

ZACHARY M. CROSNER (SBN 272295)
zach@crosnerlegal.com
BRANDON BROUILLETTE (SBN 273156)
bbrouillette@crosnerlegal.com
CROSNER LEGAL, PC
9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210
Tel: (310) 496-5818
Fax: (310) 510-6429

Attorneys for Plaintiff ARTHUR QUESADA

SHIRLEY C. WANG (SBN 187635)
swang@saberlaw.com
REN M. KUAN (SBN 332674)
rkuan@saberlaw.com
SABER LAW GROUP
101 Howard Street, Suite 400
San Francisco, California 94105
Telephone: (415) 278-1400
Facsimile: (415) 278-1401

Attorneys for Defendant XPDEL, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

ARTHUR QUESADA, as an individual
on behalf of all others similarly situated,

Plaintiff,

v.

XPDEL, INC., a California corporation;
and DOES 1-100, inclusive,

Defendant.

Case No. 23CV031688

CLASS AND REPRESENTATIVE ACTION

[Hon. Tara M. Desautels, Dept. 23]

**CLASS AND PAGA ACTION SETTLEMENT
AND CLASS NOTICE**

Complaint filed: April 21, 2023
FAC filed on: August 5, 2024

CLASS AND PAGA ACTION SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class and PAGA Action Settlement Agreement (“Agreement”) is made by and between plaintiff Arthur Quesada (“Plaintiff”) and defendant XPDEL, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as the “Parties,” or individually as a “Party.”

1. **DEFINITIONS.**

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Arthur Quesada v. XPDEL, Inc.* initiated on April 21, 2023 and pending in Superior Court of the State of California, County of Alameda, Case No. 23CV031688.
- 1.2. “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement based on its not-to-exceed bid.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all hourly-paid, non-exempt employees of Defendant who worked in California during the PAGA Period.
- 1.5. “Class” means all hourly-paid, non-exempt employees of Defendant who worked in California during the Class Period.
- 1.6. “Class Counsel” means the attorneys of Crosner Legal, PC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession, including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods, and means, including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as Exhibit A hereto and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period starting on April 21, 2019 through the date the Court grants preliminary approval of the class action settlement or 90-days after the acceptance of the proposal, whichever is later, or if Defendant elects to exercise its rights under the Escalator Clause, the date on which the total number of workweeks worked by Class members totals 6,813 workweeks (“Class Period”).
- 1.13. “Class Representative” means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Alameda.
- 1.16. “Defendant” means named Defendant XPDEL, Inc.
- 1.17. “Defense Counsel” means the attorneys of Saber Law Group.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (1) the Court enters a Final Judgment on its Order Granting Final Approval of the Settlement; and (2) the Judgment is final. Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Final Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Final Judgment (*i.e.*, 61 days after Final Judgment is entered); or (c) if a timely appeal from the Final Judgment is filed, the day after the appellate court affirms the Final Judgment and issues a remittitur.

- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means \$175,000.00, which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 8 below and in addition to Defendant’s employer share of taxes owed on the Wage Portion of Individual Class Payments to Participating Class Members. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, the Class Counsel Fees Payment, the Class Counsel Expenses Payment, the Class Representative Service Payment, and the Administration Expenses Payment.
- 1.23. “Individual Class Payment” means a Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means an Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA Period.
- 1.25. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code § 2699(i).
- 1.26. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code § 2699(i).
- 1.27. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.28. “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.

1.29. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee actually worked for Defendant for at least one day during the PAGA Period, and specifically excludes paid time off where the Aggrieved Employee performed no work, including but not limited to, holidays, PTO, administrative and other leaves of absences.

1.30. “PAGA Period” means the period starting on April 21, 2022 through the date the Court grants preliminary approval of the class action settlement or 90-days after the acceptance of the proposal, whichever is later, or if Defendant elects to exercise its rights under the Escalator Clause, the date on which the total number of workweeks worked by Class members totals 6,813 workweeks (“PAGA Period”).

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

1.32. “PAGA Notice” means Plaintiff’s March 25, 2024 PAGA letter to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3(a).

1.33. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (\$16,000.00), allocated 25% to the Aggrieved Employees (\$4,000.00) and the 75% to LWDA (\$12,000.00) in settlement of PAGA claims.

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

1.35. “Plaintiff” means Arthur Quesada, the named plaintiff in the Action.

1.36. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

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

1.38. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.39. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.

1.40. “Released Parties” means: Defendant XPDEL, Inc. and its current and former parents,

1 subsidiaries, affiliates, joint ventures, directors, officers, shareholders, owners, employees,
2 agents, attorneys, insurers, predecessors, successors, and assigns, and any other person
3 acting by, through, or under Defendant.

4 1.41. "Request for Exclusion" means a Class Member's submission of a written request to be
5 excluded from the Class Settlement signed by the Class Member.

6 1.42. "Response Deadline" means forty-five (45) calendar days after the Administrator mails the
7 Class Notice to Class Members, plus an additional fourteen (14) calendar days for Class
8 Members to whom their Class Notice is resent after having been returned undeliverable to
9 the Administrator, and shall be the last date on which Class Members may: (a) fax, email,
10 or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her
11 Objection to the Settlement.

12 1.43. "Settlement" means the disposition of the Action effected by this Agreement and the
13 Judgment.

14 1.44. "Workweek" means any week during which a Class Member actually worked for
15 Defendant for at least one day during the Class Period, and specifically excludes paid time
16 off where the Class Member performed no work, including but not limited to, holidays,
17 PTO, administrative and other leaves of absences.

