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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BAYARMAA G. SHANY, an individual;
BRYAN GONZALEZ PINEDA, an
individual, GABRIELLE BRISTOL, an
individual on behalf of themselves and
others similarly situated,

Plaintiffs,

vs.

SAKS & COMPANY, LLC, a Delaware
limited liability company; SAKS OFF 5TH,
a California business entity, form unknown;
SAKS FIFTH AVENUE, LLC, a
Massachusetts limited liability company,
HUDSON'S BAY COMPANY, a California
business entity, form unknown; and DOES 1
through 50, inclusive,

Case No.: 23STCV25980

CLASS ACTION

Assigned for All Purposes To:

Hon. Elihu M. Berle

Dept.: SS6

**CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT**

Original Complaint:	October 24, 2023
First Amended Complaint:	December 21, 2023
Second Amended Complaint:	August 6, 2024
Trial Date:	none set

Defendants.

1 This “Class Action and PAGA Settlement Agreement” (“Agreement”) is made by and
2 between plaintiffs BAYARMAA G. SHANY, BRYAN GONZALEZ PINEDA, and GABRIELLE
3 BRISTOL (hereinafter “Plaintiffs”), and SAKS & COMPANY, LLC and SAKS FIFTH AVENUE,
4 LLC (“Defendants”). The Agreement refers to Plaintiffs and Defendant collectively as “the Parties,”
5 or individually as “Party.”

6 **A. DEFINITIONS.**

7 1. “Action” means Plaintiffs’ lawsuit alleging wage and hour violations captioned *Shany,*
8 *Gonzalez Pineda, Bristol v. Saks & Company, LLC et al.* action, Los Angeles County Superior Court
9 Case No. 23STCV25980, filed on October 24, 2023; First Amended Complaint filed on December
10 21, 2023, and Second Amended Complaint filed on August 6, 2024, in Los Angeles County Superior
11 Court.

12 2. “Administrator” means Apex Class Action Administrators, and (“Apex”) is the neutral
13 entity the Parties have agreed to appoint to administer the Settlement.

14 3. “Administration Costs” means the amount the Administrator will be paid from the
15 Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the
16 Administrator’s “not to exceed” bid the parties have received from Apex for \$25,000.00.

17 4. “Aggrieved Employee” means all non-exempt employees who worked for Saks &
18 Company LLC in the State of California at any time during the PAGA Period (i.e., the period from
19 October 24, 2022, through March 24, 2025).

20 5. “Class” means all current and former non-exempt employees who worked for Saks &
21 Company LLC d/b/a Saks OFF 5TH in the State of California at any time during the Class Period
22 and/or for Saks & Company LLC d/b/a SFA from August 26, 2022, until March 24, 2025.

23 6. “Class Counsel” means Emil Davtyan, David Yeremian, Alvin B. Lindsay, Enoch J.
24 Kim, Marta Manus, and the other attorneys of D.Law, Inc.

25 7. “Class Counsel Fees Payment” means an award of attorneys’ fees granted to Class
26 Counsel and paid from the Gross Settlement Amount. The Parties have agreed Plaintiffs will request
27 approval from the Court of up to one-third of the Gross Settlement Amount, i.e., up to \$733,333.33.

28 8. “Class Counsel Litigation Expenses Payment” means the amount allocated from the

Gross Settlement Amount to Class Counsel for reimbursement of reasonable expenses and costs incurred in the Action, which is currently estimated not to exceed \$40,000.00, to be paid as approved by the Court.

9. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, email address, telephone number, Social Security number, hire dates, and termination dates.

10. “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).

11. “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.

12. “Class Notice” means the Court approved notice of settlement and hearing date for Final Approval, with a Spanish translation if the parties deem necessary, to be mailed to Class Members and incorporated by reference into this Agreement.

13. “Class Period” means the period from October 24, 2019, through March 24, 2025.

14. “Class Representative” means the named Plaintiffs Bayarmaa G. Shany, Bryan Gonzalez Pineda, and Gabrielle Bristol, in the Action seeking Court approval to serve as Class Representatives.

15. “Class Representative Enhancement Award” means the payment to the Class Representatives for initiating the Action and providing services in support of the Action, and Defendant agreed not to object to a requested Enhancement Award of up to \$10,000.00 per Plaintiff (i.e. \$30,000.00 total) subject to Court approval.

16. “Court” means the Superior Court of California, County of Los Angeles.

17. “Defendant” means named Defendant Saks and Company, LLC.

18. “Defense Counsel” means Lonnie D. Giamela, Vana Ebrahimi, and Rima A. Sahakyan of Fisher & Phillips LLP.

1 19. “Effective Date” means the date by when both of the following have occurred: (a) the
2 Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the
3 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no
4 Participating Class Member objects to the Settlement, the day after the Court enters Judgment; (b)
5 if one or more Participating Class Members objects to the Settlement, the day after the deadline for
6 filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day
7 after the appellate court affirms the Judgment and issues a remittitur.

