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LEICA BIOSYSTEMS IMAGING, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

NICK DE VERA, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

LEICA BIOSYSTEMS IMAGING, INC. and
DOES 1 through 50, inclusive,

Defendants.

Case No. 37-2023-00035127-CU-OE-CTL

Honorable Gregory W. Pollack, Department 71

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT**

Complaint Filed: August 15, 2023
FAC Filed: October 9, 2023

1 This Class Action and PAGA Settlement Agreement is between (1) Nick De Vera, Benito
2 Bavarella, and Angel Ramirez —individually and on behalf of the Class Members and PAGA
3 Employees defined below—and (2) Defendant, Leica Biosystems Imaging, Inc. (collectively, the
4 “Parties”). By this Agreement, the Parties intend, with judicial approval, to settle the Action (defined
5 below). If this Agreement is not finally approved, or is otherwise nullified, then the Parties shall return
6 to their positions preceding this Agreement and Defendant shall retain all rights to challenge Plaintiffs’
7 claims and the certification of any class, unless the Parties agree to seek reconsideration of the ruling or
8 Court approval of a renegotiated agreement.

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EXHIBITS

Notice of SettlementA

1 **1. Definitions**

2 The following definitions apply to this Agreement. Each defined term appears throughout in
3 initial capital letters.

4 **1.1. Action.** “Action” means the lawsuit entitled *Nick De Vera v. Leica Biosystems Imaging,*
5 *Inc., et al.*, filed August 15, 2023 in the Superior Court of the State of California for the County of San
6 Diego as Case No. 37-2023-00035127-CU-OE-CTL, and all complaints filed therein.

7 **1.2. Administrative Costs.** “Administrative Costs” means all costs that the Settlement
8 Administrator incurs in administering this Agreement.

9 **1.3. Agreement.** “Agreement” means this Class Action and PAGA Settlement Agreement,
10 which includes all its Recitals and all the attached Exhibits. **Class Counsel.** “Class Counsel” refers to
11 Ferraro Vega Employment Lawyers, Inc. For purposes of providing any notice under this Agreement,
12 Class Counsel shall refer to Nicholas J. Ferraro and Lauren N. Vega, nick@ferrarovega.com and
13 lauren@ferrarovega.com

14 **1.5. Class Counsel Award.** “Class Counsel Award” refers to the amount of attorney’s fees
15 and costs that the Court awards in connection with resolving the Action in accordance with this
16 Agreement.

17 **1.6. Class Members.** “Class Members” refers to those individuals who for purposes of this
18 Agreement will be certified as members of the class, defined as follows: all individuals whom Defendant
19 employed in California as nonexempt employees at any time during the Settlement Period for Class
20 Members.

21 **1.7. Class Period.** See “Settlement Period.”

22 **1.8. Class Representative.** “Class Representative” or “Class Representatives” refers to Nick
23 De Vera, Benito Bavarella, and Angel Ramirez, collectively or individually, respectively.

24 **1.9. Complaint.** “Complaint” refers to any and all complaints filed in the Action.

25 **1.10. Consideration Period.** “Consideration Period” refers to the 45 calendar days following
26 initial mailing of the Notice of Settlement, during which an individual can submit an Objection or a
27 Request for Exclusion.
28

1 **1.11. Court.** “Court” refers to the judge presiding over this Action in the California Superior
2 Court for the County of San Diego.

3 **1.12. Defendant.** “Defendant” refers to Leica Biosystem Imaging, Inc.

4 **1.13. Defense Counsel.** “Defense Counsel” refers to Seyfarth Shaw LLP. For purposes of
5 providing any notices required under this Agreement, Defense Counsel shall refer to Timothy M.
6 Rusche, trusche@seyfarth.com.

7 **1.14. Effective Date.** “Effective Date” shall be the later of (a) the Court’s final approval of the
8 Agreement, if no objections have been filed, (b) the time of appeal has expired if an objection has been
9 filed, (c) or the final resolution of any appeal that has been filed.

10 **1.15. Fairness Hearing.** “Fairness Hearing” is the hearing at which the Court decides whether
11 the terms of the Agreement are fair, reasonable, and adequate and meet all requirements for Final
12 Approval.

13 **1.16. Final Approval Order.** “Final Approval Order” is the order the Court issues, in
14 connection with the Fairness Hearing, that approves this Agreement. **Gross Settlement Amount.**
15 “Gross Settlement Amount” refers to the maximum payment Defendant may be obligated to make in
16 connection with the Agreement: \$200,000. This sum includes all Individual Settlement Payments, any
17 Service Award, the PAGA Payment, Administrative Costs, and the Class Counsel Award; provided,
18 however, it excludes Defendant’s share of employer payroll taxes.

19 **1.18. Individual Settlement Payment.** “Individual Settlement Payment” refers to the amount
20 the Settlement Administrator distributes from the Net Settlement Amount to each Settlement Class
21 Member.

22 **1.19. Judgment.** “Judgment” refers to the final judgment entered by the Court in this Action
23 after finally approving the Agreement.

24 **1.20. LWDA.** “LWDA” refers to the California Labor & Workforce Development Agency,
25 which enforces the Private Attorneys General Act of 2004 (“PAGA”), and which receives the LWDA
26 portion of the PAGA Payment.

1 **1.21. LWDA Letters.** “LWDA Letters” refers to the letter Nick De Vera submitted to the
2 LWDA, dated August 2, 2023, and the letter Benito Bavarella and Angel Ramirez submitted to the
3 LWDA, dated March 27, 2024.

4 **1.22. Net Settlement Amount.** “Net Settlement Amount” refers to the portion of the Gross
5 Settlement Amount that remains after accounting for any Service Award, the PAGA Payment,
6 Administrative Costs, and the Class Counsel Award.

7 **1.23. Notice of Settlement.** “Notice of Settlement” means a notice of the terms of the
8 Agreement, substantially in the form attached as Exhibit A.

9 **1.24. Objection.** “Objection” refers to a written statement timely submitted to the Settlement
10 Administrator that contains (1) the Objector’s full name and current mailing address, (2) the last four
11 digits of the Objector’s social security number, (3) the specific reason(s) for the Objection, and (4) all
12 evidence and supporting papers (including, without limitation, all briefs, written evidence, and
13 declarations) for the Court to consider.

14 **1.25. Objector.** “Objector” refers to a Settlement Class Member who has submitted an
15 Objection.

16 **1.26. PAGA Members.** “PAGA Members” refers to all individuals whom Defendant
17 employed in California as nonexempt employees at any time during the PAGA Period.

18 **1.27. PAGA Payment.** “PAGA Payment” refers to a payment in settlement of a claim for civil
19 penalties under the Private Attorneys General Act of 2004, 75% shall be payable to the LWDA and 25%
20 shall be payable to the Net Settlement Amount.

21 **1.28. PAGA Period.** “PAGA Period” refers to the period beginning on August 2, 2022 through
22 December 9, 2024 or Preliminary Approval, whichever is earlier.

23 **1.29. Parties.** “Parties” refers collectively to (1) Plaintiffs and (2) Defendant.

24 **1.30. Plaintiff or Plaintiffs.** “Plaintiff” or “Plaintiffs” refers to Class Representative Nick De
25 Vera, Benito Bavarella, and Angel Ramirez, individually or collectively.

26 **1.31. Preliminary Approval.** “Preliminary Approval” refers to the court order granting
27 preliminary approval of this Agreement.
28

1 **1.32. Qualified Settlement Fund.** “Qualified Settlement Fund” means a qualified settlement
2 fund established pursuant to U.S. Treasury Regulation section 468B-1, 29 C.F.R. § 468B-1.

3 **1.33. Released Class Claims.** “Released Class Claims” refers to all claims that this
4 Agreement will extinguish as to all Settlement Class Members who do not submit a valid and timely
5 Request for Exclusion, upon the deposit of the Gross Settlement Amount in the Qualified Settlement
6 Fund.