18 **2. RECITALS.**

19 2.1. On April 21, 2023, Plaintiff commenced this Action by filing a Class Action Complaint
20 (Case No23CV031688) alleging causes of action against Advatix, Inc. and Defendant
21 XPDEL, Inc. for (1) Recovery of Unpaid Minimum Wages and Liquidated Damages; (2)
22 Recovery of Unpaid Overtime Wages; (3) Failure to Provide Meal Periods or
23 Compensation in Lieu Thereof; (4) Failure to Provide Rest Periods or Compensation in
24 Lieu Thereof; (5) Failure to Furnish Accurate Itemized Wage Statements; (6) Failure to
25 Timely Pay All Wages Due Upon Separation of Employment; (7) Failure to Reimburse
26 Business Expenses; and (8) Unfair Competition. On August 18, 2020, Plaintiff filed an
27 Opposition to Defendant's Motion to Dismiss. On June 6, 2023, Plaintiff requested to
28 dismiss Advatix, Inc. as a defendant and Judge Brad Seligman granted the dismissal of

Advatix, Inc. on June 15, 2023. On June 20, 2023, Defendant XPDEL filed its answer denying the allegations in the complaint, any failure to comply with the laws identified in the complaint, and any and all liability for the causes of action alleged.

2.2. On December 1, 2023, the Parties participated in a private, all-day mediation presided over by Daniel J. Turner, Esq. which led to this Agreement to settle the Action.

2.3. Prior to mediation, Plaintiff obtained, through formal and informal discovery, Plaintiff's personnel, time, and payroll records, a sample of time and payroll records for the putative Class, policy documents regarding Defendant's wage and hour practices, and information regarding the Class statistics. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal. App. 4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129–130 (“*Dunk/Kullar*”).

2.4. As a condition of this settlement, and in order to release the Labor Code claims alleged in Plaintiff's complaint under PAGA, on March 25, 2024, Plaintiff filed a PAGA Notice with the LWDA that contains the same allegations as those contained in the complaint. After exhausting PAGA's administrative remedy pursuant to Labor Code § 2699.3(a), on August 5, 2024, Plaintiff filed the First Amended Class and Representative Action Complaint, which included a PAGA cause of action. The First Amended Class and Representative Action Complaint is the operative complaint in this Action (the “Operative Complaint”).

2.5. The Parties agreed that the Defendant and Defense Counsel need not file any response to the Operative Complaint.

2.6. The Court has not granted class certification.

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

3. **MONETARY TERMS.**

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$175,000 and no more, subject to the escalator clause in Paragraph 8

below, as the Gross Settlement Amount and to separately pay Defendant's share of employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount or payroll taxes prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. 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:

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000.00, which shall be in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Class Member. Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$58,333.33, and a Class Counsel Litigation Expenses Payment of not more than \$15,000.00. Defendant will not oppose requests for these payments provided that do not exceed

these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount for distribution to Participating Class Members. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administration Expenses Payment not to exceed \$10,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$10,000.00, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members and (b) multiplying the result by each Participating Class Member's individual Workweeks.

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

remainder of each Participating Class Member's Individual Class Payment, 40% will be allocated to settlement of claims for interest and 40% for penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$16,000.00 to be paid from the Gross Settlement Amount, with 75% (\$12,000.00) allocated to the LWDA PAGA Payment and 25% (\$4,000.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$4,000.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount for distribution to Participating Class Members.

3.3. No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes. Defendant has contended and continues to contend that the allegations in the

1 Action, including the Operative Complaint and PAGA Notice, have no merit and do not
2 give rise to liability. Defendant denies all of the allegations in Plaintiff's Operative
3 Complaint and PAGA Notice and in the Action, including specifically that it has violated
4 any federal, state, or local law. Defendant maintains that it has complied in good faith
5 with California wage and hour law and dealt fairly and legally with Plaintiff and the Class
6 Members and Aggrieved Employees. Nonetheless, Defendant has concluded that further
7 proceedings in the Action would be protracted and expensive, and that the Action be fully
8 and finally settled in the manner and upon the terms and conditions set forth in this
9 Agreement in order to dispose of burdensome and protracted litigation. This settlement
10 is a compromise of such highly disputed claims. Defendant has agreed to settle the Action
11 on the terms and conditions set forth in this Agreement for the sole purpose of avoiding
12 the burden, expense, and uncertainty of continuing the Action. Nothing in this Agreement
13 is intended or should be construed as an admission by Defendant that any of the allegations
14 in the Action, including the Operative Complaint and/or PAGA Notice have merit or that
15 Defendant has any liability for any claims asserted; nor should it be intended or construed
16 as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties
17 agree that class certification and representative treatment is for purposes of this Settlement
18 only. If, for any reason, the Court does grant Preliminary Approval or Final Approval or
19 enter Final Judgment, Defendant reserves the right to contest certification of any class for
20 any reasons, Defendant reserves all available defenses to the claims in the Action, and
21 Plaintiff reserves the right to move for class certification on any grounds available and to
22 contest Defendant's defenses. The Settlement, this Agreement, and the Parties' willingness
23 to settle the Action will have no bearing on, and will not be admissible in connection with,
24 any litigation (except for proceedings to enforce or effectuate the Settlement and this
25 Agreement). This Settlement and Agreement and its terms and provisions shall not be
26 offered or received as evidence in any action or proceeding to establish any liability or
27 admission on the part of any Defendant or other Released Party to establish the existence
28 of any condition constituting a violation of or non-compliance with federal, state, local,

or other applicable law.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records as of December 1, 2023, Defendant estimated there were 360 Class Members who collectively worked a total of 6,194 Workweeks, and 244 Aggrieved Employees who collectively worked a total 2,194 of PAGA Pay Periods.