8 20. “Final Approval” means the Court’s order granting final approval of the Settlement.

9 21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval
10 of the Settlement.

11 22. “Gross Settlement Amount” means Two Million Two Hundred Thousand Dollars and
12 Zero Cents (\$2,200,000.00), which is the total amount Defendant agrees to pay under the Settlement,
13 except as provided in Paragraph H below.

14 23. “Individual Class Payment” means the Participating Class Member’s pro rata share of
15 the Net Settlement Amount calculated according to the number of Workweeks worked during the
16 Class Period.

17 24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25%
18 of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the
19 PAGA Period.

20 25. “Judgment” means the judgment entered by the Court based upon the Final Approval.

21 26. “LWDA” means the California Labor and Workforce Development Agency, the
22 agency entitled, under Labor Code section 2699, subd. (i).

23 27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA
24 under Labor Code section 2699, subd. (i).

25 28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
26 payments in the amounts approved by the Court: PAGA Penalties, Class Representative
27 Enhancement Award, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment,
28 and the Administration Costs. The remainder is to be paid to Participating Class Members as

Individual Class Payments.

29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

30. “Operative Complaint” means the operative “Second Amended Complaint” filed in the Action on August 6, 2024.

31. “PAGA Pay Period” means any pay period during which an Aggrieved Employee worked for Defendant for at least a portion of one day during the PAGA Period.

32. “PAGA Period” means the period from October 24, 2022, through March 24, 2025.

33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

34. “PAGA Notices” means Plaintiff Bayarmma G. Shany’s October 24, 2023, letter to LWDA, December 21, 2023, amended letter to the LWDA, April 29, 2024, amended letter to the LWDA (LWDA Case No. LWDA-CM-989646-23), and the Defendants providing notice pursuant to Labor Code section 2699.3, subd.(a).

35. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (\$100,000.00), allocated 25% to the Aggrieved Employees (\$25,000.00) and 75% to LWDA (\$75,000.00) in settlement of PAGA claims.

36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Class portion of the Settlement.

37. “Plaintiffs” means Bayarmma G. Shany, Bryan Gonzalez Pineda, and Gabrielle Bristol, the named plaintiffs in the Action.

38. “Preliminary Approval” means the Court’s order granting preliminary approval of the Settlement.

39. “Release Effective Date” means the date the Participating Class Members and Aggrieved Employees effectively release all claims against the Released Parties. For the Participating Class Members and Aggrieved Employees, the Release Effective Date occurs on the date both of the following have occurred: (1) the Effective Date has occurred, and (2) Defendant has fully funded the Gross Settlement Amount.

40. “Released Class Claims” means the class claims being released on the Release

Effective Date and as described in Paragraph 64 below.

41. “Released PAGA Claims” means the PAGA claims being released on the Release Effective Date as described in Paragraph 65 below.

42. “Released Parties” means: Defendant and each of its past, present and future agents, employees, servants, officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, service providers, joint venturers, joint employers, co-employers, dual employers, alleged joint employers, alleged co-employers, alleged dual employers, affiliates, alter-egos, and affiliated organizations, and all of their respective past, present and future employees, directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, and assigns.

43. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class portion of the Settlement signed by the Class Member.

44. “Response Deadline” means forty-five (45) days after the Administrator mails Class Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Class portion of the Settlement, or (b) fax, email, or mail their objection to the Settlement. Class Members to whom Class Notice is resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond when the Response Deadline has expired to provide an appropriate response.

45. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

46. “Workweek” means any week during which a Class Member worked for Defendant for at least a portion of one day, during the Class Period.

B. RECITALS.

47. On October 24, 2023, Plaintiff Bayarmaa G. Shany commenced this Action by filing a Complaint alleging causes of action for various violations of the California Labor Code. On December 21, 2023, Plaintiff Shany filed a First Amended Complaint (“FAC”) for all causes of

1 action in the initial complaint, adding a cause of action for civil penalties pursuant to the Private
2 Attorneys General Act (“PAGA”), Labor Code § 2698, *et seq.*, and adding Plaintiff Bryan Gonzalez
3 Pineda. On August 6, 2024, Plaintiffs Shany and Pineda filed a Second Amended Complaint
4 (“SAC”) for all causes of action in the initial complaint and the FAC adding a cause of action for
5 failure to pay reporting time under 8 CCR § 11070(5) and adding Plaintiff Gabrielle Bristol. The
6 SAC is the operative complaint in the Action (the “Operative Complaint”), and includes the
7 following cause of action: 1) failure to pay minimum wages for all hours worked; 2) failure to pay
8 wages and overtime under Labor Code § 510; 3) meal period liability under Labor Code § 226.7; 4)
9 rest break liability under Labor Code § 226.7; 5) failure to pay reporting time under 8 CCR §
10 11070(5); 6) violation of Labor Code § 226(a); 7) violation of Labor Code § 221; 8) violation of
11 Labor Code § 204; 9) violation of Labor Code § 203; 10) failure to maintain records required under
12 Labor Code §§ 1174, 1174.5; 11) failure to produce requested employment records under Labor
13 Code §§ 226, 1198.5; 12) failure to reimburse necessary business expenses under Labor Code §
14 2802; 13) violation of Business & Professions Code § 17200, *et seq.*; and 14) penalties under PAGA,
15 Labor Code § 2698, *et seq.*

