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Attorneys for Plaintiff MIRANDA LOPEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

MIRANDA LOPEZ, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

vs.

BEHAVIOR FRONTIERS, LLC, a California
limited liability company; and DOES 1
through 100, inclusive,

Defendants.

Case No. 22STCV15331

**DECLARATION OF JEAN-CLAUDE
LAPUYADE, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: October 6, 2023

Time: 11:00 a.m.

Judge: Hon. Elihu M. Berle

Dept.: 6

1 I, Jean-Claude Lapuyade, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner
4 of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am co-counsel of record for
5 Plaintiff MIRANDA LOPEZ (hereafter "Plaintiff") in this wage and hour class action filed against
6 BEHAVIOR FRONTIERS, LLC (hereinafter "Defendant").

7 2. This declaration is being submitted in support of Plaintiff's motion for Preliminary
8 Approval of Class and PAGA Action Settlement.

9 **I. EXHIBITS**

10 3. Attached hereto as **Exhibit "1"** is a true and correct copy of the final Class Action and
11 PAGA Settlement Agreement ("Agreement" or "Settlement Agreement"). Attached as **Exhibit "A"** to
12 the Agreement is a true and correct copy of the proposed Class Notice.

13 4. Attached hereto as **Exhibit "2"** is a true and correct *redlined* copy of the Agreement
14 showing the changes that the Parties made to the Court's [Model] Class Action and PAGA Settlement
15 Agreement and Class Notice. Attached as **Exhibit "A"** to Exhibit 2 is a true and correct copy of the
16 *redlined* Class Notice.

17 5. Attached hereto as **Exhibit "3"** is a true and correct copy of the proof of filing with the
18 Labor and Workforce Development Agency notice of this settlement with the Settlement Agreement
19 and Motion for Preliminary Approval of Class Action and PAGA Settlement evidencing Class
20 Counsel's compliance with California Labor Code Section 2699(1)(2).

21 6. Attached hereto as **Exhibit "4"** is a true and correct copy of the JCL Law Firm "Firm
22 Resume" detailing some of the major cases the JCL Law Firm has undertaken.

23 **II. INTRODUCTION**

24 7. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of
25 the Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm's length.
26 The Settlement confers substantial benefits to the Settlement Class. The relief offered by the Settlement
27 is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage
28 and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class Members will

1 not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being
2 denied or of Defendant prevailing at trial. The entire Net Settlement Amount will be paid to all
3 Participating Class Members resulting in an average Individual Class Payment of **\$257.93**.

4 8. As discussed below, the proposed Settlement satisfies all criteria for preliminary
5 settlement approval and falls within the range of reasonableness. The average Individual Class Payment
6 to the Settlement Class meets awards in similar wage and hour class actions. Moreover, the proposed
7 Settlement Class is appropriate for provisional certification. Accordingly, Plaintiff respectfully requests
8 the Court grant preliminary approval of the Settlement.

9 **III. FACTS AND PROCEDURE**

10 **A. Overview of the Litigation**

11 9. Defendant provides Applied Behavior Analysis (“ABA”) services to children with autism
12 throughout California, including in Los Angeles County where Plaintiff worked. Plaintiff worked for
13 Defendant in California during 2019 as a non-exempt employee, paid on an hourly basis. At all times
14 during her employment, Plaintiff alleges that she was denied legally compliant meal and rest periods,
15 and minimum wages and overtime compensation. Throughout her employment, Plaintiff was subject
16 to Defendant’s written policies and procedures contained in, among other documents, the “Behavior
17 Frontiers Employee Handbook.”

18 10. Generally, Plaintiff claims that Defendant failed to pay for all time worked, failed to
19 provide compliant meal and rest periods, failed to reimburse for mandatory business expenses, failed to
20 furnish accurate itemized wage statements, failed to pay overtime and paid sick time at the correct rate
21 of pay, failed to properly pay reporting time pay, and failed to pay all wages timely during employment
22 and upon separation. Defendant denies liability for each of Plaintiff’s claims. Further, Defendant asserts
23 that it fully complied with all applicable employment laws and raised several other significant defenses
24 to Plaintiff’s claims, including but not limited to, facially compliant meal and rest period policies,
25 compliant wage statements, and that it timely paid all wages due upon separation of employment.

26 11. On May 9, 2022, Plaintiff filed a class action complaint in the Los Angeles County
27 Superior Court, Case No. 22STCV15331 (“Action”). The Action alleged ten causes of action against
28 Defendant for: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2)

1 Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation
2 of California Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of California Labor
3 Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code
4 §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages
5 Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) (Non-
6 Compliant Wage Statements); (8) Violation of California Labor Code § 1174(d) (Failure to Keep
7 Requisite Payroll Records); (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed
8 Business Expenses); (10) Violation of California Business & Professions Code §§ 17200, *et seq.*

9 12. Both Parties propounded written discovery in July of 2022. After responding to
10 discovery, the Parties agreed to mediate this action. To prepare for mediation, the Parties agreed to
11 informally produce additional documents and data points subject to the mediation privilege, including
12 but not limited to, a sample of the Class Members' time and payroll data and certain payroll data points.
13 As discussed *infra*, Plaintiff's counsel retained the forensic consultants at Berger Consulting Group
14 ("BCG") to analyze Defendant's time and payroll data.

15 13. On April 28, 2023, the Parties participated in a full day mediation with wage and hour
16 and PAGA mediator Steve Rottman, Esq. The mediation concluded with a settlement after both sides
17 agreed to a Mediator's proposal which was subsequently memorialized in the form of a Memorandum
18 of Understanding. Thereafter, the Parties drafted and negotiated a long-form settlement agreement,
19 which is the subject of the instant motion.

20 14. On July 19, 2022, and August 14, 2023, for purposes of effectuating the settlement,
21 Plaintiff served Defendant and the Labor and Workforce Development Agency ("LWDA") with a
22 Notice of Violations and Amended Notice (collectively referred to as "PAGA Notice"). Plaintiff's
23 PAGA Notice set forth the facts and theories supporting Defendant's alleged violations of various
24 provisions of the California Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage
25 Order and of her intent to pursue claims under California Labor Code Private Attorneys General Act,
26 Cal. Lab. Code Sections 2698 *et seq* ("PAGA").

27 15. On August 23, 2023, the Parties filed a stipulation for leave to amend the complaint to
28 allow Plaintiff to file a First Amended Complaint adding the following claims/legal theories: (1) failure

1 to pay paid sick time at the correct rate of pay; (2) failure to properly pay reporting time pay; and (3)
2 an additional cause of action for violation of PAGA based on the same violations alleged in the
3 Complaint and First Amended Complaint.¹

4 **B. Class Counsel Thoroughly Investigated the Factual and Legal Issues**

5 16. Months before filing the Action, Class Counsel began its pre-filing investigation into the
6 Plaintiff's complaints. Class Counsel's investigation started with several lengthy interviews with
7 Plaintiff. As part of the interview process, the Plaintiff produced documents related to her employment,
8 including portions of Defendant's handbooks, compensation policies and time and payroll records. At
9 the conclusion of the interviews, Class Counsel determined that Plaintiff's complaints justified further
10 inquiry.

11 17. Class Counsel subsequently requested Plaintiff's employee files from Defendant. In
12 response, Defendant produced hundreds of pages of documents, including but not limited to, copies of
13 Plaintiff's hiring documents and payroll and time records. Class Counsel reviewed and analyzed the
14 documents and determined the documents appeared to substantiate Plaintiff's claim that Defendant
15 failed to, among other things, provide accurate wage statements and to provide compliant meal and rest
16 periods.

17 18. To prepare for mediation, Defendant produced a sample of the time and payroll records
18 for the Class Members, aggregate workweek and pay period data for the Class Members, aggregate
19 meal premiums paid to the Class Members, average hourly rate for the Class Members, and copies of
20 applicable handbooks, policies, and agreements. In total, Class Counsel reviewed hundreds of
21 documents and more than 2 million unique cells of time and payroll data.

22 19. Class Counsel then retained the statisticians and economists at BCG to evaluate the Class
23 Members' payroll and time data. BCG provides data analysis and damage modeling consulting
24 services, specializing in wage and hour class actions. BCG's team of financial and data analysts are
25 credentialed and experienced experts in their fields and have provided their expertise on thousands of
26 cases.

27
28 ¹ Plaintiff intends on filing the First Amended Complaint upon receipt of the signed Order granting Plaintiff's request for
leave to amend the complaint.

1 20. BCG analyzed Defendant's time and payroll data to assist in the development of various
2 damage models. Among other things, BCG determined the approximate amount of allegedly unpaid
3 wages, amount of allegedly unpaid overtime wages, number of workweeks, pay periods, average length
4 of shifts and average number of hours worked per week. BCG also estimated the number of allegedly
5 missed, late, or truncated meal and rest periods, the amount of allegedly unpaid wages, the amount of
6 allegedly unpaid overtime, the amount of allegedly unpaid sick time, the amount of allegedly
7 unreimbursed business expenses, and the amount of allegedly missed meal and rest period premiums
8 paid during the Class Period.

9 21. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)
10 determining Plaintiff's suitability as a putative class representative through interviews, background
11 investigations, and analysis of her employment files; (2) evaluating all of Plaintiff's potential claims;
12 (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions,
13 and the type of employer; (4) analyzing the Settlement Class's time and payroll records; (5) analyzing
14 Defendant's labor policies and practices; (6) researching settlements in similar cases as well as
15 outstanding issues which could affect settlement approval; (7) evaluating Plaintiff's claims and
16 estimating Defendant's potential liability for purposes of settlement; (8) drafting the mediation brief;
17 and (9) participating in the mediation. This investigation allowed Class Counsel to fully assess the
18 nature and magnitude of the claims being settled, as well as the impediments to recovery, such as to
19 make an independent assessment of the reasonableness of the terms to which the Parties have agreed.

20 22. Class Counsel only agreed to enter the Settlement following this thorough investigation
21 and evaluation of Plaintiff's claims. Based on its investigation of the facts, applicable law, and
22 marketplace for similar settlements, and considering the risk of significant delay and uncertainty
23 associated with litigation, and the various defenses asserted by Defendant, Class Counsel firmly believe
24 this Agreement to be in the best interests of the Class Members. Because the Settlement's terms are
25 fair, reasonable, and adequate, the Court should preliminarily approve the Settlement.

26 **C. The Parties Settled at Mediation**

27 23. On April 28, 2023, the Parties conducted a full day of mediation with Steve Rottman,
28 Esq. Mediator Rottman helped manage the Parties' expectations and provided a useful, neutral analysis

1 of the issues and risks to both sides. The Parties made substantial progress with Mediator Rottman's
2 assistance. Namely, the Parties exchanged information regarding their respective claims and defenses,
3 including their respective evaluation of the damages. The mediation concluded with a settlement, after
4 both sides agreed to a Mediator's proposal.

5 24. The complete and final terms of the Parties' settlement are now set forth in the
6 Agreement. Class Counsel submits that the Settlement constitutes a fair, adequate, and reasonable
7 compromise of the claims at issue.

8 **IV. ARGUMENT**

9 **A. The Court Should Preliminarily Approve the Class Action Settlement**

10 25. As set forth in greater detail above, Class Counsel conducted a very thorough
11 investigation into the factual and legal issues in dispute. In addition to informal discovery, document
12 review, data analysis and legal research, Class Counsel also researched similar wage and hour actions.
13 Although no two cases are identical, this research provided Class Counsel with a marker to inform
14 settlement discussions and, ultimately, to measure this settlement against. The investigation allowed
15 Class Counsel to realistically assess the value of Plaintiff's claims and intelligently engage defense
16 counsel in settlement discussions that culminated in the proposed settlement now before the Court.

17 26. Class Counsel only agreed to enter the Settlement following their thorough investigation
18 and evaluation of Plaintiff's claims. Based on this investigation of the facts, applicable law, and
19 marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated
20 with litigation, and the various defenses asserted by Defendant, Class Counsel firmly believes this
21 Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair,
22 reasonable, and adequate, the Court should preliminarily approve the Settlement.

23 27. The Gross Settlement Amount of \$2,000,000.00 is fair and reasonable considering the
24 nature and magnitude of the claims being settled and the various potential impediments to recovery,
25 including Defendant's contention that approximately 40% of Class Members have signed arbitration
26 agreements with a class action waiver. Prior to mediation, Class Counsel retained Berger to develop
27 economic damage models measuring Defendant's liability exposure while accounting for the
28 uncertainties of continued litigation. The various models were informed by Class Counsel's

1 investigation, including the analysis of a significant sample of time and payroll data. Class Counsel
2 projected Defendant's liability exposure for *class claims* (excluding PAGA Penalties) ranged between
3 \$4,753,484.05 ("Realistic Damages") and \$16,498,849.80 ("Maximum Damages") if successful at trial.
4 This range reflects the uncertainty regarding several of the claims. Thus, the Gross Settlement Amount
5 represents a recovery of between 42.07% ("Realistic Damages") and 12.12% ("Maximum Damages")
6 of Defendant's class-wide exposure – well within the recognized range of reasonableness. The
7 following summarizes Defendant's liability exposure.

