

1 **BLUMENTHAL NORDREHAUG BHOWMIK**
2 **DE BLOUW LLP**

3 Norman B. Blumenthal (State Bar #068687)

4 Kyle R. Nordrehaug (State Bar #205975)

5 Aparajit Bhowmik (State Bar #248066)

6 2255 Calle Clara

7 La Jolla, CA 92037

8 Telephone: (858)551-1223

9 Facsimile: (858)551-1232

10 Email: Kyle@bamlawca.com

11 Website: www.bamlawca.com

12 Attorneys for Plaintiffs

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

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

15 MARLIN MEJIA, BASILIA KONDE, and
16 GULALAY OMARZAY, individuals, on
17 behalf of themselves and on behalf of all
18 persons similarly situated,

19 Plaintiffs,

20 vs.

21 CHICO'S FAS, INC., a Corporation; and
22 DOES 1 through 50, inclusive,

23 Defendants.

CASE NO.: **23TRCV03862**

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

Hearing Date: August 11, 2025

Hearing Time: 8:30 a.m.

Reservation ID: 564851201519

Judge: Hon. Patricia A. Young

Dept: B

Date Filed: November 22, 2023

Trial Date: Not set

1 I, Kyle Nordrehaug, declare as follows:

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

7 2. This declaration is being submitted in support of Plaintiffs’ unopposed motion for
8 preliminary approval of the proposed class action settlement with Defendant Chico’s FAS, Inc.
9 (“Defendant”) which seeks entry of an order: (1) preliminarily approving the proposed settlement of
10 this class action with Defendant; (2) for settlement purposes only, conditionally certifying the Class,
11 which is comprised of “all individuals who are or were previously employed by Defendant and any
12 of its subsidiaries in California and classified as a non-exempt employee at any time during the
13 Class Period”, which is January 1, 2022 through December 31, 2024; (3) provisionally appointing
14 Plaintiffs as the representatives of the Class; (4) provisionally appointing Blumenthal Nordrehaug
15 Bhowmik De Blouw LLP as Class Counsel; (5) approving the form and method for providing class-
16 wide notice; (6) directing that notice of the proposed settlement be given to the class; (7) appointing
17 ILYM Group, Inc. as the Administrator, and (8) scheduling a final approval hearing date that is 120
18 days from preliminary approval, to consider Plaintiffs’ motion for final approval of the settlement
19 and for approval of attorneys’ fees, expenses and service awards. Plaintiffs and Defendant
20 (collectively the “Parties”) have reached a full and final settlement of the above-captioned action,
21 which is embodied in the Class Action and PAGA Settlement Agreement (“Agreement”). A true
22 and correct copy of the signed Agreement is attached hereto as Exhibit #1. The form of the
23 Agreement is based upon the Los Angeles County Superior Court model form for a class and PAGA
24 settlement. A redline comparison between the Agreement and the Court’s model form for a class
25 and PAGA settlement is attached hereto as Exhibit #2. This Declaration incorporates by reference
26 the definitions in the Agreement, and all terms defined therein shall have the same meaning as set
27 forth in the Agreement.
28

1 Fairness of Settlement

2 3. As consideration for this Settlement, the non-reversionary Gross Settlement Amount
3 of Seven Hundred Fifty Thousand Dollars (\$750,000) (the “Gross Settlement Amount”) is to be
4 paid by Defendant, as set forth in the Agreement. The Gross Settlement Amount will settle all
5 issues pending in the Action between the Parties and will be made in full and final settlement of the
6 Released Class Claims in exchange for the payments to Participating Class Members from the Net
7 Settlement Amount, and includes (a) the costs of administration of the settlement, (b) all attorneys'
8 fees and costs, (c) the Class Representative Service Payments, and (d) the PAGA Penalties payment
9 allocated 75% to the LWDA and 25% to the Aggrieved Employees. (Agreement at ¶ 1.22.) The
10 following is a table of the key financial terms of the Settlement and the proposed deductions:

11 **\$750,000** (Gross Settlement Amount)

- 12 - \$30,000 (Plaintiffs’ proposed service awards - not to exceed \$10,000 each)
13 - \$35,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
14 - \$250,000 (Class Counsel Fees Payment - not to exceed 1/3 of settlement)
15 - \$30,000 (PAGA Payment - 75% to LWDA / 25% to Aggrieved Employees)
16 - \$21,000 (Administration Expenses Payment - not to exceed amount)

17 **\$384,000** (Net Settlement Amount)

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

23 5. On October 16, 2024, the Parties participated in an all-day mediation session
24 presided over by Tripper Ortman, Esq., a respected and experienced mediator of wage and hour
25 class actions. In preparation for the mediation, Defendant provided Class Counsel with
26 timekeeping and employment data and other information regarding the Class Members, various
27 internal documents, and other compensation and employment-related materials. Class Counsel
28 analyzed the data with the assistance of damages expert Berger Consulting and prepared and

1 submitted a mediation brief to the mediator. The final settlement terms were negotiated and set forth
2 in the Agreement now presented for this Court's approval. Importantly, Plaintiffs and Class
3 Counsel believe that this Settlement is fair, reasonable, and adequate.

4
5 6. **Maximum Valuation and Discounted Valuation.** Based upon 2,535 Class
6 Members who collectively worked 75,000 full time equivalent workweeks (Agreement at ¶ 4.1), the
7 Gross Settlement Amount provides an average value of \$295 per Class Member and \$10 per
8 workweek and after deductions, the Net Settlement Amount provides an average recovery of
9 \$151.47 per Class Member and a recovery of \$5.12 per workweek. The calculations to compensate
10 for the amount due for the Class at the time of the mediation were calculated by Berger Consulting,
11 Plaintiffs' damage expert. As to the Class whose claims are at issue in this Action, Plaintiffs used
12 this expert to analyze the data and determine the potential unpaid wages for the employees. The
13 maximum potential damages were calculated to be \$3,851,114 for the alleged unpaid wages due to
14 off-the-clock work at 1 hour per week, \$2,964,877 for alleged meal period damages based upon a
15 52% potential violation rate for shifts observed in the time records and after deduction of meal
16 premiums paid by Defendant, and \$1,158,911 for alleged rest period damages based upon a 10%
17 potential violation rate, \$203,235 for alleged unreimbursed business expenses for personal cell
18 phone usage at \$5 per month. Decl. Nordrehaug, ¶6. As a result, the total damage valuation was
19 calculated that Defendant was subject to a maximum damage claim in the amount of \$8,178,137.
20 As to potential penalties, Plaintiffs calculated that potential waiting time penalties were a maximum
21 of \$6,000,542, and potential maximum wage statement penalties were \$8,070,850.¹ Defendant
22 vigorously disputed Plaintiffs' calculations and exposure theories. Consequently, the Gross
23

24
25 ¹ While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
26 226, at mediation Plaintiffs recognized that these claims were subject to additional, separate
27 defenses asserted by Defendant, including, a good faith dispute defense as to whether any premium
28 wages for meal or rest periods or other wages were owed given Defendant's position that Plaintiffs
and Class Members were properly compensated. See *Nordstrom Commission Cases*, 186 Cal. App.
4th 576, 584 (2010) ("There is no willful failure to pay wages if the employer and employee have a
good faith dispute as to whether and when the wages were due.").

1 Settlement Amount of \$750,000 represents more than 9% of the maximum value of the alleged
2 damages at issue in this case at the time this Settlement was negotiated.² Importantly, the recent
3 decision that good faith belief of compliance by the employer in *Naranjo v. Spectrum Sec. Servs.,*
4 *Inc.*, 15 Cal. 5th 1056, 1065 (2024), could completely negate the claims for waiting time and wage
5 statement penalties, even if wages were owed to the Class. The above maximum calculations
6 should then be adjusted in consideration for both the risk of class certification and the risk of
7 establishing class-wide liability on all claims. Given the amount of the settlement as compared to
8 the potential value of claims in this case and the defenses asserted by Defendant, this settlement is
9 fair and reasonable. Specific details as to the calculation and valuation of the claims for purposes of
10 mediation and the negotiation of the Settlement are as follows:

11 **A. Payroll and Timekeeping Data.** Defendant owns and operates retail stores
12 selling women's clothing in California. Plaintiffs received and Plaintiffs'
13 expert analyzed payroll and time punch data which covered 255 employees,
14 46,671 shifts worked and 13,496 workweeks covering the period 1/1/2022 -
15 8/17/2024, which was then extrapolated to the entire Class at the time of
16 mediation. Based on the data received, the average rate of pay for the Class
17 used in the class-wide valuation calculations was \$22.00.

18 **B. Alleged Off-The-Clock Work.** The off-the-clock claim is based on
19 allegations that Defendant knew or should have known the Class Members
20 worked off the clock due to pre-shift and post-shift activities such as
21 computer start-ups, clocking delays and closing store activities. As a result,
22 they were systematically subjected to this alleged uncompensated work time.
23 Off-the-clock damages assume employees were not paid 1 hour per
24 workweek. Unpaid off-the-clock time based on 1 hour per week sums up to
25 11,463 total unpaid OTC hours. 25% of these hours are assumed overtime.

26
27 ² Because the PAGA claim is not a class claim and primarily is paid to the State of California,
28 Plaintiff have not included the PAGA claim in this discussion of the value of the class claims. The
PAGA claim is addressed below at ¶33.

1 Unpaid OTC wages are calculated as the sum of unpaid regular OTC wages
2 (at hourly rate) and unpaid overtime OTC wages (at 1.5x hourly rate). As a
3 result, the maximum value of the claim for unpaid wages due to alleged off-
4 the-clock work was \$3,851,114. In light of the Defendant's policies requiring
5 work time to be properly recorded by the employee, Plaintiffs believe that
6 class certification for this claim is uncertain and off-the-clock claims are
7 difficult to on a class-wide basis for liability and recovery given the lack of
8 documentation, and the potential for individual variances as to time and
9 experience, not to mention Defendant's position that this work time is in fact
10 recorded. Plaintiffs discounted this maximum valuation for this claim by
11 30% for the risk of certification, 30% for the risks of class-wide liability, and
12 50% for the likelihood of recovering damages of 1 hour per week as opposed
13 to only a few minutes, resulting in a discounted value of \$173,300.

14 **C. Alleged Meal Period Violations.** The meal period claim is based upon the
15 analysis of time punch records. The time punch records reflect a meal break
16 violation rate with waiver of 52% of shifts greater than 6 hours (140,047
17 unique violations out of 268,398 shifts greater than 6 hours). The pay data
18 reflects meal break premiums paid for 7,977 instances, therefore roughly
19 5.7% of facial violations have had a premium paid, which would total
20 \$210,539. The 140,047 unique meal break violations include 3,902 late (after
21 5th hour), 1,140 missed (for shifts greater than 6 hours), 1,312 short (under
22 30 minutes), 135,684 shifts with exactly 30-minute meals (for shifts greater
23 than 6 hours), and 115 missed 2nd meal breaks (for shifts greater than 12
24 hours). 50.8% of recorded meals are exactly 30 minutes long, which are
25 included as violations. The 140,407 unique meal break violations include at
26 least one of the following: (1) recorded 1st meal break after the end of the 5th
27 hour for shifts over 6 hours, (2) 1st meal break less than 30 minutes for shifts
28 over 6 hours, (3) no 1st meal break for shifts over 6 hours, (4) 1st meal break

1 of exactly 30 minutes for shifts over 6 hours, or (5) no 2nd meal break for
2 shifts over 12 hours. The damages for a missed period is one hour of pay
3 under Labor Code §§266.7 and 512. As a result, the maximum potential
4 damages for alleged meal period violations using the 52% potential violation
5 rate, and after deduction of the meal premiums paid by Defendant, were
6 therefore calculated to be \$2,964,877. Because the meal period claim is
7 based primarily on the theory that the exactly 30 min breaks are violations,
8 the meal period claim presents a medium likelihood of class certification, but
9 a low likelihood that class-wide recovery could be obtained at trial as to all of
10 the alleged violations. It is entirely possible that the meal period claim would
11 be limited to a *Donohue* presumption as to only the 2.5% violations for late or
12 missed meal periods. Plaintiffs discounted this maximum valuation for this
13 claim by 50% for the risk of certification and 25% for the risks of class-wide
14 liability, resulting in a discounted value of \$370,610.

15 **D. Alleged Rest Period Violations.** The rest period claim is difficult to
16 calculate because California law does not require rest periods to be recorded.
17 For this claim, Plaintiff used a 10% violation assumption based upon the
18 Plaintiffs experiences. This likely overstates the rest period claim value as
19 rest periods are easy to take at stores and were not required to be recorded.
20 The damages for a missed period is one hour of pay under Labor Code
21 §§266.7 and 512. As a result, the maximum potential damages for alleged
22 rest period violations using this 10% violation rate were estimated to be
23 \$1,158,911. The rest period claim presents a low likelihood of class
24 certification and a low likelihood that class-wide recovery could be obtained
25 at trial. Plaintiff discounted this maximum valuation for this claim by 30%
26 for the risk of certification and by 30% for the risks of class-wide liability,
27 resulting in a discounted value of \$104,302.

28 **F. Alleged Business Expenses Reimbursement.** The expense reimbursement

1 claim was based upon the personal cell phone usage for work purposes, such
2 as calls with management. The value of this claim used was \$5 per month to
3 calculate that the maximum potential damages for the alleged failure to
4 reimburse business expenses were \$203,235. Plaintiff believes that there is a
5 high likelihood of class certification for this claim, and medium likelihood of
6 class-wide liability. Defendant contended that any personal cell phone usage
7 was merely convenient and voluntary such that reimbursement was not
8 legally required. This defense could result in a denial of a denial of liability
9 on this claim. Plaintiffs discounted this claim by 75% for the risk of
10 certification, but discounted the claim by 50% for the risks of class-wide
11 liability and recovery, resulting in a discounted value of \$76,213.

12 **G. Alleged Waiting Time Penalties.** Waiting Time Penalties are calculated for
13 all 1,541 terminated employees x 30 days x 6 hours per day. As such, the
14 maximum value of the potential waiting time penalties were calculated to be
15 \$6,000,542. This claim is entirely derivative of the unpaid wage claims
16 above, and therefore suffers from the same risks, plus Defendant maintains
17 additional defenses of a good faith defense specific to this claim. The recent
18 decision that good faith belief dispute as to wages owed by the employer in
19 *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could
20 completely negate this claim even if wages were owed to the class. In light of
21 the state of the law, and the Defendant's defenses not only to the predicate
22 claims and certification, but also as to a good faith defense to the wage
23 statement claim resulting in an additional discount by 25%, Plaintiff
24 discounted this claim significantly to \$135,012.