7 **1.34. Released PAGA Claims.** “Released PAGA Claims” refers to all claims that this
8 Agreement will extinguish as to all PAGA Members, upon the deposit of the Gross Settlement Amount
9 in the Qualified Settlement Fund.

10 **1.35. Released Parties.** “Released Parties” refers to Defendant and each and all of its current
11 or former subsidiaries, parents, affiliates, joint ventures, predecessors, insurers, agents, employees,
12 successors, assigns, officers, officials, directors, attorneys, personal representatives, executors, and
13 shareholders, including their respective pension, profit sharing, savings, health, and other employee
14 benefits plans of any nature, the successors of such plans, and those plans’ respective current or former
15 trustees and administrators, agents, employees, and fiduciaries.

16 **1.36. Request for Exclusion.** “Request for Exclusion” refers to a timely, written, opt-out
17 request signed by a Class Member and submitted to the Settlement Administrator with the following
18 information: (1) the Class Member’s full name and current mailing address, (2) the last four digits of the
19 Class Member’s social security number, (3) an express statement that the Class Member wishes to be
20 excluded from the terms of the Agreement.

21 **1.37. Service Award.** “Service Award” refers to any payment that the Court awards for service
22 as a Class Representative and for entering into special agreements described in Paragraph 8 of this
23 Agreement.

24 **1.38. Settlement Administrator.** “Settlement Administrator” refers to the third-party
25 administrator, identified below, that the Parties select.

26 **1.39. Settlement Class.** “Settlement Class” refers to all Class Members who do not file a
27 timely and valid Request for Exclusion.
28

1 **1.40. Settlement Period.** “Settlement Period for Class Members” refers to the period
2 beginning on August 15, 2019 through December 9, 2024 or Preliminary Approval, whichever is earlier.

3 **2. Recitals and Procedural History**

4 **2.1. Business of Defendant.** Defendant has employed individuals in California.

5 **2.2. Allegations in Complaint.** On August 15, 2023, Plaintiff Nick De Vera filed his
6 Class Action Complaint against Defendant, in San Diego County Superior Court, Case No. 37-2023-
7 00035127-CU-OE-CTL. On October 9, 2023, Plaintiff Nick De Vera amended his Complaint to allege a
8 claim under the California Private Attorneys General Act (“PAGA”). The Action has asserted claims
9 for, among other things: (1) Failure to Pay All Overtime Wages; (2) Meal Period Violations; (3) Rest
10 Period Violations; (4) Paid Sick Leave Violations; (5) Untimely Payment of Wages; (6) Wage Statement
11 Violations; (7) Waiting Time Penalties; (8) Failure to Reimburse Business Expenses; (9) Unfair
12 Competition; and (10) PAGA.

13 **2.3. Second Amended Complaint.** After the execution of this Agreement, Plaintiffs
14 will, but before moving for Preliminary Approval, file a Second Amended Complaint (“2AC”) adding
15 Benito Bavarella and Angela Ramirez as plaintiffs. Defendant’s obligation to file an answer to the 2AC
16 is stayed pending the Preliminary Approval hearing and Fairness Hearing, and will be mooted by Final
17 Approval of this Agreement.

18 **2.4. Defendant’s Denials.** Defendant denies (1) all the material allegations in this
19 Action, (2) that Defendant violated any applicable laws, (3) that Defendant is liable for damages,
20 penalties, interest, restitution, attorneys’ fees, or costs, or for any other remedy on account of the claims
21 asserted in the Action, and (4) that class certification, collective action certification, or representative
22 treatment is appropriate as to any claim in the Action. Defendant contends that its policies, procedures,
23 and practices comply with all laws asserted in the Action. Defendant has agreed to settle the Action
24 solely to avoid the burden, expense, and uncertainty of litigation. Any statements in this Agreement are
25 made for settlement purposes only.

26 **2.5. Class Counsel’s Investigation.** Class Counsel has investigated the facts relating
27 to the claims alleged in the Action and also has analyzed all defenses. Class Counsel interviewed Class
28

Members regarding the claims in the Action, and has examined Defendant's compliance with its policies, procedures, and practices.

2.6. Negotiation of Settlement. Class Counsel has engaged in arms-length negotiations with Defendant with a view toward achieving substantial benefits while avoiding the cost, delay, and uncertainty of further litigation. Plaintiffs will urge that the Court approve this Agreement after considering (1) the factual and legal defenses to the claims asserted, which render uncertain the ultimate outcome of the Action, (2) the potential difficulties Plaintiffs would encounter in establishing their claims and maintaining class or collective treatment, (3) the substantial benefits produced by this Agreement, (4) that this Agreement provides relief in an expeditious and efficient manner, compared to any manner of recovery possible after litigation and potential appeal, and (5) that this Agreement allows Class Members to opt out of the Action and individually pursue the claims alleged on behalf of the class in the Action

2.7. Certification for Settlement Purposes. This Agreement is contingent upon approval of class certification under California Code of Civil Procedure Section 382 for settlement purposes only, and the execution of a general release and confidential settlement agreement by Plaintiffs. Defendant expressly reserves the right to challenge the propriety of class certification or representative treatment for any other purpose should the Court not approve the Agreement.

3. The Gross Settlement Amount.

3.1. The Gross Settlement Amount is \$200,000. In no event shall Defendant, absent its further agreement, be obligated to pay more than that amount, except Defendant's share of employer payroll taxes, and as provided for in Section 7.6.1. The Gross Settlement Amount includes all Individual Settlement Payments, any Service Award, the Class Counsel Award, the PAGA Payment, and Administrative Costs. Defendant's share of the payroll taxes will be paid separately.

4. The Net Settlement Amount

4.1. Calculation of the Amount. The Net Settlement Amount is the portion of the Gross Settlement Amount that remains after deducting amounts for any Service Award, the PAGA Payment, Administrative Costs, and the Class Counsel Award.

1 **4.2. Calculation of Estimated Individual Settlement Payments.** Estimated

2 Individual Settlement Payments will be calculated on the basis of the number of actual weeks worked
3 attributed to a Class Member in proportion to the total number of actual weeks worked attributed to all
4 Class Members during the Settlement Period for Class Members, following the formula described in
5 Section 7 of this Agreement, on the assumption that each eligible individual will fully participate in the
6 Agreement.

7 **5. Selection of Settlement Administrator and Notice of Settlement**

8 **5.1. Selection of Settlement Administrator.** The Parties will mutually select a
9 qualified settlement administrator to serve as the Settlement Administrator before the hearing on
10 Preliminary Approval.

11 **5.2. Settlement Administration.** The Settlement Administrator will, as necessary,
12 print, copy, format, and translate materials, mail notices to Class Members, perform a skip trace for
13 undeliverable addresses, establish and maintain a Qualified Settlement Fund, obtain appropriate tax
14 identification numbers, calculate Individual Settlement Payments, calculate payroll withholdings and
15 payroll taxes, prepare and file all required IRS Forms, mail Individual Settlement Payments and tax
16 forms, establish a hotline telephone number for class member communications, post notices regarding
17 settlement on the Settlement Administrator's website, remit all tax payments and required
18 documentation to federal and state taxing authorities, implement the process for any uncashed settlement
19 checks, and perform all other duties associated with settlement administration, including, but not limited
20 to, all those specified in this Agreement. Any dispute relating to settlement administration shall, after
21 good-faith efforts by the Parties to resolve the dispute, be referred to the Court.