8 28. Plaintiff alleges that Defendant failed to include certain non-discretionary bonuses and
9 commissions when calculating the regular rate of pay when paying overtime wages, meal period
10 premiums, and redeemed sick pay. Specifically, Defendant paid Class Members non-discretionary
11 incentive compensation in the form of "BNS-BONUS Pay" and "LD Bonus (Supplemental Tax Rate)
12 Pay" payments, and had in place the non-discretionary incentive programs, which were not properly
13 calculated into the regular rate of pay for purposes of overtime, meal period premiums, and redeemed
14 sick pay. The regular rate of pay, which can change from pay period to pay period, includes adjustments
15 to the straight time rate, reflecting, among other things, non-discretionary bonuses and awards, shift
16 differentials and the per-hour value of any non-hourly compensation the employee has earned. *Alvarado*
17 *v. Dart Container Corp. of California* (2018) 4 Cal.5th 542, 552-554. For overtime work, "an employee
18 must receive a 50 percent premium on top of his or her regular rate of pay[.]" *Id.* at 553. California law
19 also requires meal period premiums and rest period premiums to be paid at an employee's regular rate
20 of pay. See *Ferra v. Lowes Hollywood Hotel, LLC* (2021) 11 Cal.5th 858.) Further, California Labor
21 Code section 246(1)(1) expressly mandates that sick pay for non-exempt employees be based on either
22 "the regular rate of pay for the workweek in which the employee uses paid sick time" or the regular rate
23 of pay in the 90 days preceding the use of the sick leave.

24 29. Conversely, Defendant denied liability and asserted it paid the correct rate of pay for
25 purposes of overtime wages and sick pay. Defendant also argued that these bonuses were discretionary
26 and did not need to be included in the regular rate calculation for payment of overtime wages and sick
27 pay. Plaintiff estimated the range of outcomes for this claim was between \$8,036.50 and \$16,073.00.

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1 30. Plaintiff also alleges that Defendant failed to provide compliant meal periods.
2 Specifically, Plaintiff alleges that as a result of their rigorous work schedules, Plaintiff, Class Members,
3 and Aggrieved Employees were not able to take timely and duty-free meal periods. Consequently,
4 Plaintiff alleges that she is owed meal period premiums for meal period violations that occurred during
5 the Class Period. An analysis of the Class Members' time and payroll data revealed a modest 13.1%
6 meal period violation rate.

7 31. Defendant argued, among other things, that it has a lawful policy and that it provided all
8 their employees, i.e., Class Members and Aggrieved Employees, with the opportunity to take compliant
9 meal periods and that, if they did not take compliant meal periods, it was their choice. Defendant also
10 argued that a large portion of its workforce was subject to Wage Order 15, exempting employees from
11 the meal period requirements. Thus, Defendant argued that there was no potential liability for Plaintiff's
12 alleged meal period violations. Further, payroll data evidenced that several Class Members signed short
13 shift meal period waivers. At a minimum, Defendant argued that any potential recovery for meal period
14 violations would be drastically reduced based on the number of Class Members who signed meal period
15 waivers.

16 32. Consequently, Plaintiff applied a 75% discount to this claim to account for the modest
17 violation rate, facially compliant policies, and meal period waivers. Plaintiff estimated that the damages
18 for this claim ranged from approximately \$165,132.90 to approximately \$660,531.60.

19 33. Plaintiff also alleged that Defendant failed to provide compliant rest periods. On many
20 occasions, Plaintiff was the only employee scheduled to work during a particular shift. As a result,
21 Plaintiff's rest periods were often on-premises, on-duty, and/or on call, and often interrupted. Again,
22 Defendant denied liability and asserted that it maintained legally compliant rest period policies and
23 practices throughout the Class Period. Defendant also argued that because Wage Order 15 applied,
24 employees were exempt from rest period requirements, which would completely eliminate liability for
25 Plaintiff's rest period violations. Moreover, Plaintiff recognizes the evidentiary burdens establishing
26 this claim. Establishing Plaintiff's rest period claim would rely, almost entirely, on Class Member
27 testimony, making it a riskier claim at class certification and liability stages. Certification likely would
28 have required depositions of Class Members who provided declarations, and Defendant surely would

1 have obtained opposing declarations stating either rest breaks were taken, or rest breaks were
2 voluntarily waived. *See, e.g., Ordonez v. Radio Shack, Inc.* (C.D. Cal. Jan. 17, 2013) 2013 WL 210223,
3 at *11 (“Because of the competing testimony before the Court, plaintiff’s evidence that defendant may
4 have an illegal, written rest break policy is insufficient for this Court to find that common issues
5 predominate.”); *Villa v. United Site Servs. of California, Inc.* (N.D. Cal. Nov. 13, 2012) 2012 WL
6 5503550, at *8 (“Indeed, Plaintiff’s own evidence confirms that the written policy does not generate
7 uniform practices.”). Accordingly, Plaintiff’s Realistic Damage model applied a 75% discount to the
8 rest break claim and assumed an identical rest period violation rate of 13.1% as seen with meal period
9 violations. Plaintiff estimated the range of potential outcomes for this claim was between
10 approximately \$165,132.90 to approximately \$660,531.60.

11 34. Plaintiff also alleged that Defendant failed to pay its employees for all hours worked.
12 Specifically, throughout Plaintiff’s employment, she alleges she was not able to clock in and out for her
13 shift. Instead, Defendant paid employees based on their scheduled hours, rather than the number of
14 hours they actually worked. The time records produced by Defendant showed that 99.98% of all time
15 entries were rounded to quarter-hour intervals. Based on Plaintiff’s testimony and Class Counsel’s
16 investigation, BCG estimated that Class Members performed a total of 5 minutes of unpaid work every
17 shift. As a result, Plaintiff and Class Members forfeited compensation, including overtime wages, for
18 all the time they spent working under Defendant’s control.

19 35. Defendant vigorously denied liability for this claim. Further, Defendant asserted that it
20 had in place a written policy required its employees to accurately record all their time worked daily and
21 argued that such written policies and procedures directed its employees not to work while off the clock.
22 Further, Defendant argued that the off-the-clock claim was not suitable to class treatment because
23 individualized issues predominated. For example, even assuming Plaintiff performed work while off-
24 the-clock, which Defendant disputes, the time spent would vary drastically from class member to class
25 member that it could not be established by common proof. Consequently, Plaintiff’s Realistic Damage
26 model applied a 75% discount to this claim. Plaintiff estimated Defendant’s exposure for this claim
27 ranged between \$930,591.90 and \$3,722,367.60.

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1 36. Plaintiff alleged that Defendant required the Class Members to use their personal cellular
2 phones and personal vehicles as a result of and in furtherance of their job duties but were not reimbursed
3 by Defendant. California employers who require employees to incur personal business expenses for
4 work purposes must reimburse the employee for the cost incurred. (*See* Cal. Labor Code § 2802(a),
5 providing that “an employer shall indemnify his or her employee for all necessary expenditures or losses
6 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her
7 obedience to the directions of the employer...”). BCG estimated a reasonable \$15 monthly
8 reimbursement rate for Class Members for the use of their personal cell phones and vehicles.

9 37. Again, Defendant denied any liability for this claim. Defendant argued that its written
10 policies provide for reimbursement to employees for necessary business expenses incurred in the
11 discharge of the employees’ duties or at Defendant’s direction. Further, Defendant argued that it did in
12 fact reimburse employees for use of their personal cell phones and vehicles. Thus, Plaintiff estimates
13 that even if Plaintiff were successful in this claim only a small number – approximately half – of the
14 Settlement Class would be entitled to relief. This claim was also heavily discounted by 85% based on
15 Defendant’s defenses. Plaintiff estimated Defendant’s exposure for this claim ranged between
16 approximately \$169,496.25 and approximately \$677,985.00.

17 38. Plaintiff also alleged that Defendant failed to furnish its employees with accurate itemized
18 wage statements. Specifically, Plaintiff alleges that as a result of Defendant’s failure to provide meal
19 and rest periods as required by the California Labor Code and pay for all wages, Plaintiff and other
20 Class Members are entitled to derivative wage statement penalties. (*See Naranjo v. Spectrum Security*
21 *Services* (2022) 13 Cal. 5th 93 (concluding that meal premiums are “wages” entitling employees to
22 derivative wage statement penalties). Defendant argued that this claim would fail because the
23 underlying claims would fail and that, even it failed to furnish accurate wage statements, Plaintiff could
24 not establish the injury requirement on a class-wide basis. As a result, Plaintiff discounted this claim
25 25% to account for this risk. Plaintiff estimated that Defendant’s exposure on this claim ranged between
26 \$2,583,412.50 and \$3,444,550.00.

27 39. Plaintiff also alleged that the Defendant’s labor code violations resulted in derivative
28 liability for waiting time penalties. Although these *penalties* represented Defendant’s largest dollar

1 amount of exposure, this is Plaintiff's most uncertain claim. Specifically, Defendant argued that
2 Plaintiff could not prove the "willful" prong needed to obtain waiting time penalties under Labor Code
3 section 203. Notwithstanding the uncertain nature of the claims, Plaintiff estimated Defendant's
4 exposure for these claims ranged between \$731,681.10 and \$7,316,811.00 million.

5 40. Class Counsel's damage models also estimated Defendant's exposure for PAGA
6 penalties. At the time of mediation, Plaintiff estimated Defendant's PAGA exposure ranged between
7 \$179,055.00 and \$6,644,250.00.

8 41. Here, the Parties negotiated a good faith PAGA Payment in the amount of \$60,000 which
9 is 3% of the Gross Settlement Amount. This amount falls well within the range of approved PAGA
10 Payments. Seventy-Five percent (75%) of the PAGA Payment (\$45,000.00) will be paid to the LWDA
11 ("LWDA Payment") with the remaining twenty-five percent (25%) of the PAGA Payment (\$15,000.00)
12 distributed to the Aggrieved Employees, which is within the range of PAGA penalties approved by
13 courts and should be approved.

14 **B. Inherent Risks of Continued Litigation Support Preliminary Approval**

15 42. With respect to the most immediate challenge, i.e., class certification, the risks attendant
16 to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart*
17 *Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded
18 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed
19 the trial court to enter judgement in favor of the employer. *See also O'Conner v. Uber Technologies,*
20 *Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also*
21 *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor
22 plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th
23 1077, 1088 ("[T]he reason, if any, that employees might not take their breaks were predominantly
24 individualized questions of fact not susceptible to class treatment."); *Ali v. U.S.A. Cab Ltd.* (2009) 176
25 Cal.App.4th 1333, 1341 (affirming denial of certification because employees' declarations attesting to
26 having taken meal and rest breaks demonstrated that individualized inquiries were required to show
27 harm); *Campbell v. Best Buy Stores, L.P.,* (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following
28 *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack

1 of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying
2 certification of driver meal and rest period claims based on the predominance of individual issues).
3 Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently,
4 the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring
5 settlement.

6 43. Finally, continuing to litigate this action would require continued and extensive resources
7 coupled with significant Court time to proceed through trial and post-trial motions; which can often
8 take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates
9 extensive expert testimony, particularly with regards to damages. But even if Plaintiff is successful at
10 trial, Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff fully expects that
11 Defendant would appeal any favorable judgment. As demonstrated by *Magadia, supra*, 999 F.3d 668,
12 the risk of an appeal and subsequent reversal is real.

13 44. In this matter, Class Counsel negotiated a Gross Settlement Amount of \$2,000,000.00
14 that is roughly between approximately 29.72% of Defendant's *class-wide* liability exposure for
15 damages, and approximately 8.2% of Defendant's maximum class wide liability exposure for damages
16 and statutory penalties. Given the amount of the settlement here, as compared to potential value of the
17 claims, offset by the various inherent risks to continued litigation, the settlement is fair and reasonable.

18 **C. Proposed Notice Informs the Class About the Case and Settlement**

19 45. The Parties jointly drafted the Class Notice which fairly and neutrally informs the Class
20 Members of their rights and remedies. The Settlement Administrator will first verify addresses, then
21 mail the proposed Class Notice to all Class Members. The Notice will include information regarding
22 the nature of the lawsuit, a summary of the substance of the Settlement's terms, the class definition, the
23 procedure, and time period within which to submit requests for exclusions or objections to the
24 Settlement, the date for the final approval hearing, the formula used to calculate settlement payments,
25 and the terms and scope of the Released Claims. Agreement at § 1.1. The Parties negotiated this
26 method to ensure delivering the most reasonable method of notice to the Class Members while ensuring
27 cost effective administration of the Settlement.