16 48. Defendant denies the allegations in the Operative Complaint and PAGA Notices, deny
17 any failure to comply with the laws identified in the Operative Complaint and PAGA Notices, and
18 deny all liability for the causes of action, claims, and violations alleged.

19 49. On July 11, 2024, the Parties participated in a mediation presided over by respected
20 wage and hour mediator Lisa Klerman and eventually were able to reach an agreement on general
21 settlement terms after further informal discovery efforts and settlement negotiations.

22 50. In advance of mediation, Class Counsel conducted a thorough investigation into the
23 facts of, and applicable law to, the Action. Plaintiffs’ counsel provided Defendant’s counsel with a
24 comprehensive list of informal discovery items required for a constructive mediation. Defendant
25 responded by producing a random sample of payroll data for more than 75% of the Class, along with
26 policy documents including the applicable employee handbook, meal and rest break policies, and
27 personnel files for Plaintiffs. Prior to mediation, Plaintiffs therefore obtained and analyzed the
28 production of payroll data for Class Members and the necessary policy documents through informal

discovery to properly evaluate the strengths and weaknesses of the claims and engage in meaningful settlement discussions. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129-130 (2008) ("*Dunk/Kullar*").

51. The Court has not granted class certification and the Parties are stipulating to conditional class certification for Settlement purposes only.

52. 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.

C. MONETARY TERMS.

53. Gross Settlement Amount. Except as otherwise provided by Paragraph H below, Defendant will pay Two Million Two Hundred Thousand Dollars and Zero Cents (\$2,200,000.00) to fully settle, resolve, and extinguish all claims asserted in the Action, including without limitation all claims asserted in the PAGA Notices. The Gross Settlement Amount is non-reversionary and does not include employer payroll taxes owed on the Wage Portion of the Individual Class Payments, which Defendant will pay separately.

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

54.1. To Plaintiffs: A payment for the Class Representative Enhancement Award to the Class Representatives, Bayarmaa G. Shany, Bryan Gonzalez Pineda, and Gabrielle Bristol, of not more than \$10,000.00 per Plaintiff (i.e. \$30,000.00 total) in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member. Defendant will not oppose Plaintiffs' request for a Class Representative Enhancement Award that does not exceed this amount. As part of the motion for the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Enhancement Award. If the Court approves a Class Representative Enhancement Award less than the amount requested, the Administrator will retain the remainder in

1 the Net Settlement Amount to be distributed to Participating Class Members. The Administrator will
2 pay the Class Representative Enhancement Award using IRS Form 1099. Plaintiffs assume full
3 responsibility and liability for employee taxes owed on the Class Representative Enhancement
4 Award and understand they are not receiving tax advice of any nature from either Class Counsel or
5 Defense Counsel.

6 54.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third
7 of the Gross Settlement Amount, which is \$733,333.33, and a Class Counsel Litigation Expenses
8 Payment for reimbursement of actual costs incurred in the Action, which is currently estimated not
9 to exceed \$40,000.00, to be paid as approved by the Court. Defendant will not oppose requests for
10 these payments. Plaintiffs and/or Class Counsel will file a motion requesting Class Counsel Fees
11 Payment and Class Counsel Litigation Expenses Payment no later than 16 (sixteen) court days prior
12 to the Final Approval Hearing, or as otherwise ordered by the Court. If the Court approves a Class
13 Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts
14 requested, the Administrator will allocate the remainder to the Net Settlement Amount for
15 distribution to Participating Class Members. Released Parties shall have no liability to Class Counsel
16 or any other Plaintiffs' counsel arising from any claim to any portion of Class Counsel Fees Payment
17 and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel
18 Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms.
19 Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees
20 Payment and the Class Counsel Litigation Expenses Payment and shall hold Defendant harmless,
21 and indemnify Defendant, from any dispute or controversy regarding any taxes owed and regarding
22 any division or sharing of any of these payments.

23 54.3. To the Administrator: An Administration Costs payment not to exceed
24 \$25,000.00 except for a showing of good cause and as approved by the Court. To the extent the
25 Administration Costs are less, or the Court approves payment of less than \$25,000.00, the
26 Administrator will retain the remainder in the Net Settlement Amount to be distributed to
27 Participating Class Members.

28 54.4. To Each Participating Class Member: An Individual Class Payment is calculated

1 by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all
2 Participating Class Members during the Class Period, and (b) multiplying the result by each
3 individual Participating Class Member's Workweeks.

