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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

LUCAS DELACRUZ, an individual, on behalf
of himself, and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

WAL-MART ASSOCIATES, INC., a
Delaware Corporation; BONOBO, INC., a
Delaware Corporation; and DOES 1 through
50, Inclusive;

Defendants.

Case No. 37-2021-00046421-CU-OE-CTL

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

Date: October 20, 2023

Time: 8:30 a.m.

Judge: Hon. Keri Katz

Dept.: C-74

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 counsel of record for
5 Plaintiff LUCAS DELACRUZ, (hereafter "Plaintiff") in this wage and hour class action filed against
6 WAL-MART ASSOCIATES, INC., a Delaware Corporation and BONOBO, INC., a Delaware
7 Corporation (hereinafter "Defendants").

8 2. This declaration is being submitted in support of Plaintiff's Motion for Final Approval of
9 Class Action and PAGA Settlement and Plaintiff's Motion for Attorneys' Fees and Attorneys' Expenses
10 and Service Award.

11 3. Attached hereto as **Exhibit "1"** are true and correct copies of the fully executed
12 Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims (hereinafter
13 "Agreement"). Attached as Exhibit A to the Agreement is a true and correct copy of the court-approved
14 Class Notice.

15 4. Attached hereto as **Exhibit "2"** is a true and correct copy of the conformed May 18, 2023,
16 Preliminary Approval Order.

17 5. Attached hereto as **Exhibit "3"** is a true and correct copy of the April 13, 2023, proof of
18 filing the proposed Settlement with the LWDA.

19 6. Attached hereto as **Exhibit "4"** is true and correct copy of the September 14, 2023, proof
20 of filing this motion seeking final approval of this Settlement.

21 7. Attached hereto as **Exhibit "5"** is a true and correct copy of the JCL Law Firm, APC's
22 "Transaction Summary" detailing the JCL Law Firm, APC's actually incurred litigation expenses for
23 this matter as of September 14, 2023. As shown in detail in the attached transaction summary, the JCL
24 Law Firm, APC, incurred a total of \$7,959.43 in litigation costs prosecuting this action. These costs
25 are exclusive of the costs incurred by co-counsel Zakay Law Group, APLC.

26 8. Attached hereto as **Exhibit "6"** is a true and correct copy of the JCL Law Firm, APC's
27 "Time and Billing Journal" detailing the JCL Law Firm APC's total hours and fees for this matter as of
28 September 14, 2023. Each entry was made contemporaneously and in the ordinary course of the JCL

1 Law Firm, APC's usual course of business. The attached Time and Billing Journal shows that the JCL
2 Law Firm, APC billed a total of 162.2 hours for a total of \$82,084.97 successfully litigating this action.

3 9. Attached hereto as **Exhibit "7"** is a true and correct copy of the JCL Law Firm, APC's
4 "Firm Resume" detailing the credentials of Class Counsel and a summary of cases on which counsel
5 has acted as class and representative action counsel.

6 **I. INTRODUCTION**

7 10. An objective evaluation of the proposed settlement of \$450,000.00 ("Gross Settlement
8 Amount") confirms that the relief negotiated on behalf of the Class is fair, reasonable, and valuable.
9 The Settlement is a product of informed, adversarial, and non-collusive negotiations, between
10 experienced counsel, guided by the wisdom and experience of Jeffery A. Ross, Esq., a respected
11 mediator. After deducting any Court-approved attorneys' fees and costs, class representative incentive
12 payments, administration costs, and payments to the Labor & Workforce Development Agency
13 ("LWDA"), the Net Settlement Amount shall be distributed to the Settlement Class Members based on
14 the number of Workweeks they worked while employed by Defendants during the Class Period. ***The***
15 ***Settlement Class greeted news of the Settlement with overwhelming approval as 100% of the***
16 ***Settlement Class Members chose to participate in the Settlement.*** There are zero opt-outs and zero
17 objections to the Settlement. The unanimous approval by the Settlement Class evidences the clear
18 fairness and reasonableness of the Settlement.

19 11. The relief offered by the Settlement is immediate and is particularly impressive when
20 viewed against the difficulties encountered by plaintiffs pursuing similar wage and hour cases (*see*
21 *infra*). As discussed below, the proposed Settlement satisfies all criteria for final settlement approval
22 under California law and falls well within the range of reasonableness.

23 12. As discussed below, the proposed Settlement satisfies all criteria for final settlement
24 approval under California law and falls well within the range of reasonableness. Accordingly, Class
25 Representative and Class Counsel respectfully request this Court grant final approval of the Agreement
26 and, entry of the proposed Final Approval Order and Judgment.

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II. OVERVIEW OF THE LITIGATION

13. Defendant Bonobos operates an e-commerce clothing retailer, throughout California, including San Diego County where Plaintiff worked. Walmart owned Bonobos during the Class Period. This action asserts claims on behalf of all current and former non-exempt California employees who worked at Defendant Bonobos stores, including Walmart employees who worked at Bonobos stores, at any time during the period beginning November 1, 2017, through March 6, 2023. At all times during his employment, Plaintiff earned an hourly wage and was entitled to legally compliant meal and/or rest periods, and minimum, regular and overtime wages for all hours worked. Throughout his employment, Plaintiff was subject to Defendants' written policies and procedures contained in, among other documents, the "Rest Breaks, Meal Periods and Days of Rest Policy" and "Associate Pay Policy."

14. On January 20, 2021, Plaintiff filed a class action complaint in the San Diego Superior Court, Case Number 37-2021-00002597-CU-OE-CTL ("Class Action"). The Class Action alleged eleven causes of action against Defendants for violations of the California labor code.

15. On December 27, 2021, Plaintiff filed the operative First Amended Complaint, which dismissed the causes of action for failure to pay sick pay at the correct rate (Labor Code § 246) and failure to provide wages when due in violation of California Labor Code §§ 201 - 204. On August 31, 2022, Plaintiff filed a Second Amended Complaint for the purpose of incorporating the claims and factual allegations for an alleged failure to provide seating claim.

16. On April 17, 2023, Plaintiff filed a Third Amended Complaint to readd the previously dismissed claims for Defendants' failure to provide wages when due, and to add allegations for off-the-clock Covid-19 screenings.