28 ///

1 46. Accordingly, both the method of disseminating the Class Notice and content of the Class
2 Notice satisfy due process. (*See* C.R.C. 3.776(e)-(f); *State of Cal. v. Levi Strauss* (1986) 41 Cal.3d
3 460,485 (the class notice must “fairly apprise the class members of the terms of the proposed
4 compromise and of the options open to dissenting class members”).).

5 **C. The Court Should Preliminarily Approve the Class Representative Service Award**

6 47. The Settlement provides for a Class Representative Payment of \$10,000 for Plaintiff. The
7 service award is fair and reasonable compensation for the Plaintiff’s efforts bringing the action, assisting
8 Class Counsel with the litigation and settlement, regularly conferring with Class Counsel on the status
9 of her case and the strategies for prosecuting the claims, reviewing the proposed Settlement to ensure
10 that its terms are fair and provide adequate relief for the Settlement Class, and agreeing to provide
11 Defendant a general release of all claims arising out of her employment.

12 48. Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Class
13 Representative Payment once preliminary approval of the Settlement is granted. Plaintiff respectfully
14 submits that the above showing is sufficient for preliminary approval of the negotiated Class
15 Representative Payment.

16 **D. The Court Should Preliminary Approve the Negotiated Class Counsel Award**

17 49. Class Counsel took this matter on a contingency fee basis and invested significant time
18 and expense successfully prosecuting Plaintiff’s claims. As discussed *supra*, the estimated average
19 Individual Class Payment illustrates the demonstrably positive outcome for the Participating Class
20 Members. Considering the positive outcome for the Class Members, and in light of the supporting
21 authority, the proposed Attorneys’ Fees and Litigation Costs are fair and reasonable.

22 50. Paragraph 1.5 of the Settlement Agreement provides that the Attorneys’ Fees Payment
23 shall be divided between Class Counsel with 32.5% apportioned to JCL Law Firm, APC, 32.5% to
24 Zakay Law Group, APLC, and 35% to Lawyers for Justice, APC. Plaintiff reviewed and signed the
25 Agreement, thereby agreeing to the fee split. Plaintiff will file a formal motion for the negotiated
26 Attorneys’ Fees and Litigation Costs once preliminary approval of the Settlement is granted. Plaintiff
27 respectfully submits that the above showing is sufficient for preliminary approval of the negotiated
28 attorneys’ fees.

1 **E. The Court Should Provisionally Certify the Settlement Class**

2 51. For Settlement, Plaintiff contends, and Defendant does not dispute, that provisional
3 certification of the Class is appropriate.

4 52. Because all Class Members are Defendant's current and former employees, the class is
5 readily ascertainable from Defendant's regular business records, i.e., payroll records.

6 53. The statutes relating to each of Plaintiff's claims apply with equal force and effect to the
7 entire Settlement Class. Factually, Defendant's policies and practices apply class-wide and Defendant's
8 liability can be determined by facts common to all members of the class. The wage and hour issues are
9 both numerous and substantial, and a class action is the most advantageous method of dealing with the
10 claims of the Settlement Class.

11 54. Plaintiff's wage and hour claims are typical of the proposed Settlement Class because
12 they arise from the same factual basis and are based on the same legal theories applicable to the other
13 Class Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of the
14 Settlement Class. Plaintiff alleges that she was injured by the same company-wide practices to which
15 the proposed Class Members were subject to and seek the same relief. Plaintiff has already demonstrated
16 her ability to advocate for the interests of the Class Member by initiating this litigation, undertaking
17 extensive class discovery, and evaluating the proposed settlement to assure that it is fair.

18 55. A class action is superior to a multitude of individual lawsuits. Given the size and amount
19 of each individual claim, the Class Members likely have little incentive to litigate their claims on an
20 individual basis because the out-of-pocket expense and personal commitment necessary to litigate each
21 claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case
22 adjudication.

23 **F. Class Counsel's Experience**

24 56. Additionally, Plaintiff is represented by competent Class Counsel who have extensive
25 experience in litigating wage and hour class action cases. Class Counsel successfully briefed, argued,
26 certified, and gained state court settlement approval of the same class-wide causes of action that are at
27 issue in this case. Class Counsel's wage and hour class action experience establishes that they are well
28 qualified to represent the interests of this Class.

1 57. Plaintiff, the Settlement Class Members and the Aggrieved Employees are represented
2 by competent and experienced counsel to pursue their claims. I established the JCL Law Firm, APC
3 (“Firm”), in 2010. The Firm is a boutique plaintiff firm representing aggrieved employees and
4 consumers throughout California in wage and hour class actions, PAGA Actions and complex multi-
5 party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade, Esq.
6 (Partner/Owner), Sydney Castillo-Johnson, Esq. (Associate Attorney), Monnett De La Torre, Esq.
7 (Associate Attorney), Tesla Stone (Paralegal), Laura Gonzalez-Mendez (Paralegal), Jennifer Heming
8 (Paralegal), Madelyn Uchiyama (Legal Assistant), and Sara Christensen (Legal Assistant).

9 58. I am qualified to represent the Plaintiff, the Class Members, the State of California and
10 the Aggrieved Employees. I have extensive experience with wage and hour class and representative
11 actions litigation like this matter, and employment matters in general. Additionally, I have extensive
12 complex mass tort litigation experience and complex construction product liability experience. I can,
13 will and have adequately represented the interests of the Plaintiff, the State of California and the
14 Aggrieved Employees throughout this action.

15 59. I have represented consumers and employees in California class actions, and complex
16 multi-party product liability actions exclusively for more than 13 years. I have been in practice as a
17 plaintiffs’ civil litigation attorney since April 2007.

18 60. I have significant class counsel and collective action counsel experience. My credentials
19 are reflected in the JCL Law Firm, APC, Firm Resume, which is attached hereto as Exhibit 4.

20 61. Since 2010, my firm has successfully resolved more than sixty (65) cases and recovered
21 in excess of \$75 million on behalf of the Firm’s clients.

22 62. Since 2010, I have successfully tried two (2) cases to conclusion, each resulting in a
23 favorable verdict for the firm’s clients.

24 63. Finally, I have published appellate experience in *William Blanchette et al., v. The*
25 *Superior Court of Imperial County, (GHA Enterprises)*, 8 Cal.App.5th 521.

26 64. Consequently, I was named to the prestigious Thomson Reuters, Super Lawyers, Rising
27 Star in 2015, 2016, 2017 and, again, in 2018. According to Thomson Reuters, the Super Lawyers, Rising
28

1 Star list recognizes the top 2.5% of eligible attorneys. (see
2 https://www.superlawyers.com/about/selection_process.html.)

3 I declare under the penalty of perjury under the laws of the State of California that the foregoing
4 is true and correct. Executed this 31st day of August 2023, at San Diego, California.

6 **JCL LAW FIRM, APC**

7 By: 
8 Jean-Claude Lapuyade
9 Attorneys for Plaintiff

EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Miranda Lopez (“Plaintiff”) and Defendant Behavior Frontiers, LLC (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Miranda Lopez v. Behavior Frontiers, LLC, et al.*, Case Number 22STCV15331, initiated on May 9, 2022, and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means Apex Class Action LLC, located at 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employees” means all individuals employed by Defendant in California in a non-exempt position at any time during the PAGA Period.
- 1.5. “Attorneys’ Fees and Litigation Costs” means the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures in an amount of up to one-third (1/3) of the Gross Settlement Amount and costs incurred in an amount up to \$40,000.00. The Attorneys’ Fees Payment shall be divided between Class Counsel as follows: 32.5% to JCL Law Firm, APC, 32.5% to Zakay Law Group, APLC, and 35% to Lawyers for Justice, APC.
- 1.6. “Class Counsel” means Jean Claude Lapuyade, Esq. of JCL Law Firm, APC, Shani Zakay of Zakay Law Group, APLC, and Edwin Aiwarzian of Lawyers for Justice, PC.
- 1.7. “Class” shall mean all individuals employed by Defendant in California in a non-exempt position at any time during the Class Period.

- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession that Defendant will provide to the Administrator. To the extent available, the Class Data shall include the Class Member’s full 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 in a form substantively similar to **Exhibit A**, to be mailed to Class Members informing them of the settlement, including their rights to request exclusion or to object to the Settlement, the right to dispute their estimated workweeks/payment, of their estimated payment to be received without the need to return a claim form, and the date set for the Final Approval Hearing.
- 1.12. “Class Period” means the period from May 9, 2018 to July 31, 2023.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as Class Representative.
- 1.14. “Class Representative Payment” means the payment to the Class Representative for initiating the Action, providing services in support of the Action, and for providing a general release of all claims.
- 1.15. “Court” means the Superior Court of California, County of Los Angeles.
- 1.16. “Defendant” means Defendant Behavior Frontiers, LLC.
- 1.17. “Defense Counsel” means Kading Briggs LLP.

- 1.18. “Effective Date” means the date by when both of the following have occurred:
- (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “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. “Funding Date” means the date on which Defendant shall fund the Gross Settlement Amount to the Administrator.
- 1.23. “Gross Settlement Amount” means Two Million Dollars and Zero Cents (\$2,000,000.00) which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA Payment, Attorneys’ Fees and Litigation Costs, Class Representative Payment, and the Administration Expenses Payment.
- 1.24. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period. Any Participating Class Member who is no longer employed by Defendant will have four Workweeks added to his or her Workweek count. Any Class Member who submits a timely and valid request for exclusion pursuant to the procedures set forth herein, is not eligible to receive an Individual Class Payment.
- 1.25. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Payment calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.26. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.27. “LWDA” means the California Labor and Workforce Development Agency, the

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

- 1.28. "LWDA Payment" means the 75% of the PAGA Payment paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.29. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the PAGA Payment, Class Representative Payment, Attorneys' Fees and Litigation Costs, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.30. "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.
- 1.31. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant in California in a non-exempt position for at least one day during the PAGA Period.
- 1.32. "PAGA Period" means the period between May 17, 2022, and July 31, 2023.
- 1.33. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.34. "PAGA Notice" means Plaintiff's July 19, 2023, letter and August 14, 2023, amended letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35. "PAGA Payment" means Sixty Thousand Dollars and Zero Cents (\$60,000.00) which is the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$15,000.00) and 75% to the LWDA (\$45,000.00) in settlement of PAGA claims.
- 1.36. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.37. "Plaintiff" means Miranda Lopez, the named Plaintiff in the Action.
- 1.38. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.39. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.40. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.

- 1.41. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.42. “Released Parties” means Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, and assigns, including any and all entities presently or formerly affiliated or associated with Defendant.
- 1.43. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.44. "Response Deadline" means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the expiration of the Response Deadline.
- 1.45. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.46. “Workweek” means any week during which a Class Member worked for Defendant in California in a non-exempt position for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On May 9, 2022, Plaintiff filed a Class Action Complaint alleging ten (10) causes of action against Defendant for (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements); (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records); (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses); (10) Violation of California Business & Professions Code §§ 17200, et seq. Within ten days of the execution of this Agreement, Plaintiff will file a First Amended Complaint adding the following causes of actions/theories: (1) failure to pay paid sick time at the correct rate of pay; (2) failure to properly pay reporting time pay; and (3) for civil penalties under PAGA based on the same violations of the Labor

Code alleged in the Complaint and First Amended Complaint. The First Amended Complaint will be the operative complaint in the Action (“the Operative Complaint”). Plaintiff represents that, prior to filing the First Amended Complaint, she has satisfied the notice requirements under Section 2699.3 of PAGA as to her PAGA claim and any other requirements necessary to assert these claims. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

- 2.2. On April 28, 2023, the Parties participated in an all-day mediation presided over by Steven Rottman, Esq., a mediator of wage and hour class and representative actions, which led to this Agreement to settle the Action.
- 2.3. Prior to mediation, Plaintiff obtained, through informal discovery, a sample of timekeeping records and payroll records for the Class Members. 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. On July 19, 2023, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency (“LWDA”) and served the same on Defendant. On August 14, 2023, Plaintiff filed an amended Notice with the LWDA and served the same on Defendant. These are collectively referred to as the “PAGA Notice.”
- 2.5. On August 23, 2023, the Parties stipulated to the filing of a First Amended Complaint as indicated herein.
- 2.6. 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 Two Million Dollars and Zero Cents (\$2,000,000.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. 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 Payment to the Class Representative of not more than \$10,000.00. Defendant will not oppose Plaintiff's request for a Class Representative Payment that does not exceed this amount. As part of the motion for Attorneys' Fees and Litigation Costs, Plaintiff will seek Court approval for any Class Representative Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Payment.
- 3.2.2. To Class Counsel: Attorneys' Fees of not more than one-third of the Gross Settlement Amount, which is currently estimated to be Six Hundred Sixty-Six Thousand, Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$666,666.67) and Litigation Costs of up to Forty Thousand Dollars and Zero Cents (\$40,000.00). Defendant will not oppose requests for these payments provided that they do not exceed these amounts. These amounts shall cover all work performed to date and all work to be performed in connection with the approval by the Court of this Agreement and the final conclusion of this Action and all costs and expenses incurred to date or to be incurred. Plaintiff and/or Class Counsel will file a motion for Attorneys' Fees and Litigation Costs no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a payment for Attorneys' Fees and/or Litigation Costs less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Attorneys' Fees and/or Litigation Costs. The Administrator will pay the Attorneys' Fees and Litigation Costs using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Attorneys' Fees and Litigation Costs 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: The Administration Expenses Payment not to exceed Thirty-Three Thousand and Zero Cents (\$33,000.00) except for a showing of good cause and as approved by the Court. Defendant will not oppose requests for these payments provided that they do not exceed this amount. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$33,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

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 during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks worked during the Class Period. Participating Class Members who are former employees of Defendant will have four Workweeks added to their total number of Workweeks worked during the Class Period.