4 54.4(a) Tax Allocation of Individual Class Payments. Twenty percent (20%)
5 shall be allocated to settlement of wage claims (subject to Form W-2) and eighty percent (80%) shall
6 be allocated to settlement of claims for interest and penalties. IRS Forms W-2 will issue for alleged
7 unpaid wages and IRS Forms 1099 will issue for alleged unpaid interest, penalties and other non-
8 wage remedies. All penalties paid under PAGA shall be allocated as 100% penalties, for which an
9 IRS Form 1099 will issue. The Non-Wage Portion is not subject to wage withholdings and will be
10 reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability
11 for any employee taxes owed on their Individual Class Payment.

12 54.4(b) Effect of Non-Participating Class Members on Calculation of
13 Individual Class Payments. Non-Participating Class Members will not receive any Individual Class
14 Payments. The Administrator will retain amounts equal to their Individual Class Payments in the
15 Net Settlement Amount for distribution to Participating Class Members on a pro-rata basis.

16 54.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
17 \$100,000.00 will be paid from the Gross Settlement Amount, with 75% (\$75,000.00) allocated to
18 the LWDA PAGA Payment and 25% (\$25,000.00) allocated to the Individual PAGA Payments.
19 Aggrieved Employees cannot request exclusion and shall be deemed to have released all PAGA
20 claims under this Agreement.

21 54.5(a) The Administrator will calculate each Individual PAGA Payment by
22 (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties of \$100,000.00
23 by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA
24 Period, and (b) multiplying the result by each individual Aggrieved Employee's PAGA Pay Periods.
25 Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual
26 PAGA Payment.

27 54.5(b) If the Court approves PAGA Penalties of less than the amount
28 requested, the Administrator will allocate the remainder to the Net Settlement Amount to be

distributed to Participating Class Members. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

D. SETTLEMENT FUNDING AND PAYMENTS.

55. Class Workweeks and Aggrieved Employee PAGA Pay Periods. Based on a review of its records, Defendant represents that there were approximately **2,700** Class Members who collectively worked a total of **140,000** Workweeks from October 24, 2019, through March 24, 2025, and approximately **1,204** Aggrieved Employees who worked a total of **77,044** PAGA Pay Periods from October 24, 2022, through March 24, 2025.

56. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

57. Payments from the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments within 20 days of the Effective Date. The monies to be distributed to Participating Class Members (i.e., the Net Settlement Amount) and Aggrieved Employees shall be paid to them by the Administrator within 10 days following the receipt of the fully funded Gross Settlement Amount by the Administrator from Defendants.

58. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail. The face of each check shall prominently state the date (180 days after the date of mailing) when the check

will be voided (“Void Date”). The Administrator will cancel all checks not cashed by the Void Date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom the 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). Before mailing any checks, the Administrator must update the recipients’ mailing addresses using the National Change of Address Database.

59. The Administrator must conduct a Class Member Address Search for all Class Members whose checks are returned undelivered without a USPS forwarding address. Within seven (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.

60. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and canceled 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).

61. 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.

E. RELEASES OF CLAIMS. On the Release Effective Date, Plaintiffs, Class Members, and Aggrieved Employees will release claims against all Released Parties as follows:

62. Plaintiffs’ Release. Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge the Released Parties of and from any and all claims, liabilities, damages, penalties,

1 fees and costs, including but not limited to: all claims for wages, damages, restitution, unreimbursed
2 expenses, equitable relief, penalties, liquidated damages, and/or punitive damages (including,
3 without limitation, claims under any applicable Labor Code, Industrial Welfare Commission Wage
4 Order); Title VII of the Civil Rights Act of 1964; 42 U.S.C. § 1981; the Americans With Disabilities
5 Act; Sections 503 and 504 of the Rehabilitation Act of 1973; the Family Medical Leave Act; the
6 Americans With Disabilities Act, the Fair Labor Standards Act; the Employee Retirement Income
7 Security Act; the Occupational Safety and Health Act; the Worker Adjustment and Retraining
8 Notification Act, as amended; the California Unfair Competition Law (Cal. Bus. & Prof. Code §
9 17200 et seq.); the California Fair Employment and Housing Act; the California Family Rights Act,
10 the California Government Code; any federal, state, local, civil, or statutory laws, or regulations
11 including any and all human rights laws and laws against discrimination, retaliation and harassment;
12 any other federal, state, or local statutes, codes, or ordinances; any common law, contract law, or
13 tort law cause of action; and any claims for interest, attorneys' fees, and/or costs ("Plaintiffs'
14 Release").. Plaintiffs Release does not extend to any claims or actions to enforce this Agreement, or
15 to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits,
16 workers' compensation benefits. Plaintiffs acknowledge that Plaintiffs may discover facts or law
17 different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but
18 agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects,
19 notwithstanding such different or additional facts or Plaintiffs' discovery of them.