17. Generally, Plaintiff claims that Defendants failed to pay overtime at the regular rate of pay, failed to provide meal breaks and rest breaks, failed to reimburse for required business expenses, failed to pay minimum wages, and failed to issue accurate itemized wage statements. Defendants forcefully deny liability for each of Plaintiff's claims. As detailed in the motion for preliminary approval, Defendants asserts that it fully complied with all applicable employment laws and raised several other significant defenses to Plaintiff's claims.

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1 18. Plaintiff commenced written discovery in February 2022. Before answering Plaintiff's
2 written discovery, the Parties agreed to mediate the action. In anticipation of mediation, the Parties
3 agreed to stay formal discovery and continue deadlines for class certification.

4 19. To prepare for mediation, the Parties agreed to informally produce additional documents
5 and data points subject to the mediation privilege, including but not limited to, a sampling of the Class
6 Members' time and payroll data, and pertinent written wage and hour policies. Plaintiff's counsel
7 retained the forensic consultants at Berger Consulting Group ("BCG") to analyze Defendants' time and
8 payroll data.

9 20. On March 6, 2023, the Parties participated in a full day mediation with Jeffery A. Ross,
10 Esq., an experienced mediator of class and PAGA actions. After arms-length negotiations and
11 bargaining, the Parties accepted a Mediator's proposal and signed a Memorandum of Understanding.
12 After reaching an agreement in principle, the Parties drafted and negotiated a long-form settlement
13 agreement, which is the subject of the instant motion.

14 21. The Court preliminarily approved a Gross Settlement Amount of \$450,000.00 on May
15 18, 2023. The Gross Settlement Amount shall be used: (1) to satisfy Individual Settlement Payments;
16 (2) to satisfy the Service Award; (3) to satisfy the Attorneys' Fees and Attorneys' Expenses; (4) to
17 satisfy the PAGA Penalties; and (5) to satisfy the Administration Costs incurred in this action.

18 22. As explained in further detail below, the Settlement is fair, adequate, and reasonable to
19 the class and should be granted final approval. This is evidenced by the unanimous approval of the
20 Settlement by the Settlement Class and absence of any objections to the Settlement.

21 23. Further supporting final approval, the average Individual Settlement Payment of **\$797.70**
22 is comparable to settlement payments in similar wage and hour class actions. This result is particularly
23 favorable considering that liability and certification were far from certain. Given the complexities of
24 this case, the defenses asserted, the uncertainty of class certification, along with the uncertainties of
25 proof at trial and appeal, the proposed settlement is fair, reasonable, and adequate, and should be granted
26 final approval.

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1 **V. THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE**

2 **A. Class Counsel Conducted a Thorough Investigation.**

3 24. Months before filing the Action, Class Counsel began its pre-filing investigation into the
4 Plaintiff's complaints. Class Counsel's investigation started with several lengthy interviews with
5 Plaintiff. As part of the interview process, the Plaintiff produced documents related to his employment,
6 including, among other things, copies of his wage statements and timekeeping policies. At the
7 conclusion of the interviews, Class Counsel determined that each Plaintiff's complaints justified further
8 inquiry.

9 25. Class Counsel subsequently requested Plaintiff's employee files from Defendants. In
10 response, Defendants produced several pages of documents, including but not limited, Plaintiff's
11 payroll and time records. Class Counsel reviewed and analyzed the documents and determined the
12 documents appeared to substantiate Plaintiff's claim that Defendants failed to, among other things, pay
13 for all time worked and to provide compliant meal and rest periods.

14 26. Considering the many anticipated factual disputes, the Parties agreed that it would be in
15 the best interest of both Parties to mediate the matter. To prepare for mediation, Class Counsel
16 requested documents and data points to further evaluate Plaintiff's claims and Defendants' liability
17 exposure to the Class Members. In response to Class Counsel's request, Defendants produced a
18 sampling of Class Member time and payroll records, aggregate workweek and pay period data, and
19 copies of applicable policies, and agreements containing, *inter alia*, compensation, timekeeping and
20 meal and rest period policies. In total, Defendants produced over 200 pages of pertinent policy
21 documents and approximately 500,000 unique cells of time and payroll data for Class Counsel to
22 analyze.

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

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1 28. BCG analyzed Defendants' time and payroll data to assist in the development of various
2 damage models. Among other things, BCG determined the approximate number of work shifts,
3 workweeks, pay periods, average length of shift and average number of hours worked per week and pay
4 periods during the Class Period. BCG also estimated the number of missed, late or truncated meal and
5 rest periods, the amount of paid missed meal period premiums paid during the Class Period, the amount
6 of unreimbursed business expenses, the amount of unpaid wages owed, and the amount of off-the-clock
7 work performed by the Class Members during the Class Period.

8 29. In advance of mediation, Class Counsel created several damage models predicated on the
9 BCG analysis. Class Counsel's models calculated Defendants' potential liability exposure while
10 accounting for the uncertainties of continued litigation. These damage models informed and guided
11 Class Counsel during the mediated settlement discussions.

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

24 31. Class Counsel only agreed to enter the Settlement following this thorough investigation
25 and evaluation of Plaintiff's claims. Based on this investigation of the facts, applicable law, and
26 marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated
27 with litigation, and the various defenses asserted by Defendants, Class Counsel firmly believes this
28

1 Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair,
2 reasonable, and adequate, the Court should approve the Settlement.

3 **B. The Parties Settled at Mediation.**

4 32. The Settlement is the product of a mediation session with Hon. Steven Denton (Ret), a
5 respected jurist and a highly regarded wage and hour mediator. The mediation concluded with a
6 settlement.

7 33. The negotiations were adversarial, conducted at arms-length and tempered by the efforts
8 of both sides to serve the interests of their clients. The amount of the service award was not negotiated
9 until after the parties agreed to the Gross Settlement Amount and many other terms.