3.2.4.1. Tax Allocation of Individual Class Payments. Twenty-five percent (25%) of each Participating Class Member's Individual Class Payment (excluding the extra portion paid to former employees) 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. Seventy-five percent (75%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any non-employer 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 Payment in the amount of \$60,000.00 to be paid from the Gross Settlement Amount, with 75% (\$45,000.00) allocated to the LWDA Payment and 25% (\$15,000.00) 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 Payment (\$15,000.00) 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.

3.2.5.2. If the Court approves PAGA Payment of less than the amount requested, the Administrator will allocate the remainder to the Net

Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. Class Workweeks and Aggrieved Employee PAGA Pay Periods. Based on a review of its records from May 9, 2018, through March 2023, Defendant estimates that, as of March 2023, there were 4,615 Class Members who collectively worked a total of 169,550 Workweeks. Based on a review of its records, Defendant estimates that there are 2,475 Aggrieved Employees who worked 27,650 PAGA Pay Periods.
- 4.2. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 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 by transmitting the funds to the Administrator on May 16, 2024, or fourteen (14) days after the Effective Date, whichever is later.
- 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA Payment, the Administration Expenses Payment, Attorneys' Fees and Litigation Costs, and the Class Representative Payment. Disbursement of the Attorneys' Fees and Litigation Costs and the Class Representative Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
 - 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all

Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment, if applicable. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

- 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the State Controller's Unclaimed Property Fund in the name of the Class Member who did not claim the funds.
- 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the Funding, Plaintiff, Participating Class Members, and the Aggrieved Employees will release claims against all Released Parties as follows:

- 5.1 Plaintiff's Release. Plaintiff and her former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 5.2 below ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested

benefits, unemployment benefits, disability benefits, social security benefits, workers' 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 Section 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 their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, rights, demands, liabilities, and causes of action alleged in the Complaint and First Amended Complaint in the Action, and claims that reasonably could have been alleged based on the Class Period facts alleged in the Complaint and First Amended Complaint or based on any facts ascertained in the course of the litigation, including (a) any and all claims involving any alleged failure to pay wages for all time worked, including failure to compensate for alleged "off the clock" work, failure to pay minimum wage, and failure to pay overtime, (b) any and all claims involving any alleged failure to pay overtime at the regular rate of pay, (c) any and all claims involving any alleged failure to provide compliant meal and rest periods, including failure to pay meal and rest period premium pay, (d) any and all claims involving any alleged failure to timely pay all wages due upon termination, (e) any and all claims involving any alleged failure to timely pay all wages due during employment, (f) any and all claims involving any alleged failure to provide compliant wage statements, (g) any and all claims involving any alleged failure to keep requisite payroll records, (h) any and all claims involving any alleged failure to reimburse business expenses, (i) any and all claims involving any alleged failure to pay paid sick leave at the correct rate of pay, and (j) any and all claims involving any alleged failure to properly pay reporting time pay, which occurred during the Class Period. The release shall include all Federal Fair Labor Standards Act claims which could have been brought based on the facts pleaded in the Complaint or First Amended Complaint.

5.3 Release by Aggrieved Employees: As of the Funding Date, all Aggrieved Employees

are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts alleged in the Complaint, First Amended Complaint or PAGA Notice or based on any facts ascertained in the course of the litigation, including (a) any and all claims involving any alleged failure to pay wages for all time worked, including failure to compensate for alleged “off the clock” work, failure to pay minimum wage, and failure to pay overtime, (b) any and all claims involving any alleged failure to pay overtime at the regular rate of pay, (c) any and all claims involving any alleged failure to provide compliant meal and rest periods, including failure to pay meal and rest period premium pay, (d) any and all claims involving any alleged failure to timely pay all wages due upon termination, (e) any and all claims involving any alleged failure to timely pay all wages due during employment, (f) any and all claims involving any alleged failure to provide compliant wage statements, (g) any and all claims involving any alleged failure to keep requisite payroll records, (h) any and all claims involving any alleged failure to reimburse business expenses, (i) any and all claims involving any alleged failure to pay paid sick leave at the correct rate of pay, and (j) any and all claims involving any alleged failure to properly pay reporting time pay, which occurred during the PAGA Period.

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

- 6.1 Defendant’s Declaration in Support of Preliminary Approval. Prior to the Motion for Preliminary Approval filing date, Defendant will prepare and deliver to Class Counsel a signed Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. Prior to the hearing on the Motion for Preliminary Approval, Defendant will provide a declaration setting forth the following: (1) approximate number of Settlement Class Members subject to an arbitration agreement, and (2) the approximate number of workweeks covered by arbitration agreements.
- 6.2 Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator

attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, [and/or] the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vii) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (viii) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiff and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 6.3 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than sixty (60) days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. 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 LLC to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for 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 to 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 section 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, Aggrieved Employees, 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 fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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) days beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended

deadline with the re-mailed Class Notice.

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

7.5 Requests for Exclusion (Opt-Outs).

- 7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 5.2 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.5.5 Any funds allocated to Class Members who opted out will be added to the Net Settlement Amount for distribution to the Participating Class Members.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email, or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of 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 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 amounts requested for the Attorneys' Fees and Litigation Costs and/or Class Representative Payment.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than forty-five (45) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

7.7.3 Non-Participating Class Members have no right to object to 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, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Attorneys' Fees and Litigation Costs and Class Representative Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid), with identifying information other than the Class Members' names redacted.

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) received, objections received, challenges to Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received, with identifying information other than the Class Members' names redacted.

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

7.8.5 Administrator's Declaration. Not later than fourteen (14) days before the date by which Plaintiff are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List, the high, low, and average Individual Class Payments, and the high, low, and average Individual PAGA Payments. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6 Final Report by Settlement Administrator. Within ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE** Based on its records, Defendant estimated that, through March 2023, there were approximately 4,615 Class Members who worked approximately 169,550 workweeks from May 9, 2018, through March 2023. Accordingly, through May 16, 2023, it is estimated that Class Members worked approximately 174,622 Workweeks. One week prior to the hearing on the motion for preliminary approval of the settlement, Defendant will provide confirmation of the estimated number of applicable Class Members and workweeks they worked during the applicable Class Period. If the workweek number increases by more than 10% of the estimate of 174,622 weeks stated herein, the Settlement Amount will increase proportionally for the number of workweeks over 110% of 174,622 (192,084).
9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 1% of the total of all Class Members, Defendant may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Administration Expenses

Payment incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days within learning this information; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL. Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

- 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) 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 Payment, Attorneys’ Fees and Litigation Costs 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 Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Attorneys’ Fees and Litigation Costs set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment

becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

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

11. ADDITIONAL PROVISIONS.

- 11.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 11.2 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, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or

subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency.

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

- 11.3 **Public Comment.** Neither Plaintiff nor her counsel will, unless required by law, issue any press releases or have any communications to the press concerning this litigation, the terms of the Settlement, and/or the business practices of Defendant. Plaintiff’s counsel shall not include in any mass mailing, website, or other public communication a reference to this litigation, the Settlement, or the business practices of Defendant. Nothing in this paragraph shall affect the ability of Plaintiff’s counsel to carry out their duties consistent with and as required by any other provision herein, including providing any necessary declarations to the Court.
- 11.4 **No Solicitation.** The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.
- 11.5 **Integrated Agreement.** Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 11.6 **Attorney Authorization.** Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 11.7 **Cooperation.** The Parties will work together expeditiously to obtain preliminary and final approval of this settlement.
- 11.8 **No Prior Assignments.** The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,

transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

- 11.9 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.
- 11.10 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 11.11 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 11.12 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 11.13 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 11.14 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.
- 11.15 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of 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 Class Data.
- 11.16 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

- 11.17 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 11.18 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

JCL LAW FIRM, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-599-8292
jlapuyade@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-892-7095
F: 858-404-9203
Shani@zakaylaw.com

LAWYERS FOR JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
T: 818-265-1020
F: 818-265-1021
edwin@calljustice.com

To Defendant:

KADING BRIGGS LLP
100 Spectrum Center Drive, Suite 800
Irvine, California 92618
T: 949-450-8040
F: 949-450-8033

- 11.19 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 11.20 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

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Dated: 08/30, 2023


[Miranda Lopez \(Aug 30, 2023 18:16 PDT\)](#)

Plaintiff Miranda Lopez

Dated: August 31, 2023



Shani O. Zakay, Esq.
Zakay Law Group, APLC
Attorney for Plaintiff

Dated: August 31, 2023



Jean-Claude Lapuyade, Esq.
The JCL Law Firm, APC
Attorney for Plaintiff

Dated: _____, 2023

Edwin Aiwarzian, Esq.
Lawyers for Justice, PC
Attorney for Plaintiff

Dated: August 30, 2023

DocuSigned by:

E379F85913BE40F...

For Defendant
Behavior Frontiers, LLC

Dated: August 30, 2023



Theresa Kading, Esq.
Kading Briggs LLP
Attorney for Defendant

Exhibit A

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

Miranda Lopez v. Behavior Frontiers, LLC Case No. 22STCV15331

***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 class action lawsuit (“Action”) against Behavior Frontiers, LLC (“Defendant”) for alleged wage and hour violations. The Action was filed by former employee, Miranda Lopez (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of individuals who are or previously were employed by Defendant in California in non-exempt positions during the Class Period (from May 9, 2018 to July 31, 2023) (“Class Members”); and (2) penalties under the California Private Attorney General Act (“PAGA”) for persons employed by Defendant in California in non-exempt positions during the PAGA Period (May 17, 2022, to July 31, 2023) (“Aggrieved Employees”).

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

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

The above estimates are based on Defendant’s records showing that **you worked XX workweeks** in a non-exempt position in California during the Class Period, and **you worked XX pay periods** in a non-exempt position in California during the PAGA Period. If you believe that you worked more workweeks and/or pay periods during the designated time 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. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two

basic options under the Settlement:

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by	All Class Members who do not opt-out (“Participating Class Members”) can object to any class action component of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel.
You Can Participate in the Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____. You do not 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 action components of the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day in a relevant position during the Class Period and how many PAGA Pay Periods you worked at least one day in a relevant position during the PAGA Period, respectively. The number of Class Period Workweeks and number of PAGA Pay Periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay wages, including minimum and overtime wages (including failing to pay overtime at the proper regular rate of pay); failing to provide legally compliant meal and rest periods; failing to timely pay wages due upon termination and during employment; failing to reimburse for mandatory business expenses; failing to provide accurate itemized wage statements and maintain requisite payroll records; failing to pay paid sick leave at the correct rate of pay; and failing to properly pay reporting time pay. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action:

The JCL Law Firm, APC, the Zakay Law Group, APLC, and Lawyers for Justice, PC (“Class Counsel.”)

Defendant 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 Defendant or Plaintiff are correct on the merits. In the meantime, Plaintiff and Defendant hired a neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (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 Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

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

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

1. Gross Settlement Amount. Defendant will Pay \$2,000,000.00 as the Gross Settlement Amount (“Gross Settlement Amount”). Defendant has agreed to deposit the Gross Settlement Amount into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement Amount to pay the Individual Class Payments,

Individual PAGA Payments, Class Representative Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement Amount on May 16, 2024, or within fourteen (14) days after the Judgment entered by the Court becomes final, whichever is later. 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 Amount. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$666,666.67 (One-third of the Gross Settlement Amount) to Class Counsel for attorneys' fees and up to \$40,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000.00 to the Class Representative as a Class Representative Payment for filing the Action, working with Class Counsel and representing the Class, and executing a 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 \$33,000.00 to the Administrator for services administering the Settlement.
 - D. Up to \$60,000.00 for PAGA Payment, allocated 75% to the LWDA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.