20 63. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes
21 of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits,
22 if any, of section 1542 of the California Civil Code, which reads:

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

27 64. Release by Participating Class Members: All Participating Class Members, on behalf
28 of themselves and their respective former and present representatives, agents, attorneys, heirs,

1 administrators, successors, and assigns, release the Released Parties from all claims that were
2 alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint,
3 including the failure to pay minimum wages, straight time compensation, overtime compensation,
4 double-time compensation, and interest thereon; failure to timely pay regular and final wages; the
5 calculation of the regular rate of pay; wages lost from time rounding and timekeeping; non-compliant
6 (e.g., missed, short, late, and/or interrupted) meal periods and rest periods; failure to provide meal
7 periods; failure to authorize and permit rest periods; the calculation and payment of meal period and
8 rest period premiums; payment for all hours worked, including off-the-clock work and
9 uncompensated work time; wage statements and paystubs, including wage statements and paystubs
10 furnished or available in physical, electronic, or other forms; failure to pay sick pay wages; failure
11 to properly calculate sick pay wages; failure to keep accurate records; failure to reimburse for all
12 necessary business expenses; unfair business practices; recordkeeping penalties, wage statement
13 penalties, minimum-wage penalties, and waiting-time penalties; statutory penalties and civil
14 penalties (excluding PAGA); interest for claims for unpaid wages; and attorneys' fees and costs;
15 claims under the California Labor Code including sections 201, 201.3, 202, 203, 204, 210, 218,
16 218.5, 218.6, 221, 223, 224, 226, 226.3, 226.7, 233, 246, 246.5, 248.5, 510, 512, 558, 1174,
17 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2800, and 2802); the Wage Orders of the
18 California Industrial Welfare Commission; and California Business and Professions Code section
19 17200, *et seq.* ("Released Class Claims"). The Released Class Claims only apply to claims arising
20 during the Class Period.

21 65. Release by Aggrieved Employees: Plaintiffs, as representatives for the State of
22 California and the Labor Workforce Development Agency ("LWDA") and on behalf of all
23 Aggrieved Employees, completely release and discharge the Released Parties from any and all
24 claims for the recovery of civil penalties under PAGA that were alleged, or reasonably could have
25 been alleged, based on the facts stated in the Operative Complaint and PAGA Notices that occurred
26 during the PAGA Period, including claims for unpaid wages, failure to pay minimum wages, straight
27 time compensation, overtime compensation, double-time compensation, and interest; the calculation
28 of the regular rate of pay; non-compliant (e.g., missed, short, late, and/or interrupted) meal periods

1 and rest periods; failure to provide meal periods; failure to authorize and permit rest periods; the
2 calculation and payment of meal period and rest period premiums; failure to reimburse for all
3 necessary business expenses; payment for all hours worked, including off-the-clock work and
4 rounded time; failure to pay sick pay, including at the regular rate of pay; wage statements; failure
5 to keep accurate records; unlawful deductions and/or withholdings from wages; failure to timely
6 pay wages; and failure to timely pay final wages (“Released PAGA Claims”). The Released PAGA
7 Claims include claims for violation of the Wage Orders of the California Industrial Welfare
8 Commission and the following California Labor Code sections: 201, 201.3, 202, 203, 204, 210, 218,
9 218.5, 218.6, 221, 223, 224, 226, 226.3, 226.7, 226.8, 233, 246, 246.5, 248.5, 510, 512, 558, 1174,
10 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2800, 2802, 2698 *et seq.*, and 2699 *et*
11 *seq.*) The foregoing release shall apply to all Aggrieved Employees, regardless of whether they
12 exclude themselves from the Released Class Claims. The Released PAGA Claims only apply to
13 claims arising during the PAGA Period.

14 66. Release Effective Date: As of the Release Effective Date, as defined above, all
15 Participating Class Members will release the Release Parties from the Released Class Claims and all
16 Aggrieved Employees will release the Released Parties from the Released PAGA Claims.

17 **F. MOTION FOR PRELIMINARY APPROVAL**. Plaintiffs will prepare and file a
18 motion for preliminary approval (“Motion for Preliminary Approval”).

19 67. Defendant’s Statement of Non-Opposition in Support of Preliminary Approval.
20 Defendant may elect, in its discretion, to file a statement of non-opposition in support of preliminary
21 approval to be filed with or after the Motion for Preliminary Approval documents.