10 **C. Class Counsel is Experienced in Similar Litigation.**

11 34. Plaintiff is represented by competent and experienced counsel to pursue his claims. I
12 established the JCL Law Firm, APC ("Firm"), in 2010. The Firm is a boutique plaintiff firm representing
13 aggrieved employees and consumers throughout California in wage and hour class actions and complex
14 multi-party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade,
15 Esq. (Partner/Owner), Sydney Castillo-Johnson, Esq. (Associate Attorney), Monnett De La Torre, Esq.
16 (Associate Attorney), Tesla Stone (Paralegal), Laura Gonzalez Mendez (Paralegal), and Jennifer
17 Hemming (Administrative Assistant), Madelyn Uchiyama (Legal Assistant), Sara Christensen (Legal
18 Assistant), and Jovana Martin (Intake Coordinator).

19 35. I am qualified to represent the Plaintiff, the State of California, and the Aggrieved
20 Employees. I have extensive experience with wage and hour class and representative actions litigation
21 like this matter, and employment matters in general. Additionally, I have extensive complex mass tort
22 litigation experience and complex construction product liability experience. I can, will and have
23 adequately represented the interests of the Plaintiff, the State of California, and the Aggrieved
24 Employees throughout this action.

25 36. I have represented consumers and employees in California class actions, and complex
26 multi-party product liability actions exclusively for more than 14 years. I have been in practice as a
27 plaintiffs' civil litigation attorney since April 2007.

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1 37. I have significant class counsel and collective action counsel experience. My credentials
2 are reflected in the JCL Law Firm, APC, Firm Resume, which is attached hereto as **Exhibit “7”**.

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

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

7 40. Consequently, I have been named to the prestigious Thomson Reuters, Super Lawyers,
8 Rising Star in 2015, 2016, 2017 and, again, in 2018. According to Thomson Reuters, the Super Lawyers,
9 Rising Star list recognizes the top 2.5% of eligible attorneys. (see
10 https://www.superlawyers.com/about/selection_process.html.)

11 **E. The Risk, Expense, Complexity and Duration of Further Litigation Favor**
12 **Settlement.**

13 41. Here, the Settlement is clearly within the “ballpark” of reasonableness because the
14 Settlement provides a sizeable recovery to the Settlement Class Members and need not necessarily
15 obtain 100 percent of the damages sought to be fair, reasonable, and ultimately, meaningful. *Wershba*,
16 91 Cal.App.4th at 250. While the Gross Settlement Amount of \$450,000.00 represents a discount on
17 Defendants’ potential exposure if Plaintiff established liability on all claims and was awarded the full
18 amount of the estimated damages at trial, this compromise is reasonable because (1) the formidable
19 defenses raised by Defendants presented a risk that could award significantly less in damages than
20 Plaintiff’s estimate and (2) any theoretical post-trial recovery may require many more years of litigation,
21 resulting in added fees and costs without any guarantee of recovery for the Class.

22 42. Although Plaintiff and Class Counsel believe that this case has merit, they recognized the
23 potential risks both sides would face if litigation of this action continued.

24 43. With respect to the most immediate challenge, i.e., class certification, the risks attendant
25 to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart*
26 *Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded
27 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed
28 the trial court to enter judgement in favor of the employer. *See also O’Conner v. Uber Technologies*,

1 *Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also*
2 *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor
3 plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th
4 1077, 1088 (“[T]he reason, if any, that employees might not take their breaks were predominantly
5 individualized questions of fact not susceptible to class treatment.”); *Ali v. U.S.A. Cab Ltd.* (2009) 176
6 Cal.App.4th 1333, 1341 (affirming denial of certification because employees’ declarations attesting to
7 having taken meal and rest breaks demonstrated that individualized inquiries were required to show
8 harm); *Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following
9 *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack
10 of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying
11 certification of driver meal and rest period claims based on the predominance of individual issues).
12 Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk
13 factor favoring settlement.

14 44. Although Plaintiff is confident about the strength of his claims, Plaintiff nevertheless
15 recognizes that Defendants have factual and legal defenses that, if successful, would potentially defeat
16 or impair the value of the lawsuit. Legally, the fast-changing landscape of wage and hour litigation can
17 drastically affect the value of Plaintiff’s claims and, in fact, already has.

18 45. Plaintiff and Class Counsel recognize the expense and length of a trial against Defendants
19 through possible appeals which could take another three years. In arriving at their informed belief that
20 the present settlement is fair and adequate, Class Counsel accounted for the uncertain outcome and risk
21 inherent in complex actions such as this one. Class Counsel are also mindful of and recognize the
22 inherent problems of proof under, and alleged defenses to, the claims asserted in the litigation.
23 Moreover, post-trial motions and appeals would have been inevitable. Costs would have mounted, and
24 recovery would have been delayed if not denied, thereby reducing the benefits of an ultimate victory.
25 Plaintiff and Class Counsel believe that the Settlement confers substantial monetary and non-monetary
26 benefits upon the Class. Based upon their evaluation, Class Representative and Class Counsel have
27 determined that the Settlement set forth in the Agreement is in the best interest of the Class, is fair,
28 reasonable, and adequate, and should be granted final approval.

F. The Gross Settlement Amount is Fair and Reasonable.

46. The Gross Settlement Amount of \$450,000.00 in this case is fair and well within the range of recognized reasonableness. As detailed at the time of preliminary approval, the Gross Settlement Amount is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Class Counsel developed varied economic damages models measuring Defendants' liability exposure while accounting for the uncertainties of continued litigation. The various models were informed by Class Counsel's investigation, including the analysis of a significant sample of time and payroll data. As detailed in greater depth during the preliminary approval process, Class Counsel projected a range of Defendants' liability exposure for the claims asserted on behalf of the Settlement Class. The Gross Settlement Amount represents between approximately 10.5% of Defendants' maximum liability and approximately 16.3% of Defendants' *class-wide* liability exposure as estimated by Class Counsel at the time of mediation.

47. Clearly the goal of this litigation to obtain redress for the class has been met by this Settlement. Given the amount of the Settlement, the risks of litigation and the arm's length negotiations between experienced counsel, the settlement is entitled to final approval.