25 **H. Alleged Wage Statement Penalties.** Wage Statement Penalties are
26 calculated at \$50 for the initial violation and \$100 for each subsequent
27 violation with a max of \$4,000 per employee (assumes 100% violation). The
28 Wage Statement claim is predicated and is derivative of the above claims, so

1 the maximum valuation assumed there was a violation in every pay period
2 within the applicable one-year statute of limitation. The maximum value of
3 the potential wage statement penalties were therefore calculated to be
4 \$8,070,850. This claim is entirely derivative of the unpaid wage claims
5 above, and therefore suffers from the same risks, plus Defendant maintains
6 additional defenses of a lack of knowing and willful conduct specific to this
7 claim. The recent decision that good faith belief of compliance by the
8 employer in *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065
9 (2024), could completely negate this claim even if wages were owed to the
10 class. In light of the state of the law, and the Defendant's defenses not only
11 to the predicate claims but also as to a good faith defense to the wage
12 statement claim resulting in additional discount by 25%, Plaintiff discounted
13 this claim significantly to \$181,594.

14 **I. Total Discounted Valuation.** Based upon the above discounted valuations
15 for each of the above class claims, the total discounted valuation for all class
16 claims would be \$1,041,031, which compares favorably to the Gross
17 Settlement Amount in this Settlement.

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

23
24 Procedural History of the Litigation

25 7. On September 8, 2023, Plaintiff Mejia filed with the LWDA and served on
26 Defendant a notice under Labor Code section 2699.3 identifying the alleged Labor Code violations
27 to recover civil penalties on behalf of Aggrieved Employees for various Labor Code violations. On
28 April 15, 2024, Plaintiffs Mejia and Konde filed with the LWDA and served on Defendant an

1 amended notice under Labor Code section 2699.3 identifying the alleged Labor Code violations to
2 recover civil penalties on behalf of Aggrieved Employees for various Labor Code violations. These
3 PAGA Notices specifically alleged violations of Labor Code §§ 201, 202, 203, 204 et seq., 210,
4 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802,
5 California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of
6 Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and violation of the applicable
7 Wage Order(s). These PAGA Notices are attached hereto as Exhibit #3 for the Court's reference
8 and also included a copy of the draft complaint with the PAGA Notices.

9 8. On February 22, 2023, Plaintiff Mejia commenced this Action by filing a Class
10 Action Complaint against Defendant in the Superior Court of the State of California, County of Los
11 Angeles(the "Class Action"). This Class Action Complaint asserted class claims against Defendant
12 for: (1) unfair competition in violation of Cal. Bus & Prof. Code §§ 17200, et seq.; (2) failure to pay
13 minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (3) failure to pay
14 overtime wages in violation of California Labor Code §§ 510, 1194 & 1198; (4) failure to provide
15 required meal periods in violation of Cal. Labor Code §§ 226.7 and 512; (5) failure to provide
16 required rest periods in violation of Cal. Labor Code §§ 226.7 and 512; (6) failure to provide
17 accurate itemized wage statements in violation of California Labor Code §§ 226.7 and 512; (7)
18 failure to to reimburse employees for required expenses in violation of California Labor Code §
19 2802; and, (8) failure to pay sick pay wages in violation of California Labor Code §§ 201-204, 233,
20 246. On February 20, 2024, Defendant removed the Class Action to the United States District Court
21 for the Northern District of California. On November 22, 2023, Plaintiff Mejia filed a separate
22 Representative Action Complaint against Defendant in the Superior Court of the State of California,
23 County of Los Angeles (the "PAGA Action"), alleging one cause of action for Civil Penalties
24 Pursuant to Labor Code § 2699, et seq. for violations of Labor Code §§ 201, 202, 203, 204 et seq.,
25 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802,
26 California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of
27 Regulations, Title 8, Section I 1079(14) (failure to provide seating), and the Applicable Wage
28 Orders.

1 9. On January 27, 2025, Plaintiffs filed a First Amended Class and Representative
2 Action Complaint in the PAGA Action adding: (1) all class and PAGA claims (as applicable) for all
3 claims and theories alleged in the Actions and/or the PAGA Notices to the LWDA, including claims
4 that Defendant engaged in unfair business practices, failed to pay for all wages due (including
5 minimum, overtime, sick pay at the correct rate), failed to provide legally required meal periods and
6 rest breaks and failed to pay premium pay at the regular rate of pay for missed or improper meal
7 periods and/or rest breaks, failed to pay for reporting time pay, failed to timely pay all wages due,
8 failed to provide accurate wage statements, failed to keep accurate time records, failed to reimburse
9 for business expenses, and failed to provide suitable seating; and (2) Plaintiffs Basilia Konde and
10 Gulalay Omarzay as named Plaintiffs and Class Representatives. The First Amended Class and
11 Representative Action Complaint is the operative complaint in the Action (the “Operative
12 Complaint”).

13 10. Over the course of litigation, the Parties engaged in the investigation of the claims,
14 including informal discovery, and the production of hundreds of pages of documents, class data, and
15 other information, allowing for the full and complete analysis of liabilities and defenses to the
16 claims in the Action. The information for mediation obtained by Plaintiffs included: (1) data
17 concerning the class; (2) payroll data and time punch data for the class covering 46,671 shifts
18 worked and 13,496 workweeks; (3) Defendant’s wage and hour policies; (4) the employment files
19 for the Plaintiffs; and, (5) samples of wage statements provided by Defendant. As such, Class
20 Counsel received the data and information for the Class, which was sufficient for Plaintiffs’ expert
21 to prepare the valuations of the claims for the Class.

22 11. Class Counsel has extensive experience in litigating wage and hour class actions in
23 California. The Parties have intelligently litigated the Action since inception. During the course of
24 litigation, the Parties each performed analysis of the merits and value of the claims. Plaintiffs and
25 Defendant have engaged in significant research and investigation in connection with the Action.
26 Plaintiffs obtained informal discovery and the production of relevant documents and data from the
27 Defendant. Class Counsel has thoroughly analyzed the value of the claims during the prosecution of
28 this Action and utilized an expert to perform an analysis of the data and valuation of the claims.

1 12. Plaintiffs and Defendant agreed to discuss resolution of the Action through a
2 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of
3 documents and information in connection with the Action. On October 16, 2024, the Parties
4 participated in an all-day mediation presided over by Tripper Ortman, a respected mediator of wage
5 and hour representative and class actions. Following the mediation, each side, represented by its
6 respective counsel, were able to agree to settle the Action based upon a mediator's proposal which
7 was memorialized in a memorandum of understanding. The Parties then negotiated the final terms
8 of the settlement as set forth in the Agreement. At all times, the negotiations were arm's length and
9 contentious.

10 13. Although a settlement has been reached, Defendant denies any liability or
11 wrongdoing of any kind associated with the claims alleged in the Action and further denies that, for
12 any purpose other than settlement, the Action is appropriate for class and/or representative
13 treatment. Defendant contends, among other things, that it has complied at all times with the
14 California Labor Code, applicable Wage Order, and all other laws and regulations. Further,
15 Defendant contends that class certification is inappropriate for any reason other than for settlement.
16 Plaintiffs contend that Defendant violated California wage and hour laws. Plaintiffs further contend
17 that the Action is appropriate for class certification on the basis that the claims meet the requisites
18 for class certification. Without admitting that class certification is proper, Defendant has stipulated
19 that the above Class may be certified for settlement purposes only. (Agreement at ¶ 2.11). The
20 Parties agree that certification for settlement purposes is not an admission that class certification is
21 proper. Further, the Agreement is not admissible in this or any other proceeding as evidence that the
22 Class could be certified absent a settlement. Solely for purposes of settling the Action, the Parties
23 stipulate and agree that the requisites for establishing class certification with respect to the Class are
24 satisfied.

25 14. Class Counsel has conducted an investigation into the facts of the class action.
26 Informal discovery was obtained, which included the production of hundreds of pages documents
27 and data. Class Counsel engaged in a thorough review and analysis of the relevant documents and
28 data with the assistance of an expert. Accordingly, the agreement to settle did not occur until Class

1 Counsel possessed sufficient information to make an informed judgment regarding the likelihood of
2 success on the merits and the results that could be obtained through further litigation. In addition,
3 Class Counsel previously negotiated settlements with other employers in actions involving nearly
4 identical issues and analogous defenses. Based on the foregoing data and their own independent
5 investigation, evaluation and experience, Class Counsel believes that the settlement with Defendant
6 on the terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of
7 the Class in light of all known facts and circumstances, including the risk of significant delay,
8 defenses asserted by Defendant, and potential appellate issues.

9
10 Settlement Terms and Plan of Allocation

11 15. The Gross Settlement Amount is Seven Hundred Fifty Thousand Dollars (\$750,000).
12 (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount consists of the
13 following elements: (1) payment of the Individual Class Payments to the Participating Class
14 Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3)
15 Administration Expenses Payment; (4) the Class Representative Service Payments to the Plaintiffs;
16 and (5) the PAGA Penalties payment allocated 75% to the LWDA PAGA Payment and 25% to the
17 Individual PAGA Payments. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not
18 include Defendant's share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount
19 shall be all-in with no reversion to Defendant. (Agreement at ¶ 3.1.)

20 16. Defendant shall fund the Gross Settlement Amount and the amount necessary to pay
21 payroll taxes thereon no later than 14 days after the Effective Date. (Agreement at ¶ 4.3.) The
22 distribution of Individual Class Payments to Participating Class Members will be made within 14
23 days after Defendant funds the Gross Settlement Amount. (Agreement at ¶ 5.1.)

24 17. The amount remaining in the Gross Settlement Amount after the deduction of
25 Court-approved amounts for Individual PAGA Payments, the LWDA PAGA Payment, the Class
26 Representative Service Payments, the Class Counsel Fees Payment, the Class Counsel Litigation
27 Expenses Payment, and the Administration Expenses Payment (called the "Net Settlement
28 Amount") shall be allocated to Class Members as their Individual Class Payments. (Agreement at

¶¶ 1.28 and 3.2.) The Administrator will calculate each Individual Class Payment by (a) dividing the Net Settlement Amount by the total number of shifts worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's shifts during the Class Period. (Agreement at ¶ 3.2(e).) Shifts will initially be based on Defendant's records, however, Class Members will have the right to challenge the number of shifts worked.

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

19. Participating Class Members must cash their Individual Class Payment check within 180 days after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within 180 days will be voided and any funds represented by such checks sent to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). (Agreement at ¶ 5.4.)

20. Subject to Court approval, the Parties have agreed on ILYM Group, Inc. to administer the settlement in this action ("Administrator"). (Agreement at ¶ 1.2.) The Administrator will be paid for settlement administration in an amount not to exceed \$21,000. (Agreement at ¶ 3.2(c).) ILYM Group provided an estimate of \$18,950 for administration expenses.

21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded a sum not to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment. (Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of Class Counsel Litigation Expenses Payment in an amount not to exceed \$35,000. (Agreement at ¶

3.2(b).) Subject to Court approval, the Agreement provides for a payment of no more than \$10,000 to each Plaintiff as their Class Representative Service Payments. (Agreement at ¶ 3.2(a).)

22. Subject to Court approval, the PAGA Penalties will be paid from the Gross Settlement Amount for PAGA penalties under the California Private Attorneys General Act, Cal. Labor Code Section 2698, *et seq.* (“PAGA”). The PAGA Penalties are \$30,000. (Agreement at ¶¶ 1.34 and 3.2(d).) Pursuant to the express requirements of Labor Code § 2699(i), the PAGA Payment shall be allocated as follows: 75% shall be allocated to the Labor Workforce Development Agency (“LWDA”) as its share of the civil penalties and 25% allocated to the Individual PAGA Payments to be distributed to the Aggrieved Employees based on the number of their respective PAGA Pay Periods.³ (Agreement at ¶ 3.2(d).)

Risks of Continued Litigation and Standards for Approval

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

24. A number of defenses asserted by Defendant present serious threats to the claims of the Plaintiffs and the other Class Members. Defendant asserted that Defendant’s practices complied with all applicable Labor laws. Defendant argued that Class Members were paid for all time worked and that all work time was properly recorded. Defendant contends that its meal and rest period policies fully complied with California law and Defendant did not fail to provide the opportunity for legally required meal and rest breaks. Defendant could argue that the payment of significant meal

³ The PAGA claim was initiated prior to June 2024, and therefore the prior version of Labor Code ¶2699 applies to the 75/25 allocation.

1 period premiums is evidence of its lawful practices. Defendant contends that there was no failure to
2 pay for business expenses and any cell phone usage was merely convenient and voluntary such that
3 reimbursement was not legally required. Finally, Defendant could argue that the Supreme Court
4 decision in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), weakened Plaintiffs' claims, on
5 liability, value, and class certifiability as to the meal and rest period claims. Defendant also argues
6 that based on their facially lawful practices, Defendant acted in good faith and without willfulness,
7 which if accepted would negate the claims for waiting time penalties and/or inaccurate wage
8 statements. See e.g. *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (May 6, 2024)
9 ("if an employer reasonably and in good faith believed it was providing a complete and accurate
10 wage statement in compliance with the requirements of section 226, then it has not knowingly and
11 intentionally failed to comply with the wage statement law.") Defendant's defenses could eliminate
12 or substantially reduce any recovery to the Class. While Plaintiffs believe that these defenses could
13 be overcome, Defendant maintains these defenses have merit and therefore present a serious risk to
14 recovery by the Class.

15 25. There was also a significant risk that, if the Action was not settled, Plaintiffs would
16 be unable to obtain a certified class and maintain the certified class through trial, and thereby not
17 recover on behalf of any employees other than themselves. At the time of the mediation, Defendant
18 forcefully opposed the propriety of class certification, arguing that individual issues precluded class
19 certification. Further, as demonstrated by the California Supreme Court decision in *Duran v. U.S.*
20 *Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-wide
21 recovery even where the class has been certified. While other cases have approved class
22 certification in wage and hour claims, class certification in this action was hotly disputed and the
23 maintenance of a certified class through trial was by no means a foregone conclusion.