22 **5.3. Confidential Data for the Settlement Administrator.** Within 30 calendar days
23 of Preliminary Approval, Defendant will give the Settlement Administrator a confidential class list
24 containing the names, employee ID numbers, last known address, dates of employment, and numbers of
25 weeks worked during the Settlement Period for Class Members and PAGA Period. Defendant shall also
26 provide, when needed, social security numbers to facilitate the administration of this Agreement. The
27 Settlement Administrator shall keep the class data provided by Defendant strictly confidential and shall
28 use the class data only for the purposes described in this Agreement, and shall return the class data to

Defendant or confirm the destruction of same upon completing the work called for by this Agreement. Notwithstanding the foregoing, the Settlement Administrator may provide Class Counsel with a redacted list of potential Individual Settlement Payments, which shall not include Class Member names or addresses or identify any Class Member by name or address.

5.4. Mailing Materials to Class Members. Within 45 calendar days of Preliminary Approval, the Settlement Administrator shall send the Notice of Settlement to Class Members via First Class U.S. mail, using the last-known mailing address for each Class Member. Any mailing returned as undeliverable shall be sent within five calendar days via First Class U.S. Mail to any available forwarding address. If no forwarding address is available, then the Settlement Administrator shall attempt to determine the correct address by using a computer-based skip-trace search, and shall then perform, if feasible, a re-mailing via First Class U.S. Mail within five calendar days. If no current address is available for a Class Member, then the Notice of Settlement for that Class Member will be deemed undeliverable. Only one re-mailing is required. If a Class Member cannot be located within two attempts at mailing, then the Notice of Settlement for that Class Member will be deemed undeliverable.

5.5. Proof of Mailing. At least five calendar days prior to the Fairness Hearing, the Settlement Administrator shall provide a declaration of due diligence and proof of mailing with regard to the mailing of the Notice of Settlement to Class Counsel and Defense Counsel, which they shall in turn provide to the Court.

6. Responses to Notice of Settlement

6.1. Consideration Period. Within the Consideration Period, Class Members may opt out of the proposed class action settlement by submitting a Request for Exclusion (as provided below) or may submit a dispute (as provided for in the Notice of Settlement) or may submit an Objection (as provided below). Except as specifically provided herein, no response postmarked after the Consideration Period shall be considered.

6.2. Requests for Exclusion and Opt-Out Rights. Class Members will have the opportunity to opt out by submitting a Request for Exclusion.

6.2.1. Opt-Out Procedure. Class Members may opt out of the class action settlement by mailing the Settlement Administrator a Request for Exclusion. A Request for Exclusion, to

1 be valid, must be signed and dated by the Class Member, must provide the Class Member's full name,
2 current address, current telephone number, and the last four digits of the Class Member's social security
3 number, and must include an express statement that the Class Member wishes to be excluded from the
4 terms of the class settlement. Any Request for Exclusion that does not include all of the required
5 information or that is not submitted in a timely manner will be deemed ineffective.

6 **6.2.2. Effect of Opting Out.** Any Class Member who opts out of the class
7 settlement may not submit an Objection, shall not receive any Individual Settlement Payment, and shall
8 not be bound by the releases that this Agreement entails; provided, however, any such Class Member
9 employed at any time within the PAGA Period shall still receive a share of the PAGA Payment and be
10 bound by the Released PAGA Claims. Each Class Member who does not submit a timely, valid Request
11 for Exclusion shall be bound by the releases that this Agreement entails.

12 **6.2.3. Tolerance of Opt-Outs—Defendant's Right to Withdraw.** If the
13 number of Class Members who opt out by submitting Requests for Exclusion exceeds 5 percent of the
14 total number of Class Members, then Defendant may, in the exercise of its sole discretion, withdraw
15 from this Agreement. Defendant's right to withdraw expires 15 calendar days after the end of the
16 Consideration Period. If Defendant exercises its right to withdraw pursuant to this provision, Defendant
17 shall pay all Administrative Costs.

18 **6.3. Objections.** Unless otherwise provided in this Agreement, only those Class
19 Members who do not submit a Request for Exclusion shall be entitled to object to the terms of the
20 Agreement.

21 **6.3.1. Objection Procedure.** Any written Objection must be made using the
22 procedures set forth in the Notice of Settlement, and must contain (1) the Objector's full name and
23 current mailing address, (2) the last four digits of the Objector's social security number, (3) the specific
24 reason(s) for the Objection, and (4) all evidence and supporting papers (including, without limitation, all
25 briefs, written evidence, and declarations) for the Court to consider. Objectors can also appear at the
26 Fairness Hearing either in person or through counsel. An Objection may be withdrawn at any time.

27 **6.3.2. Waiver of Objections.** Class Members who fail to submit an Objection to
28 the Settlement Administrator in the manner specified in the Notice of Settlement or who fail to appear

1 either in person or through counsel at the Fairness Hearing shall be deemed to have waived any
2 objection and shall be foreclosed from objecting to this Agreement, whether by appeal or otherwise.

3 **6.4. Proof of Responses.** At least 20 court days prior to the Fairness Hearing, the
4 Settlement Administrator will prepare a declaration to submit to the Court regarding responses to the
5 Notice of Settlement, including such information as any inability to deliver mailings because of invalid
6 addresses, the number of any Requests for Exclusion, and the employee ID numbers of those Class
7 Members who submitted timely and valid Requests for Exclusion, and the number of any Objections and
8 a copy of all documents submitted with any Objections.

9 **6.5. Binding Effect of Settlement.** Although a Class Member might not timely submit
10 a Request for Exclusion because of inability to locate the Class Member's current address, or for other
11 reasons beyond the Class Member's control, that Class Member shall nonetheless be bound by this
12 Agreement.

13 **6.6. No Interference with Class Member Responses.** Each Party agrees not to
14 encourage any Class Member to submit an Objection or a Request for Exclusion and agrees not to
15 retaliate against any Class Member for participating in this Agreement.

16 **7. Administration of Settlement Proceeds**

17 **7.1. Final Funding of Gross Settlement Amount.** Within 25 calendar days of the
18 Effective Date, Defendant will deposit the Gross Settlement Amount into the Qualified Settlement Fund.

19 **7.2. Administrative Costs.** Administrative Costs shall not exceed \$10,000, which
20 shall be deducted from the Gross Settlement Amount. The amount of Administrative Costs is not a
21 material term: if the Court approves a lesser amount, then the other terms of this Agreement shall remain
22 in effect and the difference shall become part of the Net Settlement Amount.

23 **7.3. Class Counsel Award.** Class Counsel intend to request—and Defendant agrees
24 not to oppose—a payment from the Gross Settlement Amount for (a) attorney's fees in an amount up to
25 33.33% of the Gross Settlement Amount, or \$70,000 and (b) litigation costs actually incurred in
26 representing the interests of the class, supported by adequate documentation, in an amount up to
27 \$25,000.
28

1 **7.3.1. Approval of Class Counsel Award Not Material.** Approval of the Class
2 Counsel Award is not a material term. If the Court approves only a lesser amount, then the other terms
3 of this Agreement shall remain in effect and the difference shall become part of the Net Settlement
4 Amount.

5 **7.3.2. Timing of Class Counsel Award.** The Settlement Administrator shall
6 issue the Class Counsel Award by 15 calendar days after the Gross Settlement Amount is deposited into
7 the Qualified Settlement Fund. Within 10 calendar days after the Effective Date, Class Counsel shall
8 instruct the Settlement Administrator as to how the Class Counsel Award may be paid. The Settlement
9 Administrator shall issue an appropriate Internal Revenue Service Form 1099 to Class Counsel. Class
10 Counsel shall be solely responsible for paying all applicable taxes on any Class Counsel Award and
11 shall indemnify and hold harmless Defendant from any claim or liability for taxes, penalties, or interest
12 arising as a result of the Class Counsel Award. Plaintiffs, Class Counsel, and the Settlement Class waive
13 any additional claim for attorneys' fees and costs incurred in connection with the Action, if Final
14 Approval is granted by the Court and the Effective Date passes.