VI. THE PENALTIES UNDER THE PRIVATE ATTORNEY GENERAL ACT OF 2004 ARE
REASONABLE

48. Here, Plaintiff and Defendants negotiated a good faith PAGA Penalties in the amount of \$25,000 which is 5.5% of the Gross Settlement Amount. This amount falls well within the range of approved PAGA Penalties. Seventy-Five percent (75%) of the PAGA Penalties (\$18,750) will be paid to the LWDA ("LWDA Payment") with the remaining twenty-five percent (25%) of the PAGA Penalties (\$6,250) to be distributed to the Aggrieved Employees, which is within the range of PAGA penalties approved by courts and should be approved.

49. Further, on April 13, 2023, Class Counsel gave the LWDA notice of this Settlement and proposed allocation by filing a copy of the Settlement and the Motion for Preliminary Approval with the LWDA. On September 14, 2023, Plaintiff gave the LWDA notice of this motion seeking final approval of this settlement.

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1 **VII. CLASS COUNSEL’S REQUEST FOR FEES AND COSTS**

2 **A. LODESTAR**

3 50. As of September 14, 2023, the JCL Law Firm, APC incurred a total lodestar of \$82,084.97
4 for 162.2 hours worked by attorneys and staff successfully litigating this matter. I have reviewed my
5 firm’s lodestar in this matter and believe the charges are reasonable and were reasonably necessary to
6 the conduct of the case. Detailed time and billing journals for the JCL Law Firm are attached hereto as
7 Exhibit 6.

8 51. Additionally, the attorneys and staff at co-counsel the Zakay Law Group, APLC, worked
9 a total of 120.5 hours successfully prosecuting this action for a lodestar of \$59,589.00. A true and
10 accurate copy of the Zakay Law Group, APLC time and billing entries is attached to the Declaration of
11 Shani Zakay, Esq. filed concurrently herewith.

12 52. Collectively, Class Counsel spent a total of 282.7 hours successfully litigating this matter
13 for a total combined lodestar of \$141,673.97 and is summarized by firm below:

14

<u>FIRM</u>	<u>Hours</u>	<u>Total</u>
JCL Law Firm, APC.	162.2	\$82,084.97
Zakay Law Group, APLC	120.5	\$59,589.00
Total	282.7	\$141,673.97

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20 53. The JCL Law Firm’s rates are comparable to those judicially approved for other
21 plaintiff’s firms, such as Baron & Budd (rates ranging from \$775 for the requested partner to \$390-
22 \$630 for non-partners), Western Comden Casselman & Essensten (rates ranging from \$670-\$750 for
23 partners and \$300-\$500 for associates), and Blood Hurst & Rearden (\$510-\$695 for partners). See
24 Aarons v. BMW of North America, No. 11-7667-PSG, 2014 U.S. Dist. LEXIS 118442, *40-41 (C.D.
25 Cal. Apr. 29, 2014). Other Southern California courts have approved hourly rates in the requested range.
26 See e.g., Kearney v. Hyundai Motor Am., 2013 U.S. Dist. LEXIS 91636, *24 (C.D. Cal. June 28, 2013)
27 (approving hourly rates of \$650 -\$800 for senior attorneys in consumer class action); Parkinson v.
28 Hyundai Motor America, 796 F.Supp.2d 1160, 1172 (C.D. Cal. 2010)(approving hourly rates between

1 \$445 and \$675); *Faigman v. AT&T Mobility, LLC*, 2011 U.S. Dist. LEXIS 15825, *2 (N.D. Cal. Feb.
2 15, 2011) (Approving hourly rates of \$650 an hour for partners and \$500 for associates); *Richard v.*
3 *Ameri-Force Mgmt. Servs., Inc.*, No 37-2008-00096019 (San Diego Superior Court, August 27,
4 2010)(\$695 to \$750 an hour for partners and \$495 for associates); *Barrera v. Gamestop*, No. CV 09-
5 1399 (C.D. Cal. Nov. 29, 2010)(\$700 for partners and \$475 for associates); *Anderson v. Nextel Retail*
6 *Stores, LLC*, No. CV 07-4480 (C.D. Cal. June 20, 2010)(\$655- \$750 for partners and \$300 – 515 for
7 associates); *Luquetta v. Regents of Cal.*, CGC-05-443007 (San Francisco Sup. Ct.) (approving 2012
8 partner rates between \$550 and \$850 per hour); and *Holoway v. Best Buy Co.*, C-05-5056-PJH
9 (MEJ)(N.D. Cal.)(approving 2011 partner rates between \$825 and \$700, and associates hourly rates
10 between \$355 and \$405 an hour).

11 54. Moreover, my billing rate has been approved multiple times within the last twelve months
12 by California Superior Court judges. (See generally *Rodriguez v. RSI Home Products, Inc.*, San
13 Bernardino Superior Court Case No. CIVDS 2023354 (July 30, 2021 – Hon. David Cohn approved
14 \$550 billing rate and appointed Jean-Claude Lapuyade, Esq. as Class Counsel in a \$1,450,000 wage
15 and hour class action settlement); *Stevens et al., v. Bank of England*, San Diego County Superior Court
16 Case No. 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer approved \$500
17 billing rate and appointed JCL Law Firm as Class Counsel), *Frazier v. ASA Carlton, Inc.*, San Diego
18 Superior Court Case No. 37-2019-00036147 (October 9, 2020 – Hon. Kenneth Medel approved \$500
19 billing rate and appointed JCL Law Firm as Class Counsel.); *Krake et al., v. Central Valley Diner, Inc.*,
20 Placer County Superior Court Case No. SCV0041645 (September 4, 2020 – Hon. Michael Jones
21 approved \$500 billing rate and appointed JCL Law Firm as class counsel.); *Conner v. Ascendant*
22 *Marketing, LLC et al.*, San Diego Superior Court Case No. 37-2019-00026864-CU-OE-CTL (July 24,
23 2020 – Hon. Joel Wohlfeil approved \$500 billing rate and appointed JCL Law Firm as Class Counsel.).

24 55. Further, Class Counsel will be performing additional work, including finalizing the
25 motion for final approval, attending the hearing on final approval, finalizing the orders and judgment,
26 drafting a joint motion to dismiss the related federal court action, and monitoring completion of the
27 settlement process over the course of several years. I expect this additional work will result in an
28 additional 20-30 hour of additional work and an additional lodestar between \$11,000 and \$16,500.