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

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 Amount (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks. Former employees of Defendant will receive four weeks added to their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 25% of each Individual Class Payment (excluding the extra portion paid to former employees) to taxable wages ("Wage Portion") and 75% to interest and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather

than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendant 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 Individual PAGA Payments will show the date when the check expires (the void date). If you do not cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check are sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

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 **MONTH XX, 202X**, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by **MONTH XX, 202X**, Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's 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 Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

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 Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
8. Administrator. The Court has appointed a neutral company, Apex Class Action LLC (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 Defendant has fully funded the Gross Settlement Amount, and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the 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 Defendant or related entities for wages based on the Class Period facts and PAGA Payment based on PAGA 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 their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, rights, demands, liabilities, and causes of action alleged in the Complaint and First Amended Complaint in the Lawsuit, and claims that reasonably could have been alleged based on the facts alleged in the Complaint and First Amended Complaint or based on any facts ascertained in the course of the litigation, including (a) any and all claims involving any alleged failure to pay wages for all time worked, including failure to compensate for alleged "off the clock" work, failure to pay minimum wage, and failure to pay overtime, (b) any and all claims involving any alleged failure to pay overtime at the regular rate of pay, (c) any and all claims involving any alleged failure to provide compliant meal and rest periods, including failure to pay meal and rest period premium pay, (d) any and all claims involving any alleged failure to timely pay all wages due upon termination, (e) any and all claims involving any alleged failure to timely pay all wages due during employment, (f) any and all claims involving any alleged failure to provide compliant wage statements, (g) any and all claims involving any alleged failure to keep requisite payroll records, (h) any and all claims involving any alleged failure to reimburse business expenses, (i) any and all claims involving any alleged failure to pay paid sick leave at the correct rate of pay, and (j) any and all claims involving any alleged failure to properly pay reporting time pay, which occurred during the Class Period. The release shall include all Federal Fair Labor Standards Act claims which could have been brought based on the facts pleaded in the Complaint or First Amended Complaint.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendant has paid the Gross Settlement Amount (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement. The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts alleged in the Complaint, First Amended Complaint or notice of alleged PAGA violations to the LWDA (“PAGA Notice”) or based on any facts ascertained in the course of the litigation, including (a) any and all claims involving any alleged failure to pay wages for all time worked, including failure to compensate for alleged “off the clock” work, failure to pay minimum wage, and failure to pay overtime, (b) any and all claims involving any alleged failure to pay overtime at the regular rate of pay, (c) any and all claims involving any alleged failure to provide compliant meal and rest periods, including failure to pay meal and rest period premium pay, (d) any and all claims involving any alleged failure to timely pay all wages due upon termination, (e) any and all claims involving any alleged failure to timely pay all wages due during employment, (f) any and all claims involving any alleged failure to provide compliant wage statements, (g) any and all claims involving any alleged failure to keep requisite payroll records, (h) any and all claims involving any alleged failure to reimburse business expenses, (i) any and all claims involving any alleged failure to pay paid sick leave at the correct rate of pay, and (j) any and all claims involving any alleged failure to properly pay reporting time pay, which occurred during the PAGA Period.

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. Class Members who are no longer employed by Defendant will receive four weeks added to their total number of Workweeks.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$15,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/PAGA Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant’s records, are stated in the first page of this Notice. You have until **MONTH XX, 202X** to challenge the number of Workweeks and/or PAGA Pay Periods credited to you. 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 Defendant's calculation of Workweeks and/or PAGA Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or PAGA Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You cannot appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who does not opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment (if any).
2. Aggrieved Employees (including those who are Non-Participating Class Members). The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee.

Your check will be sent to the same address as in 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 *Miranda Lopez v. Behavior Frontiers, LLC Case No. 22STCV15331*, 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 receive your request to be excluded by MONTH XX, 202X, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least twenty-eight (28) days before the **MONTH XX, 202X** 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 Attorneys' Fees and Litigation Costs 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 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 www._____.com or the Court's website <https://www.lacourt.org/casesummary/ui/>.

A Participating Class Member who disagrees with any class action component of the Agreement, the Motion for Final Approval and/or Motion for Attorneys' Fees and Litigation Costs, and Service Award may wish to object. **The deadline for sending written objections to the Administrator is MONTH XX, 202X.** 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 *Miranda Lopez v. Behavior Frontiers, LLC Case No. 22STCV15331* and include your name, current address, telephone number, and approximate dates of employment for Defendant 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 **MONTH XX, 202X** at XX:XX am/pm in Department 6 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount 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 via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It is possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website www._____.com 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 Defendant 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 Apex Class Action LLC's website at www._____.com. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<https://portal.sccourt.org/search>) and entering the Case Number for the Action, Case No. 22STCV15331. You can also make an

appointment to personally review court documents in the Clerk's Office at the Los Angeles Superior Court.

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

JCL LAW FIRM, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-599-8292
jlapyade@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-892-7095
F: 858-404-9203
Shani@zakaylaw.com

LAWYERS FOR JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
T: 818-265-1020
F: 818-265-1021
edwin@calljustice.com

Settlement Administrator:

Apex Class Action LLC
20371 Irvine Avenue, Newport Beach, CA 92660;
Tel: (800) 355-0700

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, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

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.

EXHIBIT 2

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement ("Agreement") is made by and between Plaintiff Miranda Lopez ("Plaintiff") and Defendant Behavior Frontiers, LLC ("Defendant"). The Agreement refers to Plaintiff and Defendant collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

- 1.1. "Action" means the Plaintiff's lawsuit alleging wage and hour violations against Defendant captioned Miranda Lopez v. Behavior Frontiers, LLC, et al., Case Number 22STCV15331, initiated on May 9, 2022, and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. "Administrator" means Apex Class Action LLC, located at 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. "Aggrieved Employees" means all individuals employed by Defendant in California in a non-exempt position at any time during the PAGA Period.
- 1.5. "Attorneys' Fees and Litigation Costs" means the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures in an amount of up to one-third (1/3) of the Gross Settlement Amount and costs incurred in an amount up to \$40,000.00. The Attorneys' Fees Payment shall be divided between Class Counsel as follows: 32.5% to JCL Law Firm, APC, 32.5% to Zakay Law Group, APLC, and 35% to Lawyers for Justice, APC.
- 1.6. "Class Counsel" means Jean Claude Lapuyade, Esq. of JCL Law Firm, APC, Shani Zakay of Zakay Law Group, APLC, and Edwin Aiwazian of Lawyers for Justice, PC.
- 1.7. "Class" shall mean all individuals employed by Defendant in California in a non-exempt position at any time during the Class Period.

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1.8. “Class Data” means Class Member identifying information in Defendant’s possession that Defendant will provide to the Administrator. To the extent available, the Class Data shall include the Class Member’s full 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 in a form substantively similar to Exhibit A, to be mailed to Class Members informing them of the settlement, including their rights to request exclusion or to object to the Settlement, the right to dispute their estimated workweeks/payment, of their estimated payment to be received without the need to return a claim form, and the date set for the Final Approval Hearing.

1.12. “Class Period” means the period from May 9, 2018 to July 31, 2023.

1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as Class Representative.

1.14. “Class Representative Payment” means the payment to the Class Representative for initiating the Action, providing services in support of the Action, and for providing a general release of all claims.

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

1.16. “Defendant” means Defendant Behavior Frontiers, LLC.

1.17. “Defense Counsel” means Kading Briggs LLP.

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1.18. "Effective Date" means the date by when both of the following have occurred:

(a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. "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. "Funding Date" means the date on which Defendant shall fund the Gross Settlement Amount to the Administrator.

1.23. "Gross Settlement Amount" means Two Million Dollars and Zero Cents (\$2,000,000.00), which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA Payment, Attorneys' Fees, and Litigation Costs, Class Representative Payment, and the Administration Expenses Payment.

1.24. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period. Any Participating Class Member who is no longer employed by Defendant will have four Workweeks added to his or her Workweek count. Any Class Member who submits a timely and valid request for exclusion pursuant to the procedures set forth herein, is not eligible to receive an Individual Class Payment.

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

1.26. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.27. "LWDA" means the California Labor and Workforce Development Agency, the

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

- 1.28. "LWDA ~~Payment~~" means the 75% of the ~~PAGA~~ ~~Payment~~ paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.29. "Net Settlement Amount" means the ~~Gross Settlement Amount~~, less the following payments in the amounts approved by the Court: ~~the PAGA Payment, Class Representative Payment, Attorneys' Fees and Litigation Costs,~~ and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.30. "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.
- 1.31. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for ~~Defendant in California in a non-exempt position~~ for at least one day during the PAGA Period.
- 1.32. "PAGA Period" means the period ~~between May 17, 2022, and July 31, 2023.~~
- 1.33. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.34. "PAGA Notice" means Plaintiff's ~~July 19, 2023, letter and August 14, 2023, amended letter to Defendant~~ and the LWDA, providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35. "PAGA ~~Payment~~" means ~~Sixty Thousand Dollars and Zero Cents (\$60,000.00) which is the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$15,000.00) and 75% to the LWDA (\$45,000.00), in settlement of PAGA claims.~~
- 1.36. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.37. "Plaintiff" means ~~Miranda Lopez~~, the named ~~Plaintiff~~ in the Action.
- 1.38. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.39. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.40. "Released Class Claims" means ~~the claims being released as described in Paragraph 5.2 below.~~

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1.41. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3 below.

1.42. "Released Parties" means Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, and assigns, including any and all entities presently or formerly affiliated or associated with Defendant.

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

1.44. "Response Deadline" means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the expiration of the Response Deadline.

1.45. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.46. "Workweek" means any week during which a Class Member worked for Defendant in California in a non-exempt position for at least one day, during the Class Period.

2. RECITALS.

2.1. On May 9, 2022, Plaintiff filed a Class Action Complaint alleging ten (10) causes of action against Defendant for (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements); (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records); (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses); (10) Violation of California Business & Professions Code §§ 17200, et seq. Within ten days of the execution of this Agreement, Plaintiff will file a First Amended Complaint adding the following causes of actions/theories: (1) failure to pay paid sick time at the correct rate of pay; (2) failure to properly pay reporting time pay; and (3) for civil penalties under PAGA based on the same violations of the Labor

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Code alleged in the Complaint and First Amended Complaint. The First Amended Complaint will be the operative complaint in the Action ("the Operative Complaint"). Plaintiff represents that, prior to filing the First Amended Complaint, she has satisfied the notice requirements under Section 2699.3 of PAGA as to her PAGA claim and any other requirements necessary to assert these claims. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2. On April 28, 2023, the Parties participated in an all-day mediation presided over by Steven Rottman, Esq., a mediator of wage and hour class and representative actions, which led to this Agreement to settle the Action.

2.3. Prior to mediation, Plaintiff obtained, through informal discovery, a sample of timekeeping records and payroll records for the Class Members. 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. On July 19, 2023, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency ("LWDA") and served the same on Defendant. On August 14, 2023, Plaintiff filed an amended Notice with the LWDA and served the same on Defendant. These are collectively referred to as the "PAGA Notice."

2.5. On August 23, 2023, the Parties stipulated to the filing of a First Amended Complaint as indicated herein.

2.6. 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 Two Million Dollars and Zero Cents (\$2,000,000.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and

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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 Payment to the Class Representative of not more than \$10,000.00. Defendant will not oppose Plaintiff's request for a Class Representative Payment that does not exceed this amount. As part of the motion for Attorneys' Fees and Litigation Costs, Plaintiff will seek Court approval for any Class Representative Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Payment.
- 3.2.2. To Class Counsel: Attorneys' Fees of not more than one-third of the Gross Settlement Amount, which is currently estimated to be Six Hundred Sixty-Six Thousand, Six Hundred Sixty-Six Dollars, and Sixty-Seven Cents (\$666,666.67) and Litigation Costs of up to Forty Thousand Dollars and Zero Cents (\$40,000.00). Defendant will not oppose requests for these payments provided that they do not exceed these amounts. These amounts shall cover all work performed to date and all work to be performed in connection with the approval by the Court of this Agreement and the final conclusion of this Action and all costs and expenses incurred to date or to be incurred. Plaintiff and/or Class Counsel will file a motion for Attorneys' Fees and Litigation Costs no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a payment for Attorneys' Fees and/or Litigation Costs less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Attorneys' Fees and/or Litigation Costs. The Administrator will pay the Attorneys' Fees and Litigation Costs using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Attorneys' Fees and Litigation Costs 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: The Administration Expenses Payment not to exceed Thirty-Three Thousand and Zero Cents (\$33,000.00) except for a showing of good cause and as approved by the Court. Defendant will not oppose requests for these payments provided that they do not exceed this amount. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$33,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

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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 during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks worked during the Class Period. Participating Class Members who are former employees of Defendant will have four Workweeks added to their total number of Workweeks worked during the Class Period.