4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. 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 respective counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes owed on the Wage Portion of Individual Class Payments, by transmitting the funds to the Administrator in three equal installments, or as close to equal as possible, as follows: (1) first payment of \$87,500.00 on the later of April 1, 2024 or 30 days after the entry of the Court's Final Approval; (2) second payment of \$87,500.00 within six (6) months of the class action settlement.

4.4. Payments from the Gross Settlement Amount. Within 14 calendar days after Defendant fully funds the Gross Settlement Amount and Defendant's share of payroll taxes, the

1 Administrator will mail checks for all Individual Class Payments, all Individual PAGA
2 Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class
3 Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class
4 Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the
5 Class Counsel Litigation Expenses Payment, and the Class Representative Service
6 Payment shall not precede disbursement of Individual Class Payments and Individual
7 PAGA Payments.

8 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
9 Individual PAGA Payments and send them to the Class Members via First Class
10 United States Postal Mail (“USPS”) Mail, postage prepaid. The face of each check
11 shall prominently state the date (not less than 180 days after the date of mailing)
12 when the check will be voided (the “Void Date”). The Administrator will cancel
13 all checks not cashed by the Void Date. The Administrator will send checks for
14 Individual Settlement Payments to all Participating Class Members (including
15 those for whom their Class Notice was returned undelivered). The Administrator
16 will send checks for Individual PAGA Payments to all Aggrieved Employees
17 (including Non-Participating Class Members who qualify as Aggrieved
18 Employees, and including those for whom their Class Notice was returned
19 undelivered). The Administrator may send Participating Class Members a single
20 check combining the Individual Class Payment and the Individual PAGA Payment.
21 Before mailing any checks, the Settlement Administrator must update the
22 recipients’ mailing addresses using the National Change of Address Database.

23 4.4.2. The Administrator must conduct a Class Member Address Search for all other
24 Class Members whose checks are returned undelivered without USPS forwarding
25 address. Within 7 calendar days of receiving a returned check, the Administrator
26 must re-mail checks to the USPS forwarding address provided or to an address
27 ascertained through the Class Member Address Search. The Administrator need
28 not take further steps to deliver checks to Class Members whose checks are

1 returned as undelivered a second time. However, the Administrator shall promptly
2 send a replacement check to any Class Member whose original check was lost or
3 misplaced, as requested by said Class Member prior to the Void Date.

4 4.4.3. For any Class Member whose Individual Class Payment check or Individual
5 PAGA Payment check is uncashed and cancelled after the Void Date, the
6 Administrator shall transmit the funds represented by such checks to the Parties'
7 selected *cy pres* recipient, East Bay Community Law Center subject to the
8 requirements of California Code of Civil Procedure Section 384, subd. (b).

9 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
10 not obligate Defendant to confer any additional benefits or make any additional
11 payments to Class Members (such as 401(k) contributions or bonuses) beyond
12 those specified in this Agreement.

13 **5. RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire
14 Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the
15 Individual Class Payments, Plaintiff, Participating Class Members, and the LWDA (on behalf of
16 Aggrieved Employees) will release claims against all Released Parties as follows:

17 5.1. Plaintiff's Release. Plaintiff, on his behalf and on behalf of his respective former and
18 present spouses, representatives, agents, attorneys, heirs, administrators, successors, and
19 assigns generally, releases and discharges Released Parties from all claims, transactions,
20 or occurrences that occurred during the Class Period, including, but not limited to: (a) all
21 claims that were alleged, or reasonably could have been alleged based on the facts
22 contained, in the Plaintiff's Operative Complaint; (b) all PAGA claims that were alleged,
23 or reasonably could have been alleged based on facts contained, in the Operative
24 Complaint and Plaintiff's PAGA Notice; and (c) all claims related to or arising from his
25 employment with Defendant ("Plaintiff's Release"). Plaintiff's Release does not extend
26 to any claims or actions to enforce this Agreement, or to any claims for vested benefits,
27 unemployment benefits, disability benefits, social security benefits, workers'
28 compensation benefits that arose at any time, or based on occurrences outside the Class

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

5.1.1. Plaintiff's Waiver of Rights Under California Civil Code § 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of Section 1542 of the California Civil Code, which reads: A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

5.2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and on behalf of their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims, transactions, or occurrences that occurred during the Class Period and that were alleged, or reasonably could have been alleged based on the facts contained, in the Operative Complaint. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3. Release by LWDA. Plaintiff, as a proxy or agent of the LWDA, hereby releases all of the PAGA claims stemming from the claims, transactions, or occurrences for all Aggrieved Employees that occurred during the PAGA Period that were alleged based on the facts contained in the Operative Complaint and Plaintiff's PAGA Notice.

1 **6. MOTION FOR PRELIMINARY APPROVAL.**

2 Plaintiff agrees to prepare and file a motion for preliminary approval (“Motion for
3 Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals,
4 and Defendant agrees not to oppose said Motion for Preliminary Approval.