15 **7.4. Service Award.** Class Counsel intends to request a payment from the Gross Settlement
16 Amount for a Service Award for the Class Representatives in the amount of \$10,000 for Plaintiff Nick
17 De Vera, and payments of \$5,000 each for Plaintiff Benito Bavarella and Angel Ramirez. Any Service
18 Award would be in addition to the Class Representative's Individual Settlement Payment.

19 **7.4.1. Approval of Service Award Not Material.** Approval of a Service Award
20 is not a material term. If the Court does not approve a Service Award or approves only a lesser amount
21 than that requested, then the other terms of this Agreement shall remain in effect and the difference shall
22 become part of the Net Settlement Amount.

23 **7.4.2. Timing of Service Award.** The Settlement Administrator shall pay any
24 Service Award within 15 calendar days after the Gross Settlement Amount is deposited into the
25 Qualified Settlement Fund. The Class Representatives shall be solely responsible for paying all
26 applicable taxes on any Service Award and shall indemnify and hold harmless Defendant from any
27 claim or liability for taxes, penalties, or interest arising as a result of the Service Award.
28

1 **7.5. PAGA Payment.** The Parties will seek approval for a PAGA Payment from the
2 Gross Settlement Amount in the amount of \$40,000, 75% of which will go to the LWDA and 25% of
3 which will go to PAGA Members. Notwithstanding anything else in this Agreement, PAGA Members
4 who submit a valid, timely Request for Exclusion shall receive a share of 25% of the PAGA Payment
5 and shall be bound by the Released PAGA Claims. Each PAGA Member shall be entitled to a share of
6 25% of the PAGA Payment allocated to PAGA Members (“Individual PAGA Payment”), calculated as
7 described below. Defendant’s time records regarding the number of pay periods actually worked shall
8 control for purposes of the calculation. Defendant will provide to the Settlement Administrator the total
9 number of pay periods that each PAGA Member worked during the PAGA Period and the total number
10 of pay periods that all PAGA Members worked during that period (“Total PAGA Member Pay
11 Periods”). Each PAGA Member’s Individual PAGA Payment shall be calculated by the Settlement
12 Administrator as follows: (1) the number of pay periods attributed to the PAGA Member during the
13 PAGA Period shall be divided by the Total PAGA Member Pay Periods, and (2) the result shall be
14 multiplied by 25% of the PAGA Payment. Otherwise stated, the formula for a PAGA Member is:
15 (individual’s pay periods ÷ Total PAGA Member Pay Periods) * .25 * PAGA Payment amount.

16 **7.5.1. Reduction of PAGA Payment Not Material.** Any reduction in the
17 requested PAGA Payment is not a material term. If the Court approves only a lesser amount than that
18 requested, then the other terms of this Agreement shall remain in effect and the difference shall become
19 part of the Net Settlement Amount. But some approval of a PAGA Payment is a material term. If the
20 Court does not approve a PAGA Payment, then the entire Agreement will be, at Defendant’s sole
21 discretion, void and unenforceable. If Defendant elects to void the Agreement pursuant to this
22 provision, Defendant shall pay all Administrative Costs.

23 **7.5.2. Timing of PAGA Payment.** The Settlement Administrator shall pay the
24 PAGA Members and 75% of any approved PAGA Payment to the LWDA by 15 calendar days after the
25 Gross Settlement Amount is deposited into the Qualified Settlement Fund. PAGA Members’ Individual
26 PAGA Payment may be combined with their Individual Settlement Payment in one check.

27 **7.6. Individual Settlement Payments.** Each Settlement Class Member shall be
28 entitled to an Individual Settlement Payment consisting of a share of the Net Settlement Amount,

1 calculated as described below. Defendant's time records regarding the number of workweeks actually
2 worked shall control for purposes of calculation.

3 **7.6.1. Number of Workweeks.** Defendant will provide to the Settlement
4 Administrator the total number of workweeks that each Settlement Class Member worked during the
5 Settlement Period for Class Members and the total number of workweeks that all Settlement Class
6 Members worked during that period ("Total Settlement Class Member Workweeks").

7 Defendant estimates that Class Members worked approximately 6,889 workweeks between
8 February 14, 2019 and August 14, 2024. If the actual number of weeks worked during the above
9 timeframe exceeds this estimate by more than 10% then Defendant shall have the option to (i) increase
10 the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of
11 workweeks worked by Class Members above 10% (for example, if the number of workweeks increases
12 by 11%, the Gross Settlement Amount will increase by 1%); (ii) shorten the release period to an earlier
13 date at which only the represented number of workweeks plus 10% are included in the Class Period or
14 (iii) void this Agreement. If Defendant elects to void the settlement agreement under option (iii),
15 Defendant shall be solely responsible for any third party settlement administration costs owed.

16 **7.6.1. Calculation of Individual Settlement Payments.** Each Settlement Class
17 Member's Individual Settlement Payment shall be calculated by the Settlement Administrator as
18 follows: (1) the number of workweeks attributed to the Settlement Class Member during the Settlement
19 Period for Class Members shall be divided by the Total Settlement Class Member Workweeks, and
20 (2) the result shall be multiplied by the Net Settlement Amount. Otherwise stated, the formula for a
21 Class Member is: (individual's workweeks ÷ Total Settlement Class Member Workweeks) * Net
22 Settlement Amount.

23 **7.7. Timing of Individual Settlement Payments.** The Settlement Administrator shall
24 issue Individual Settlement Payments no later than 15 calendar days after the Gross Settlement Amount
25 is deposited into the Qualified Settlement Fund.

26 **7.8. Tax Allocation of Individual Settlement Payments and Individual PAGA**
27 **Payments.** Each Individual Settlement Payment will be allocated for tax purposes as follows: 50% Form
28 1099 income for statutory and civil penalties and interest, and 50% Form W-2 income for wages. Each

PAGA Member's share of the PAGA Payment will be allocated for tax purposes solely as Form 1099 income. The Settlement Administrator will make required tax withholdings from each Individual Settlement Payment for the portion allocated to Form W-2 income and will remit the withholding and the employer's share of payroll taxes to the appropriate taxing authorities. The Settlement Administrator shall issue any necessary IRS Form 1099 and Form W-2 statements to Class Members for their respective Individual Settlement Payments.

7.8.1. Responsibility for Taxes. Settlement Class Members and PAGA Member shall be solely responsible for paying all taxes due on their respective payments and shall indemnify and hold harmless Defendant and the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of the payments.

7.8.2. Approval of Tax Allocations Not Material. Approval of the allocations of the payments set forth above is not a material term. If the Court approves a different tax allocation of the payments, then the other terms of this Agreement shall remain in effect.

7.9. Undeliverable or Uncashed Checks. All Individual Settlement Payment and Individual PAGA Payment checks will remain negotiable for 180 days from the date of their mailing. The Settlement Administrator shall notify Class Counsel and Defense Counsel of any undeliverable and uncashed checks. After 180 days from the mailing, the amount of any Individual Settlement Payment and Individual PAGA Payment check that has not been cashed will be transmitted by the Settlement Administrator to the California Controller's Office Unclaimed Property Fund.

7.10. Certification of Completion. Upon fully administering this Agreement, the Settlement Administrator will certify the completion to the Court and counsel for all Parties in a declaration, summarizing the total money paid and the status of any uncashed checks.