1 56. As part of the settlement, the parties agreed to Attorneys' Fees and Expenses of
2 **\$165,000.00**, comprised of \$150,000.00 for attorneys' fees (one-third of the Gross Settlement Amount)
3 and up to \$15,000.00 for reimbursement of actually incurred litigation expenses. The requested
4 Attorneys' Fees equal to one-third of the Gross Settlement Amount are fair compensation and,
5 respectfully, should be approved. **The requested Attorneys' Fees as a percentage of the fund is**
6 **supported by the overall lodestar incurred with a modest multiplier of 1.05.** Again, obviously this
7 is much lower than the multiplier approved in *Laffitte* with significant work left to perform. The
8 requested award is therefore reasonably viewed by the Lodestar/Multiplier cross-check.

9 57. Class Counsel undertook complex, risky, and time-consuming wage and hour litigation
10 on a contingent basis. Further, the Attorneys' Fees are within the historically recognized range
11 attorneys' fees awarded in common fund class action settlements – between 25% and 50% – and is
12 supported by Class Counsel's lodestar cross-check with a reasonable 1.05 multiplier.

13 **B. THE REQUESTED ATTORNEYS' FEES AND ATTORNEYS' EXPENSES IS FAIR**
14 **AND REASONABLE**

15 58. The Agreement, preliminarily approved by this Court, provides for payment of the
16 Attorneys' Fees and Attorneys' Expenses from the common fund. Notably, after being provided with
17 notice of the Settlement and the requested Attorneys' Fees and Attorneys' Expenses, there are **zero opt-**
18 **outs and zero objections.** Every member of the Settlement Class will receive his or her Individual
19 Settlement Payment. Now, it is only equitable that the Settlement Class also pay their pro rata share of
20 attorneys' fees at a reasonable percentage-of-recovery rate to compensate Class Counsel for their efforts
21 in creating the common fund. Accordingly, it is well within the Court's discretion to award fees to
22 Class Counsel under the common fund doctrine.

23 59. Class Counsel requests attorneys' fees in the amount of \$150,000.00 representing one-
24 third of the Gross Settlement Amount. Class Counsel's request is consistent with many fee awards in
25 similar wage and hour class actions that Class Counsel has received in California Superior Courts, over
26 the past five years. *Rodriguez v. RSI*, San Bernardino Superior Court, Case No. CIVDS2023354 (Hon.
27 David Cohn approved Class Counsel's 33.3% attorneys' fee request in a \$1,450,000 common fund
28 wage and hour class action settlement, which equated to Class Counsel's lodestar plus a 1.87

multiplier); *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior Court, Case No. 19STCV20382 (Hon. John P. Doyle approved Class Counsel's 33.3% attorneys' fee request plus \$15,000 in litigation costs in a \$242,500 class action settlement); *Hill v. Stemak Holdings, Ltd.*, San Diego Superior Court Case No. 37-2018-00000747 (Hon. Kenneth Medel approved Class Counsel's 33.3% attorneys' fee request plus \$17,500 in actually incurred litigation costs in a \$386,500 common fund wage and hour class action settlement.); *Shachno et al., v. KT Hotels, LLC, et al*, San Diego Superior Case No. 37-2018-0043601-CU-OE-CTL (Hon. Gregory W. Pollack approved Class Counsel's 33.3% attorney fee request plus actually incurred litigation costs exceeding \$20,000 in a \$500,000 common fund wage and hour class action settlement.); *Moschetto v. Pillow Global, Inc.*, San Diego Superior Court Case No. 37-2017-00024031-CU-OE-CTL (Hon. John S. Meyer, approved Class Counsel's 33.3% attorney fee request plus actually incurred litigation costs exceeding \$15,000 in a \$250,000 common fund wage and hour class action settlement.); *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court Case No. 37-2018-00014181-CU-OE-CTL (Hon. Gregory W. Pollack, awarded Class Counsel 33.3% fee request and \$16,000 in litigation costs in a \$2 million common fund settlement, which equated to Class Counsel's lodestar plus at 1.62 multiplier.); *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case No. CIVDS1512625, (Hon. Thomas Garza awarded Class Counsel 33.3% fee request and more than \$17,000 in litigation costs on a \$1.75 million common fund wage and hour settlement, which equated to Class Counsel's lodestar plus a 1.67 multiplier.); *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case No. CIVDS1505181 (Hon. Bryan F. Foster awarded Class Counsel 33.3% fee request and \$22,632.93 in litigation costs and expenses on a \$1.8 million settlement, which equated at Class Counsel's lodestar plus a 1.89 multiplier.); *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-2016-00012373-CU-OE-CTL (Hon. Joel Wohfeil approved Class Counsel's 33.3% on a \$360,000 common fund wage and hour class action settlement, which equated to Class Counsel's lodestar plus a 1.2 multiplier.). Moreover, the requested one-third attorneys' fee award is in the middle of historically recognized range of attorneys' fees awarded in common fund class action settlements.

60. Plaintiff estimates that the Settlement, if approved, would result in a Net Settlement Amount of approximately **\$242,500.00**, an average Individual Settlement Payment of **\$797.70**, high

1 payment of **\$4,670.80**, and a low payment of **\$4.79**. The attorneys' fee portion of the Attorneys' Fees
2 and Attorneys' Expenses request should be awarded based upon the Gross Settlement Amount in
3 accordance with *Laffitte*, i.e., percentage of the fund with a lodestar cross check. As further explained
4 below, the reasonableness of the requested attorneys' fee award of \$150,000 is further supported by the
5 lodestar cross-check.

6 **B. Class Counsels' Lodestar Supports the Requested Attorneys' Fees**

7 61. Because the Settlement in this case is a pure common fund case, and the percentage of
8 the fund is the comparable marketplace for fee awards in common fund cases, *Laffitte* supports an award
9 based upon the percentage of the common fund. Moreover, Class Counsel's lodestar supports the
10 requested attorneys' fees with a multiplier well within the recognized range reasonableness, and in fact,
11 below what the California Supreme Court approved in *Laffitte*. For those reasons, and those discussed
12 *infra*, Class Counsel respectfully requests this Court approve a Attorneys' Fees and Attorneys'
13 Expenses in the amount of **\$165,000**, comprised of \$150,000 for attorneys' fees and up to \$15,000.00
14 for reimbursable litigation costs.