24 26. This settlement is therefore certainly entitled to preliminary approval. Were this
25 case to go to trial, the Plaintiffs and the other class members would need to prove, among other
26 things, that wages were owed on a class-wide basis. As explained below, this was and is a
27 substantial risk:
28

1 A. **Risks With Specific Claims and Their Class-Wide Valuations** - The specific
2 claims also had risks which impacted both liability and the valuation of the claim.
3 The meal and rest break claims present significant hurdles for class certification
4 because of the potential for individual issues as to why a break was missed. In my
5 experience, these claims would be difficult to certify. As to the alleged claim for off-
6 the-clock-work, again this claims presented problems both as to certification and
7 liability, as well as quantification of damages (i.e. how much time worked off the
8 clock). Defendant could argue that the alleged tasks were either performed while
9 clocked in or were otherwise negligible work time. Defendant disputed that the
10 alleged off-the-clock work would amount to 1 hour per week as Plaintiffs calculated,
11 as Defendant contended that even if there was such unaccounted time, it was a
12 sporadic such as time to log in and just a few minutes. Therefore, this claim would
13 be difficult to prove and to value on a class-wide basis even if certified. Finally, as
14 to the statutory penalties relating to waiting time and wage statements, these claims
15 are both derivative of the above claims and are subject to their own defenses. As
16 discussed above, the Defendant asserted significant defenses to all of the predicate
17 violations, which means that under the new decision in *Naranjo*, even if the
18 violations were proven, these penalties would be denied. As a result, the claims for
19 statutory penalties could have no value through continued litigation.

20 27. Plaintiffs will apply to the Court for Class Representative Service Payments in
21 consideration for their service and for the risks undertaken on behalf of the Class. (Agreement at ¶
22 3.2(a).) Plaintiffs performed their duties admirably by working with Class Counsel over the course
23 of litigation. The Declarations of the Plaintiffs are submitted herewith in support. At this stage, the
24 not to exceed amount for the requested service award is within the accepted range of awards for
25 purposes of preliminary approval, subject to the Court's determination at final approval. *See e.g.*
26 *Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022)
27 (finding that the requested service awards of \$15,000 each are appropriate); *Reynolds v. Direct Flow*
28 *Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at *19 (N.D. Cal. 2019) (granting request for \$12,500

1 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018)
2 (awarding \$12,500 where average class member payment was \$351); *Louie v. Kaiser Foundation*
3 *Health Plan, Inc.*, 2008 WL 4473183, *7 (S.D. Cal. Oct. 06, 2008) (awarding \$25,000 service
4 award to each of six plaintiffs in overtime class action); *Glass v. UBS Fin. Servs.*, 2007 WL 221862,
5 *16-17 (N.D. Cal. 2007) (awarding \$25,000 service award in overtime class action and a pool of
6 \$100,000 in enhancements).

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

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

24
25 Class Certification Issues

26 30. Plaintiffs contend that the proposed settlement meets all of the requirements for class
27 certification under California Code of Civil Procedure § 382 as demonstrated below, and therefore,
28 the Court may appropriately approve the Class as defined in the Agreement. This Court should

1 conditionally certify the Class for settlement purposes only, defined as follows:

2 All individuals who are or were previously employed by Defendant and any of its
3 subsidiaries in California and classified as a non-exempt employee at any time during
4 the Class Period.

5 (Agreement at ¶ 1.5.)

6 The Class Period is from January 1, 2022 through December 31, 2024. (Agreement at ¶ 1.13.)

7 a. **Numerosity** - Here, Plaintiffs assert that the 2,535 current and former
8 employees that comprise the Class can be identified based on Defendant's records and are
9 sufficiently numerous for class certification.

10 b. **Common Issues Predominate** - Plaintiffs contend that common questions of
11 law and fact are present, specifically the common questions of whether Defendant's employment
12 practices were lawful, whether Defendant failed to provide meal and rest periods to Class Members,
13 whether Class Members were lawfully compensated for all hours worked, whether Defendant failed
14 to provide required expense reimbursement, and whether Class Members are entitled to damages
15 and penalties as a result of these practices. Plaintiffs contend that certification of this Class is
16 appropriate because Defendant allegedly engaged in uniform practices with respect to the Class
17 Members. As a result, these common questions of liability could be answered on a class wide basis.

18 c. **Typicality** - In this Action, Plaintiffs contend that the typicality requirement
19 is fully satisfied. Plaintiffs, like every other member of the Class, were employed by Defendant as
20 non-exempt employees, and, like every other member of the Class, were subject to the same
21 employment practices. Plaintiffs, like every other member of the Class, also claim owed
22 compensation as a result of the Defendant's uniform company policies and
23 practices. Thus, the claims of Plaintiffs and the members of the Class arise from the same course of
24 conduct by Defendant, involve the same issues, and are based on the same legal theories.

25 d. **Adequacy** - Plaintiffs contend that the Class Members are adequately
26 represented here because Plaintiffs and representing counsel (a) do not have any conflicts of interest
27 with other class members, and (b) will prosecute the case vigorously on behalf of the class. This
28 requirement is met here. First, Plaintiffs are well aware of their duties as the representatives of the

1 Class and have actively participated in the prosecution of this case to date. Plaintiffs effectively
2 communicated with Class Counsel, provided documents and information to Class Counsel, and
3 participated in the investigation and resolution of the Action. The personal involvement of the
4 Plaintiffs was essential to the prosecution of the Action and the monetary settlement reached.
5 Second, Plaintiffs retained competent counsel who are experienced in employment class actions and
6 who have no conflicts. Third, there is no antagonism between the interests of the Plaintiffs and
7 those of the Class. Both the Plaintiffs and the Class Members seek monetary relief under the same
8 set of facts and legal theories. Under such circumstances, there can be no conflicts of interest, and
9 adequacy of representation is satisfied.

10 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal
11 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can
12 competently represent the Class. Other lawyers at my firm and I have extensive class litigation
13 experience. We have handled a number of class actions and complex cases and have acted both as
14 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully
15 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits
16 involving complex issues of law and fact. My firm is particularly experienced in wage and hour
17 employment law class actions, including claims for misclassification, overtime, expense
18 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal
19 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage
20 and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be
21 adequate counsel by the courts throughout California. We have been approved as experienced class
22 counsel by both state and federal courts in California in contested class certification proceedings. A
23 true and correct copy of the resume of my firm is attached hereto as Exhibit #4. The Class in this
24 settlement is defined as "all individuals who are or were previously employed by Defendant and any
25 of its subsidiaries in California and classified as a non-exempt employee at any time during the
26 Class Period." I have reviewed my firm's cases and representation of other plaintiffs and there is no
27 conflict or representation which would prevent my firm from representing the interests of the Class
28 this case. My firm only represents employees, and not employers. My firm has never represented

1 Defendant nor any affiliate of the Defendant. My firm's only interest in the subject matter of this
2 litigation is to ensure a recovery to the Class and to maximize that recovery. Finally, our allegiance
3 to the Class and the claims of the Class is not inconsistent with our allegiance to pursue the claims
4 on behalf of other employees and classes as the claims are all against different and distinct
5 employers. I can think of no conflict that would arise in our representation of the Class and our
6 adequate representation of the Class is evidenced by the successful prosecution of the class claims to
7 reach an excellent recovery for the Class. Moreover, neither the Plaintiffs nor Class Counsel have
8 any affiliation with the proposed Administrator for this settlement. Thus, the adequacy requirement
9 for my firm is satisfied.

10 32. The Class Notice, drafted jointly and agreed upon by the Parties through their
11 respective counsel and to be approved by the Court, includes all relevant information. (See Exhibit
12 "A" to the Agreement.) The Parties agree that the Class Notice need only be in English as all Class
13 Members were able to read and understand English as a condition of their employment. The Class
14 Notice will include, among other information: (i) information regarding the Action; (ii) the impact
15 on the rights of the Class Members if they do not opt out, including a description of the applicable
16 release; (iii) information to the Class Members regarding how to opt out and how to object to the
17 Settlement; (iv) the estimated Individual Class Payment for each of the Class Members; (iii) the
18 amount of attorneys' fees and expenses to be sought; (v) the amount of the Plaintiffs' service award
19 request; and (vi) the anticipated expenses of the Administrator. The Class Notice will state that the
20 Class Members shall have forty-five (45) days from the date that the Class Notice is mailed to them
21 (the "Response Deadline") to request exclusion (opt-out) or to submit a written objection.
22 (Agreement at ¶¶ 1.42, 8.5, 8.7.) Class Members shall be given the opportunity to object to the
23 Settlement and/or requests for attorneys' fees and expenses and to appear at the Final Approval
24 Hearing. (Agreement at ¶ 8.7.) Class Members who do not submit a timely and proper request to
25 opt-out will automatically receive a payment of their Individual Class Payment. This notice
26 program was designed to meaningfully reach the Class Members and it advises them of all pertinent
27 information concerning the Settlement.
28

1 33. The PAGA Claim -

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

14 b. **Valuation of the PAGA Claim.** For mediation, Plaintiffs calculated the
15 maximum value of the alleged PAGA claim as to Aggrieved Employees for civil penalties to be
16 between \$3,096,600 and \$6,193,200 for a single violation in every one of the 61,932 pay periods at
17 issue in the PAGA Period, depending on whether the violation was \$50 per pay period as in the case
18 of Labor Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor
19 Code § 1198. This valuation assumed that PAGA civil penalties would be awarded at the maximum
20 rate per pay period but without stacking.⁴ The PAGA allocation in the Settlement is the amount of
21 \$30,000. This allocation is justified by several important considerations. First, the PAGA claim
22 was subject to the same risks as the underlying class claims. Second, Defendant asserted additional
23 defenses to the PAGA claim, not only as to liability but also as to the amount of the penalties.

24 _____
25 ⁴ Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.
26 The valuation of between \$3,096,600 and \$6,193,200 is the civil penalty amount without stacking.
27 If stacking is permitted, then the valuation increases with each additional penalty added to each pay
28 period. Plaintiffs, however, are not aware of any PAGA award which permitted stacking and in the
cases cited herein, only one penalty per pay period was assessed. The 2024 amendment to PAGA
casts further doubt on whether stacking would be permitted.

1 Defendant could also argue that no penalties prior to the PAGA notification should be awarded, and
2 I am aware of one Court which has so ruled. These additional defenses present a risk to the PAGA
3 claim and the potential that some or all of the PAGA penalties sought may not be awarded. Third,
4 in *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the court affirmed a judgment which
5 only provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA penalties
6 awarded could be significantly less than Plaintiffs' calculation even where Plaintiffs prevailed on
7 the PAGA claim. Even if we assume that violations for all 61,932 pay periods were established,
8 using the valuation from *Carrington* results in a potential recovery of only \$309,660 under PAGA.
9 This means that the PAGA allocation in the Agreement is a reasonable percentage of this potential
10 PAGA recovery. Fourth, the interests of PAGA are also served by the Class recovery under the
11 reasoning of the LWDA in *O'Connor v. Uber*.

12 c. **Comparable PAGA Settlements.** In reaching the settlement of the PAGA
13 claim, Class Counsel was also aware of what allocations other Courts have approved for similar
14 PAGA settlements as compared to the total settlement amount. A class settlement that allocates
15 approximately 4% of the total settlement value to resolve the PAGA claims applicable to the class is
16 also supported by what has been approved in other wage-and-hour class settlements. Indeed, Courts
17 typically approve PAGA settlement amounts in the range of between 0.27 to 2 percent of the total
18 settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015) (PAGA
19 Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated Logistics, Inc.*,
20 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for PAGA on a \$1.5
21 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637 (N.D. Cal. 2015)
22 (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs, Inc.*, 2014 U.S. Dist
23 Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA for PAGA out of
24 \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, *1 (N.D.
25 Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9 million common-fund
26 settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, *13 (E.D. Cal. 2012)
27 (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million common-fund settlement);
28 *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *9 (N.D. Cal. 2009) (approving PAGA allocation

1 that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon Trucking, Inc.*,
2 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement of \$3,700,000,
3 with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*, CV 10-02420
4 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount of \$8.25
5 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay*, 8:10-cv-00112-DOC
6 (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000 allocated to PAGA);
7 *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as PAGA penalties
8 or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive Educational Services Inc.*,
9 Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000 allotted as PAGA penalties or
10 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell Banker Residential Brokerage*
11 *Company*, Los Angeles Superior Court Case No. BC495767 (2016) (\$10,000 allotted as PAGA
12 penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los Robles Medical Center*, No.
13 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.40% of \$3,775,000
14 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441 (E.D. Cal. 2017)
15 (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount); *Nehrlich v. RPM*
16 *Mortgage Inc.*, Orange County Superior Court Case No. 30-2013-00666783-CU-OE-CXC (2017)
17 (\$10,000 allotted as PAGA penalties or 0.40% of \$2,500,000 settlement amount); *Rubio v. KTI*
18 *Incorporated*, San Bernardino Superior Court Case No. CIVDS-14-06132 (2015) (\$1,000 allotted as
19 PAGA penalties or 0.18% of \$550,000 settlement amount); *Gray v. Mountain View Child Care Inc.*,
20 San Bernardino Superior Court Case No. CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA
21 penalties or 0.37% of \$675,000 settlement amount); *Perez v. West Coast Liquidators Inc. d/b/a Big*
22 *Lots*, San Bernardino Superior Court Case No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA
23 penalties or 0.33% of \$900,000 settlement amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles
24 Superior Court No. BC471369 (2013) (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000
25 settlement amount); *Mejia v. DHL Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000
26 allotted as PAGA penalties or 0.34% of \$1,450,000 settlement amount).