5 6.1. Defendant’s Declaration in Support of Preliminary Approval. Within 21 calendar days of
6 the full execution of this Agreement, Defendant and Defendant Counsel will prepare and
7 deliver to Class Counsel (1) a signed Declaration from Defendant and (2) a signed
8 Declaration from Defense Counsel disclosing all facts relevant to any actual or potential
9 conflicts of interest with the proposed Administrator. In their Declarations, Defense
10 Counsel and Defendant shall aver that they are not aware of any other pending matter or
11 action asserting claims that will be extinguished or adversely affected by the Settlement.

12 6.2. Plaintiff’s Responsibilities. Plaintiff will prepare all documents necessary for obtaining
13 Preliminary Approval, including: (i) a notice, and memorandum in support, of the Motion
14 for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar*
15 and a request for approval of the PAGA Settlement under Labor Code § 2699(f)(2)); (ii) a
16 proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a
17 proposed Class Notice; (iv) a signed declaration from Plaintiff confirming willingness and
18 competency to serve as the Class Representative, and disclosing all facts relevant to any
19 actual or potential conflicts of interest with Class Members and/or the Administrator; (v) a
20 signed declaration from Class Counsel attesting to its competency to represent the Class
21 Members; its transmission to the LWDA of all necessary PAGA documents (initial notice
22 of violations [Labor Code § 2699.3(a)], Operative Complaint [Labor Code § 2699(l)(1)],
23 and this Agreement [Labor Code § 2699(l)(2)]; (vi) a redlined version of the Parties’
24 Agreement showing all modifications made ready for filing with the Court; and (vii) all
25 facts relevant to any actual or potential conflict of interest with Class Members and/or the
26 Administrator. In their Declarations, Plaintiff and Class Counsel shall aver that they are
27 not aware of any other pending matter or action asserting claims that will be extinguished
28 or adversely affected by the Settlement.

6.3. Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 60 days after the full execution of this Agreement. Class Counsel and Defense Counsel are jointly responsible for conferring over and obtaining a prompt hearing date for the Motion for Preliminary Approval, and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

7. SETTLEMENT ADMINISTRATION.

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

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

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation

§ 468B-1.

7.4. Notice to Class Members.

7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and PAGA Pay Periods in the Class Data.

7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 calendar days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via First Class USPS mail, the Class Notice substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and (if applicable) PAGA Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3. Not later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) calendar days beyond the forty-five (45) calendar days otherwise provided in the Class Notice for all Class Members whose Class Notice

1 is re-mailed. The Administrator will inform the Class Member of the extended
2 deadline with the re-mailed Class Notice.

3 7.4.5. If the Administrator, Defendant, Defense Counsel, Plaintiff, or Class Counsel is
4 contacted by or otherwise discovers any persons who believe they should have
5 been included in the Class Data and should have received Class Notice, the Parties
6 will expeditiously meet and confer in person or by telephone, and in good faith, in
7 an effort to agree on whether to include them as Class Members. If the Parties
8 agree, such persons will be Class Members entitled to the same rights as other Class
9 Members, and the Administrator will send, via email or overnight delivery, a Class
10 Notice requiring them to exercise options under this Agreement not later than
11 fourteen (14) calendar days after receipt of Class Notice, or the deadline date
12 provided in the Class Notice, whichever is later.

13 7.5. Requests for Exclusion (Opt-Outs).

14 7.5.1. Class Members who wish to exclude themselves (*i.e.*, opt-out of) the Class
15 Settlement must send the Administrator, by fax, email, or mail, a signed and written
16 Request for Exclusion. A Request for Exclusion is a letter from a Class Member
17 or his/her representative that reasonably communicates the Class Member's
18 election to be excluded from the Settlement, identifies the Action, and includes the
19 Class Member's identifying information (name, last four digits of his or her Social
20 Security Number, address, email address, and telephone number) for verification
21 purposes. To be valid, a Request for Exclusion must be timely faxed, emailed, or
22 postmarked by the Response Deadline.

23 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails
24 to contain all the information specified in the Class Notice. The Administrator shall
25 accept any Request for Exclusion as valid if the Administrator can reasonably
26 ascertain the identity of the person as a Class Member and the Class Member's
27 desire to be excluded. The Administrator's determination shall be final and not
28 appealable or otherwise susceptible to challenge. If the Administrator has reason

1 to question the authenticity of a Request for Exclusion, the Administrator may
2 demand additional proof of the Class Member's identity. The Administrator's
3 determination of authenticity shall be final and not appealable or otherwise
4 susceptible to challenge.

5 7.5.3. Every Class Member who does not submit a timely and valid Request for
6 Exclusion is deemed to be a Participating Class Member under this Agreement,
7 entitled to all benefits and bound by all terms and conditions of the Settlement,
8 including the Participating Class Member's Releases under Paragraphs 5.2 and 5.3
9 of this Agreement, regardless whether the Participating Class Member actually
10 receives the Class Notice or objects to the Settlement.

11 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
12 Non-Participating Class Member and shall not receive an Individual Class
13 Payment or have the right to object to the class action components of the
14 Settlement. Nonetheless, because future PAGA claims are subject to claim
15 preclusion upon entry of the Final Judgment, the release provided by the LWDA
16 extends to Non-Participating Class Members who are Aggrieved Employees
17 identified in Paragraph 5.3 of this Agreement and are eligible for an Individual
18 PAGA Payment.