8. Releases

8.1. Released Class Claims. Upon the deposit of the Gross Settlement Amount in the Qualified Settlement Fund established by the Settlement Administrator, by operation of the Final Approval and Judgment, and except as to rights that this Agreement creates, each Settlement Class Member—and each Settlement Class Member's executors, administrators, representatives, agents, heirs, successors, assigns, trustees, spouses, or guardians—will release each Released Party from any claims,

1 debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorneys' fees, damages,
2 and action or causes of action that was or could have been asserted in this Action based on or arising out
3 of the facts alleged in this Action regardless of the theory of liability, including, without limitation any
4 claims under state law, claims for failure to provide meal periods, claims for failure to provide rest
5 periods, claims for failure to pay overtime wages, claims for failure to pay wages at the correct regular
6 rate, claims for failure to pay minimum wages, claims for failure to pay all wages due upon termination
7 of employment, claims failure to provide accurate itemized wage statements, claims failure to maintain
8 records, claims for failure to provide sick pay and sick pay at the proper rate, claims for failure to
9 reimburse business expenses, and claims under the applicable Wage Order and Labor Code sections 201,
10 202, 203, 204, 210, 218, 226, 226.3 226.7, 246 – 248.7, 256, 510, 512, 516, 558, 558.1, 1174, 1182.12,
11 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2804, as well as claims under California Civil Code section
12 3287, California Code of Civil procedure section 1021.5, and Business and Professions Code section
13 17200 *et seq.* based on alleged violations of these Labor Code provisions. This release only applies to
14 claims arising during the Settlement Period for Class Members.

15 **8.2. Released PAGA Claims.** Upon the deposit of the Gross Settlement Amount in
16 the Qualified Settlement Fund established by the Settlement Administrator, by operation of the Final
17 Approval and Judgment, and except as to rights that this Agreement creates, each PAGA Member—and
18 each PAGA Member's executors, administrators, representatives, agents, heirs, successors, assigns,
19 trustees, spouses, or guardians—will release each Released Party from all claims under Labor Code
20 section 2698 *et seq.* asserted in the LWDA letters or that were or could have been asserted in this Action
21 based on or arising out of the facts alleged in this Action regardless of the theory of liability, including
22 claims predicated upon alleged violations of Labor Code sections 201, 202, 203, 204, 210, 218, 226,
23 226.3, 226.7, 246 - 248.7, 256, 510, 512, 516, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1,
24 1198, 2802, and 2804. This release only applies to claims arising during the PAGA Period.

25 **8.3. Additional Release by Class Representative.** In addition to the release given by
26 each Settlement Class Member, the Class Representatives generally release claims against each
27 Released Party through the date of preliminary approval of this Agreement. This general release
28 includes claims arising from the Class Representative's relationship with Defendant, including, without

1 limitation, claims for unpaid wages and liquidated damages, under the Fair Labor Standards Act, claims
2 for discrimination, harassment, or retaliation pursuant to Title VII of the Civil Rights Act of 1964, 42
3 U.S.C. section 2000 *et seq.*, the California Fair Employment and Housing Act, California Gov't Code
4 Section 12900 *et seq.*, and claims for violation of public policy. This general release by the Class
5 Representatives also includes a waiver of rights under California Civil Code Section 1542, which states:

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

9 **9. Settlement Approval Procedure**

10 **9.1. Motion for Preliminary Approval.** Plaintiffs will obtain a hearing to request
11 preliminary approval of this Agreement, to obtain entry of an order that would (i) conditionally certify a
12 settlement class for settlement purposes only, (ii) grant preliminary approval of this Agreement,
13 (iii) approve a Notice of Settlement, (iv) enjoin Class Members from initiating or prosecuting any claim
14 to be released under this Agreement, unless they first submit a Request for Exclusion, and (v) set a date
15 for a Final Approval hearing.

16 **9.1.1. Contents of Motion.** The motion for preliminary approval shall include
17 the bases for demonstrating that conditional certification of a settlement class is appropriate, and that the
18 settlement amounts are reasonable in light of the facts and law pertaining to the claims alleged. The
19 motion shall be accompanied by a signed declaration by Class Counsel discussing the risks of continued
20 litigation and the decision that this Agreement serves the best interests of class members. Before filing
21 any motion, Class Counsel will consider in good faith any comments by Defendant's counsel.

22 **9.1.2. Notice to LWDA.** Upon moving for preliminary approval, Plaintiffs will
23 also submit the proposed settlement agreement to the LWDA.

24 **9.2. Motion for Final Approval.** Class Counsel will obtain a hearing for a Motion for
25 Final Approval, to obtain an order to (a) approve this Agreement, (b) adjudge its terms to be fair,
26 reasonable, and adequate, (c) recite the Released Class Claims and Released PAGA Claims, (d) direct
27 that the terms of the Agreement be carried out, and (e) retain jurisdiction to oversee enforcement of this
28 Agreement.

1 **9.3. Motion for Class Counsel Award.** In connection with a Motion for Final
2 Approval, Class Counsel may move for approval of an attorneys' fees and costs award in the amount of
3 (a) up to 33.33% of the Gross Settlement Amount for fees and (b) up to \$25,000 for litigation costs
4 actually incurred in representing the interest of the Class, supported by adequate documentation.

5 **9.4. Motion for Service Award.** In connection with a Motion for Final Approval,
6 Class Counsel may move for approval of a Service Award for the Class Representatives in an amount of
7 up to \$10,000.

8 **9.5. Entry of Judgment.** Upon Final Approval, the Parties shall request that the Court
9 (a) enter Judgment in accordance with this Agreement, without further fees or costs, (b) enter an order as
10 to the Class Counsel Award, (c) enter an order as to any Service Award, and (d) enter an order
11 permanently enjoining all members of the Settlement Class from pursuing or seeking to reopen claims
12 that have been released by this Agreement.

13 **9.5.1. Notice of Final Judgment.** Notice of Judgment will be posted on the
14 Settlement Administrator's website.

15 **9.5.2. Effect of Failure to Obtain Final Judgment.** If the Court fails to enter
16 Judgment in accordance with this Agreement, or if the Judgment is vacated or reversed, then the Action
17 shall proceed and the Parties shall split the Administrative Costs, unless the Parties jointly agree to seek
18 reconsideration or a renegotiated settlement. Defendant retains the right to contest whether any aspect of
19 the Action should be maintained as a class, collective action, or representative action, and to contest the
20 merits of the claims asserted in the Action.

21 **9.6. Appeal Rights.** Only an Objector has the right to appeal a judgment that is in
22 accord with this Agreement. The Class Representatives and Class Counsel hereby waive any right to
23 appeal any judgment, ruling, or order based on this Agreement, including any Final Approval Order.
24 This waiver includes all rights to any post-judgment proceeding and appellate proceeding, such as a
25 motion to vacate judgment, a motion for new trial, and any extraordinary writ, and the Judgment
26 therefore will become non-appealable at the time it is entered. The waiver of appeal does not include any
27 waiver of the right to oppose any appeal or post-judgment proceeding. If an appeal is taken from the
28

Judgment, then the time to consummate this Agreement (including making payments under the Agreement) will be suspended until the appeal is finally resolved.

10. Miscellaneous

10.1. Execution of this Agreement.

10.1.1. Parties' Authority. The signatories hereto represent that they are fully authorized to bind the Parties to all the terms of this Agreement. The Parties agree that Class Members are so numerous that it is impossible or impractical to have each Class Member execute this Agreement. This Agreement may be executed on behalf of Class Members by a Class Representative.

10.1.2. Counterparts. This Agreement may be executed in counterparts, and all signed and delivered counterparts together may constitute one Agreement binding upon the Parties.

10.1.3. Facsimile or Scanned Signatures. A Party may sign and deliver this Agreement by signing on the designated signature block and transmitting that signature page via facsimile or as an attachment to an email to counsel for the other Party. Any such signature shall be deemed an original for purposes of this Agreement and shall be binding upon the Party who transmits the signature page.