15 62. Courts have consistently recognized that the results achieved are an important factor to
16 be considered in making a fee award. *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983) ("most critical
17 factor is the degree of success obtained"). Here, after a vigorous and contentious litigation process,
18 significant monetary relief is to be provided to Settlement Class and the excellent results achieved by
19 Class Counsel through this Settlement alone justify the requested fee award. As fully briefed in
20 Plaintiff's motions for preliminary and final approval, the Gross Settlement Amount represents between
21 approximately 10.5% of Defendants' maximum liability and approximately 16.3% of Defendants'
22 *class-wide* liability exposure as estimated by Class Counsel at the time of mediation.

23 63. The likelihood of establishing liability and recovering the full amount of damages was
24 extremely remote and the Gross Settlement Amount of \$450,000.00 from which the Settlement Class
25 will receive an average Individual Settlement Payment of **\$797.70**, high payment of **\$4,670.80**, and a
26 low payment of **\$4.79** represents an excellent recovery for the Settlement Class considering Defendants'
27 vigorous defense and the risks of continued litigation.

28 ///

1 64. In reaching this Settlement, Class Counsel carefully considered the strength of the case
2 versus the amount offered in settlement, as well as the risk, expense, and complexity of maintaining
3 class certification through trial. Plaintiff is confident about the strength of his claims. Nonetheless,
4 Plaintiff recognizes that Defendants has factual and legal defenses that, if successful, would potentially
5 defeat or substantially impair the value of the lawsuit.

6 65. Additionally, continuing to litigate this action would require continued and extensive
7 resources coupled with significant Court time to proceed through contested certification, trial, and post-
8 trial motions, which can often take years. Furthermore, wage and hour litigation is complex and
9 expensive, as it often necessitates extensive expert testimony, particularly with regards to damages. But
10 even if Plaintiff was successful at trial, Plaintiff is acutely aware that a judgment does not end the
11 litigation. Plaintiff fully expects that Defendants would likely appeal any judgment.

12 66. Considering these issues, the Gross Settlement Amount of \$450,000.00 is an excellent
13 result for the Settlement Class. While the Gross Settlement Amount represents a discount on Plaintiff's
14 overall estimate of the damages, this reduction is an extremely reasonable compromise considering the
15 challenges of continued litigation, including but not limited to, maintaining class certification, and
16 establishing liability on all claims against Defendants. The Settlement commits Defendants to create a
17 Gross Settlement Amount, from which the Settlement Class will derive a ***significant financial recovery***
18 for their alleged damages and extinguish the risks of continued litigation, including a potential
19 bankruptcy and/or an appeal that would likely be filed following a judgment in Plaintiff's favor. Such
20 efforts would likely result in a delay of several years before this case would be resolved, with no
21 guarantee of recovery, whereas the Settlement provides for an average recovery of \$797.70, placing it
22 well within the range of reasonableness.

23 67. Furthermore, the Settlement Class greeted news of the Settlement with 100% of the
24 Settlement Class Members participating in the Settlement. The unanimous approval by the Settlement
25 Class Members evidences the positive overall result of the litigation.

26 68. Moreover, Class Counsel expects to incur an additional 20-30 hours of work attending
27 the hearing on final settlement approval, administering the settlement, filing post distribution settlement
28 declarations, and drafting an amendment judgment. Class Counsel devoted considerable time and effort

1 to achieve the benefit to the Settlement Class and the requested Attorneys' Fees and Attorneys'
2 Expenses in the amount of \$165,000 comprised of \$150,000 for attorneys' fees and up to \$15,000 for
3 reimbursable litigation costs is appropriate here given the excellent results achieved.

4 69. Practice in the narrow area of wage and hour class action litigation requires skill,
5 knowledge, and experience in two distinct subsets of the law. Expertise in one does not necessarily
6 translate into expertise in the other. Class Counsel must have expertise in both. The issues presented
7 in this case required more than just a general appreciation of wage and hour law and class action
8 procedure.

9 70. For instance, the legal landscape surrounding Plaintiff's central claim, meal and rest
10 period violations is in constant flux. Nevertheless, Class Counsel successfully navigated these seismic
11 legal changes during this action in route to successfully negotiating a significant monetary
12 compensation for the Settlement Class.

13 71. The Settlement was possible only because Class Counsel was able to convince
14 Defendants that Plaintiff could potentially prevail on the contested issues regarding liability, achieve
15 class certification through trial, overcome difficulties in proof as to monetary relief and take the case to
16 trial if need be. In successfully navigating these hurdles Class Counsel displayed the necessary dual
17 skill set.

18 72. Class Counsel undertook this litigation on a contingent-fee basis, assuming a significant
19 risk that the litigation would yield no recovery after many years of work. Unlike counsel for Defendants,
20 who are paid an hourly rate and reimbursed for their expenses on a regular basis, Class Counsel has not
21 been compensated for any time or expenses to date.

22 73. Traditionally, employment litigation plaintiffs are unable to pay their attorneys on an
23 hourly basis and thus can obtain representation only if they can find counsel who are willing to accept
24 their case on a contingent basis and agree to advance either all or a significant portion of the costs.

25 74. Here, Class Counsel undertook this litigation on a purely contingency basis, thereby
26 bearing the risk that they would only receive remuneration for the substantial investment of time and
27 resources and hours and costs expended if Plaintiff was successful.

28 ///

1 75. Additionally, in taking this case on a purely contingency basis, Class Counsel had to turn
2 away other fee generating work because the case required Class Counsel to not only devote considerable
3 time and resources to effectively prosecute and settle this action, but also wait until the Settlement is
4 fully funded before finally being made whole. Now, having overcome the obstacles surrounding
5 Plaintiff's claims and negotiated an excellent result on behalf of the Settlement Class, Class Counsel
6 should be compensated with a fee award properly reflecting these efforts.