27
28 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the

1 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and
2 reasonable, and at the time of final approval, my firm will present lodestar to further support the
3 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees
4 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some
5 of the class action awards obtained by Class Counsel in similar employment actions throughout the
6 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total
7 settlement value: On February 1, 2019, in *Solarcity Wage and Hour Cases* (San Mateo Superior
8 Court, Case No. JCCP 4945) Judge Marie Weiner awarded Class Counsel a one-third fee award in a
9 wage and hour class settlement. On July 30, 2019, in *Erickson v. John Muir Health*, (Contra Costa
10 Superior Court Case No. MSC18-00307) Judge Edward Weil awarded Class Counsel a one-third fee
11 award in a wage and hour class settlement. On December 18, 2019, in *Velasco v. Lemonade*
12 *Restaurant Group*, (Los Angeles Superior Court Case No. BC672235) Judge William Highberger
13 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On January 31,
14 2020, in *El Pollo Loco Wage and Hour Cases* (Orange County Superior Court Case No. JCCP
15 4957) Judge William Claster awarded Class Counsel a one-third award in a wage and hour class
16 settlement. On December 3, 2020, in *Blackshear v. California Fine Wine & Spirits* (Sacramento
17 Superior Court Case No. 34-2018-00245842) Judge Christopher Krueger awarded BNBD a one-
18 third fee award in a wage and hour class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.*
19 (Los Angeles Superior Court Case No. BC709666), Judge Amy D. Hogue awarded Class Counsel a
20 one-third fee award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage*
21 *and Hour Cases* (Los Angeles Superior Court Case No. JCCP4837) Judge David Cunningham
22 awarded a one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's*
23 *Candies Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP5004) Judge Maren
24 Nelson awarded a one-third fee award in a wage and hour class action settlement. On April 12,
25 2022, in *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665) Judge
26 Richard Ulmer awarded a one-third fee award in a wage and hour class action settlement. On June
27 30, 2022, in *Armstrong, et al. v. Prometric LLC* (Los Angeles Superior Court Case No.
28 20STCV29967), Judge Maren E. Nelson awarded a one-third fee award in a wage and hour class

1 action. On July 13, 2022, in *Crum v. S&D Carwash Management LLC*, (Sacramento Superior Court
2 Case No. 2019-00251338), Judge Christopher E. Krueger awarded a one-third fee award in a wage
3 and hour class action settlement. On August 10, 2022, in *Spears, et al. v. Health Net of California,*
4 *Inc.*, (Sacramento Superior Court Case No. 34-2017-00210560-CU-OE-GDS), Judge Christopher E.
5 Krueger awarded a one-third fee award in a wage and hour class action settlement. On September 7,
6 2022, in *Lucchese, et al. v. Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-588225),
7 Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class action
8 settlement. On November 4, 2022, in *Infinity Energy Wage and Hour Cases* (San Diego Superior
9 Court, Case No. JCCP5139), Judge Keri Katz awarded a one-third fee award in a wage and hour
10 class action settlement. On February 1, 2023, in *Hogan v. AECOM Technical Services, Inc.* (Los
11 Angeles Superior Court Case No. 19STCV40072), Judge Stuart Rice awarded a one-third fee award
12 in a wage and hour class settlement. On February 28, 2023, in *Farthing v. Milestone Technologies*
13 (San Francisco Superior Court Case No. CGC-21-591251), Judge Richard B. Ulmer, Jr. awarded a
14 one-third fee award in a wage and hour class action settlement. On March 2, 2023, in *Leon v.*
15 *Calaveras Materials* (Kings County Superior Court Case No. 21C-0105), Judge Melissa D’Morias
16 awarded a one-third fee award in a wage and hour class settlement. On June 20, 2023, in *Gonzalez*
17 *v. Pacific Western Bank* (San Bernardino County Superior Court Case No. CIVSB2127657) Judge
18 David Cohn awarded a one-third fee award in a wage and hour class settlement, On June 30, 2023,
19 in *Aguirre v. Headlands Ventures* (Sacramento County Superior Court Case No.
20 34-2021-00297290), Judge Jill Talley approved a one-third fee award in a wage and hour class
21 settlement. On September 15, 2023, in *Moran v. Sharp Healthcare* (San Diego County Superior
22 Court Case No. 37-2019-00050203), Judge Richard Whitney awarded a one-third fee award in a
23 wage and hour class settlement. On October 10, 2023, in *Arango v. Schlumberger Technology,*
24 (Orange County Case No. 30-2019-01056839-CU- OE-CXC), Judge William Claster approved a
25 one-third fee award in a wage and hour class action. On October 16, 2023, in *Flores v. Walmart,*
26 (San Bernardino County Superior Court Case No. CIVDS2023061) Judge Joseph T. Ortiz awarded
27 a one-third fee award in a wage and hour class settlement. On November 17, 2023, in *Silva v.*
28 *Woodward HRT* (Los Angeles County Superior Court Case No. 21STCV42692), Judge Maren

1 Nelson awarded a one-third fee award in a wage and hour class settlement. On November 29, 2023,
2 in *Ochoa-Andrade v. See's Candies* (San Mateo County Superior Court Case no. 22-CIV-02481),
3 Judge Marie Weiner approved a one-third fee award in a wage and hour class settlement. On
4 August 9, 2024, in *Cranton v. Grossmont Hospital* (San Diego Superior Court Case No. 37-2022-
5 00001574), Judge Gregory Pollack approved a one-third fee award in a wage and hour class
6 settlement. On September 12, 2024, in *Murdock v. Aspen Surgery Center* (Contra Costa County
7 Superior Court Case No. MSC21-02047), Judge Charles Treat approved a one-third fee award in a
8 wage and hour class settlement. On October 8, 2024, in *Rattler v. Pacific Coast Container*
9 (Alameda Superior Court Case No. 22CV015216), Judge Michael Markman approved a one-third
10 fee award in a wage and hour class settlement. On January 14, 2025, in *Curry v. United Health*
11 *Care Staffing* (San Francisco Superior Court Case No. CGC-21-597339), Judge Curtis Karnow
12 approved a one-third fee award in a wage and hour class settlement. On January 17, 2025, in *Virgen*
13 *v. Curaleaf* (Sacramento County Superior Court Case No. 34-2022-00314655), Judge Lauri Damrell
14 approved a one-third fee award in a wage and hour class settlement. On February 7, 2025, in *Wong*
15 *v. Nurse Logistics* (Santa Clara County Superior Court Case No. 22CV408939), Judge Theodore
16 Zayner approved a one-third fee award in a wage and hour class settlement. A fee award equal to
17 one-third of the common fund is therefore reasonable in light of the fees that have been awarded in
18 other similar cases.

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

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

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

11
12 36. Potentially Related Other Actions - Besides this Action, I am unaware of any other
13 related cases pending against Defendant which would be impacted by this settlement. I have
14 searched the LWDA database which evidences that there are no other currently pending PAGA
15 actions against Defendant (other than PAGA Notices served in this Action).

16
17 37. Administration - After seeking bids from qualified administrators, ILYM Group was
18 selected as the Administrator, as ILYM Group provided an estimate of \$8,400 to perform the
19 settlement administration for a Class of up 2,788. I have used ILYM Group successfully as the
20 administrator in more than twenty class settlements in the last couple years and know them to be
21 competent and experienced. My firm has no relationship or connection with ILYM Group, and thus
22 no conflict of interest exists. Submitted herewith is the Declaration of Anthony Rogers from ILY
23 Group which includes the estimate for administration from ILYM Group.

24
25 Service on the LWDA:

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

1 Defendant's Declaration:

2 39. Defendant provided the Declaration of Melinda Riechert as required by paragraph 7.1
3 of the Agreement which discloses that there are no actual or potential conflict of interest with the
4 Administrator, that there are no other pending actions or claims. The Declaration of Melinda
5 Riechert is attached hereto as Exhibit #5.

6
7 I declare under penalty of perjury under the laws of the State of California that the foregoing
8 is true and correct. Executed this 11th day of July, 2025, at La Jolla, California.

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10 By: /s/ Kyle Nordrehaug

11 Kyle Nordrehaug
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CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiffs Marlin Mejia, Basilia Konde, and Gulalay Omarzay (“Plaintiffs”) and Defendant Chico's FAS, Inc., (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as the “Parties,” or individually as “Party.”

1. DEFINITIONS

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

- 1.1. “Actions” collectively means the Plaintiffs’ lawsuit alleging wage and hour violations against Defendant captioned: (1) *Marlin Mejia, et al. vs. Chico's FAS, Inc.*, Case No. 3:24-cv-01007-VC, filed on November 21, 2023 in the Superior Court of the State of California, County of Monterey (Case No. 23CV003799), and pending in the United States District Court for the Northern District of California; and (2) *Marlin Mejia, et al. vs. Chico's FAS, Inc.*, Case No. 23TRCV03862, filed on November 22, 2023 and pending in the Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means ILYM Group Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval.
- 1.4. “Aggrieved Employees” means all individuals who are or were previously employed by Defendant and any of its subsidiaries in California and classified as a non-exempt employee at any time during the PAGA Period.
- 1.5. “Class” means all individuals who are or were previously employed by Defendant and any of its subsidiaries in California and classified as a non-exempt employee at any time during the Class Period.
- 1.6. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche and Trevor G. Moran of Blumenthal Nordrehaug Bhowmik De Blouw LLP.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as

approved by the Court, to compensate Class Counsel for their legal work in connection with the Actions, including their pre-filing investigation, their filing of the Actions, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Actions.

- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, the number of shifts, and the number of PAGA Pay Periods worked by each PAGA Aggrieved Employee during the PAGA Period.
- 1.9. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).
- 1.13. “Class Period” means the period of time from January 1, 2022 through December 31, 2024.
- 1.14. “Class Representatives” means the named Plaintiffs in the Operative Complaint seeking Court approval to serve as Class Representatives.
- 1.15. “Class Representative Service Awards” means the service awards made to the Plaintiffs as Class Representatives in order to compensate for initiating the Actions, performing work in support of the Actions, undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiffs.
- 1.16. “Court” means the Superior Court of California, County of Los Angeles.
- 1.17. “Defendant” means Chico’s FAS, Inc. and any of its subsidiaries.

- 1.18. “Defense Counsel means Melinda S. Riechert, Julia C. Riechert, and Mariam Bicknell of Orrick, Herrington & Sutcliffe LLP.
- 1.19. “Effective Date” means the date by when all of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; (b) Plaintiffs serve notice of entry of the Court’s Judgment; and (c) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day Plaintiffs serve notice of entry of the Court’s Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.20. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- 1.22. “Gross Settlement Amount” means Seven Hundred Fifty Thousand Dollars (\$750,000) which is the total amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Awards and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement Amount and shall be the separate additional obligation of Defendant.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of shifts worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA

under Labor Code section 2699, subd. (i).

- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Awards, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period of time from September 8, 2022 through December 31, 2024.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notices” means the Plaintiffs’ September 8, 2023 letter and April 15, 2024 amended letter (LWDA Case No. LWDA-CM-980505-23) to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$7,500) and the 75% to LWDA (\$22,750) in settlement of PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.36. “Plaintiffs” means Marlin Mejia, Basilia Konde, and Gulalay Omarzay, the named Plaintiffs in the Operative Complaint.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. “Released Class Claims” means the claims being released as described in Paragraph 6.2 below.
- 1.39. “Released PAGA Claims” means the claims being released as described in Paragraph 6.3 below.
- 1.40. “Released Parties” means: Defendant and each of its former and present directors,

officers, shareholders, owners, employees, agents, principals, representatives, attorneys, insurers and reinsurers, accountants, consultants, predecessors, successors, acquirers, affiliates, parents, assigns and subsidiaries.

1.41. “Request for Exclusion” means a Class Member’s submission of a timely, valid, and written request to be excluded from the Class Settlement signed by the Class Member.

1.42. “Response Deadline” means forty-five (45) calendar days after the Administrator mails Class Notice Packet to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her Objection to the Settlement. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

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

1.44. “Workweek(s)” means the estimated shifts worked by Class Members in the Class Period, divided by seven (7) days per week.

2. RECITALS

The Class Action

2.1. On November 21, 2023, Plaintiff Mejia commenced this Action by filing a Class Action Complaint against Defendant in the Superior Court of the State of California, County of Monterey (the “Class Action”). Plaintiff Mejia’s Class Action Complaint asserted claims that Defendant:

1. Violated California Business and Professions Code §§ 17200 *et seq.*;
2. Failed to pay minimum wages in violation of Labor Code §§ 1194, 1197 & 1197.1;
3. Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*;
4. Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
5. Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
6. Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
7. Failed to reimburse employees for required expenses in violation of California Labor Code § 2802; and,
8. Failed to pay sick pay wages in violation of California Labor Code §§ 201-203, 233, 246.

- 2.2. On February 15, 2024, Defendant filed an Answer to Plaintiff Mejia's Class Action Complaint, asserting sixteen (16) affirmative defenses.
- 2.3. On February 20, 2024, Defendant removed the Class Action to the United States District Court for the Northern District of California.
- 2.4. On June 28, 2024, Plaintiff Mejia filed Motion to Remand the Class Action back to state court, which the Court denied on August 22, 2024.

The PAGA Action

- 2.5. On November 22, 2023, Plaintiff Mejia filed a separate Representative Action Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles (the "PAGA Action"), alleging one cause of action for Civil Penalties Pursuant to Labor Code § 2699, et seq. for violations of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section I 1079(14) (failure to provide seating), and the Applicable Wage Orders.
- 2.6. On March 6, 2024, Defendant filed an Answer to Plaintiff Mejia's PAGA Action Complaint, asserting twenty-one (21) affirmative defenses.

Pleading Amendment And Stay Of The Actions

- 2.7. For purposes of this Settlement only, Defendant stipulates to and Plaintiffs agree to submit to the Court a First Amended Class and Representative Action Complaint in the PAGA Action adding: (1) all class and PAGA claims (as applicable) for all claims and theories alleged in the Actions and/or the PAGA Notices to the LWDA, including claims that Defendant engaged in unfair business practices, failed to pay for all wages due (including minimum, overtime, sick pay at the correct rate), failed to provide legally required meal periods and rest breaks and failed to pay premium pay at the regular rate of pay for missed or improper meal periods and/or rest breaks, failed to pay for reporting time pay, failed to timely pay all wages due, failed to provide accurate wage statements, failed to keep accurate time records, failed to reimburse for business expenses, and failed to provide suitable seating; and (2) Plaintiffs Basilia Konde and Gulalay Omarzay as named Plaintiffs and Class Representatives. If the Settlement does not become Final (as defined above) upon the Parties' best efforts, Plaintiffs agree to dismiss all claims and withdraw all allegations added in the First Amended Complaint to restore Plaintiffs to the position of the Class Action Complaint filed on November 21, 2023 and pending in in the United States District Court for the Northern District of California, Case No. 3:24-cv-01007-VC and the PAGA Action filed on November 22, 2023. Upon the Court's Order granting preliminary approval and deeming the First Amended Complaint filed, the First Amended Complaint will be deemed the Operative

Complaint in the Actions.