10.2. Discharge of Obligations. Defendant shall fully discharge its obligations to Plaintiffs and the Settlement Class through the remittance of the Gross Settlement Amount to the Qualified Settlement Fund and payment of the employer's share of payroll taxes, regardless of whether checks representing Individual Settlement Payments are actually negotiated by Settlement Class Members. Once Defendant has complied with its obligation to fund the Gross Settlement Amount and Defendant's share of payroll taxes, it will be deemed to have satisfied all terms and conditions under this Agreement, shall be entitled to all protections afforded to them under this Agreement, and shall have no further obligations under the terms of the agreement, regardless of what occurs with respect to the further administration of the Settlement, including any requests to be included in the Settlement Class, challenges to the completeness or accuracy of any Individual Settlement Payment, or issues regarding the completeness or accuracy of the class data.

10.3. Construction.

1 **10.3.1. Materiality of Terms.** Except as otherwise stated herein, each substantive
2 term of this Agreement is a material term that the Parties have relied upon in making this Agreement. If
3 the Court does not approve any substantive term, or if the Court effects a material change to the
4 Agreement—such as increasing any amount that Defendant must pay—then the entire Agreement will
5 be void and unenforceable and the Parties shall split Administrative Costs. Where this Agreement states
6 that a term is not material, then the Court’s refusal to approve that term leaves all the other terms of the
7 Agreement in effect, and does not give Class Counsel or any Class Member any basis to abrogate this
8 Agreement.

9 **10.3.2. No Construction Against the Author.** Each Party participated in drafting
10 this Agreement, and its terms shall not be construed against any Party by virtue of draftsmanship.

11 **10.3.3. Exhibits Incorporated by Reference.** This Agreement shall include the
12 terms set forth in any attached exhibit. Any exhibit to this Agreement is an integral part of it.

13 **10.3.4. Headings.** The headings within this Agreement appear for convenience of
14 reference only and shall not affect the construction or interpretation of any part of this Agreement.

15 **10.3.5. Invalidity of Any Provision.** Before declaring any provision of this
16 Agreement invalid, the Court shall first attempt to construe the provision valid to the fullest extent
17 possible so as to render all provisions of this Agreement enforceable.

18 **10.3.6. Parties’ Entire Agreement.** This Agreement, with its Definitions,
19 Recitals, and Exhibits, constitutes the entire agreement on its subject matter, and supersedes all prior and
20 contemporaneous negotiations and understandings between the Parties.

21 **10.3.7. Waivers and Modifications to Be in Writing.** No waiver, modification,
22 or amendment of this Agreement shall be valid unless it appears in a writing signed by or on behalf of
23 all Parties, and then shall be valid subject to any required Court approval. Any failure to insist upon the
24 strict performance of any provision shall not be deemed a waiver of future performance of that provision
25 or of any other provision of this Agreement.

26 **10.3.8. Governing Law.** All terms of this Agreement shall be governed by and
27 interpreted according to California law.
28

1 **10.4. Inadmissibility of Settlement Documents.** The Parties agree that this Agreement
2 and all exhibits thereto shall be inadmissible in any proceeding, except a proceeding to approve or
3 enforce this Agreement. This Agreement will operate as a complete defense to—and may be used as the
4 basis for an injunction against—any proceeding attempted in breach of this Agreement.

5 **10.5. No Tax Advice.** Nothing in this Agreement is advice by Class Counsel or
6 Defense Counsel regarding taxes or taxability, and no Party is relying upon Class Counsel or Defense
7 Counsel for such advice. Each Party instead is relying exclusively on the Party’s own independent tax
8 counsel in connection with this Agreement.

9 **10.6. No Impact on Employee Benefits.** This Agreement does not affect any right or
10 obligation under any benefits plan. No payment made under this Agreement shall be considered as
11 compensation or hours worked or hours paid for purposes of determining eligibility, vesting,
12 participation, or contributions with respect to any employee benefit plan. For purposes of this
13 Agreement, the term “employee benefit plan” means every “employee benefit plan,” as defined in the
14 Employee Retirement and Income Security Act of 1974, 29 U.S.C. section 1002(3). The term also
15 includes any 401(k) plan, bonus, pension, stock option, stock purchase, stock appreciation, welfare,
16 profit sharing, retirement, disability, vacation, severance, hospitalization, insurance, incentive, deferred
17 compensation, or any other similar benefit plan, practice, program, or policy, regardless of whether any
18 such plan is considered an employee benefit plan.

19 **10.7. No Prior Assignments or Undisclosed Liens.** The Class Representatives and
20 Class Counsel represent that they have not assigned, transferred, conveyed, or otherwise disposed of any
21 Released Claim or claim to attorneys’ fees and costs award to be paid under this Agreement. The Class
22 Representatives and Class Counsel further represent and warrant that there are not any liens or claims
23 against any amount that Defendant is to pay under this Agreement. The Class Representative, Settlement
24 Class Members, and Class Counsel agree to indemnify and to hold Defendant harmless from any
25 liability, losses, claims, damages, costs, or expenses, including reasonable attorneys’ fees, resulting from
26 a breach of these representations or from any lien or assignment. Nothing herein is intended to constitute
27 legal advice regarding the taxability of any amount paid pursuant to this Agreement, nor may it be relied
28 upon as such.

1 **10.8. Cooperation of the Parties.** The Parties will comply with the covenants of good
2 faith and fair dealing and otherwise cooperate as follows.

3 **10.8.1. Affirmative Duty to Cooperate.** Each Party, upon the request of another,
4 agrees to perform such acts and to execute and to deliver such documents as are reasonably necessary to
5 carry out this Agreement. In the same spirit, the Parties agree to make all reasonable efforts to avoid
6 unnecessary Administrative Costs.

7 **10.8.2. No Solicitation of Objections or Opt Outs.** The Parties represent that
8 they have not solicited, encouraged, or assisted—and will not solicit, encourage, or assist—Objections
9 or Requests for Exclusion.

10 **10.8.3. Waiver of Right to Object by Class Representative.** The Class
11 Representative, by signing this Agreement, agrees not to object to any term of this Agreement.

12 **10.9. Confidential Information.** Class Counsel will destroy all confidential documents
13 and information provided by Defendant within 60 calendar days of this Agreement’s completion. Class
14 Counsel further agree that no information provided by Defendant shall be used for any purpose other
15 than prosecution of this Action.

16 **10.10. No Media Announcements or Other Undue Publicity.** No Party shall make any
17 public statement to the news, print, electronic, or Internet media concerning this Agreement, and the
18 Parties shall decline to respond to media inquiries concerning this Agreement. Nothing in this
19 Agreement, however, prevents Class Members from discussing or disclosing information about unlawful
20 acts in the workplace, such as harassment or discrimination or any other conduct that they have reason to
21 believe is unlawful, or discussing with any person or persons wages, hours or other terms and conditions
22 of employment, nor from engaging in lawful protected activity with or on behalf of coworkers regarding
23 same. Class Counsel shall not publicize the settlement in their marketing materials, website, or other
24 advertising media. Nothing in this Agreement prevents Class Counsel from placing in their marketing
25 materials, website, or other advertising media a comment that Class Counsel secured payment for their
26 clients in this Action, so long as any such comment does not mention the name of this case, the name of
27 any Party or Class Member, or the identity of Defense Counsel. Should Plaintiffs or Class Counsel
28 intentionally breach this provision, Plaintiffs shall forfeit to Defendant the full amount of the breaching

1 Plaintiff's Service Award. Defendant may also enforce this provision through an action for injunctive
2 relief. Plaintiffs waive any obligation to post a bond in connection with any such action.

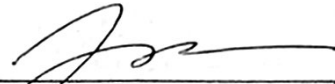
3 Notwithstanding the foregoing, Class Counsel can post on his website that the "Lawsuit Settled" and
4 refer questions to the Settlement Administrator.

5 **10.11. Disputes.** If the Parties dispute the interpretation of this Agreement, then they will
6 attempt to resolve the dispute informally. If those efforts fail, they will mediate the dispute. The Parties
7 will split the costs of the mediator, and the Parties will bear their own fees and costs. The Court shall
8 retain jurisdiction over enforcement and implementation of this Agreement, and can require specific
9 performance, although the Court lacks jurisdiction to modify the terms of this Agreement. If a Party
10 institutes legal action to enforce this Agreement, then the prevailing Party will be entitled to recover
11 attorney's fees and costs incurred in vindicating that Party's position.