22 68. Plaintiffs’ Responsibilities. Plaintiffs will prepare all documents necessary for
23 obtaining Preliminary Approval, including: (i) a draft of the notice, memorandum in support, Motion
24 for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request
25 for approval of the PAGA portion of the Settlement under Labor Code Section 2699, subd. (f)(2));
26 (ii) a draft proposed Preliminary Approval order; (iii) a draft proposed Class Notice, (iv) a signed
27 declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement
28 and attesting to its willingness to serve; competency; operative procedures for protecting the security

1 of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other
2 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
3 and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense
4 Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve
5 and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members,
6 and/or the Administrator; (vi) a signed declaration from Class Counsel firm attesting to its
7 competency to represent the Class Members; its timely transmission to the LWDA of all necessary
8 PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
9 Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd.
10 (l)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members,
11 and/or the Administrator. In their declarations, Plaintiffs and Class Counsel shall aver that they are
12 not aware of any other pending matter or action asserting claims that will be extinguished or
13 adversely affected by the Settlement.

14 69. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly
15 responsible for expeditiously finalizing the Motion for Preliminary Approval. Class Counsel will
16 obtain a prompt hearing date for the Motion for Preliminary Approval, file the Motion for
17 Preliminary Approval no later than 16 (sixteen) court days before the hearing, unless otherwise
18 ordered by the Court, and deliver the Court's Preliminary Approval to the Administrator.

19 70. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
20 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense
21 Counsel will expeditiously work together on behalf of the Parties by meeting in person or by
22 telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
23 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
24 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting
25 in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the
26 Court's concerns.

27 **G. SETTLEMENT ADMINISTRATION.**

28 71. Selection of Administrator. The Parties have jointly selected Apex to serve as the

1 Administrator and verified that, as a condition of appointment, the Administrator agrees to be bound
2 by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange
3 for payment of Administration Costs. The Parties and their Counsel represent that they have no
4 interest or relationship, financial or otherwise, with the Administrator other than a professional
5 relationship arising out of the instant action or prior experiences administering settlements.

6 72. Employer Identification Number. The Administrator shall have and use its own
7 employer identification number for purposes of calculating payroll tax withholdings and providing
8 reports and paying taxes to state and federal tax authorities.

9 73. Qualified Settlement Fund. The Administrator shall establish a settlement fund that
10 meets the requirements of a “Qualified Settlement Fund” (“QSF”) under US Treasury Regulation
11 section 468B-1 for the funding of the Gross Settlement Amount. Any interest that accrues on the
12 Gross Settlement Amount sums paid into the QSF prior to distribution by the Administrator will
13 become part of the Net Settlement Amount for distribution to Participating Class Members. The QSF
14 will be fully funded in one payment as addressed above.

15 74. Notice to Class Members.

16 74.1 No later than five (5) calendar days after receipt of the Class Data, the
17 Administrator shall notify Class Counsel that the list has been received and state the number of Class
18 Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.

19 74.2 Using best efforts to perform as soon as possible, and in no event later than
20 14 (fourteen) days after receiving the Class Data, the Administrator will send to all Class Members
21 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class
22 Notice with Spanish translation if the parties deem necessary substantially in the form attached to
23 this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar
24 amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class
25 Member, and the number of Workweeks and PAGA Pay Periods used to calculate these amounts.
26 Before mailing Class Notice, the Administrator shall update Class Member addresses using the
27 National Change of Address Database.

28 74.3 Not later than five (5) calendar days after the Administrator’s receipt of any

1 Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
2 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding
3 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class
4 Notice to the most current address obtained. The Administrator has no obligation to make further
5 attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the
6 USPS a second time.

7 74.4 The deadlines for Class Members' written objections, challenges to
8 Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional
9 fourteen days (14) days beyond the forty-five (45) days otherwise provided in the Class Notice for
10 all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of
11 the extended deadline with the re-mailed Class Notice.

12 74.5 If the Administrator, Defendants, or Class Counsel is contacted by or
13 otherwise discovers any persons who believe they should have been included in the Class Data and
14 should have received Class Notice, the Parties will expeditiously meet and confer in person or by
15 telephone, and in good faith in an effort to agree on whether to include them as Class Members. If
16 the Parties agree, such persons will be Class Members entitled to the same rights as other Class
17 Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring
18 them to exercise options under this Agreement not later than 14 (fourteen) days after receipt of Class
19 Notice, or the deadline dates in the Class Notice, whichever are later.

20 75. Requests for Exclusion (Opt-Outs).

21 75.1 Class Members who wish to exclude themselves (opt-out of) the Class portion
22 of the Settlement must send the Administrator, by fax, email, or mail, a signed written Request for
23 Exclusion not later than 45 (forty-five) days after the Administrator mails the Class Notice (plus an
24 additional 14 (fourteen) days for Class Members whose Class Notice is re-mailed). A Request for
25 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates
26 the Class Member's election to be excluded from the Class portion of the Settlement and includes
27 the Class Member's name, address and email address or telephone number. To be valid, a Request
28 for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

1 75.2 The Administrator may not reject a Request for Exclusion as invalid because
2 it fails to contain all the information specified in the Class Notice. The Administrator shall accept
3 any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the
4 person as a Class Member and the Class Member's desire to be excluded. The Administrator's
5 determination shall be final and not appealable or otherwise susceptible to challenge. If the
6 Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator
7 may demand additional proof of the Class Member's identity. The Administrator's determination of
8 authenticity shall be final and not appealable or otherwise susceptible to challenge.