19 7.6. Challenges to Calculation of Workweeks and/or PAGA Pay Periods. Each Class Member
20 shall until the Response Deadline to challenge the individual number of Class Workweeks
21 and (if any) PAGA Pay Periods allocated to the Class Member in the Class Notice. The
22 Class Member may challenge the allocation by communicating with the Administrator via
23 fax, email, or mail. The Administrator must encourage the challenging Class Member to
24 submit supporting documentation. In the absence of any contrary documentation, the
25 Administrator is entitled to presume that the Workweeks and/or PAGA Pay Periods
26 contained in the Class Notice is/are correct so long as it/they is/are consistent with the Class
27 Data. The Administrator's determination of each Class Member's allocation of
28 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 calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of the challenges.

7.7. Objections to Settlement.

7.7.1. 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 the amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Class Representative Service Payment.

7.7.2. Participating Class Members who wish to object to the Class Settlement may send the Administrator, by fax, email, or mail, a signed and written objection by the Response Deadline. In addition or in the alternative, Participating Class Members may object by appearing in Court (or hire an attorney to appear in Court on their behalf) to present verbal objections at the Final Approval Hearing. A written objection is a letter from a Participating Class Member or his/her representative that reasonably communicates what the Participating Class Member objects to and the reason(s) for the objection, facts supporting the objection, identifies the Action, and includes the Participating Class Member's approximate dates of employment for Defendant and identifying information (name, last four digits of his or her Social Security Number, address, email address, and telephone number) for verification purposes. To be valid, a written objection must be timely faxed, emailed, or postmarked by the Response Deadline.

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

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

7.8.1. Website, Email Address, and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class

Members, including the date, time, and location for the Final Approval Hearing and copies of the Settlement Agreement; the Class Notice; the Motion for Preliminary Approval; the Preliminary Approval; the Motion for Final Approval and/or the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payment; the Final Approval; and the Final 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.

7.8.2. Requests for Exclusion (Opt-outs), Exclusion List, and Objections. The Administrator will promptly review, on a rolling basis, Requests for Exclusion and written objections to ascertain their validity and/or timeliness. Not later than seven (7) calendar days after the expiration of the Response Deadline for submitting Requests for Exclusion or written objections, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”) or written objections; (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion or written objections; and (c) copies of all Requests for Exclusion from Settlement or written objections submitted (whether valid or invalid).

7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid, timely or untimely) received, objections received (whether timely or untimely), and challenges to Workweeks and/or PAGA Pay Periods received and/or resolved. The Weekly Reports must include provide the Administrator’s assessment of the validity and/or timeliness of Requests for Exclusion or written objections, and attach copies of any Requests for Exclusion and written objections received.

1 7.8.4. Workweek and/or PAGA Pay Period Challenges. The Administrator has the
2 authority to address and make final decisions consistent with the terms of this
3 Agreement on all Class Member challenges over the calculation of Workweeks
4 and/or PAGA Pay Periods. The Administrator's decision shall be final and not
5 appealable or otherwise susceptible to challenge.

6 7.8.5. Administrator's Declaration. Not later than fourteen (14) calendar days before the
7 date by which Plaintiff is required to file the Motion for Final Approval of the
8 Settlement, the Administrator will provide to Class Counsel and Defense Counsel
9 a signed declaration suitable for filing in Court attesting to its due diligence and
10 compliance with all of its obligations under this Agreement, including, but not
11 limited to, its mailing of Class Notice, the Class Notices returned as undelivered,
12 the re-mailing of any Class Notices, attempts to locate Class Members, the total
13 number of Requests for Exclusion from Settlement received (both valid or invalid,
14 timely or untimely), the number of written objections (both timely and untimely),
15 and attach copies of any Requests for Exclusion and written objections received.
16 The Administrator will supplement its declaration as needed or requested by the
17 Parties and/or the Court. Class Counsel is responsible for filing the Administrator's
18 declaration(s) in Court.

19 7.8.6. Final Report by Settlement Administrator. Within ten (10) calendar days after the
20 Administrator disburses all funds in the Gross Settlement Amount, the
21 Administrator will provide Class Counsel and Defense Counsel with a final report
22 detailing its disbursements by employee identification number only of all payments
23 made under this Agreement. At least ten (10) calendar days before any deadline
24 set by the Court, the Administrator will prepare and submit to Class Counsel and
25 Defense Counsel, a signed declaration suitable for filing in Court attesting to its
26 disbursement of all payments required under this Agreement. Class Counsel is
27 responsible for filing the Administrator's declaration in Court.
28

1 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.**

2 Based on its records, Defendant estimates that, as of December 1, 2023, there are 360 Class
3 Members and 6,194 total Workweeks during the Class period. In the event that the actual total Workweeks
4 exceeds this estimate by more than 10% (*i.e.*, if the actual total Workweeks is more than 6,813), then
5 Defendant, at its sole discretion, has the option of either (i) increasing the GSA on a pro-rata basis equal to
6 the percentage increase in the number of workweeks worked by the Class Members above 10% (for
7 example, if the number of workweeks increases by 11%, the GSA will increase by 1%); or (ii) shorten the
8 release period to an earlier date by which 6,194 workweeks plus an additional 619 workweeks are covered
9 by the Class Period.