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

Mediation and Settlement

- 2.9. On October 16, 2024, the Parties participated in an all-day mediation presided over by Tripper Ortman, Esq. a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, was able to agree to settle the Actions based upon a mediator's proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.
- 2.10. Prior to mediation, Plaintiffs obtained sufficient documents and information to sufficiently investigate the claims such that Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").
- 2.11. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Actions by Plaintiffs, the Class or the Aggrieved Employees have merit or that Defendant bears any liability to Plaintiffs, the Class or the Aggrieved Employees on those claims or any other claims, or as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become Final (as defined above), Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Actions, including the manageability of the PAGA claims.
- 2.12. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant agrees to pay a total amount of \$750,000 as the Gross Settlement Amount. This amount is all-inclusive of all payments contemplated in this Settlement, excluding

any employer-side payroll taxes on the portion of the Individual Class Payments and Class Representative Service Awards allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

- (a) To Plaintiffs: Class Representative Service Awards to the Class Representatives of not more than \$10,000 each less taxes and withholdings (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiffs' request for Class Representative Service Awards that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Awards no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Awards less than the amounts requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Awards using IRS Form W-2 for 20% (\$2,000) and IRS Form 1099 for 80% (\$8,000) to each Plaintiff. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Awards. Plaintiffs acknowledge that Defendant and/or the Released Parties make no representations as to the tax consequences of the nature of the Class Representative Service Awards.
- (b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$250,000, and a Class Counsel Litigation Expenses Payment of not more than \$35,000. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full

responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.

- (c) To the Administrator: An Administration Expenses Payment not to exceed \$21,000, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less, or the Court approves payment less than \$21,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$30,000 to be paid from the Gross Settlement Amount, with 75% (\$22,500) allocated to the LWDA PAGA Payment and 25% (\$7,500) allocated to the Individual PAGA Payments.
 - i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$7,500) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.
 - ii. If the Court approves PAGA Penalties of greater or less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: The Administrator will calculate each Individual Class Payment by (a) dividing the Net Settlement Amount by the total number of shifts worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's shifts during the Class Period.
 - i. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full

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

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

4. SETTLEMENT FUNDING

- 4.1. Class Shifts and Aggrieved Employee Pay Periods. Based on its records, Defendant has represented that the Class consists of 2,535 Class Members. Defendant estimates the number of shifts will be approximately 525,000 shifts during the Class Period, which Plaintiff estimates to be the equivalent of 75,000 full time equivalent workweeks (525,000 shifts divided by 7 days in a week), and 2,133 Aggrieved Employees who worked an estimated total of 61,932 PAGA Pay Periods during the PAGA Period.
- 4.2. Class Data. Not later than 30 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Administrator will keep confidential and not share the Class Data with Plaintiffs, Class Counsel, or anyone else. Defendants will notify Class Counsel if they discover that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 5.1. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees

Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Awards.

- 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Participating Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the “void date”, which is 180 days after the date of mailing, when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Administrator must update the recipients’ mailing addresses using the National Change of Address Database. If a Participating Class Member’s or Aggrieved Employee’s check is not cashed within 120 days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing him or her that unless the check is cashed by the void date, it will expire and become non-negotiable and offer to replace the check if it was lost or misplaced but not cashed.
- 5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without a USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 5.4. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 5.5. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

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

6.1. Plaintiffs' General Release. Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or unknown, suspected or unsuspected, transactions, or occurrences that they had, now have, or may hereafter claim to have, including, but not limited to: (a) all claims that were, or reasonably could have been alleged in connection with their employment relationship with Defendant, their termination and/or release from that employment, any damages they claim to have sustained while employed by Defendant, or any other transactions, occurrences, acts or omissions or any loss, damages or injury whatsoever, known or unknown, suspected or unsuspected, resulting from any act or omission by or on the part of the Released Parties, or any of them, committed or omitted prior to the date of this Agreement ("Plaintiffs' General Release"). Plaintiffs' General Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences committed or omitted outside the Class Period. Plaintiffs acknowledge that they may discover facts or law different from, or in addition to, the facts or law that they now know or believe to be true but agree, nonetheless, that Plaintiffs' General Release shall be and remain effective in all respects, notwithstanding such different or additional facts or their discovery of them.

- (a) Plaintiffs' Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiffs' General Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

- 6.2. Release of Class Claims. Plaintiffs and all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts and allegations stated in the Actions and/or the Operative Complaint, which occurred during the Class Period, including any and all claims involving any alleged unfair business

practices, failure to pay for all wages due (including minimum, overtime, sick pay at the correct rate), failure to provide legally required meal periods and rest breaks and failure to pay premium pay at the regular rate of pay for missed or improper meal periods and/or rest breaks, failure to pay for reporting time pay, failure to timely pay all wages due, failure to provide accurate wage statements, failure to keep accurate time records, and failure to reimburse for business expenses, or alleged violation of Labor Code §§201–204, 210, 218, 221, 226, 226.7, 233, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802, the applicable wage orders, and Business and Professions Code § 17200, *et seq.* Except as set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment benefits, social security benefits, workers’ compensation benefits, or claims based on facts occurring outside the Class Period.

6.3. Release of PAGA Claims. Plaintiffs and all Aggrieved Employees, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, and Plaintiffs as agents and proxies of the State of California (including the LWDA) are deemed to waive, release, and discharge the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the factual allegations or legal theories stated in the Actions, the PAGA Notices, and/or the Operative Complaint, which occurred during the PAGA Period, including any and all PAGA claims based on any alleged unfair business practices, failure to pay for all wages due (including minimum, overtime, sick pay at the correct rate), failure to provide legally required meal periods and rest breaks and failure to pay premium pay at the regular rate of pay for missed or improper meal periods and/or rest breaks, failure to pay for reporting time pay, failure to timely pay all wages due, failure to provide accurate wage statements, failure to keep accurate time records, failure to reimburse for business expenses, failure to provide suitable seating, or alleged violation of Labor Code §§ 201–204, 210, 218, 221, 226, 226.7, 227.3, 246, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802, 2699, *et seq.*, the applicable wage orders, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14), and the applicable wage orders. Except as set forth in this Agreement, Aggrieved Employees do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment benefits, social security benefits, workers’ compensation benefits, or claims based on facts occurring outside the PAGA Period.

7. MOTION FOR PRELIMINARY APPROVAL.

7.1. Defendant’s Responsibilities. Within 14 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In the Declaration, Defendant shall aver that they are not aware of any other pending

matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 7.2. Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel at least 10 days before filing: (i) a draft memorandum of points and authorities in support of Motion for Preliminary Approval; (ii) Plaintiffs' declarations in support of the Motion for Preliminary Approval; and (iii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 7.3. Responsibilities of Counsel. Class Counsel is responsible for preparing, finalizing, and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; for appearing in Court to advocate in favor of the Motion for Preliminary Approval, and complying with all requirements to notify the LWDA of the Settlement. Class Counsel will consider in good faith Defense Counsel's comments pertaining to the draft Motion for Preliminary Approval, Order Granting Preliminary Approval and Approval of PAGA Settlement, and the Class Notice. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 7.4. Duty to Cooperate. The Parties agree to cooperate with each other and use their best efforts to obtain Preliminary Approval of the Settlement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION

- 8.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 8.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for the purposes of calculating payroll tax withholdings and providing reports to the state and federal tax authorities.
- 8.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

8.4. Notice to Class Members.

- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, shifts, and Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of shifts and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- (c) Not later than 7 days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- (d) The deadlines for Class Members’ written objections, challenges to shifts and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, Defendant will expeditiously review its business records to determine whether the individual should be a Class Member and receive a Class Notice. If Defendant determines that such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- (b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of the Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted, and the objection will be void.

8.6. Challenges to Calculation of Shifts. Each Class Member shall have until the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class shifts and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge

the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the shifts contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of shifts and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of shifts and/or Pay Periods to Defense Counsel and the Administrator's determination as to the challenges.

8.7. Objections to Settlement.

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

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

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

- (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 7 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- (c) Shifts and/or Pay Periods Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of shifts and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- (d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to shifts and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- (e) Administrator’s Declaration. Not later than 7 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- (f) Final Report by Administrator. Within 10 days after the Administrator disburses all funds of the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this

Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

- 9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.** Based on its records, Defendant provided figures as to the Class size as set forth in Paragraph 4.1 above. Should the shifts worked by the Class Members during the Class Period ultimately increase by more than 15%, Defendant, at its option, can either choose to: (1) cut off the end date for the Class Period as of the date on which the number of total shifts exceed by 15% the number of shift provided by Defendant, or (2) increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in number of shifts worked by the Class Members above the 15% (i.e., if there was an 16% increase in the number of shifts during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%).
- 10. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 2% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Administration Expenses incurred as of the date Defendant makes this election to withdraw. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.
- 11. MOTION FOR FINAL APPROVAL.** Unless otherwise ordered by the Court, not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than 10 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
- 11.1. Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 11.2. Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the

scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for Class Representative Service Awards, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

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

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

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

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

13. ADDITIONAL PROVISIONS

- 13.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Actions, the PAGA Notices, or the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Actions, the PAGA Notices, or the Operative Complaint have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Actions, the PAGA Notices, or the Operative Complaint, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 13.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to

restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

- 13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of the mediator first and then the Court for resolution.
- 13.7. Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8. Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

- 13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Actions and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendant, along with any other material provided informally for purposes of mediation.
- 13.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 13.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs and the Class:

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

To Defendant:

Melinda S. Riechert
Julia Riechert
Mariam Bicknell
Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road
Menlo Park, CA 94025-1015
Tel.: (650) 614-7400
Fax: (650) 614-7401
E-Mail: mriechert@orrick.com
jriechert@orrick.com
mbicknell@orrick.com

13.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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

13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 04/08/2025



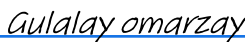
Marlin L. Mejia (Apr 8, 2025 12:24 PDT)
Plaintiff Marlin Mejia

Dated: 03/18/2025



Basilia Konde (Mar 18, 2025 11:20 PDT)
Plaintiff Basilia Konde

Dated: 03/17/2025



Gulalay Omarzay (Mar 17, 2025 15:29 PDT)
Plaintiff Gulalay Omarzay

Dated: 3/28/25

Jaime A. Maurer
Jaime A. Maurer [name]
For Defendant Chico's FAS, Inc.

APPROVED AS TO FORM ONLY:

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: _____

Melinda Riechert
Orrick, Herrington & Sutcliffe LLP
Attorney for Defendant

Dated: _____
_____ [name]
For Defendant Chico's FAS, Inc.

APPROVED AS TO FORM ONLY:

Dated: 4/8/25



Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: 3/28/2025



Melinda Riechert

Orrick, Herrington & Sutcliffe LLP
Attorney for Defendant

EXHIBIT A

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

EXHIBIT “A”

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

***Mejia v. Chico’s FAS, Inc., Superior Court of the State of California,
County of Los Angeles, Case No. 23TRCV03862***

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

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

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Defendant Chico’s FAS, Inc. (“Defendant”) for alleged wage and hour violations. The Action was filed by Plaintiffs Marlin Mejia, Basilia Konde, and Gulalay Omarzay (“Plaintiffs”) and seeks payment of (1) wages and other relief on behalf of all individuals who are or were previously employed by Defendant and any of its subsidiaries in California and classified as a non-exempt employee at any time during the Class Period (January 1, 2022 through December 31, 2024) (“Class Members”), and (2) penalties and other relief on behalf of all individuals who are or were previously employed by Defendant and any of its subsidiaries in California and classified as a non-exempt employee at any time during the PAGA Period (September 8, 2022 to the December 31, 2024) (“Aggrieved Employees”).

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

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

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

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have

carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs' attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

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

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Class Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____.	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 7 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims (defined below) regardless of whether you submit a request for exclusion.
Participating Class	All Class Members who do not opt-out ("Participating Class

Members Can Object to the Class Settlement Written Objections Must be Submitted by the Response Deadline _____	Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 8 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the Los Angeles County Superior Court, Torrance Courthouse, located at 825 Maple Avenue, Torrance, CA 90503, in Department B before Judge Patricia A. Young. This hearing may change as explained below in Section 9. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 9 of this Notice
You Can Challenge the Calculation of Your Shifts / Pay Periods Witten Challenges Must be Submitted by the Response Deadline (_____)	The amount of your Individual Class Payment depends on how many shifts you worked during the Class Period. The amount of your share of your Individual PAGA Payment (if any) depends on how many pay periods you worked at least one day during the PAGA Period. The number of Class Period shifts and number of PAGA Period pay periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 5 of this Notice

1. What is action about?

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

Defendant strongly denies that it violated any laws or failed to pay any wages and further denies

any liability whatsoever to Plaintiffs, the Class, or Aggrieved Employees. Defendant contends it complied with all applicable laws.

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

All individuals who are or were previously employed by Defendant and any of its subsidiaries in California and classified as a non-exempt employee at any time during the Class Period (January 1, 2022 through December 31, 2024).

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

The Court has made no determination whether Defendant or Plaintiffs are correct on the merits. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiffs or Defendant. In the meantime, Plaintiffs and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) with no decision or admission of who is right or wrong, rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a written Class Action and PAGA Settlement Agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims. Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of Seven Hundred Fifty Thousand Dollars and No Cents (\$750,000.00) (the “Gross Settlement Amount”) to fund the settlement of the Action. The Gross Settlement Amount includes all payments of Individual Class Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, the Administration Expenses Payment, Individual PAGA Payments, and civil penalties under PAGA. Any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages shall be separately paid by Defendant. Defendant shall fund the Gross Settlement Amount and also fund the amounts necessary to fully pay Defendant’s share of payroll taxes, by transmitting the funds to the Administrator no later than 14 days after the Effective Date. The “Effective Date” means the date the Notice of Entry of Judgment is served, unless there are objections or an appeal, in which case it is the date the Judgment is final and no longer subject to appeal. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments to Participating Class Members.

Court Approved Deductions from Gross Settlement Amount. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- Administration Expenses Payment. Payment to the Administrator, estimated not to exceed \$21,000, for expenses, including expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing settlement checks and tax forms.
- Attorneys' Fees and Costs. Payment to Class Counsel of reasonable attorneys' fees not to exceed one-third (1/3) of the Gross Settlement Amount, which presently equals \$250,000, and an additional amount to reimburse actual litigation costs incurred by the Plaintiffs not to exceed \$35,000. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. The amounts stated are what Class Counsel will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.
- Class Representative Service Payments. Class Representative Service Payments in an amount not more than \$10,000 each to the Plaintiffs as a service award, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Class in initiating and prosecuting the Action, and for the risks they undertook. The amount stated is what Plaintiffs will be requesting and the final amount to be paid will be decided at the Final Approval Hearing.
- PAGA Penalties. A payment of \$30,000 relating to Plaintiffs' claim under PAGA, \$22,500 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA"). The remaining \$7,500 will be distributed to the Aggrieved Employees as Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$7,500) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period, which is September 8, 2022 to the December 31, 2024.

