronically served the attached document via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: September 24, 2024

Brandon E. Riley, Clerk

By: _____

Ericka Larnauti, Deputy Clerk

EXHIBIT 4

Date	Type of Expense	Description of Expense	Amount
7/28/2023	Mailing	Records Request	\$8.53
8/7/2023	Filing	PAGA Letter Submission Fee	\$75.00
9/8/2023	Mailing	LWDA Letter	\$8.53
10/19/2023	Mailing	LWDA Letter	\$8.53
10/31/2023	Filing	Steno: Complaint Packet	\$2,037.20
12/22/2023	Filing	Steno - Application for Approval of Complex Litigation Designation	\$140.95
12/22/2023	Filing	Steno: NAR	\$59.95
12/22/2023	Filing	Steno: NAR	\$59.95
1/8/2024	Filing	Steno - First Amended Class & Collective Action Complaint	\$59.95
2/2/2024	Mailing	Mailing Cost- Jeffrey Ross	\$0.64
2/2/2024	Mediation	Check to Jeffrey Ross	\$12,500.00
4/11/2024	Filing	Steno - Joint CMC Statement	\$99.00
4/12/2024	Filing	Steno: Personal Service	\$59.95
4/18/2024	Mediation	Check to Berger Consulting Group, LLC	\$3,920.00
5/30/2024	Filing	Steno: Notice of Settlement	\$222.50
5/2/2024	Filing	File & ServeXpress - Filing/Service of Joint CMC Statement	\$25.30
10/8/2024	Filing	Steno - MPA	\$158.50
	Filing	Future Cost: Filing of Motion for Final Approval	\$140.95
Total:			\$19,585.43