10 **9. DEFENDANT’S RIGHT TO WITHDRAW.**

11 If the number of valid and timely Requests for Exclusion identified in the Exclusion List exceeds
12 10% of the total of all Class Members, Defendant may, but is not obligated to, elect to withdraw from the
13 Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void *ab initio*, have no
14 force or effect whatsoever, and that neither Party will have any further obligation to perform under this
15 Agreement; provided, however, Defendant will remain responsible for paying all Settlement
16 Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its
17 election to withdraw not later than seven (7) calendar days after the Administrator sends the final Exclusion
18 List to Defense Counsel; late elections will have no effect.

19 **10. MOTION FOR FINAL APPROVAL.**

20 Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will
21 file a motion for final approval of the Settlement that includes a request for approval of the PAGA
22 settlement under Labor Code § 2699(*I*), a Proposed Final Approval Order, and a proposed Final Judgment
23 (collectively, the “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to
24 Defense Counsel not later than seven (7) calendar days prior to filing the Motion for Final Approval.
25 Defense Counsel shall provide any input, edits, and/or response to these drafts not later than two (2)
26 calendar days prior to Plaintiff’s deadline to file the Motion for Final Approval; if Defense Counsel does
27 not provide any input, edits, and/or response to the drafts within this time frame, Plaintiff may proceed
28 with finalizing and filing the Motion for Final Approval. Class Counsel and Defense Counsel will

expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

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

10.4. Waiver of Right to Appeal. Provided the Final Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment as set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Final Judgment, including all rights to post-Judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs, or appeals. If an objector appeals the Final Judgment, the Parties' obligations to perform

under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

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

11. AMENDED JUDGMENT.

If any amended judgment is required under Code of Civil Procedure § 384, the Parties will work together, and in good faith, to jointly prepare and file a proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate, and/or publicize, or cause or permit another person to disclose, disseminate, or publicize, any of the terms of the Agreement, directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, union representatives, accountants, or spouses, on a need to know basis with all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued

1 by a state or federal government agency. Each Party agrees to immediately notify each
2 other Party of any judicial or agency order, inquiry, or subpoena seeking such information.
3 Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree not to, directly
4 or indirectly, initiate any conversation or other communication, before the filing of the
5 Motion for Preliminary Approval, with any third party regarding this Agreement or the
6 matters giving rise to this Agreement, except to respond only that “the matter was
7 resolved,” or words to that effect. This Paragraph does not restrict Class Counsel’s
8 communications with Class Members in accordance with Class Counsel’s ethical
9 obligations owed to Class Members.

10 12.2. No Promotion. Plaintiff and Class Counsel agree that they will not promote, market,
11 advertise, or discuss publicly, including on any website or through social media, issuing
12 any press releases, initiating any contact with the press, responding to any press inquiry, or
13 having any communication with the press about this Action, including the facts and claims
14 alleged therein, and/or the fact, amount, or terms of the Settlement. Nothing in this
15 paragraph shall be construed to restrict Class Counsel’s ability to communicate with Class
16 Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

17 12.3. Integrated Agreement. Upon execution by all Parties and their respective counsel, this
18 Agreement, together with its attached Exhibit A, shall constitute the entire agreement
19 between the Parties relating to the Settlement, superseding any and all oral representations,
20 warranties, covenants, or inducements made to, by, and/or between any Party.

21 12.4. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
22 represent that they are authorized by Plaintiff and Defendant, respectively, to take all
23 appropriate action required or permitted to be taken by such Parties pursuant to this
24 Agreement to effectuate its terms, and to execute any other documents reasonably required
25 to effectuate the terms of this Agreement, including any amendments to this Agreement
26 and/or Class Notice.

27 12.5. Cooperation. The Parties and their respective counsel will cooperate with each other and
28 use their best efforts, in good faith, to implement the Settlement by, among other things,

modifying the Settlement Agreement and/or Class Notice, and submitting supplemental evidence and/or 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 and/or Class Notice that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

12.6. 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.

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

12.8. 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.

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

12.10. 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.

12.11. 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.

12.12. 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.

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

12.14. 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.

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

12.16. Notice. All notices, demands, or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third (3rd) business day after mailing by USPS mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Zachary M. Crosner (SBN 272295)

zach@crosnerlegal.com

Brandon Brouillette (SBN 273156)

bbrouillette@crosnerlegal.com

CROSNER LEGAL, PC

9440 Santa Monica Blvd. Suite 301

Beverly Hills, CA 90210

Tel: (310) 496-5818

Fax: (310) 510-6429

To Defendant:

Shirley C. Wang (SBN 187635)

swang@saberlaw.com

Ren M. Kuan (SBN 332674)

rkuan@saberlaw.com

SABER LAW GROUP

101 Howard Street, Suite 400

San Francisco, California 94105

Telephone: (415) 278-1400

Facsimile: (415) 278-1404

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

12.18. 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 California Code of Civil Procedure § 583.330, the date to bring a case to trial under Code of Civil Procedure § 583.310 shall be extended for the entire period of this settlement process.

12.19. Full Defense. This Agreement may be pled as a full and complete defense to and may be used affirmatively, including as a basis for an injunction against, any action, suit or other proceeding that may be prosecuted, instituted, or attempted by Plaintiff or any other person, and/or in connection with the defense of any actual or threatened claim, lawsuit or proceeding.

IT IS SO AGREED AND UNDERSTOOD BY:

Plaintiff & Class Representative:

Dated: 12 / 19 / 2024

By: Arthur Quesada
Arthur Quesada

Defendant:

Dated: _____

XPDEL, INC.