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

Calculation of Payments to Class Members. After all of the payments of the court-approved Attorneys' Fees and Costs, the Class Representative Service Payments, the PAGA Penalties, and the Administration Expenses Payment are deducted from the Gross Settlement Amount, the remaining portion, the "Net Settlement Amount", shall be distributed as Individual Class Payments to the Participating Class Members. The Net Settlement Amount is estimated to be at least \$384,000. The Administrator will pay an Individual Class Payment from the Net

Settlement Amount to each Participating Class Member. The Individual Class Payment for each Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the total number of shifts worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's shifts during the Class Period.

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

Tax Matters. Twenty Percent (20%) of each Participating Class Member's Individual Class Payment is in settlement of wage claims (the "Wage Portion"). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Eighty Percent (80%) of each Participating Class Member's Individual Class Payment is in settlement of claims for non-wages, expense reimbursement, interest and penalties allegedly due to employees (collectively the "Non-Wage Portion"). The Non-Wage Portion shall not be subject to wage withholdings and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members. Neither Class Counsel nor Defendant's Counsel intend anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

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

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

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

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

4. What Do I Release Under the Settlement?

Released Class Claims. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts and allegations stated in the Actions and/or the Operative Complaint, which occurred during the Class Period, including any and all claims involving any alleged unfair business practices, failure to pay for all wages due (including minimum, overtime, sick pay at the correct rate), failure to provide legally required meal periods and rest breaks and failure to pay premium pay at the regular rate of pay for missed or improper meal periods and/or rest breaks, failure to pay for reporting time pay, failure to timely pay all wages due, failure to provide accurate wage statements, failure to keep accurate time records, and failure to reimburse for business expenses, or alleged violation of Labor Code §§201–204, 210, 218, 221, 226, 226.7, 233, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802, the applicable wage orders, and Business and Professions Code § 17200, *et seq.* (collectively, the “Released Class Claims”). Except as set forth in the Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment benefits, social security benefits, workers’ compensation benefits, or claims based on facts occurring outside the Class Period.

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

Released PAGA Claims. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs and all Aggrieved Employees, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, and Plaintiffs as agents and proxies of the State of California (including the LWDA) are deemed to waive, release, and discharge the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the factual allegations or legal theories stated in the Actions, the PAGA Notices, and/or the Operative Complaint, which occurred during the PAGA Period, including any and all PAGA claims based on any alleged unfair business practices, failure to pay for all wages due (including minimum, overtime, sick pay at the correct rate), failure to provide legally required meal periods and rest breaks and failure to pay premium pay at the regular rate of pay for missed or improper meal periods and/or rest breaks, failure to pay for reporting time pay, failure to timely pay all wages due, failure to provide accurate wage statements, failure to keep accurate time records, failure to reimburse for business expenses, failure to provide suitable seating, or alleged violation of Labor Code §§ 201–204, 210, 218, 221, 226, 226.7, 227.3, 246, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802, 2699, *et seq.*, the applicable wage orders, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14), and the applicable wage orders. Except as set forth in this Agreement, Aggrieved Employees do not release any other claims, including claims for

vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment benefits, social security benefits, workers' compensation benefits, or claims based on facts occurring outside the PAGA Period.

Released Parties. The Released Parties are: Defendant and each of its former and present directors, officers, shareholders, owners, employees, agents, principals, representatives, attorneys, insurers and reinsurers, accountants, consultants, predecessors, successors, acquirers, affiliates, parents, assigns and subsidiaries.

5. How much will my payment be?

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

Defendant's records reflect that you worked <<____>> shifts during the Class Period (January 1, 2022 through December 31, 2024).

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

Defendant's records reflect that you worked <<____>> PAGA Pay Periods during the during the PAGA Period (September 8, 2022 to the December 31, 2024). Based on this information your estimated Individual PAGA Payment is <<____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Administrator at the address provided in this Class Notice no later than the Response Deadline, which is _____ [forty-five (45) days after the mailing of the Class Notice or an additional 14 days in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than the Response Deadline. Any dispute should include credible written evidence and will be resolved by the Administrator.

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

6. How can I get a payment?

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

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

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

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

If you do not wish to participate in the Class Settlement, you may exclude yourself from the Class portion of the Settlement or "opt out." **If you opt out, you will not receive an Individual Class Payment from the Settlement, and you will not be bound by its terms, which means you will retain the right to sue Defendant for the Released Class Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Penalties and will remain bound by the release of the Released PAGA Claims regardless of whether they submit a request for exclusion.

To opt out, you must submit to the Administrator a written, signed and dated request to opt-out postmarked no later than the Response Deadline which is _____. You may also fax your request to opt out to _____ or email the dispute to _____ by no later than the Response Deadline. The request to opt-out should state in substance that you wish to be excluded from the class settlement in the *Mejia v. Chico's FAS, Inc.* lawsuit. The request to opt-out should state the Class Member's full name, address and email address or telephone number. Please include the name and number of the case, which is *Mejia v. Chico's FAS, Inc.*, Case No. 23TRCV03862. The request to opt-out must be completed and signed by you. No other person may opt-out for a living member of the Class.

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

8. How do I Object to the Settlement?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendant are asking the Court to approve. At least sixteen (16) court days before the Final Approval Hearing, scheduled for _____, Class Counsel and Plaintiffs will file in Court a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the

amount Plaintiffs are requesting as Class Representative Service Payments. Upon reasonable request, Class Counsel (whose contact information is below) will send you copies of these documents at no cost to you. You can also view them on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Mejia v. Chico's FAS* or on the Court's website (<http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>) and entering the Case No. 23TRCV03862.

A Participating Class Member who disagrees with any aspect of the Agreement and/or the Motion for Final Approval may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The Response Deadline for sending written objections to the Administrator is _____** [forty-five (45) days after the date of the Notice or an additional 14 days after the Notice in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than this Response Deadline. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action, *Mejia v. Chico's FAS, Inc.*, Case No. 23TRCV03862, and include your name, current address, email or telephone number, and approximate dates of employment for Defendant and sign the objection. The Administrator's contact information is as follows:

Administrator:

Name of Company: ILYM Group, Inc.

Email Address: _____

Mailing Address: _____

Telephone Number: _____

Fax Number: _____

Settlement Website: _____

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

The addresses for Parties' counsel are as follows:

CLASS COUNSEL:

Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik DeBlouw LLP

2255 Calle Clara

La Jolla, CA 92037

Tel.: (858) 551-1223

Fax: (858) 551-1232

E-Mail: kyle@bamlawca.com

COUNSEL FOR DEFENDANT:

Melinda S. Riechert
Julia Riechert
Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road
Menlo Park, CA 94025-1015

9. Can I Attend the Final Approval Hearing?

You can, but don't have to, attend the Final Approval Hearing at _____ (Pacific Standard Time) on _____, in Department B of the Superior Court of California, County of Los Angeles, Torrance Courthouse, 825 Maple Avenue, Torrance, CA 90503, before Judge Patricia A. Young. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as a service payment to Plaintiffs. If there are objections, the Court will consider them. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing in remotely using the Court Connect procedure at <https://www.lacourt.org/lacc/>. You may also appear in person. Check the Court's website for the most current information on appearing in Court.

It's possible the Court will reschedule the Final Approval Hearing. If the hearing is continued, notice will be posted on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Mejia v. Chico's FAS*. In addition, hearing dates are posted on the Internet via the Case Access page for the Los Angeles County Superior Court (<http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>) and entering the Case No. 23TRCV03862.

10. How Can I Get More Information?

You may call the Administrator at _____ or write to *Mejia v. Chico's FAS, Inc.* Administrator, c/o _____.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Judgment, the motion for final approval or other Settlement documents by going to on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Mejia v. Chico's FAS*, where these documents will be posted as they become available. You may get more details by examining the Court's file on the Internet via the Case Access page for the California Superior Court for the County of Los Angeles (<http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>) and entering the Case No. 23TRCV03862. If you wish to view the Court files in person, you are encouraged to make an appointment with the Clerk's Office at the Torrance Courthouse by calling (310) 787-3693.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

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

~~[MODEL]~~ CLASS ACTION AND PAGA SETTLEMENT AGREEMENT ~~AND~~ CLASS NOTICE¹

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff ~~(“Plaintiff”)~~ Plaintiffs Marlin Mejia, Basilia Konde, and defendant XYZ ~~(“XYZ”)~~ Gulalay Omarzay (“Plaintiffs”) and Defendant Chico's FAS, Inc., (“Defendant”). The Agreement refers to Plaintiff Plaintiffs and XYZ Defendant collectively as the “Parties,” or individually as “Party.”

1. DEFINITIONS.

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

1.1. “Actions” collectively means the Plaintiff’s Plaintiffs’ lawsuit alleging wage and hour violations against XYZ Defendant captioned ~~_____~~ the United States District Court for the Northern District of California; and (2) Marlin Mejia, et al. vs. Chico's FAS, Inc., Case No. 23TRCV03682, filed on November 22, 2023 and pending in the Superior Court of the State of California, County of Los Angeles.

1.2. “Administrator” means ~~_____~~ ILYM Group Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval ~~of the Settlement.~~

1.4. “Aggrieved Employee Employees” means ~~{e.g., a person}~~ all individuals who are or were previously employed by XYZ Defendant and any of its subsidiaries in California and classified as a ~~_____~~ who worked for XYZ non-exempt employee at any time during the PAGA Period~~};~~.

1.5. “Class” means ~~{define class e.g., all persons}~~ all individuals who are or were previously employed by XYZ Defendant and any of its subsidiaries in California and classified as ~~_____~~ who worked for XYZ a non-exempt employee at any time during the Class Period~~};~~.

~~1.1. “Class Counsel” means _____.~~

1.6. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche and Trevor G. Moran of Blumenthal Nordrehaug Bhowmik De Blouw LLP.

~~1.6.1.7.~~ “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to be paid to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute as approved by the Action Court, to compensate Class Counsel for their legal work in connection with the Actions, including their pre-filing investigation, their filing of the Actions, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Actions.

~~1.7.1.8.~~ “Class Data” means Class Member identifying information in XYZ’s Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, , and the number of Class Period Workweek shifts, and the number of PAGA Pay Periods: worked by each PAGA Aggrieved Employee during the PAGA Period.

~~1.8.1.9.~~ ~~“Class Member” or “Settlement~~ “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).

~~1.9.1.10.~~ “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

~~1.10.1.11.~~ “Class Notice” means the COURT APPROVED NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).

~~1.11.1.13.~~ “Class Period” means the period of time from _____ to _____.ⁱⁱ January 1, 2022 through December 31, 2024.

~~1.12.1.14.~~ “Class Representative Representatives” means the named Plaintiff in the operative complaint Plaintiffs in the Action Operative Complaint seeking Court approval to serve as a Class Representative Representatives.

~~1.13.1.15.~~ “Class Representative Service Payment Awards” means the payment service awards made to the Plaintiffs as Class Representative Representatives in order to compensate for initiating the Action and providing services Actions, performing work in support of the Action Actions, undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiffs.

~~1.14.~~1.16. “Court” means the Superior Court of California, County of Los Angeles.

~~1.15.~~1.17. “XYZ” ~~means named~~ Defendant _____.” means Chico’s FAS, Inc. and any of its subsidiaries.

~~1.16.~~1.18. “Defense Counsel” means Melinda S. Riechert, Julia C. Riechert, and Mariam Bicknell of Orrick, Herrington & Sutcliffe LLP.

~~1.17.~~1.19. “Effective Date” means the date by when ~~both~~all of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) Plaintiffs serve notice of entry of the Court’s Judgment; and (c) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day ~~the Court enters~~Plaintiffs serve notice of entry of the Court’s Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

~~1.18.~~1.20. “Final Approval” means the Court’s order granting final approval of the Settlement.

~~1.19.~~1.21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.

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

~~1.20.~~1.22. “Gross Settlement Amount” means \$ _____ Seven Hundred Fifty Thousand Dollars (\$750,000) which is the total amount ~~XYZ agrees to pay under the Settlement~~be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Awards and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement Amount and shall be the separate additional obligation of Defendant.

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

~~1.21.~~1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeksshifts worked during the Class Period.

~~1.22.~~1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of WorkweeksPAGA Pay Periods worked during the PAGA Period.

~~1.23.~~1.25. "Judgment" means the judgment entered by the Court based upon ~~the~~ Final Approval.

~~1.24.~~1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

~~1.25.~~1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

~~1.26.~~1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service PaymentAwards, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The ~~remainder~~Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.

~~1.27.~~1.29. "Non-Participating Class Member" means any Class Member who opts out of the Class Settlement by ~~sending the Administrators~~submitting a valid and timely Request for Exclusion- to the Administrator.

~~1.28.~~1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for XYZDefendant for at least one day during the PAGA Period.

~~1.29.~~1.31. "PAGA Period" means the period of time from ~~to~~ ⁱⁱⁱ September 8, 2022 through December 31, 2024.

~~1.30.~~1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

~~1.31.~~1.33. "PAGA ~~Notice~~Notices" means ~~Plaintiff's~~ the Plaintiffs' September 8, 2023 letter ~~to XYZ~~ and ~~the LWDA [and Plaintiff's~~ April 15, 2024 amended letter ~~to XYZ~~ (LWDA Case No. LWDA-CM-980505-23) to Defendant and the LWDA] providing notice pursuant to Labor Code section 2699.3, subd.(a).

~~1.32.~~1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees

(\$7,500) and the 75% to LWDA (\$22,750) in settlement of PAGA claims.

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

~~1.33.~~1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion ~~from the Settlement.~~

~~1.34.~~1.36. “~~Plaintiff~~Plaintiffs” means Marlin Mejia, Basilia Konde, and Gulalay Omarzay, the named ~~plaintiff~~Plaintiffs in the ~~Action~~Operative Complaint.

~~1.35.~~1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

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

~~1.36.~~1.38. “Released Class Claims” means the claims being released as described in Paragraph 6.2 below.

~~1.37.~~1.39. “Released PAGA Claims” means the claims being released as described in Paragraph 6.~~23~~ below.

~~1.38.~~1.40. “Released Parties” means: XYZ~~Defendant~~ and each of its former and present directors, officers, shareholders, owners, ~~[members], employees, agents, principals, representatives,~~ attorneys, insurers and reinsurers, accountants, consultants, predecessors, successors, acquirers, affiliates, parents, assigns ~~[and subsidiaries] [affiliates].~~

~~1.39.~~1.41. “Request for Exclusion” means a Class Member’s submission of a timely, valid, and written request to be excluded from the Class Settlement signed by the Class Member.