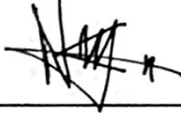
1 **SO AGREED.**

2 DATED: Nov. 19, 2024

LEICA BIOSYSTEMS IMAGING, INC.

3
4 By: 
5 JASON ELFENBEIN - GENERAL COUNSEL

6 DATED: Nov 13, 2024

7 By: 
8 NICK DE VERA

9 DATED: Nov 15, 2024

10 By: 
11 BENITO BAVARELLA

12 DATED: Nov 18, 2024

13 By: 
14 ANGEL RAMIREZ

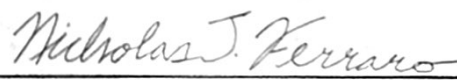
15 DATED: Nov 20, 2024

SEYFARTH SHAW LLP

16
17 By: 
18 Timothy M. Rusche
19 Attorneys for Defendant
20 LEICA BIOSYSTEMS IMAGING, INC.

21 DATED: Nov 13, 2024

FERRARO VEGA EMPLOYMENT LAWYERS, INC.

22
23 By: 
24 Nicholas J. Ferraro
25 Lauren Vega
26 Attorneys for Plaintiffs, individually
27 and on behalf of others similarly situated

28 313640323v.8

EXHIBIT A

Nick De Vera v. Leica Biosystems Imaging, Inc., 37-2023-00035127-CU-OE-CTL
SUPERIOR COURT FOR THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO
NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully.

To: All individuals whom *Leica Biosystems Imaging, Inc.* (“LBS”) employed in California as nonexempt employees at any time from August 15, 2019 through [Preliminary Approval or December 9, 2024].

The Honorable Gregory W. Pollack of the Superior Court for the State of California, County of San Diego has granted preliminary approval of a proposed settlement (“Settlement”) of this action (“Class and Representative Action”).

THE COURT HAS NOT DETERMINED THAT LBS VIOLATED THE LAW. LBS DENIES THAT IT VIOLATED ANY LAWS OR THAT IT HARMED ITS EMPLOYEES IN ANY WAY. IT IS SETTling THIS LAWSUIT TO AVOID THE EXPENSE AND BURDEN OF FURTHER LITIGATION.

The purpose of this Notice is to provide a brief description of the claims alleged in the Class and Representative Action, the key terms of the Settlement, and your rights and options with respect to the Settlement. **You have received this notice because LBS’s records indicate that you are a Class Member and you may be entitled to a settlement payment.**

Unless you choose to opt out of the Settlement by following the procedures described below, you will be deemed a Settlement Class Member and, if the Court grants final approval of the Settlement, you will be mailed a check for your share of the settlement fund. However, all PAGA Members (as defined below) shall receive a portion of the PAGA Payment regardless of whether they opt out of the Settlement. The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at :00 .m. on , 2024 in Courtroom 71 of the Superior Court for the State of California, County of San Diego, located at 333 W. Broadway, San Diego, CA 92101. You are not required to attend the Hearing, but you are welcome to do so. The Court may change the Final Approval Hearing date or time without notice.

Summary of the Litigation

Plaintiffs—Nick De Vera, Benito Bavarella, and Angel Ramirez—on behalf of themselves and on other individuals whom LBS employed as nonexempt employees in California, claim that LBS violated California state labor laws as a result of its alleged: (1) Failure to Pay All Overtime Wages; (2) Meal Period Violations; (3) Rest Period Violations; (4) Paid Sick Leave Violations; (5) Untimely Payment of Wages; (6) Wage Statement Violations; (7) Waiting Time Penalties; (8) Failure to Reimburse Business Expenses. They also allege unfair competition and violation of the Private Attorneys General Act of 2004 (“PAGA”).

After the exchange of relevant information and evidence, the Parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On August 14, 2024, the Parties participated in a mediation with Dan Turner, an experienced and well-respected class action mediator. With Dan Turners’ guidance, the Parties were able to negotiate a complete settlement of Plaintiffs’ claims.

Counsel for Plaintiffs, and the attorneys approved by the Court to represent the class, Nicholas Ferraro and Lauren Vega of Ferraro Vega Employment Lawyers, Inc. (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believes that the claims alleged in this lawsuit have merit, Class Counsel also recognizes that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believes the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members and PAGA Members.

LBS denies that it violated the law in any way. It has denied, and continues to deny, the factual and legal allegations in the case and believes that it has valid defenses to Plaintiff's claims. By agreeing to settle, LBS is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class, collective, or representative action. LBS has agreed to settle the case as part of a compromise with Plaintiff.

Summary of the Proposed Settlement Terms

Plaintiffs and LBS have agreed to settle the class claims in exchange for a Gross Settlement Amount of \$200,000. This amount is inclusive of: (1) Individual Settlement Payments to all Participating Class Members; (2) any Service Award to the Class Representative Nick De Vera in an amount up to \$10,000 and \$5,000 each for Class Representatives Benito Bavarella and Angel Ramirez; (3) the Class Counsel Award (attorney's fees in an amount up to \$70,000 and litigation costs in an amount up to \$25,000); (4) the PAGA Payment (\$40,000), and (5) reasonable settlement administration expenses not to exceed \$10,000. After deducting the settlement administration expenses, the Class Counsel Payment, the Service Award, and the PAGA Payment, a Net Settlement Amount of approximately \$45,000 will be allocated to Class Members who do not opt out of the settlement ("Settlement Class Members"). LBS will pay its share of employer payroll taxes separately, and no portion of the Gross Settlement Amount shall revert to LBS.

Each Settlement Class Member's settlement payment will be based of workweeks each Settlement Class Member worked as a nonexempt employee for LBS in California facility August 15, 2019 through [Preliminary Approval or December 9, 2024]. The formula for calculating settlement payments is as follows:

- (a) LBS will calculate the total number of workweeks that each Settlement Class Member worked ("Individual Workweeks") and the total number of workweeks that all Settlement Class Members worked ("Total Settlement Class Member Workweeks") from August 15, 2019 through [Preliminary Approval or December 9, 2024].
- (b) Each Settlement Class Member's share of the Net Settlement Amount is the number of workweeks attributed to the Settlement Class Member during the Settlement Period, divided by Total Settlement Class Member Workweeks and multiplied by the Net Settlement Amount. Otherwise stated, the formula for a Settlement Class Member is: $(\text{Individual Workweeks} \div \text{Total Settlement Class Member Workweeks}) * \text{Net Settlement Amount}$.

The Parties also will seek approval for a PAGA Payment from the Gross Settlement Amount in the amount of \$40,000, 75% of which will go to the Labor & Workforce Development Agency, which enforces the Private Attorney General Action of 2004, and 25% of which will go to "PAGA Members," which refers to all individuals whom LBS employed in California as nonexempt employees at any time from August 2, 2022 through [December 9, 2024 or Preliminary Approval]. (the "Settlement Period for PAGA Members"). The formula for calculating Individual PAGA Payments is as follows:

- (a) LBS will calculate the total number of pay periods that each PAGA Member worked ("Individual Pay Periods") and the total number of pay periods that all PAGA Members worked ("Total PAGA Member Pay Periods") from August 2, 2022 through [December 9, 2024 or Preliminary Approval].
- (b) Each PAGA Member's share of the PAGA Payment is the number of pay periods attributed to the PAGA Member during the Settlement Period for PAGA Members, divided by Total PAGA Member Pay Periods and multiplied by 25% of the PAGA Payment. Otherwise stated, the formula for a PAGA Member is: $(\text{Individual Pay Periods} \div \text{Total PAGA Member Pay Periods}) * .25 * \text{PAGA Payment amount}$.