3.2.4.1. Tax Allocation of Individual Class Payments. Twenty-five percent (25%) of each Participating Class Member's Individual Class Payment (excluding the extra portion paid to former employees) 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. Seventy-five percent (75%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any non-employer 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 Payment in the amount of \$60,000.00 to be paid from the Gross Settlement Amount, with 75% (\$45,000.00) allocated to the LWDA Payment and 25% (\$15,000.00) 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 Payment (\$15,000.00) 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.

3.2.5.2. If the Court approves PAGA Payment of less than the amount requested, the Administrator will allocate the remainder to the Net

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Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. Class Workweeks and Aggrieved Employee PAGA Pay Periods. Based on a review of its records from May 9, 2018, through March 2023, Defendant estimates that, as of March 2023, there were 4,615 Class Members who collectively worked a total of 169,550 Workweeks. Based on a review of its records, Defendant estimates that there are 2,475 Aggrieved Employees who worked 27,650 PAGA Pay Periods.
- 4.2. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 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 by transmitting the funds to the Administrator on May 16, 2024, or fourteen (14) days after the Effective Date, whichever is later.
- 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA Payment, the Administration Expenses Payment, Attorneys' Fees and Litigation Costs, and the Class Representative Payment. Disbursement of the Attorneys' Fees and Litigation Costs and the Class Representative Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
- 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all

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Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment, if applicable. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the State Controller's Unclaimed Property Fund in the name of the Class Member who did not claim the funds.

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

5. **RELEASES OF CLAIMS.** Effective on the Funding, Plaintiff, Participating Class Members, and the Aggrieved Employees will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and her former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 5.2 below, ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested

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benefits, unemployment benefits, disability benefits, social security benefits, workers' 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 Section 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 their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, rights, demands, liabilities, and causes of action alleged in the Complaint and First Amended Complaint in the Action, and claims that reasonably could have been alleged based on the Class Period facts alleged in the Complaint and First Amended Complaint or based on any facts ascertained in the course of the litigation, including (a) any and all claims involving any alleged failure to pay wages for all time worked, including failure to compensate for alleged "off the clock" work, failure to pay minimum wage, and failure to pay overtime, (b) any and all claims involving any alleged failure to pay overtime at the regular rate of pay, (c) any and all claims involving any alleged failure to provide compliant meal and rest periods, including failure to pay meal and rest period premium pay, (d) any and all claims involving any alleged failure to timely pay all wages due upon termination, (e) any and all claims involving any alleged failure to timely pay all wages due during employment, (f) any and all claims involving any alleged failure to provide compliant wage statements, (g) any and all claims involving any alleged failure to keep requisite payroll records, (h) any and all claims involving any alleged failure to reimburse business expenses, (i) any and all claims involving any alleged failure to pay paid sick leave at the correct rate of pay, and (j) any and all claims involving any alleged failure to properly pay reporting time pay, which occurred during the Class Period. The release shall include all Federal Fair Labor Standards Act claims which could have been brought based on the facts pleaded in the Complaint or First Amended Complaint.

5.3 Release by Aggrieved Employees: As of the Funding Date, all Aggrieved Employees

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are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts alleged in the Complaint, First Amended Complaint or PAGA Notice or based on any facts ascertained in the course of the litigation, including (a) any and all claims involving any alleged failure to pay wages for all time worked, including failure to compensate for alleged "off the clock" work, failure to pay minimum wage, and failure to pay overtime, (b) any and all claims involving any alleged failure to pay overtime at the regular rate of pay, (c) any and all claims involving any alleged failure to provide compliant meal and rest periods, including failure to pay meal and rest period premium pay, (d) any and all claims involving any alleged failure to timely pay all wages due upon termination, (e) any and all claims involving any alleged failure to timely pay all wages due during employment, (f) any and all claims involving any alleged failure to provide compliant wage statements, (g) any and all claims involving any alleged failure to keep requisite payroll records, (h) any and all claims involving any alleged failure to reimburse business expenses, (i) any and all claims involving any alleged failure to pay paid sick leave at the correct rate of pay, and (j) any and all claims involving any alleged failure to properly pay reporting time pay, which occurred during the PAGA Period.

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

6.1 Defendant's Declaration in Support of Preliminary Approval. Prior to the Motion for Preliminary Approval filing date, Defendant will prepare and deliver to Class Counsel a signed Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. Prior to the hearing on the Motion for Preliminary Approval, Defendant will provide a declaration setting forth the following: (1) approximate number of Settlement Class Members subject to an arbitration agreement, and (2) the approximate number of workweeks covered by arbitration agreements.

6.2 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator

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attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, [and/or] the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); (vii) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (viii) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiff and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3 **Responsibilities of Counsel.** Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than sixty (60) days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. 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 LLC to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for Administration Expenses Payment. The Parties and their Counsel represent that they have no interest or

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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 to 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 section 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, Aggrieved Employees, 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 fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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) days beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended

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deadline with the re-mailed Class Notice.

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

7.5 Requests for Exclusion (Opt-Outs).

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

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

- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 5.2 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

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7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.5.5 Any funds allocated to Class Members who opted out will be added to the Net Settlement Amount for distribution to the Participating Class Members.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email, or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of 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 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 amounts requested for the Attorneys' Fees and Litigation Costs and/or Class Representative Payment.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than forty-five (45) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

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- 7.7.3 Non-Participating Class Members have no right to object to 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, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Attorneys' Fees and Litigation Costs and Class Representative Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- 7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid), with identifying information other than the Class Members' names redacted.
- 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) received, objections received, challenges to Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received, with identifying information other than the Class Members' names redacted.
- 7.8.4 Workweek and/or PAGA Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or PAGA Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

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7.8.5 Administrator's Declaration. Not later than fourteen (14) days before the date by which Plaintiff are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List, the high, low, and average Individual Class Payments, and the high, low, and average Individual PAGA Payments. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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7.8.6 Final Report by Settlement Administrator. Within ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

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8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE Based on its records, Defendant estimated that, through March 2023, there were approximately 4,615 Class Members who worked approximately 169,550 workweeks from May 9, 2018, through March 2023. Accordingly, through May 16, 2023, it is estimated that Class Members worked approximately 174,622 Workweeks. One week prior to the hearing on the motion for preliminary approval of the settlement, Defendant will provide confirmation of the estimated number of applicable Class Members and workweeks they worked during the applicable Class Period. If the workweek number increases by more than 10% of the estimate of 174,622 weeks stated herein, the Settlement Amount will increase proportionally for the number of workweeks over 110% of 174,622 (192,084).

9. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 1% of the total of all Class Members, Defendant may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Administration Expenses

Payment incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days within learning this information; late elections will have no effect.

10. **MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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) 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 Payment, Attorneys' Fees and Litigation Costs 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 Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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

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

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11. ADDITIONAL PROVISIONS.

11.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

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

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11.2 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, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or

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subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency.

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

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11.3 Public Comment. Neither Plaintiff nor her counsel will, unless required by law, issue any press releases or have any communications to the press concerning this litigation, the terms of the Settlement, and/or the business practices of Defendant. Plaintiff’s counsel shall not include in any mass mailing, website, or other public communication a reference to this litigation, the Settlement, or the business practices of Defendant. Nothing in this paragraph shall affect the ability of Plaintiff’s counsel to carry out their duties consistent with and as required by any other provision herein, including providing any necessary declarations to the Court.

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

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

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

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Deleted: The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution

11.7 Cooperation. The Parties will work together expeditiously to obtain preliminary and final approval of this settlement.

11.8 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,

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transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

- 11.9 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.
- 11.10 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 11.11 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 11.12 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 11.13 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 11.14 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.
- 11.15 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of 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 Class Data.
- 11.16 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.

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

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

To Plaintiff:

JCL LAW FIRM, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-599-8292
jlapuyade@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-892-7095
F: 858-404-9203
Shani@zakaylaw.com

LAWYERS FOR JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
T: 818-265-1020
F: 818-265-1021
edwin@calljustice.com

To Defendant:

KADING BRIGGS LLP
100 Spectrum Center Drive, Suite 800
Irvine, California 92618
T: 949-450-8040
F: 949-450-8033

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

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

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Dated: _____, 2023

Plaintiff, Miranda Lopez

Dated: _____, 2023

Shani O. Zakay, Esq.
Zakay Law Group, APC
Attorney for Plaintiff

Dated: _____, 2023

Jean-Claude Lapuyade, Esq.
The JCL Law Firm, APC
Attorney for Plaintiff

Dated: _____, 2023

Edwin Aiwazian, Esq.
Lawyers for Justice, PC
Attorney for Plaintiff

Dated: _____, 2023

For Defendant
Behavior Frontiers, LLC

Dated: _____, 2023

Theresa Kading, Esq.
Kading Briggs LLP
Attorney for Defendant

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____ Counsel For

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Exhibit A

Page 26 of 38

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

Miranda Lopez v. Behavior Frontiers, LLC Case No. 22STCV15331

*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 class action lawsuit ("Action") against Behavior Frontiers, LLC ("Defendant") for alleged wage and hour violations. The Action was filed by former employee, Miranda Lopez ("Plaintiff") and seeks payment of (1) back wages and other relief for a class of individuals who are or previously were employed by Defendant in California in non-exempt positions during the Class Period (from May 9, 2018 to July 31, 2023) ("Class Members"); and (2) penalties under the California Private Attorney General Act ("PAGA") for persons employed by Defendant in California in non-exempt positions during the PAGA Period (May 17, 2022, to July 31, 2023) ("Aggrieved Employees").

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

Based on Defendant's records, and the Parties' current assumptions, your Individual Class Payment is estimated to be \$XX (less withholding) and your Individual PAGA Payment is estimated to be \$XX. The actual amount you may receive may be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you did not work in California in a non-exempt position during the PAGA Period.)

The above estimates are based on Defendant's records showing that you worked XX workweeks in a non-exempt position in California during the Class Period, and you worked XX pay periods in a non-exempt position in California during the PAGA Period. If you believe that you worked more workweeks and/or pay periods during the designated time 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. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two

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placeholder)...havior Frontiers, LLC ("Defendant") for
alleged wage and hour violations. The Action was filed by
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employees ("Class Members")...ndividuals who worked for
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California in non-exempt positions during the Class Period
(...rom May 9, 2018 to ...);...uly 31, 2023) ("Class
Members"); and (2) penalties under the California Private
Attorney General Act ("PAGA") for all [e.g., hourly]
employees who worked for XYZ...ersons employed by
Defendant in California in non-exempt positions during the
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basic options under the Settlement:

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against <u>Defendant</u> that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement	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.
The Opt-out Deadline is _____	You cannot opt-out of the PAGA portion of the proposed Settlement. <u>Defendant</u> must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

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Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement	All Class Members who do not opt-out (“Participating Class Members”) can object to any <u>class action component</u> of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel.
Written Objections Must be Submitted by	
<u>You Can Participate in the Final Approval Hearing</u>	<u>The Court’s Final Approval Hearing is scheduled to take place on . You do not 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 action components of the Settlement at the Final Approval Hearing. See Section 8 of this Notice.</u>
<u>You Can Challenge the Calculation of Your Workweeks/Pay Periods</u> <u>Written Challenges Must be Submitted by</u>	<u>The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day in a relevant position during the Class Period and how many PAGA Pay Periods you worked at least one day in a relevant position during the PAGA Period, respectively. The number of Class Period Workweeks and number of PAGA Pay Periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by . See Section 4 of this Notice.</u>

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1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay wages, including minimum and overtime wages, (including failing to pay overtime at the proper regular rate of pay); failing to provide legally compliant meal and rest periods; failing to timely pay wages due upon termination and during employment; failing to reimburse for mandatory business expenses; failing to provide accurate itemized wage statements and maintain requisite payroll records; failing to pay paid sick leave at the correct rate of pay; and failing to properly pay reporting time pay. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action:

The JCL Law Firm, APC, the Zakay Law Group, APLC, and Lawyers for Justice, PC (“Class Counsel.”)