9 75.3 Every Class Member who does not submit a timely and valid Request for
10 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
11 benefits and bound by all terms and conditions of the Settlement, including the Participating Class
12 Members' releases under Paragraphs 64 and 65 of this Agreement, regardless of whether the
13 Participating Class Member actually receives the Class Notice or objects to the Settlement.

14 75.4 Every Class Member who submits a valid and timely Request for Exclusion
15 is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the
16 right to object to the class action components of the Settlement. Because future PAGA claims are
17 subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are
18 Aggrieved Employees are deemed to release the Released PAGA Claims identified in Paragraph 66
19 of this Agreement and are eligible for an Individual PAGA Payment.

20 76. Challenges to Calculation of Workweeks. Each Class Member shall have 45 (forty-
21 five) days after the Administrator mails the Class Notice (plus an additional 14 (fourteen) days for
22 Class Members whose Class Notice is re-mailed) to challenge the number of Workweeks and PAGA
23 Pay Periods allocated to the Class Member in the Class Notice. The Class Member may challenge
24 the allocation by communicating with the Administrator via fax, email or mail. The Administrator
25 must encourage the challenging Class Member to submit supporting documentation. In the absence
26 of any contrary documentation, the Administrator is entitled to presume that the Workweeks and
27 PAGA Pay Periods contained in the Class Notice are correct so long as they are consistent with the
28 Class Data. The Administrator's determination of each Class Member's allocation of Workweeks

and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to the calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of the challenges.

77. Objections to Settlement.

77.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Enhancement Award.

77.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court at their own expense) to present 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 45 (forty-five) days after the Administrator's mailing of the Class Notice (plus an additional 14 (fourteen) days for Class Members whose Class Notice was re-mailed).

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

78. 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.

78.1 Website, Email Address and Toll-Free Number. The Administrator will establish, 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 Agreement, Motion for Preliminary Approval, Preliminary Approval, Class Notice, Motion for Final Approval, motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Enhancement Award, 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.

1 78.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
2 promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than
3 five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the
4 Administrator shall email a list to Defense Counsel containing (a) the names and other identifying
5 information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion
6 List”); (b) the names and other identifying information of Class Members who have submitted
7 invalid Requests for Exclusion; (c) copies of all Requests for Exclusion submitted (whether valid or
8 invalid). The Administrator may provide the names of the Class Members who have timely
9 submitted valid Requests for Exclusion to Class Counsel, but shall not provide any other personal
10 identifying information (e.g., address, phone number, email, etc.)

11 78.3 Weekly Reports. The Administrator must, on a weekly basis, provide written
12 reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class
13 Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether
14 valid or invalid) received, objections received, challenges to Workweeks and/or PAGA Pay Periods
15 received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA
16 Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of
17 the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections
18 received.

19 78.4 Workweek and/or PAGA Pay Period Challenges. The Administrator has the
20 authority to address and make final decisions consistent with the terms of this Agreement on all
21 Class Member challenges over the calculation of Workweeks and/or PAGA Pay Periods. The
22 Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

23 78.5 Administrator’s Declaration. Not later than 14 (fourteen) days before the date
24 by which Plaintiffs are required to file the Motion for Final Approval, the Administrator will provide
25 to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to
26 its due diligence and compliance with all of its obligations under this Agreement, including, but not
27 limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of
28 Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion 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.

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

H. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds five percent (5%) of the total of all Class Members, Defendant may, but is not obligated, to 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 Costs incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than ten (10) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

I. MOTION FOR FINAL APPROVAL. Not later than 16 (sixteen) court days before the calendared Final Approval Hearing, unless otherwise scheduled by the Court, Plaintiffs will file in Court, a Motion for Final Approval of the Settlement that includes a request for approval of the PAGA portion of the settlement under Labor Code section 2699, subd. (l); a proposed Final Approval; and a proposed Judgment (collectively "Motion for Final Approval").

79. 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 (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by

1 the Court.

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

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

14 82. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
15 conditions of this Agreement, specifically including but not limited to the Class Counsel Fees
16 Payment and Class Counsel Litigation Expenses Payment as set forth in this Settlement, the Parties,
17 their respective counsel, and all Participating Class Members who did not object to the Settlement
18 as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
19 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for
20 new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the
21 right to oppose such motions, writs or appeals. If an appeal is filed with respect to the Judgment or
22 Final Approval Order, the Parties' obligations to perform under this Agreement will be suspended
23 until such time as the appeal is finally resolved and the Judgment becomes final.