By: _____
Manish Kapoor
Chief Executive Officer

1 **AGREED AS TO FORM BY:**

2 **Plaintiff's Counsel:**

3 Dated: December 19, 2024

CROSNER LEGAL, PC

4
5 By: 

Zachary M. Crosner
Brandon Brouillette

Attorneys for Plaintiff

6
7
8
9 **Defendant's Counsel:**

10 Dated: _____

SABER LAW GROUP

11
12 By: _____

Shirley C. Wang
Ren M. Kuan

Attorneys for Defendant

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

12.18. 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 California Code of Civil Procedure § 583.330, the date to bring a case to trial under Code of Civil Procedure § 583.310 shall be extended for the entire period of this settlement process.

12.19. Full Defense. This Agreement may be pled as a full and complete defense to and may be used affirmatively, including as a basis for an injunction against, any action, suit or other proceeding that may be prosecuted, instituted, or attempted by Plaintiff or any other person, and/or in connection with the defense of any actual or threatened claim, lawsuit or proceeding.

IT IS SO AGREED AND UNDERSTOOD BY:

Plaintiff & Class Representative:

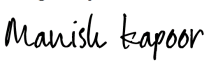
Dated: _____

By: _____
Arthur Quesada

Defendant:

Dated: 12/19/2024

XPDEL, INC.

Signed by:

By: _____
Manish Kapoor
Chief Executive Officer

AGREED AS TO FORM BY:

Plaintiff's Counsel:

Dated: _____ CROSNER LEGAL, PC

By: _____

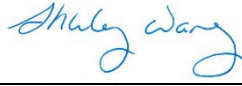
Zachary M. Crosner
Brandon Brouillette

Attorneys for Plaintiff

Defendant's Counsel:

Dated: December 19, 2024 SABER LAW GROUP

By: _____


Shirley C. Wang
Ren M. Kuan

Attorneys for Defendant

Exhibit A

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

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

You may be eligible to receive money from an employee lawsuit against XPDEL, Inc. ("XPDEL" is used herein as a placeholder) for alleged wage and hour violations case name *Arthur Quesada v. XPDEL, Inc.*, case no 23CV031688, in the Alameda County Superior Court ("Action").

The Action was filed by a former XPDEL employee Arthur Quesada ("Plaintiff") who seeks payment of (1) back wages and other relief for a class of hourly-paid employees ("Class Members") who worked for XPDEL during the Class Period (April 21, 2019 through the earlier of date the Court grants preliminary approval or the date total workweeks worked by Class Members reaches 6,813 total workweeks); and (2) civil penalties under the Private Attorneys General Act of 2004 ("PAGA") for a group of hourly-paid employees ("Aggrieved Employees") who worked during the PAGA Period (April 21, 2022 through the earlier of date the Court grants preliminary approval or the date total workweeks worked by Class Members reaches 6,813 total workweeks).

The proposed settlement ("proposed Settlement" or "Settlement") is a global settlement of the Action, requiring XPDEL to fund Individual Class Payments to Participating Class Members for the class portion of the Settlement ("Class Settlement") and Individual PAGA Payments to Aggrieved Employees for the PAGA portion of the Settlement ("PAGA Settlement").

Based on the XPDEL's records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be \$ _____ (less withholding) and your Individual PAGA Payment is estimated to be \$ _____ (subject to a 1099).** The actual amount(s) you may receive likely will be different and will depend on a number of factors.

The above estimates are based on XPDEL's records showing that **you worked _____ workweeks during the Class Period and worked _____ pay periods during the PAGA Period.** If you believe that you worked more workweeks and/or pay periods during these periods, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully, as you will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the proposed Settlement and how much of the proposed Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires XPDEL to make payments under the proposed Settlement and requires Class Members to give up their rights to assert certain claims against XPDEL.

If you worked for XPDEL during the Class Period, you have two basic options under the Class Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims against XPDEL.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Class Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against XPDEL. **If you are an Aggrieved Employee, you will still be subject to the PAGA Release (defined below) and will receive your Individual PAGA Payment, even if you opt out of the Class Settlement.**

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Class Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment. In exchange, you will give up your right to assert the wage claims against XPDEL that are covered by this Settlement (Class Member's Release).
You Can Opt-out of the Class Settlement The Opt-out Deadline Is	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. <u>If you are an Aggrieved Employee, you will receive your Individual PAGA Payment, even if you opt out of the Class Settlement.</u>

Participating Class Members Can Object to the Class Settlement Written Objections Must be Submitted by	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the Class Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on . You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Class Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks Written Challenges Must be Submitted by	The amount of your Individual Class Payment depends on how many workweeks you worked at least one day during the Class Period. Similarly, the amount of your Individual PAGA Payment depends on how many pay periods you worked at least one day during the pay period. The number of workweeks and pay periods you worked according to XPDEL’s records is stated on the first page of this Notice. If you disagree with this number, you must challenge it by . See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former XPDEL employee. The Action accuses XPDEL of violating California labor laws by failing to pay minimum wages, overtime wages, and timely wages due upon termination and during employment; failing to provide meal periods, rest periods, sick time, vacation wages, accurate itemized wage statements, failing to produce employment records; failing to maintain accurate and complete payroll and related employment records, failing to reimburse necessary business expenses. Plaintiff is represented by attorneys in the Action: Crosner Legal, PC (“Class Counsel.”)