Defendant 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 Defendant or Plaintiff are correct on the merits. In the meantime, Plaintiff and Defendant hired a neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (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 Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

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

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

1. **Gross Settlement Amount.** Defendant will Pay \$2,000,000.00 as the Gross Settlement Amount (“Gross Settlement Amount”). Defendant has agreed to deposit the Gross Settlement Amount into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement Amount to pay the Individual Class Payments,

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Individual PAGA Payments, Class Representative Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement Amount on May 16, 2024, or within fourteen (14) days after the Judgment entered by the Court becomes final, whichever is later. 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 Amount. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

- A. Up to \$666,666.67 (One-third of the Gross Settlement Amount) to Class Counsel for attorneys' fees and up to \$40,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- B. Up to \$10,000.00 to the Class Representative as a Class Representative Payment for filing the Action, working with Class Counsel and representing the Class, and executing a 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 \$33,000.00 to the Administrator for services administering the Settlement.
- D. Up to \$60,000.00 for PAGA Payment, allocated 75% to the LWDA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.

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

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 Amount (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks. Former employees of Defendant will receive four weeks added to their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 25% of each Individual Class Payment (excluding the extra portion paid to former employees) to taxable wages ("Wage Portion") and 75% to interest and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather

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than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendant 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 Individual PAGA Payments will show the date when the check expires (the void date). If you do not cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check are sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

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 MONTH XX, 202X, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by MONTH XX, 202X, Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's 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 Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

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 Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

8. Administrator. The Court has appointed a neutral company, Apex Class Action LLC, (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

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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 **Defendant** has fully funded the Gross Settlement **Amount**, and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the 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 **Defendant** or related entities for wages based on the Class Period facts and **PAGA Payment** based on PAGA 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 their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from **all claims, rights, demands, liabilities, and causes of action alleged in the Complaint and First Amended Complaint in the Lawsuit, and claims that** reasonably could have been alleged based on the facts **alleged** in the Complaint and **First Amended Complaint or based on any facts** ascertained in the course of the **litigation**, including (a) any and all claims involving any alleged failure to pay **wages for all time worked, including failure to compensate for alleged "off the clock" work, failure to pay minimum wage, and failure to pay overtime**, (b) **any and all claims involving any alleged failure to pay overtime at the regular rate of pay**, (c) **any and all claims involving any alleged failure to provide compliant meal and rest periods, including failure to pay meal and rest period premium pay**, (d) **any and all claims involving any alleged failure to timely pay all wages due upon termination**, (e) **any and all claims involving any alleged failure to timely pay all wages due during employment**, (f) **any and all claims involving any alleged failure to provide compliant wage statements**, (g) **any and all claims involving any alleged failure to keep requisite payroll records**, (h) **any and all claims involving any alleged failure to reimburse business expenses**, (i) **any and all claims involving any alleged failure to pay paid sick leave at the correct rate of pay**, and (j) **any and all claims involving any alleged failure to properly pay reporting time pay, which occurred during the Class Period. The release shall include all Federal Fair Labor Standards Act claims which could have been brought based on the facts pleaded in the Complaint or First Amended Complaint.**

10. **Aggrieved Employees' PAGA Release.** After the Court's judgment is final, and **Defendant** has paid the Gross Settlement **Amount** (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against **Defendant**, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against **Defendant** or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement. **The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:**

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All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts alleged in the Complaint, First Amended Complaint or notice of alleged PAGA violations to the LWDA ("PAGA Notice") or based on any facts ascertained in the course of the litigation, including (a) any and all claims involving any alleged failure to pay wages for all time worked, including failure to compensate for alleged "off the clock" work, failure to pay minimum wage, and failure to pay overtime, (b) any and all claims involving any alleged failure to pay overtime at the regular rate of pay, (c) any and all claims involving any alleged failure to provide compliant meal and rest periods, including failure to pay meal and rest period premium pay, (d) any and all claims involving any alleged failure to timely pay all wages due upon termination, (e) any and all claims involving any alleged failure to timely pay all wages due during employment, (f) any and all claims involving any alleged failure to provide compliant wage statements, (g) any and all claims involving any alleged failure to keep requisite payroll records, (h) any and all claims involving any alleged failure to reimburse business expenses, (i) any and all claims involving any alleged failure to pay paid sick leave at the correct rate of pay, and (j) any and all claims involving any alleged failure to properly pay reporting time pay, which occurred during the PAGA Period.

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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. Class Members who are no longer employed by Defendant will receive four weeks added to their total number of Workweeks.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$15,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/PAGA Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until MONTH XX, 202X to challenge the number of Workweeks and/or PAGA Pay Periods credited to you. 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.

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You need to support your challenge by sending copies of pay stubs or other records. The

Administrator will accept Defendant's calculation of Workweeks and/or PAGA Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or PAGA Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You cannot appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who does not opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment (if any).
2. Aggrieved Employees (including those who are Non-Participating Class Members). The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee.

Your check will be sent to the same address as in 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 Miranda Lopez v. Behavior Frontiers, LLC Case No. 22STCV15331, 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 receive your request to be excluded by MONTH XX, 202X, or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least twenty-eight (28) days before the MONTH XX, 202X 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 Attorneys' Fees and Litigation Costs and Service Award stating (i) the amount Class Counsel

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is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative 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 www. .com or the Court's website https://www.lacourt.org/casesummary/ui/.

A Participating Class Member who disagrees with any class action component of the Agreement, the Motion for Final Approval and/or Motion for Attorneys' Fees and Litigation Costs, and Service Award may wish to object. **The deadline for sending written objections to the Administrator is MONTH XX, 202X.** 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 Miranda Lopez v. Behavior Frontiers, LLC Case No. 22STCV15331 and include your name, current address, telephone number, and approximate dates of employment for Defendant, 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 MONTH XX, 202X at XX:XX am/pm in Department 6 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount 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 via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It is possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website www. .com 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 Defendant 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 Apex Class Action LLC's website at www. .com. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<https://portal.sccourt.org/search>) and entering the Case Number for the Action, Case No. 22STCV15331. You can also make an

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appointment to personally review court documents in the Clerk's Office at the Los Angeles Superior Court.

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

JCL LAW FIRM, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-599-8292
jlapuyade@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-892-7095
F: 858-404-9203
Shani@zakaylaw.com

LAWYERS FOR JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
T: 818-265-1020
F: 818-265-1021
edwin@calljustice.com

Settlement Administrator:

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Apex Class Action LLC
20371 Irvine Avenue, Newport Beach, CA 92660;
Tel: (800) 355-0700

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, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

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.

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ⁱ This Model Class Action and PAGA Settlement Agreement has been approved by the Court, the Complex litigation judges, and a 2022 Ad Hoc Wage and Hour Committee co-chaired by Judge David Cunningham and Judge Amy Hogue and comprised of 16 attorneys who regularly represent plaintiffs and defendants in wage and hour case. It is written for settlements of single plaintiff wage and hour actions asserting class claims and PAGA claims against a single employer (XYZ). The parties will need to revise this form if there are multiple plaintiffs or multiple defendants. For settlements of wage and hour class actions that do not include PAGA claims, please use the Model Class Action Settlement Agreement and Class Notice. THE COURT ASKS ALL COUNSEL USING THIS MODEL AGREEMENT TO ATTACH A REDLINED VERSION TO THEIR MOTIONS FOR APPROVAL SO THAT THE COURT CAN EASILY SEE EXACTLY HOW THE PARTIES HAVE MODIFIED THIS MODEL AGREEMENT.

ⁱⁱ Whether the “date of preliminary approval” yields a fair and adequate payment to Class Members may depend on whether the Class Members, in exchange for their releases of claims, receive consideration for time worked between the date when parties reached a settlement and the date of preliminary approval. The Parties’ *Kullar* analysis must give the Court sufficient information to allow the Court to determine whether the Gross Settlement Amount “represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation.” (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 94–95, internal quotation marks omitted.)

ⁱⁱⁱ See endnote ii above.

^{iv} The Parties may need to tailor this language to pay periods or shifts depending on the facts of the case.

^v The Parties are free to negotiate a payment plan structure, if appropriate, and payment deadlines may fall earlier as necessary thereto.

^{vi} Note that this is not the only possible appropriate breakdown depending on the claims at issue in the case (e.g. a settlement that is solely a Labor Code Section 226(a) claim.)

^{vii} Insert negotiated terms, if any, addressing the possibility that XYZ’s estimates of class size, Workweeks or Pay Periods turn out to be understated such as an ADR clause imposing a duty to engage in good faith negotiations or mediation or an “escalator” clause memorializing XYZ’s promise to increase the Gross Settlement Amount in an agreed upon proportion to the percentage by which the calculated class size, Workweeks, or Pay Periods exceeds XYZ’s estimates.

^{viii} Releases in Notice should track the releases in the ... [366]

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EXHIBIT 3

EXHIBIT 4

JCL LAW FIRM, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Fax: (619) 599-8291

FIRM RESUME

Areas of Practice: Employee Class Actions, Wage and Hour Class Actions, Civil Litigation, and Unlawful Housing Practices.

ATTORNEY BIOGRAPHIES

Jean-Claude Lapuyade, Esq.
California Bar Number 248676
Founding Partner

Biography:

Mr. Lapuyade is a San Diego based labor and employment attorney representing aggrieved California employees and the victims of unlawful housing practices throughout the State of California. Mr. Lapuyade's litigation practice focuses on representing California employees in wage and hour class actions for unpaid wages, missed meal and rest breaks, and misclassification, wrongful termination cases and tenants in unlawful housing class actions. Mr. Lapuyade prides himself on providing his clients with aggressive, attentive and result driven representation through the litigation process, trial and arbitration. Since 2007, Mr. Lapuyade successfully recovered in excess of \$200 million in monetary awards for his clients.

Mr. Lapuyade served as co-editor of the Insurance Column for Consumer Attorneys of San Diego from 2011 to 2014. As editor, Mr. Lapuyade was responsible for publishing monthly articles in the Trial Bar News periodical analyzing complex insurance coverage issues. Mr. Lapuyade is a four-time recipient of the Super Lawyers Rising Star by Thomson Reuters. To be eligible for inclusion in Rising Stars, a candidate must be either 40 years old or younger or in practice for 10 years or less. While up to 5 percent of the lawyers in a state are named to Super Lawyers, no more than 2.5 percent are named to Rising Stars.

Bar Admissions:

- California
- U.S. District Court Southern District of California
- U.S. District Court Central District of California
- U.S. District Court Eastern District of California
- U.S. District Court Northern District of California

Professional Associations:

- California Employment Lawyers Association, 2007 to Present
- Consumer Attorneys of San Diego, 2007 to 2020
- American Bar Association, Section of Litigation, Member, 2007 to 2020
- American Bar Association, Labor & Employment Section, Member, 2007 to 2020
- American Bar Association, Tort, Trial & Insurance Section, Member, 2007 to 2020
- California Bar Association, Labor & Employment Section, Member, 2007 to Present
- California Bar Association, Litigation Section, Member, 2007 to Present

Education:

- **California Western School of Law**
 - J.D. - 2006
 - Honors: Deans Merit Scholarship, California Western School of Law 2005 - 2006
- **University of Arizona**
 - B.A. - 2001
 - Major: History

Honors:

- Super Lawyers Rising Star, Thomson Reuters, 2015 - 2018
- Distinguished Advocate Award for Outstanding Oral Advocacy, 2005 - 2006

Sydney Castillo-Johnson, Esq.
California Bar Number 343881
Associate Attorney

Biography:

Ms. Castillo-Johnson is a San Diego based labor and employment attorney representing California employees throughout the state of California. Ms. Castillo-Johnson's litigation practice focuses on representing current and former employees in wage and hour class actions for unpaid wages, missed meal and rest breaks, misclassification, and wrongful termination.

Ms. Castillo-Johnson volunteered her time at California Western School of Law first as a student intern and later as a student manager with the Community Law Project which offers legal services to the low-income community of San Diego.

Education:

- **California Western School of Law**
 - J.D.- 2022
 - Honors:
 - Dean's Honor List: Spring 2021, Fall 2021
 - Public Service Honor Society Fall 2021
 - 3L Academic Merit Scholarship
 - Dean's Diversity, Service, and Leadership Scholarship
 - Activities: Community Law Project Student Manager
- **Azusa Pacific University**
 - B.A. – 2018
 - Major: Criminal Justice

Monnett De La Torre, Esq.
California Bar Number 272884
Senior Associate

Biography:

Ms. De La Torre is a San Diego and Ventura County based labor and employment attorney representing aggrieved California employees throughout the State of California. Ms. De La Torre's litigation practice focuses on representing California employees in wage and hour class and representative actions for unpaid wages, missed meal and rest breaks, misclassification, penalties, and wrongful termination cases. Ms. De La Torre has extensive experience handling internal workplace investigations. Ms. De La Torre has handled matters before the Department of Fair Employment and Housing, Equal Employment Opportunity Commission and Department of Labor.