7 76. Here, Class Counsel negotiated a one-third contingency fee arrangement, which is a
8 reasonable arrangement to obtain competent counsel in the marketplace for representation in wage and
9 hour class actions of this nature, and it is only equitable that Settlement Class who share in the excellent
10 results achieved by this Settlement bear their pro rata share of the attorney's fees award to Class
11 Counsel.

12 **C. Class Counsel's Costs**

13 77. Prior to incurring costs for filing of the Motion for Final Approval and Motion for
14 Approval of Attorneys' Fees, Costs, and Service Award, Class Counsel expended \$17,514.56 (JCL Law
15 Firm, APC - \$7,959.43 and Zakay Law Group, APC - \$9,555.13) prosecuting this action. The JCL Law
16 Firm's costs are reflected in the attached Exhibit "5". The Zakay Law Group, APLC's costs are attached
17 to the Declaration of Shani Zakay, Esq. filed concurrently herewith.

18 78. All of Class Counsel's out-of-pocket expenses are the types of expenses normally charged
19 to paying clients including the following: filing fees; copying; postage; factual and legal research
20 charges; mediation fees, which were all incurred during, and were necessary for the successful
21 prosecution of, the litigation and, therefore, should be reimbursed.

22 79. Consequently, Class Counsel incurred a total of \$17,514.56 successfully prosecuting this
23 action. Class Counsel now requests reimbursement for those incurred litigation expenses and costs in
24 the amount up to \$15,000 as provided for in the Settlement Agreement and based upon Class Counsel's
25 billing records.

26
27
28 ///

1 **D. Plaintiff's Service Award Is Reasonable and Should be Approved**

2 80. The amount of the requested Service Award to Plaintiff for \$10,000 is reasonable by
3 reference to the amounts that California courts (both federal and state) have repeatedly awarded in
4 similar class action settlements. *See Baker v. LA. Fitness Int'l, LLC*, No. BC438654 (L.A. County Super.
5 Ct. Dec. 12, 2012) (awarding \$10,000 enhancement payments to three of the named plaintiffs); *Blue v.*
6 *Codwell Banker Residential Brokerage Co.*, No. BC417335 (L.A. County Super. Ct Mar. 21, 2011)
7 (awarding \$10,000 enhancement payment); *Buckmire v. Jo-Ann Stores, Inc.*, No. BC394795 (L.A.
8 County Super. Ct. June 11, 2010) (awarding \$10,000 enhancement payments to the named plaintiff);
9 *Coleman v. Estes Express Lines, Inc.*, No. BC429042 (LA. County Super. Ct. Oct. 3, 2013) (awarding
10 \$10,000 enhancement payment); *Ethridge v. Universal Health Services, Inc.*, No. BC391958 (L.A.
11 County Super. Ct. May 27, 2011) (awarding \$10,000 enhancement payment); *Hickson v. South Coast*
12 *Auto Insurance Marketing, Inc.*, No. BC390395 (L.A. County Super. Ct. Mar. 27, 2012) (awarding
13 \$10,000 enhancement payment); *Hill v. Sunglass Hut Int'l, Inc*, No. BC422934 (LA. County Super. Ct.
14 July 2, 2012) (awarding \$10,000 enhancement payments to the named plaintiffs); *Kabamba v.*
15 *Victoria's Secret Stores. LLC*, No. BC368528 (L.A. County Super. Ct. Aug. 19, 2011) (awarding
16 enhancement payments of \$ 10,000 to the named plaintiffs along with additional compensation for their
17 general release of claims); *Magee v. American Residential Services, LLC*, No. BC423798 (LA. County
18 Super. Ct Apr. 21, 2011) (awarding \$15,000 enhancement payment); *Mares v. BFS Retail &*
19 *Commercial Operations, LLC*, No. BC375967 (L.A. County Super. Ct. June 24, 2010) (awarding
20 \$15,000 enhancement payments to the named plaintiffs); *Nevarez v. Trader Joe's Co.*, No. BC373910
21 (LA. County Super. Ct. Jan. 29, 2010) (awarding \$10,000 enhancement payment); *Ordaz v. Rose Hills*
22 *Mortuary, LP.*, No. BC386500 (LA. County Super. Ct. Mar. 19, 2010) (awarding 10,000 enhancement
23 payments to the named plaintiffs); *Sheldon v. AHMC Monterey Park Hospital LP*, No. BC440282 (L.A.
24 County Super. Ct. Feb. 22, 2013) (awarding \$10,000 enhancement payment); *Silva v. Catholic Moray*
25 *Services, Inc.*, No. BC408054 (L.A. County Super. Ct. Feb. 8, 2011) (awarding \$10,000 enhancement
26 payments to the named plaintiffs); *Weisbarth v. Banc West Investment Services, Inc*, No. BC422202
27 (L.A. County Super. Ct. May 24, 2013) (awarding \$10,000 enhancement payment); *Zamora v. Balboa*
28 *Life & Casualty LLC*, No. BC360026 (LA. County Super. Ct. Mar. 7, 2013) (awarding \$25,000

enhancement payments to the named plaintiffs); *Acheson v. Express, LLC*, No. 109CV135335 (Santa Clara County Super. Ct. Sep. 13, 2011) (awarding \$10,000 enhancement payment); *Aguiar v. Cingular Wireless, LLC*, No. CV 06-8197 DDP (AJWx) (C.D. Cal. Mar. 17, 2011) (awarding \$14,767 enhancement payment); *Bejarano v. Amerisave Mortgage Corp.*, No. EDCV 08-00599 SGL (Opx) (C.D. Cal. June 22, 2010) (awarding \$10,000 enhancement payment); *Carbajal v. Sally Beauty Supply LLC*, No. CIVVS 1004307 (San Bernardino Super. Ct. Aug. 6, 2012) (awarding \$10,000 enhancement payments to the named Plaintiffs); *Contreras v. Serco Inc.*, No. 10-cv-04526-CAS-JEMx (CD. Cal. Sep. 10, 2012) (awarding \$10,000 enhancement payment); *Guerrero v. R.R. Donnelley & Sons Co.*, No. RIC 10005196 (Riverside Super. Ct July 16, 2013) (awarding \$10,000 enhancement payment); *Kisliuk v. ADT Security Services, Inc.*, No. CV08-0324 DSF (RZx) (C.D. Cal. Jan. 10, 2011) (awarding \$10,000 enhancement payment); *Morales v. BCBG Maxaria Int’l Holdings, Inc.*, No. JCCP 4582 (Orange County Super. Ct Jan. 24, 2013) (awarding \$10,000 enhancement payment); and *Barrett v. Doyon Security Services, LLC*, Nos. BS900199, BS900517 (San Bernardino County Super. Ct. Apr. 23, 2010) (awarding \$10,000 enhancement payment).