XPDEL strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether XPDEL or Plaintiff is correct on the merits. In the meantime, Plaintiff and XPDEL hired an experienced, neutral mediator in an effort to

resolve the Action by negotiating an to end the case by agreeing to settle the case rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and XPDEL have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, XPDEL does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the proposed Settlement is a good deal for you because they believe that: (1) XPDEL has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) settlement is in the best interests of the Class Members. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. XPDEL Will Pay \$175,000 as the Gross Settlement Amount (“Gross Settlement”).
XPDEL has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the proposed Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, and the Administrator’s expenses. Assuming the Court grants Final Approval, XPDEL will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$58,333.33 (33.33% of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$15,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000 to Plaintiff as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class, and providing a broad general release of all claims. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$16,000 in PAGA Penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$4,000) and 75% to the Labor Workforce and Development Agency (\$12,000).
 - D. Up to \$10,000.00 to the Administrator for services administering the Settlement.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections, with the exception of the PAGA Penalties amount.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period workweeks.
4. Taxes Owed on Payments to Class Members and Aggrieved Employees. Plaintiff and XPDEL are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to payments not attributable to wages, of which 40% will be allocated to settlement of claims for interest and 40% for penalties (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. (XPDEL will separately pay employer payroll taxes it owes on the Wage Portion.) The Administrator will report the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

100% of the PAGA Penalties to Aggrieved Employees will be allocated as penalties and reported on IRS Form 1099.

Although Plaintiff and XPDEL have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and/or Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check(s) will be automatically cancelled, and the monies provided to you will be redistributed to the Parties’ chosen *cy pres* recipient, East Bay Community Law Center. If the monies represented by your check(s) are redistributed to the East Bay Community Law Center you will not be able to recover your monies.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from setting forth your name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against XPDEL.
7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and XPDEL have agreed that, in either case, the Settlement will be void:

XPDEL will not pay any money and Class Members will not release any claims against XPDEL.

8. Administrator. The Court has appointed a neutral company, Phoenix Class Action Settlement Administration (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and XPDEL has fully funded the Gross Settlement (and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Class Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against XPDEL or related entities for wages based on Class Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and on behalf of their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims, transactions, or occurrences that occurred during the Class Period and that were alleged, or reasonably could have been alleged based on the facts contained, in the Operative Complaint. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

10. PAGA Release or Release by LWDA. Plaintiff, as a proxy or agent of the LWDA, hereby releases all of the PAGA claims stemming from the claims, transactions, or occurrences for all Aggrieved Employees that occurred during the PAGA Period that were alleged based on the facts contained in the Operative Complaint and Plaintiff’s PAGA Notice/

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing the 25% employee-portion of the PAGA Penalties by the total number of pay periods worked by all Aggrieved Employees, and (b) multiplying the result by the number of pay periods worked by each individual Aggrieved Employee.
3. Workweek and Pay Period Challenges. The number of Class workweeks and PAGA pay periods you worked during the Class Period and PAGA Period, as recorded in XPDEL’s records, are stated in the first page of this Notice. You have until to challenge the

number of workweeks and/or pay periods. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

Participating Class Members. The Administrator will send, by U.S. mail, a check to every Participating Class Member (i.e., every Class Member who doesn't opt-out).

Aggrieved Employees. The Administrator will send, by U.S. mail, a check to every Aggrieved Employee, regardless of whether they opt out of the Class Settlement.

The Administrator may send a single check combining the Individual Class Payment and the Individual PAGA Payment. **Your check(s) 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. Section 9 of this Notice has the Administrator's contact information.**

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Quesada v. XPDEL, Inc.* and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

If you are an Aggrieved Employee, the LWDA will still be bound by the PAGA Release regardless of whether you opt out of the Class Settlement. Aggrieved Employees cannot opt out of the PAGA Settlement.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Class Settlement. Before deciding whether to object, you may wish to see what Plaintiff and XPDEL are asking the Court to approve. At least 16 court days before the _____ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation

Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website (url) or the Court's website (url)

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is _____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Quesada v. XPDEL, Inc.* and include your name, current address, telephone number, and approximate dates of employment for XPDEL and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at (time) in Department 23 of the Alameda Superior Court, located at the Administration Building, 1221 Oak St., Oakland, CA 94612. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually. Check the Court's website (<https://publicrecords.alameda.courts.ca.gov/PRS/>) using the Case No. **23CV036357** for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything XPDEL and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to _____'s website at _____.

You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Alameda County Superior Court website, known as 'eCourt Public Portal' at <https://eportal.alameda.courts.ca.gov>. After arriving at the website, click 'Search' tab at the top of the page, then select the Document Downloads link, enter the case number and click 'Submit.' Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings, including the René C. Davidson Courthouse and the Hayward Hall of Justice.

To view the Register of Actions, go to the 'Search' tab at the top of the page, then select the 'Search by Case Number' link, enter the case number 23CV036357, select 'Search' and click the link to the case name. You will see the Register of Actions and more.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION
ABOUT THE SETTLEMENT.**

Class Counsel:

Name of Attorney: Zachary Crosner and Brandon Brouillette

Email Address: zcrosner@crosnerlegal.com; bbrouillette@crosnerlegal.com

Name of Firm: Crosner Legal, PC

Mailing Address: 9440 Santa Monica Blvd., Suite 301, Beverly Hills, CA 90210

Telephone: (866) 276-6429

Settlement Administrator:

Name of Company:

Email Address:

Mailing Address:

Telephone:

Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, then your unclaimed funds will have been distributed to the chosen *cy pres* recipient, East Bay Community Center, and your check will not be reissued.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.