Ms. De La Torre is a two-time recipient of the Super Lawyers Rising Star by Thomas Reuters. To be eligible for inclusion in Rising Stars, a candidate must be either 40 years old or younger or in practice for 10 years or less. While up to five percent of the lawyers in a state are named to Super Lawyers, no more than 2.5 percent are named to Rising Stars.

Bar Admissions:

- California
- U.S. District Court Southern District of California

Professional Associations:

- California Employment Lawyers Association, 2022 to Present
- Consumer Attorneys of San Diego, 2010-2015
- American Bar Association, Labor & Employment Section, Member, 2015 to Present
- California Bar Association, Labor & Employment Section, Member, 2015 to Present
- San Diego La Raza Lawyers Association, 2010-2015
- Ventura County Bar Association, 2015-Present
- Women Lawyers of Ventura County, 2015-Present

Education:

- **New England School of Law**
 - J.D.- 2010

- Honors:
 - Dean's List Consecutive years
- **University of California, San Diego**
 - B.A.- 2006
 - Major: Economics
 - Minor: Latin American Studies

Honors:

- Super Lawyers Rising Star, Thomson Reuters, 2021 and 2022
- Pacific Cost Business Times, "Top 40 under 40" Award
- Daily Transcripts "Top Young Attorney: nominee, consecutive years"

REPORTED CASES

- *Blanchette et al., v. Superior Court (GHA Homes)*, 8 Cal.App.5th 521, 2017
- *Chmurny v. State*, 392 Md. 159, 2006

EXAMPLES OF THE JCL LAW FIRM'S
REPRESENTATIVE CLASS ACTION & REPRESENTATIVE CASES

- *Garces, et al. v. DriverDo, LLC*, Los Angeles Superior Court Case No. 19STCV32773 (January 24, 2023) Hon. Carolyn B. Kuhl approved a \$700,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *De Jesus v. Guardian Angel Home Care, Inc.*, San Diego Superior Court Case No. 37-2020-00021049-CU-OE-CTL (July 29, 2022) Hon. Ronald F. Frazier approved a \$300,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Kaur v. Aces 2020 I, LLC, et al.*, Contra Costa Superior Court Case No. MSC20-02482 (December 22, 2022) Hon. Edward G. Weil approved a \$585,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Molina v. Hawaiian Airlines, Inc.*, Los Angeles Superior Court Case No. 20STCV28079 (November 23, 2022) Hon. Maren Nelson approved a \$250,000 class action settlement for meal and rest period violations. The JCL Law Firm, APC, represented the Plaintiff.
- *Lang Jr. v. Pathways Community Services LLC*, San Diego Superior Court Case No. 37-2019-00049969-CU-OE-CTL (September 9, 2022) Hon. James A. Mangione approved a \$160,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Martinello v. Century Wilshire, Inc.*, Los Angeles Superior Court Case No. 20STCV32613 (March 1, 2022) Hon. Carolyn Kuhl approved a \$550 billing rate and appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as Class Counsel.
- *Wilson v. Spreen Inc. (dba Spreen Honda)*, San Bernardino Superior Court Case No. CIVSB2119857 (April 6, 2022) Hon. David Cohn approved a \$300,000 PAGA action settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Ledesma v. TVJ Sons I, Inc.; Porter and Howard, Inc.* Santa Barbara Superior Court Case No. 20CV03573 (November 10, 2021) Hon. Jed Beebe approved a \$350,000 PAGA action settlement for meal and rest period violations. The JCL Law Firm, APC represented the State of California and the Aggrieved Employees.
- *Jacobs v. Rush Media Company, LLC; XLT Management Services, Inc.*, Los Angeles Superior Court Case No. 20STCV32350 (May 2, 2022) Hon. Daniel J. Buckley appointed the JCL Law Firm, APC as Class Counsel and approved a \$330,000 class action settlement for, *inter alia*, independent contractor misclassification.
- *Chavez v. HTL Conrad Domestic, LLC; HTL Conrad Domestic Employer, LLC*, San Diego Superior Court Case No. 37-2020-00016193-CU-OE-CTL (June 9, 2022) Hon. John S. Meyer approved a \$850,000 PAGA action settlement for, *inter alia*, failure to compensate overtime at the regular rate of pay. The JCL Law Firm, APC acted as representative PAGA counsel for the State of California and the Aggrieved Employees.
- *Renteria v. Love's Country Stores of California*, San Bernardino Superior Court Case No. CIVDS20164481 (June 14, 2022) Hon. David Cohn approved a \$2.2 million dollar class action and PAGA action settlement for, *inter alia*, unpaid overtime and sick pay. The JCL Law Firm, APC acted as Class Counsel and as representative PAGA counsel for the State of California.

- *Lopez v. Adidas America, Inc.*, Ventura Superior Court Case No. 56-2021-005498444-CU-OE-VTA (April 4, 2022) Hon. Mark Borrell approved a \$1.5 million dollar class action and PAGA action settlement for, *inter alia*, inaccurate overtime calculations, and appointed the JCL Law Firm, APC as Class Counsel.
- *Felix v. TVI, Inc., d.b.a. Savers*, Santa Clara Superior Court Case No. 21CV376407 (February 18, 2022) Hon. Sunil R. Kulkarni approved a \$1.8 million dollar class action and PAGA action settlement for, *inter alia*, unpaid off-the-clock work. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Munoz v. AMTCR*, San Bernardino Superior Court Case No. CIV-DS2001914 (August 24, 2021) Hon. David Cohn approved a \$1.8 million dollar class and PAGA settlement for, *inter alia*, inaccurate itemized wage statements. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- *Nunes v. Home Depot U.S.A., Inc.*, San Joaquin Superior Court Case No. STK-CV-UOE-2020-0011011 (October 20, 2021 – Hon. Roger Ross approved a \$1.5 million dollar class and PAGA settlement for, *inter alia*, miscalculated meal period premiums and appointed Jean-Claude Lapuyade, Esq. as Class Counsel.)
- *Pillsbury v. T&T Restaurants CA, Inc.*, Del Norte Superior Court Case No. CVUJ-20-1214 (December 14, 2021 – Hon. Darren McElfresh approved \$550 billing rate and appointed Jean-Claude Lapuyade, Esq. as Class Counsel in a wage and hour class action settlement.)
- *Latin v. OneMain General Service Corporation*, Stanislaus County Superior Court Case No. CV-20-002498 (October 22, 2021) Hon. Stacy Speiller approved a PAGA action settlement for \$700,000 wage statement violations. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.
- *Elias Kaser v. Aviation Consultants, Inc.*, Orange County Superior Court Case No. 30-2021-01191204-CU-OE-CXC (September 22, 2021 – Hon. Peter J. Wilson approved \$550 billing rate in a representative California Labor Code Private Attorney General Act settlement).
- *Rodriguez v. RSI Home Products, Inc.*, San Bernardino Superior Court Case No. CIVDS2023354 (July 30, 2021 – Hon. David Cohn approved a \$1.45 million class and PAGA settlement for, *inter alia*, failure to comply with piece-rate laws, and appointed the JCL Law Firm, APC as Class Counsel)
- *Jer Vang v. Bridge Property Management*, Alameda County Superior Court, Case No RG19047434 (January 8, 2021 – Hon. Winifred Smith approved a class and PAGA settlement for, *inter alia*, unpaid off the clock work. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- *Johnson v. Volt Management Corp., Inc. et al.*, Los Angeles County Superior Court, Case No. 19STCV16466 (December 11, 2020 – Hon. Amy Hogue approved a PAGA Settlement negotiated on behalf of the State of California and the aggrieved employees by the JCL Law Firm, APC.)
- *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior Court, Case No. 19STCV20382 (November 24, 2020 – Hon. John P. Doyle appointed the JCL Law Firm, APC as class counsel and approved a class and PAGA settlement for, *inter alia*, missed meal and rest periods.)
- *Villalobos v. Alterra Group, LLC et al.*, Los Angeles County Superior Court, Case No. 19STCV19448 (November 11, 2020 – Hon. Richard Fruin approved a PAGA Settlement for, *inter alia*, unreimbursed business expenses. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.)
- *Stevens et al., v. Bank of England*, San Diego County Superior Court Case No. 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer appointed JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for, *inter alia*, off-the-clock work.)
- *Frazier v. ASA Carlton, Inc.*, San Diego Superior Court Case No. 37-2019-00036147 (October 9, 2020 Hon. Kenneth Medel appointed the JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for off-the-clock work.)
- *Krake et al., v. Central Valley Diner, Inc.*, Placer County Superior Court Case No. SCV0041645 (September 4, 2020 – Hon. Michael Jones appointed JCL Law Firm as class counsel and granted final approval of wage and hour class action for meal period violations.)
- *Conner v. Ascendant Marketing, LLC et al.*, San Diego Superior Court Case No. 37-2019-00026864-CU-OE-CTL (July 24, 2020 Hon. Joel Wohlfeil granted approval of PAGA Settlement for, among other things, off-the-clock work. JCL Law Firm, APC acted as lead counsel.)
- *Guerrero v. Estancia Operations, LLC.*, San Diego Superior Court Case No. 37-2019-00028963 (August 25, 2020 – Hon. Katherine Bacal approved PAGA Settlement for, *inter alia*, missed meal and rest periods. JCL Law Firm, APC, acted as lead counsel.)
- *Moreno v. Dash Lube, et al.*, United States District Court, Southern District of California, Case No. 18cv1922 DMS (AHG) (December 13, 2019 – Granted class certification of Labor Code Section 226 claim and appointed JCL Law Firm, APC, as Class Counsel.)
- *Perkins et al., v. Tahiti Enterprises, Inc., et al.*, Orange County Superior Court Case No. 30-2016-00863095 (October 22, 2019 – Hon. Peter Wilson appointed JCL Law Firm, APC, as Class Counsel and granted final approval for an unlawful housing class action settlement arising out of Civil Code Section 1940.1.)

- *Hill v. Stemak Holdings, Ltd.*, San Diego Superior Court Case No., 37-2018-00000747 (January 28, 2020 – Hon. Kenneth Medel appointed JCL Law Firm, APC as class counsel and granted final approval of wage and hour class action for unpaid overtime.)
- *Shachno et al., v. KT Hotels, LLC, et al.* San Diego Superior Court Case No. 37-2018-00043601 (May 31, 2019 – Hon. Gregory Pollack appointed JCL Law Firm, APC, as Class Counsel and granted preliminary approval for the wage and hour class action settlement involving nearly 900 current and former employees. Final approval scheduled for October 4, 2019)
- *Almanza v. The Express Group, Inc.*, San Bernardino Superior Court Case No. CIVDS1722542 (April 19, 2019 – Hon. David Cohn appointed the JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement for *inter alia*, missed meal and rest periods and independent contractor misclassification.)
- *Moschetto v. Pillow Global, Inc.* San Diego Superior Court, Case No. 37-2017-00024031-CU-OE-CTL (April 5, 2019 – Hon. John S. Meyer appointed JCL LAW Firm, APC, as Class Counsel and granted final approval for a wage and hour wage class action settlement involving misclassified house cleaners.)
- *Burke v. Friendship Hotel, LLC*, San Diego County Superior Court Case No. 37-2017-00022517-CU-OE-CTL (March 10, 2019 – final approval granted on for an unlawful housing class action arising under Civil Code Section 1940.2)
- *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court Case No. 37-2018-00014181-CU-OE-CTL (February 8, 2019 – Hon. Gregory W. Pollock appointed JCL Law Firm, APC as Class Counsel and granted final approval for a wage and hour class action settlement for meal and rest period violations);
- *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case No. CIVDS1512625, (July 27, 2018 – Hon. Thomas S. Garza appointed JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement involving claims for on duty meal and rest periods.);
- *Summerlin et al. v. Maplebear, Inc. dba Instacart*, Los Angeles Superior Court Case No. BC603030 (2018 - certified and settled wage and hour class action.)
- *Ortega v. Prime Healthcare*, San Diego Superior Court Case No. 37-2014-00011240-CU-OE-CTL (2018 – Approved PAGA only settlement for on duty meal and rest periods)
- *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-2016-00012373-CU-OE-CTL (2017 - Certified and settled class action for employee misclassification);
- *Crawford v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No. BC617160 (2017 - Certified and settled wage and hour class action.);
- *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case No. CIVDS1505181 (2016 - Certified and settled wage and hour class action);
- *Burns v. Shalom, LLC*, San Diego Superior Court, Case No., 37-2013-00058356-CU-BT-CTL (2015 - certified and settled class action for unlawful housing practices arising out of Civil Code Section 1940.1);