24 83. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
25 reviewing court vacates, reverses, or modifies the Judgment in a manner that requires a material
26 modification of this Agreement (including, but not limited to, the scope of release to be granted by
27 Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously
28 work together in good faith to address the appellate court's concerns and to obtain Final Approval

1 and Judgment, sharing, on a 50-50 basis, any additional Administration Costs reasonably incurred
2 after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class
3 Representative Enhancement Award, Class Counsel Fees Payment and/or Class Counsel Litigation
4 Expenses Payment shall not constitute a material modification of the Judgment within the meaning
5 of this paragraph, as long as the Gross Settlement Amount remains unchanged.

6 **J. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil
7 Procedure §384, the Parties will work together in good faith to jointly submit a proposed amended
8 judgment.

9 **K. ADDITIONAL PROVISIONS.**

10 84. No Admission of Liability, Class Certification or Representative Manageability for
11 Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims.
12 Nothing in this Agreement is intended or should be construed as an admission by Defendant that any
13 of the allegations in the Operative Complaint or PAGA Notices has merit or that Defendant has any
14 liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff
15 that Defendants' defenses in the Action have merit. The Parties agree that class certification and
16 representative treatment is for purposes of this Settlement only. If, for any reason, the Court does
17 not grant Preliminary Approval, Final Approval, or enter Judgment, Defendant reserves the right to
18 contest certification of any class for any reason, Defendant reserves all available defenses to the
19 claims in the Action (including but not limited to the arbitration agreement and class waiver signed
20 by Plaintiffs), and Plaintiffs reserve the right to move for class certification on any grounds available
21 and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to
22 settle the Action will have no bearing on, and will not be admissible in connection with, any litigation
23 (except for proceedings to enforce or effectuate the Settlement and this Agreement).

24 85. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant,
25 and Defense Counsel separately agree that, until the Motion for Preliminary Approval is filed, they
26 and each of them will not disclose, disseminate and/or publicize, or cause or permit another person
27 to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly,
28 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) to the extent necessary to report income to appropriate taxing authorities; (3) in response to a court order or subpoena; or (4) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify the other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendants, 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.

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

87. 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.

88. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to negotiate the terms of this Agreement, and to take all appropriate action required or permitted to obtain approval of the settlement embodied herein by the Court.

89. 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 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 mediator Jason Marsili for resolution.

90. 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.

91. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendants 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.

92. 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.

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

94. 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.

95. 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.

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

97. 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.

98. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall

1 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend
2 or federal legal holiday, such date or deadline shall be on the first business day thereafter.

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

7 To Plaintiffs:

8 **D.LAW, INC.**
9 David Yeremian
10 d.yeremian@d.law
11 Alvin B. Lindsay
12 a.lindsay@d.law
13 Enoch J. Kim
14 e.kim@d.law
15 Marta Manus
16 m.manus@d.law
17 450 N. Brand Blvd., Suite 840
18 Glendale, CA 91203
19 Telephone: (818) 962-6465
20 Fax: (818) 962-6469

21 To Defendant:

22 **FISHER & PHILLIPS LLP**
23 Lonnie D. Giamela
24 lgiamela@fisherphillips.com
25 Vana Ebrahimi
26 vebrahimi@fisherphillips.com
27 Rima A. Sahakyan
28 rsahakyan@fisherphillips.com
444 S Flower St, Ste 1500
Los Angeles, CA 90071
Telephone: (213) 330-4454
Fax: (213) 330- 4501

100. Execution in Counterparts. This Agreement may be executed in one or more
counterparts by facsimile, electronically (i.e., DocuSign), or by 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.

101. 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 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.

102. 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 Defendants 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 Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destructions, of Class Data.

103. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable.

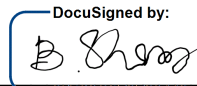
104. Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defense Counsel and Class Counsel, on behalf of the Parties, the Class Members, and the Aggrieved Employees, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED.

By the Parties:

DATED: 9/5/2025

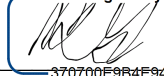
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Plaintiff Bayarmaa G. Shany

1 DATED: 9/5/2025

DocuSigned by:



370700E9B4E94EF...

Plaintiff Bryan Gonzalez Pineda

2
3 DATED: 9/5/2025

Signed by:



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Plaintiff Gabrielle Bristol

4
5 DATED: 9/11/25



Defendants Saks and Company, LLC and Saks Fifth Avenue, LLC

By: Janet O. Lee

Position: AGC, Labor & Employment

8
9 Approved by counsel:

10 DATED: 9/5/2025

D.LAW, INC.

By:



Alvin Lindsay

Enoch J. Kim

Marta Manus

Counsel for Plaintiffs, Bayarmaa G. Shany, Bryan Gonzalez Pineda, and Gabrielle Bristol

14
15 DATED: 9/18/2025

FISHER & PHILLIPS LLP

By:



Lonnie D. Giamela

Vana Ebrahimi

Rima A. Sahakyan

Attorneys for Defendants Saks and Company, LLC and Saks Fifth Avenue, LLC