Each settlement payment will be reduced by any required legal deductions.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

180 days after settlement checks are delivered, the associated funds from all uncashed or undeliverable checks will be transmitted by the Settlement Administrator to the California Controller's Office Unclaimed Property Fund.

According to LBS's records, you worked during the Settlement Period for Class Members as a nonexempt employee for a total of [REDACTED] Individual Workweeks. According to LBS's records, you worked during the Settlement Period for PAGA Members as a nonexempt employee for a total of [REDACTED] Individual Pay Periods.

Accordingly, if the Settlement is finally approved, your estimated payment would be approximately \$[REDACTED]. If you believe the information provided above is incorrect, please promptly contact the Settlement Administrator at [REDACTED]. If you dispute the information stated above, LBS's records will control unless you are able to provide documentation that establishes otherwise.

IRS Forms W-2 and 1099 will be distributed to Settlement Class Members and the appropriate taxing authorities reflecting the payments they receive under the Settlement. Each Individual Settlement Payment will be allocated for tax purposes as follows: 80% Form 1099 income for statutory and civil penalties and interest, and 20% Form W-2 income for wages. Each PAGA Member's share of the PAGA Payment will be allocated for tax purposes solely as Form 1099 income

Why Is This Being Referred to as a "Class and Representative Action"

The Settlement that you are receiving notice about involves a class action and representative action. The key distinction between a "class action" and a "representative action" is their requirements for how you participate in or how or if you can exclude yourself from the settlement.

If you wish to participate in the class action settlement, which is explained in this Notice and the Settlement Agreement, you do not have to do anything. You will receive money under the class action settlement by doing nothing. If you want to opt out of, or request to be excluded from and not bound by, the class action settlement, then you must submit your intention to opt out of the settlement in the manner and timeframe described in this Notice and in the Settlement Agreement. If you opt out of the settlement, you still will receive a PAGA payment and will be bound by the release of PAGA claims that is part of the settlement.

If the Court approves the Settlement you will receive a PAGA Payment and do not have the option to exclude yourself and you will be bound by the PAGA Release of claims.

In sum, for the class action settlement, you do not have to do anything to get the money and be bound by the release of class action claims stated in this Notice and Settlement Agreement. For the PAGA Payment, you do not need to do anything to receive your payment and you will be bound by the PAGA release.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If want to receive your payment from the Settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the Settlement, you may exclude yourself from participating in the Class Action by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Notice of Class and Representative Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your (i) full name, current mailing address, current telephone number, date, and signature; (ii) the last four digits of your social security number; and (iii) an express statement that you wish to be excluded from the Class Settlement.

Settlement Administrator

c/o _____

The written request to be excluded must be postmarked not later than _____, 2024. If you submit a request for exclusion that is not postmarked by _____, 2024, your request for exclusion will be rejected, and you will be included in the settlement class.

If you do not opt out of the Settlement but then later do not cash your settlement checks, you will be bound by the class action settlement. If you opt out of the settlement, you still will receive a PAGA Payment and will be bound by the release of PAGA claims that is part of the settlement.

Option 3 – Object to the Settlement

If you decide to object to the Settlement because you find any portion of it unfair or unreasonable, including the requested Class Counsel Award or Service Award, you must submit an objection stating why you object to the settlement. Your objection must provide: (1) your full name and current mailing address, (2) the last four digits of your social security number, (3) the specific reason(s) for the Objection, (4) all evidence and supporting papers (including, without limitation, all briefs, written evidence, and declarations) for the Court to consider, and (5) your signature or your counsel's signature. The objection must be mailed to the administrator at [administrator's address] and postmarked by _____, 2024..

By submitting an objection, you are not excluding yourself from the Settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the Settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Approval Hearing set for _____ at _____ a.m./p.m. in Department 71 of the Superior Court for the State of California, County of San Diego, located at 330 W. Broadway, San Diego, CA 95023, and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing. The Court may change the hearing date or time without notice.

If you choose **Option 1 and do nothing**, and if the Court grants final approval of the Settlement, then you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the following claims ("Released Class Claims):

Each Settlement Class Member—and each Settlement Class Member's executors, administrators, representatives, agents, heirs, successors, assigns, trustees, spouses, or guardians—will release each Released Party from any claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorneys' fees, damages, and action or causes of action that was or could have been asserted in this Action based on or arising out of the facts alleged in this Action regardless of the theory of liability, including, without limitation any claims under state law, claims for failure to provide meal periods, claims for failure to provide rest periods, claims for failure to pay overtime wages, claims for failure to pay wages at the correct regular rate, claims for failure to pay minimum wages, claims for failure to pay all wages due upon termination of

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

employment, claims failure to provide accurate itemized wage statements, claims failure to maintain records, claims for failure to provide sick pay and sick pay at the proper rate, claims for failure to reimburse business expenses, and claims under the applicable Wage Order and Labor Code sections 201, 202, 203, 204, 210, 218, 226, 226.3, 226.7, 246 – 248.7, 256, 510, 512, 516, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198, 2802, and 2804, as well as claims under California Civil Code section 3287, California Code of Civil procedure section 1021.5, and Business and Professions Code section 17200 et seq. based on alleged violations of these Labor Code provisions. This release only applies to any claims arising during the Settlement Period for Class Members.

“Released Parties” refers to LBS and each and all of its current or former subsidiaries, parents, affiliates, joint ventures, predecessors, insurers, agents, employees, successors, assigns, officers, officials, directors, attorneys, personal representatives, executors, and shareholders, including their respective pension, profit sharing, savings, health, and other employee benefits plans of any nature, the successors of such plans, and those plans’ respective current or former trustees and administrators, agents, employees, and fiduciaries.

Further, upon approval of the settlement, and payment of the Gross Settlement Amount, if you are a PAGA Member, you will be bound by the Released PAGA Claims, which includes a release of the following:

Each PAGA Member—and each PAGA Member’s executors, administrators, representatives, agents, heirs, successors, assigns, trustees, spouses, or guardians—will release each Released Party from all claims under Labor Code section 2698 et seq. asserted in the LWDA letters or that were or could have been asserted in this Action based on or arising out of the facts alleged in this Action regardless of the theory of liability, including claims predicated upon alleged violations of Labor Code sections 201, 202, 203, 204, 210, 218, 226, 226.3, 226.7, 246 - 248.7, 256, 510, 512, 516, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198, 2802, and 2804. This release only applies to claims arising during the PAGA Period.

If you choose **Option 2 and opt out**, then you will no longer be a Class Member, and you will (1) be barred from participating in the settlement, but you will not be deemed to have released the Released Class Claims, (2) be barred from filing an objection to the settlement, and (3) not receive an Individual Settlement Payment. However, if you are a PAGA Member who worked during the Settlement Period for PAGA Members, you will still receive a PAGA Payment.

If you choose **Option 3 and object**, then you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Claims.

How Will I Get Paid?

If the Court grant final approval of the Settlement, the Administrator will send a single check to every Settlement Class Member who does not opt out of the Settlement. The single check will combine the Individual Settlement Payment and, if you qualify as a PAGA Member, the Individual PAGA Payment.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible at [Administrator’s address].

Additional Information

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

This Notice of Class and Representative Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the Settlement Agreement, and other papers filed in the case. A copy of the Settlement Agreement may be obtained from the Settlement Administrator free of charge. All inquiries by Class Members regarding this Class Notice or the settlement should be directed to the Settlement Administrator or Class Counsel.

FERRARO VEGA EMPLOYMENT LAWYERS, INC.

Nicholas J. Ferraro
3333 Camino del Rio South, Suite 300
San Diego, California 92108
Telephone: (619) 693-7727

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, LBS OR LBS'S ATTORNEYS WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******