~~1.40.~~1.42. “~~“Response Deadline”~~” means ~~[e.g., 60]~~forty-five (45) calendar days after the Administrator mails Class Notice Packet to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) ~~fax, email, or mail~~submit Requests for Exclusion from the Settlement, or (b) ~~fax, email, or mail~~submit his or her Objection to the Settlement. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

~~1.41.~~1.43. “Settlement” means the disposition of the ~~Action effected~~Actions and all related claims effectuated by this Agreement and the Judgment.

~~1.42.~~1.44. “Workweek^{iv}(s)” means ~~any week during which a Class Member~~the estimated shifts worked ~~for XYZ for at least one day, during the by Class Members in the~~ Class Period:^{iv} divided by seven (7) days per week.

2. RECITALS:

The Class Action

2.1. On November 21, 2023, Plaintiff Mejia commenced this Action by filing a Class Action Complaint against Defendant in the Superior Court of the State of California, County of Monterey (the “Class Action”). Plaintiff Mejia’s Class Action Complaint asserted claims that Defendant:

1. Violated California Business and Professions Code §§ 17200 et seq.;
2. Failed to pay minimum wages in violation of Labor Code §§ 1194, 1197 & 1197.1;
3. Failed to pay overtime wages in violation of California Labor Code §§ 510, et seq.;
4. Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
5. Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
6. Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
7. Failed to reimburse employees for required expenses in violation of California Labor Code § 2802; and,
8. Failed to pay sick pay wages in violation of California Labor Code §§ 201-203, 233, 246.

2.2. On February 15, 2024, Defendant filed an Answer to Plaintiff Mejia’s Class Action Complaint, asserting sixteen (16) affirmative defenses.

2.3. On February 20, 2024, Defendant removed the Class Action to the United States District Court for the Northern District of California.

2.4. On June 28, 2024, Plaintiff Mejia filed Motion to Remand the Class Action back to state court, which the Court denied on August 22, 2024.

The PAGA Action

2.5. On November 22, 2023, Plaintiff Mejia filed a separate Representative Action Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles (the “PAGA Action”), alleging ~~causes one cause~~ of action against XYZ for ————. [The Complaint is the operative complaint in the Action (the “Civil Penalties Pursuant to Labor Code § 2699, et seq. for violations of Labor Code §§ 201, 202, 203, 204 et seq., 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section I 1079(14) (failure to provide seating), and the Applicable Wage Orders.

2.6. On March 6, 2024, Defendant filed an Answer to Plaintiff Mejia’s PAGA Action Complaint, asserting twenty-one (21) affirmative defenses.

Pleading Amendment And Stay Of The Actions

~~2.1.2.7.~~ For purposes of this Settlement only, Defendant stipulates to and Plaintiffs agree to submit to the Court a First Amended Class and Representative Action Complaint in the PAGA Action adding: (1) all class and PAGA claims (as applicable) for all claims and theories alleged in the Actions and/or the PAGA Notices to the LWDA, including claims that Defendant engaged in unfair business practices, failed to pay for all wages due (including minimum, overtime, sick pay at the correct rate), failed to provide legally required meal periods and rest breaks and failed to pay premium pay at the regular rate of pay for missed or improper meal periods and/or rest breaks, failed to pay for reporting time pay, failed to timely pay all wages due, failed to provide accurate wage statements, failed to keep accurate time records, failed to reimburse for business expenses, and failed to provide suitable seating; and (2) Plaintiffs Basilia Konde and Gulalay Omarzay as named Plaintiffs and Class Representatives. If the Settlement does not become Final (as defined above) upon the Parties' best efforts, Plaintiffs agree to dismiss all claims and withdraw all allegations added in the First Amended Complaint to restore Plaintiffs to the position of the Class Action Complaint filed on November 21, 2023 and pending in in the United States District Court for the Northern District of California, Case No. 3:24-cv-01007-VC and the PAGA Action filed on November 22, 2023. Upon the Court's Order granting preliminary approval and deeming the First Amended Complaint filed, the First Amended Complaint will be deemed the Operative Complaint."}) [On _____, Plaintiff filed a [e.g., First Amended Complaint] alleging causes of action against XYZ for _____. The [e.g., First Amended] Complaint is the operative complaint in the Action (the "Operative in the Actions.

~~2.2.2.8. Complaint."})~~ XYZDefendant denies the allegations in the Actions, the PAGA Notices, and the Operative Complaint, denies any failure to comply with the laws identified in ~~in the Actions, the PAGA Notices, and the Operative Complaint~~, and denies any and all liability for all causes of action alleged in the Actions, the PAGA Notices, and the Operative Complaint ~~and denies any and all liability for the causes of action alleged.~~

~~1.4. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to XYZ and the LWDA by sending the PAGA Notice.~~

Mediation and Settlement

~~2.3.2.9.~~ On _____ (type _____ in a ~~ditional dates~~), [October 16, 2024, the Parties participated in an all-day mediation presided over by Tripper Ortman, Esq. a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, was able to agree to settle the Actions based upon a mediator's proposal which ~~led to this~~was memorialized in the

form of a Memorandum of Understanding. This Agreement to settle the Action (describe alternative means of negotiation) replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.

(describe alternative means of negotiation)

1.5. ~~_____ Prior to ☐ mediation ☐ negotiating the Settlement, Plaintiff, Plaintiffs~~
~~obtained, through~~

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

1.6. ~~_____ The Court ☐ has ☐ has not granted class certification.~~
~~(insert details as needed)~~

2.11. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Actions by Plaintiffs, the Class or the Aggrieved Employees have merit or that Defendant bears any liability to Plaintiffs, the Class or the Aggrieved Employees on those claims or any other claims, or as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become Final (as defined above), Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Actions, including the manageability of the PAGA claims.

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

3. MONETARY TERMS:

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, ~~XYZ promises Defendant agrees~~ to pay \$_____ ~~and no more a total amount of \$750,000 as the Gross Settlement Amount [and to separately pay. This amount is all-inclusive of all payments contemplated in this Settlement, excluding any and all employer-side payroll taxes owed on the Wage Portions portion of the Individual Class Payments.] XYZ and Class Representative Service Awards allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant~~ has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph

6.14.3 of this Agreement.^y The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to XYZDefendant.

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

3.2.1. ~~_____ To~~ PlaintiffPlaintiffs: Class Representative Service PaymentAwards to the Class RepresentativeRepresentatives of not more than \$~~_____~~ 10,000 each less taxes and withholdings (in addition to any Individual Class Payment ~~[and any Individual PAGA Payment]~~ the Class Representative is

(a) Representatives are entitled to receive as a Participating Class Member). XYZDefendant will not oppose Plaintiff'sPlaintiffs' request for ~~a~~ Class Representative Service PaymentAwards that ~~does do~~ not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, PlaintiffPlaintiffs will seek Court approval for any Class Representative Service PaymentsAwards no later than ~~[16 court]~~ days prior to the Final Approval Hearing. If the Court approves a Class Representative Service PaymentAwards less than the ~~amount~~amounts requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service PaymentAwards using IRS Form W-2 for 20% (\$2,000) and IRS Form 1099- for 80% (\$8,000) to each Plaintiff~~—assumes. Plaintiffs assume~~ full responsibility and liability for employee taxes owed on the Class Representative Service PaymentAwards. Plaintiffs acknowledge that Defendant and/or the Released Parties make no representations as to the tax consequences of the nature of the Class Representative Service Awards.

(b) To Class Counsel: A Class Counsel Fees Payment of not more than ~~%~~one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$250,000, and a Class Counsel Litigation Expenses Payment of not more than \$~~_____~~ XYZ35,000. Defendant will not oppose requests for these payments provided that do not exceed these amounts. PlaintiffPlaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than ~~[16 court]~~ days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff'sPlaintiffs' Counsel arising from any claim to any portion any Class Counsel FeeFees Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses

Payment and holds XYZDefendant harmless, and indemnifies XYZDefendant, from any dispute or controversy regarding any division or sharing of any of these Paymentspayments.

3.2.2. ~~_____~~ To the Administrator: An ~~Administrator~~Administration Expenses Payment not to exceed

(c) ~~\$— \$21,000,~~ except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses ~~are~~Payment is less, or the Court approves payment less than \$21,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.

(d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$30,000 to be paid from the Gross Settlement Amount, with 75% (\$22,500) allocated to the LWDA PAGA Payment and 25% (\$7,500) allocated to the Individual PAGA Payments.

i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$7,500) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

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

3.2.2.1. ~~_____~~ Tax Allocation of Individual Class Payments. ~~%~~ 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. ~~The~~

i. ~~%~~ 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for ~~[e.g., non-wages, expense reimbursement, interest and penalties]~~ (the "Non-Wage Portion^{vi}"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

~~3.2.3. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$ _____ to be paid from the Gross Settlement Amount, with 75% (\$ _____) allocated to the LWDA PAGA Payment and 25% (\$ _____) allocated to~~

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

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

4. SETTLEMENT FUNDING ~~AND PAYMENTS.~~

4.1. Class WorkweeksShifts and Aggrieved Employee Pay Periods. Based on ~~a review of~~ its records ~~to date, XYZ estimates there are _____, Defendant has represented that the Class consists of 2,535 Class Members. Defendant estimates the number of shifts will be approximately 525,000 shifts during the Class Period, which Plaintiff estimates to be the equivalent of 75,000 full time equivalent workweeks (525,000 shifts divided by 7 days in a week), and 2,133 Aggrieved Employees who collectively worked an estimated total of _____ Workweeks, and _____ of Aggrieved Employees who worked a total _____ of 61,932 PAGA Pay Periods during the PAGA Period.~~

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

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

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

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

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

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

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

whose original check was lost or misplaced, requested by the Class Member prior to the void date.

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

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

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

~~5.1.6.1.~~ **Plaintiffs' General Release**. ~~Plaintiff~~Plaintiffs and ~~his or her~~their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or unknown, suspected or unsuspected, transactions, or occurrences ~~[that occurred during the Class Period]~~they had, now have, or may hereafter claim to have, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based in connection with their employment relationship with Defendant, their termination and/or release from that employment, any damages they claim to have sustained while employed by Defendant, or any other transactions, occurrences, acts or omissions or any loss, damages or injury whatsoever, known or unknown, suspected or unsuspected, resulting from any act or omission by or on the facts contained, in part of the Released Parties, or any of them, committed or omitted prior to the Operative Complaint and ~~(b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, [or ascertained during the Action and released under 6.2, below]. ("Plaintiff's date of this Agreement ("Plaintiffs' General Release.")~~ Plaintiffs' General Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences committed or omitted outside the Class

Period. ~~Plaintiff acknowledges~~Plaintiffs acknowledge that ~~Plaintiff they~~ may discover facts or law different from, or in addition to, the facts or law that ~~Plaintiff they~~ now ~~knows know~~ or ~~believes believe~~ to be true but ~~agrees agree~~, nonetheless, that ~~Plaintiff's~~Plaintiffs' General Release shall be and remain effective in all respects, notwithstanding such different or additional facts or ~~Plaintiff's~~their discovery of them.

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

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

~~5.2.6.2. Release by Participating of Class Members Who Are Not Aggrieved Employees:~~
~~All~~Claims. Plaintiffs and all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from ~~(i)~~all claims that were alleged, or reasonably could have been alleged, based on the ~~Class Period~~ facts and allegations stated in the Actions and/or the Operative Complaint ~~[and ascertained in the course of the Action]~~ [, which occurred during the Class Period, including, e.g., “(a) any and all claims involving any alleged unfair business practices, failure to pay for all wages due (including minimum, overtime, sick pay at the correct rate), failure to provide legally required meal periods and rest breaks and failure to pay premium pay at the regular rate of pay for missed or improper meal periods and/or rest breaks, failure to pay for reporting time pay, failure to timely pay all wages due, failure to provide accurate wage; etc.], statements, failure to keep accurate time records, and failure to reimburse for business expenses, or alleged violation of Labor Code §§201–204, 210, 218, 221, 226, 226.7, 233, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802, the applicable wage orders, and Business and Professions Code § 17200, *et seq.* Except as set forth in ~~Section 6.3~~ of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment ~~insurance, disability~~benefits, social security benefits, workers’ compensation benefits, or claims based on facts occurring outside the Class Period.

~~5.3.6.3. Release by Non-Participating Class Members Who Are of~~ PAGA Claims. Plaintiffs and all Aggrieved Employees: ~~All Non-Participating Class Members who are Aggrieved Employees are deemed to release~~, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, and Plaintiffs as agents and proxies of the State of California (including the LWDA) are deemed to waive, release, and discharge the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the ~~PAGA Period facts~~ factual allegations or legal theories

stated in the Actions, the PAGA Notices, and/or the Operative Complaint~~[,] [and], which occurred during the PAGA Notice [and ascertained in the course of the Action]~~Period, including, e.g., “(a) any and all PAGA claims involving based on any alleged unfair business practices, failure to pay for all wages due (including minimum wage; etc.), overtime, sick pay at the correct rate), failure to provide legally required meal periods and rest breaks and failure to pay premium pay at the regular rate of pay for missed or improper meal periods and/or rest breaks, failure to pay for reporting time pay, failure to timely pay all wages due, failure to provide accurate wage statements, failure to keep accurate time records, failure to reimburse for business expenses, failure to provide suitable seating, or alleged violation of Labor Code §§ 201–204, 210, 218, 221, 226, 226.7, 227.3, 246, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802, 2699, et seq., the applicable wage orders, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14), and the applicable wage orders. Except as set forth in this Agreement, Aggrieved Employees do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment benefits, social security benefits, workers’ compensation benefits, or claims based on facts occurring outside the PAGA Period.

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

~~6.1 XYZ’s Declaration in Support of Preliminary Approval. Defendant’s Responsibilities. Within 14 days of the full execution of this Agreement, XYZ Defendant will prepare and deliver to Class Counsel a signed Declaration from XYZ and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and XYZ shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.~~

~~6.2 Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members [and/or the proposed Cy Pres]; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration~~

~~6.1.7.1.~~ from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, [and/or] the Administrator [and/or the proposed Cy Pres]; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration. In the Declaration, Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.2. Plaintiffs' Responsibilities of Counsel. Class Counsel. Plaintiffs will prepare and deliver to Defense Counsel are jointly at least 10 days before filing: (i) a draft memorandum of points and authorities in support of Motion for Preliminary Approval; (ii) Plaintiffs' declarations in support of the Motion for Preliminary Approval; and (iii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

~~6.2.7.3.~~ Responsibilities of Counsel. Class Counsel is responsible for expeditiously preparing, finalizing, and filing the Motion for Preliminary Approval no later than [30] days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval, and complying with all requirements to notify the LWDA of the Settlement. Class Counsel will consider in good faith Defense Counsel's comments pertaining to the draft Motion for Preliminary Approval, Order Granting Preliminary Approval and Approval of PAGA Settlement, and the Class Notice. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

~~6.3.7.4.~~ Duty to Cooperate. If the The Parties disagree on any aspect of the proposed Motion for agree to cooperate with each other and use their best efforts to obtain Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement of the Settlement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7.8. SETTLEMENT ADMINISTRATION:

7.4.8.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

7.4.8.4. Notice to Class Members.

- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, WorkweeksAggrieved Employees, shifts, and Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than [14] days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice [with Spanish translation, if applicable] substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeksshifts and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- (c) Not later than [3] business7 days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- (d) The deadlines for Class Members’ written objections, Challengeschallenges to Workweeksshifts and/or Pay Periods, and Requests for Exclusion will be extended an additional [14] days beyond the [60] days otherwiseResponse Deadline provided

in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

- (e) If the Administrator, ~~XYZ~~the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, ~~the Parties~~Defendant will expeditiously ~~meet and confer in person or by telephone, and in good faith, in an effort~~review its business records to agree on~~determine~~ whether ~~to include them as~~the individual should be a Class ~~Members~~Member and receive a Class Notice. If ~~the Parties agree~~Defendant determines that such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than ~~[14]~~ days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5.8.5. Requests for Exclusion (Opt-Outs).

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

~~6.2.1~~—Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs~~Paragraph~~ 6.2 and

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

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

~~7.6.8.6.~~ Challenges to Calculation of Workweeksshifts. Each Class Member shall have ~~{60} days after~~until the ~~Administrator mails the Class Notice~~Response Deadline (plus an additional ~~{14}~~ days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeksshifts and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeksshifts contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeksshifts and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeksshifts and/or Pay Periods to Defense Counsel and ~~Class Counsel and~~ the Administrator's determination as to the challenges.

~~7.7.8.7.~~ Objections to Settlement.

- (a) Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.Awards.
- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than ~~{60} days after the Administrator's mailing of the Class Notice~~Response Deadline (plus an additional ~~{14}~~ days for Class Members whose Class Notice was re-mailed).

- (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted, and the objection will be void.

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

- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment Awards, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- (b) RequestsRequest for Exclusion (Opt-outsOuts) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 57 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- (c) Shifts and/or Pay Periods Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of shifts and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- ~~(e)~~(d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweekshifts and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include ~~provide~~ the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

- ~~(d)(a) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.~~
- (e) Administrator's Declaration. Not later than [14]7 days before the date by which ~~Plaintiff is~~Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.
- (f) Final Report by Settlement Administrator. Within [10] days after the Administrator disburses all funds ~~in~~of the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least [15]7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

~~7. CLASS SIZE ESTIMATES [and ESCALATOR CLAUSE]~~ Based on its records, XYZ estimates that, as of the date of this Settlement Agreement, (1) there are _____ Class Member

~~9. XYZ'S CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.~~ Based on its records, Defendant provided figures as to the Class size as set forth in Paragraph 4.1 above. Should the shifts worked by the Class Members during the Class Period ultimately increase by more than 15%, Defendant, at its option, can either choose to: (1) cut off the end date for the Class Period as of the date on which the number of total shifts exceed by 15% the number of shift provided by Defendant, or (2) increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in number of shifts worked by the Class Members above the 15% (i.e., if there was an 16% increase in the number of shifts during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%).

~~8.10. DEFENDANT'S RIGHT TO WITHDRAW.~~ If the number of valid Requests for Exclusion identified in the Exclusion List exceeds %—2% of the total of all Class Members, XYZDefendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if XYZDefendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, XYZDefendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. XYZas of the date Defendant makes this election to withdraw. Defendant must notify Class Counsel and the Court of its election to withdraw not later than [seven]7 days after the Administrator sends the final Exclusion List to Defense Counsel; late elections. Invalid Requests for Exclusion will have no effect on this threshold for an election.

~~9.11. MOTION FOR FINAL APPROVAL.~~ NotUnless otherwise ordered by the Court, not later than [16] court days before the calendared Final Approval Hearing, PlaintiffPlaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (1), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). PlaintiffPlaintiffs shall provide drafts of these documents to Defense Counsel not later than [seven]10 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

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

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

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

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

11.13. ADDITIONAL PROVISIONS.

11.1.13.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by XYZ Defendant that any of the allegations in the Actions, the PAGA Notices, or the Operative Complaint have merit or that XYZ Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff Plaintiffs that XYZ's Defendant's defenses in the Action Actions, the PAGA Notices, or the Operative Complaint have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or ~~enter~~ Judgment, XYZ pursuant to this Agreement, Defendant reserves the right to contest certification of any

class for any reasons, and XYZDefendant reserves all available defenses to the claims in the ActionActions, the PAGA Notices, or the Operative Complaint, and Plaintiff reservesPlaintiffs reserve the right to move for class certification on any grounds available and to contest XYZ'sDefendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

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

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

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

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

11.6.13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties

are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of ~~at~~the mediator first and ~~or~~ then the Court for resolution.

~~11.7.13.7. No~~Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

~~11.8.13.8. No~~Tax Advice. Neither ~~Plaintiff~~Plaintiffs, Class Counsel, ~~XYZ~~Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

~~11.9.13.9. Modification of Agreement~~. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

~~11.10.13.10. Agreement Binding on Successors~~. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

~~11.11.13.11. Applicable Law~~. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

~~11.12.13.12. Cooperation in Drafting~~. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

~~11.13.13.13. Confidentiality~~. To the extent permitted by law, all agreements made, and orders entered during ~~Action~~Actions and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

~~11.14.13.14. Use and Return of Class Data~~. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by ~~XYZ~~Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, ~~Plaintiff~~Plaintiffs shall destroy, all paper and electronic versions of Class Data received from ~~XYZ unless, prior to the Court's discharge of the Administrator's obligation, XYZ makes a written request to Class Counsel~~Defendant, along with any other material provided informally for the return, rather than the destructions, of Class Datapurposes of mediation.

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

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

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

~~To Plaintiff:~~

To Plaintiffs and the Class:

Norman B. Blumenthal

Kyle R. Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP

2255 Calle Clara

La Jolla, CA 92037

Tel.: (858) 551-1223

Fax: (858) 551-1232

E-Mail: norm@bamlawca.com

kyle@bamlawca.com

To ~~XYZ~~Defendant:

Melinda S. Riechert

Julia Riechert

Mariam Bicknell

Orrick, Herrington & Sutcliffe LLP

1000 Marsh Road

Menlo Park, CA 94025-1015

Tel.: (650) 614-7400

Fax: (650) 614-7401

E-Mail: mriechert@orrick.com

jriechert@orrick.com

mbicknell@orrick.com

~~11.18.~~13.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will

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

13.20. _____ Counsel For Plaintiff _____ Counsel For XYZ Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

The Parties and their counsel hereby execute this Agreement.

Dated: _____
 _____[name]
 For Defendant Chico's FAS, Inc.

Dated: _____
Melinda Riechert⁶

Orrick, Herrington & Sutcliffe LLP
Attorney for Defendant

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

Nick@bamlawca.com

WRITERS EXT:

1004

September 8, 2023

CA3039

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Chico's FAS, Inc.
Certified Mail #9589071052700182374378
Corporate Creations Network Inc.
Sarah Clemens
5901 W. Century Blvd., #750
Los Angeles, CA 90045

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

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Chico's FAS, Inc. in California, including any employees staffed with Chico's FAS, Inc. by a third party, and classified as non-exempt employees during the time period of September 8, 2022 until a date as determined by the Court. Our offices represent Plaintiff Marlin Mejia (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Chico's FAS, Inc. (“Defendant”). Plaintiff has been employed since March of 2023 by Defendant in California. Plaintiff has been at times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee's usual or scheduled day's work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours' worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved

Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to Plaintiff, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

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

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

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

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA
LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

SergioJulian@bamlawca.com

WRITERS EXT:

1001

April 15, 2024

CA3039

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Chico's FAS, Inc.
Certified Mail #9589071052700408543687
ORRICK HERRINGTON & SUTCLIFFE, LLP
Melinda S. Riechert
Julia C. Riechert
1000 Marsh Road
Menlo Park, CA 94025

Certified Mail #9589071052700408543670
ORRICK HERRINGTON & SUTCLIFFE, LLP
Mariam Bicknell
2040 Main Street, Suite 1100
Irvine, CA 92614

AMENDED PAGA NOTICE LWDA Case No: CM-980505-23

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

Dear Sir/Madam:

Our offices represent Plaintiffs Marlin Mejia and Basilia Konde (collectively referred to as "Plaintiffs") and other Aggrieved Employees in a lawsuit against Chico's FAC, Inc., ("Defendants").

Plaintiff Marlin Mejia originally sent a PAGA Notice on September 8, 2023, which gave notice to the LWDA and Defendant to enable Plaintiff Mejia to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.*

This Amended Notice is intended to add Plaintiff Basilia Konde.

"Aggrieved Employees" refers to all individuals who are or previously were employed by Chico's FAS, Inc. in California, including any employees staffed with Chico's FAS, Inc. by a third party, and classified as non-exempt employees during the time period of September 8,

2022 until a date as determined by the Court. Our offices represent Plaintiffs Marlin Mejia and Basilia Konde (“Plaintiffs”) and other Aggrieved Employees in a lawsuit against Chico’s FAS, Inc. (“Defendant”). Plaintiff Mejia has been employed since March of 2023 by Defendant in California. Plaintiff Basilia Konde was employed from July 2023 to February 2024 by Defendant in California. Plaintiffs have been at times classified by Defendant as a non-exempt employees, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiffs and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiffs and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiffs and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiffs and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiffs and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiffs and other Aggrieved Employees with their wages. Plaintiffs further contend that Defendant failed to provide accurate wage statements to Plaintiffs, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, Plaintiffs and the Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to Plaintiffs and the Aggrieved Employees failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiffs contend that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiffs began and ended each shift and meal period. Plaintiffs and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiffs and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiffs against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiffs, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiffs, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency’s reference. Plaintiffs

therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

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

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

Respectfully,

/s/ Sergio J. Puche

Sergio J. Puche, Esq.

Blumenthal Nordrehaug Bhowmik De Blouw LLP

2255 Calle Clara, La Jolla, California 92037

Tel: (858) 551-1223

Fax: (858) 551-1232

FIRM RESUME

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

ATTORNEY BIOGRAPHIES

Norman B. Blumenthal

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

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

Admitted: 1973, Illinois; 1976, California

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

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

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

Summer Intern (1971) with Harvard Voluntary Defenders

Kyle R. Nordrehaug

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

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

Admitted: 1999, California

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

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

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

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

Aparajit Bhowmik

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

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

Admitted: 2006, California

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

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

Awards: Rising Star 2015

Nicholas J. De Blouw

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

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

Admitted: 2011, California

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

Piya Mukherjee

Associate Attorney

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

Admitted: 2010, California

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

Victoria Rivapalacio

Associate Attorney

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

Admitted: 2011, California

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

Ricardo Ehmann

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2018, California; 2004, Nevada

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

Jeffrey S. Herman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2011, California; 2016 Arizona

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

Charlotte James

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: San Diego State University; California Western School of Law

Christine Levu

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2012, California

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

Andrew Ronan

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

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

Scott Blumenthal

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, New Mexico

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

Sergio Julian Puche

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2013, California

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

Trevor Moran

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, California

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

Adolfo Sanchez Contreras

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2024, California; 2014, Mexico

Educated: The Juarez University

REPORTED CASES

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

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

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

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

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

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1 MELINDA S. RIECHERT (STATE BAR NO. 65504)
2 JULIA C. RIECHERT (STATE BAR NO. 254078)
3 ORRICK, HERRINGTON & SUTCLIFFE LLP
4 1000 Marsh Road
5 Menlo Park, CA 94025-1015
6 Telephone: +1 650 614 7400
7 Facsimile: +1 650 614 7401
8 mrieichert@orrick.com
9 jrieichert@orrick.com

6 SCOTT MORRISON (STATE BAR NO. 320167)
7 ORRICK, HERRINGTON & SUTCLIFFE LLP
8 2050 Main Street, Suite 1100
9 Irvine, California 92614
10 Telephone: +1 949 567 6700
11 Scott.morrison@orrick.com

12 Attorneys for Defendant
13 CHICO'S FAS, INC.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

16 MARLIN MEJIA, BASILIA KONDE, and
17 GULALAY OMARZAY, individuals, on
18 behalf of themselves and on behalf of all
19 persons similarly situated,

20 Plaintiffs,

21 vs.

22 CHICO'S FAS, INC., a Corporation; and
23 DOES 1 through 50, inclusive,

24 Defendants.

Case No. 23TRCV03862

**DECLARATION OF MELINDA
RIECHERT IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND PAGA ACTION
SETTLEMENT**

1 I, Melinda Riechert, hereby declare:

2 1. I am a member in good standing with the Bar of the State of California and am
3 authorized to practice before this Court. I am a partner with Orrick, Herrington & Sutcliffe, LLP
4 (“Orrick”). I represent Defendant Chico’s FAS, Inc. (“Chico’s”) in the above-captioned matter,
5 and I have primary responsibility for this case at my firm. The facts set forth in this declaration
6 are based upon my personal knowledge, except where stated, upon information and belief. If
7 called as a witness, I could and would testify competently to these facts.

8 2. I make this declaration to disclose any relationships between Orrick, Chico’s, and
9 the designated Settlement Administrator, ILYM Group, Inc. (“ILYM”), and to disclose any other
10 pending matter or action asserting claims that will be extinguished or adversely affected by the
11 Settlement.

12 3. I am not aware of any conflict of interest between Chico’s and ILYM or Orrick
13 and ILYM. I understand that Chico’s has no relationship with ILYM. Nor do I, nor my firm, have
14 any relationship with ILYM other than when they have been the designated settlement
15 administrator for our class, collective, or representative action settlements.

16 4. Finally, I am not aware of any other pending matter or action asserting claims that
17 will be extinguished or adversely affected by the Settlement.

18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct.
20

21 Executed on April 22, 2025, in Menlo Park, California

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23 
24 Melinda Riechert
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