81. Additionally, Class Counsel and Class Representative LUCAS DELACRUZ (hereinafter “Plaintiff” or “Class Representative”), respectfully requests this Court approve the Service Award in the amount of \$10,000. The Class Representative faithfully and dutifully performed his role on behalf of the Settlement Class. The Class Representative dedicated valuable time and assisted in the successful prosecution of this action. Further, the Class Representative granted Defendants a general release.

82. Further, after administering notice of this settlement, not one of the 304 Class Members objected to the requested Service Award. Again, the unanimous consent favors the Court’s approval of the requested Service Award.

83. Equally important, the time effort and services provided to the Settlement Class justifies the requested Service Award. The Class Representative performed his duties to the Settlement Class admirably. Plaintiff worked extensively with Class Counsel over the course of the twenty-seven months of investigation and litigation. For instance, Plaintiff also assisted with the review of documents, preparation of pleadings, and location of witnesses. Similarly, Plaintiff searched, located, and produced

1 several documents in connection with the litigation and assisted Class Counsel in preparation of the
2 complaint and mediation brief.

3 84. Additionally, Plaintiff remained available and responsive throughout the entire litigation
4 to address all case needs. Plaintiff willingly came forward to protect and advance the rights of the
5 Settlement Class on an important legal dispute affecting California employees. By way of example,
6 Plaintiff assumed the serious risk of liability for Defendants' costs and potentially fees if the case was
7 unsuccessful. Nevertheless, Plaintiff knowingly and voluntarily undertook the risk to vindicate the
8 rights of the Settlement Class.

9 I declare under the penalty of perjury under the laws of the State of California that the foregoing
10 is true and correct. Executed this 14th day of September 2023, at San Diego, California.

11
12 **JCL LAW FIRM, APC**

13 By: 
14 Jean-Claude Lapuyade
15 Attorneys for Plaintiff
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27
28

EXHIBIT 1

JCL LAW FIRM, APC

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Attorneys for Plaintiff LUCAS DELACRUZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

LUCAS DELACRUZ, an individual, on behalf
of himself, and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

WAL-MART ASSOCIATES, INC., a
Delaware Corporation; BONOBO, INC., a
Delaware Corporation; and DOES 1 through
50, Inclusive.

Defendants.

Case No.: 36-2021-00046421

[Action Filed November 1, 2021]

**STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS**

This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is entered into by and between Plaintiff LUCAS DELACRUZ (hereinafter "Plaintiff"), an individual, on behalf of the Settlement Class, and in his representative capacity on behalf of the State of California and the Aggrieved Employees, and Defendants BONOBOs, INC. ("Bonobos"), and WAL-MART ASSOCIATES, INC. ("Walmart") (collectively, "Defendants"):

I. DEFINITIONS

- A. "Action" shall mean the putative class and representative action lawsuit designated *Delacruz v. Wal-Mart Associates, Inc., et al.*, San Diego County Superior Court, Case No. 36-2021-00046421, filed November 1, 2021.
- B. "Administration Costs" shall mean the amount paid to the Settlement Administrator from the Gross Settlement Amount for administering the Settlement pursuant to this Agreement currently estimated not to exceed \$7,500.00.
- C. "Aggrieved Employees" means all current and former non-exempt employees who worked at Defendants' Bonobos stores, including Walmart employees who worked at Bonobos stores, at any time during the PAGA Period.
- D. "Agreement" or "Settlement Agreement" means this Stipulation of Settlement of Class and PAGA Action and Release of Claims.
- E. "Attorneys' Expenses" means the award of expenses that the Court authorizes to be paid to Class Counsel for the expenses they have incurred of up to \$15,000.00.
- F. "Attorneys' Fees" means the award of fees that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff and the Settlement Class in the Action, currently not to exceed one-third of the Gross Settlement Amount currently estimated to be \$150,000.00 out of \$450,000.00. Attorneys' fees will be divided between Class Counsel as follows (50% to JCL Law Firm, APC, and 50% to Zakay Law Group, APLC).
- G. "Class" or the "Class Members" means all current and former non-exempt employees who worked at Defendants Bonobos stores, including Walmart employees that worked at Bonobos stores, at any time during the Class Period.

- 1 H. "Class Counsel" shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC, and
2 Shani O. Zakay, Esq. of Zakay Law Group, APLC.
- 3 I. "Class Data" means information regarding Class Members that Defendants will in
4 good faith compile from its records and provide to the Settlement Administrator. It
5 shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class
6 Member's full name; last known address; Social Security Number; start dates and end
7 dates of employment.
- 8 J. "Class Period" means the period beginning November 1, 2017, through March 6,
9 2023.
- 10 K. "Class Representative" shall mean plaintiff Lucas Delacruz.
- 11 L. "Court" means the Superior Court for the State of California, County of San Diego
12 currently presiding over the Action.
- 13 M. "Defendants" shall mean Bonobos, Inc., and Wal-Mart Associates, Inc.
- 14 N. "Effective Date" means the earliest date, following entry by the Court (or Courts) of
15 an Order (or Orders) and judgment finally approving this Settlement, upon which one
16 of the following have occurred: (i) if no objection is filed to the settlement and no
17 objector appears at the hearing on final approval, the date of the Court's entry of the
18 order granting final approval, (ii) if an objection is filed to the settlement and/or an
19 objector appears at the hearing on final approval, then the earlier of the following: (a)
20 the expiration of all potential appeal periods without a filing of a notice of appeal of
21 the final approval order or judgment, i.e., sixty (60) days after the entry of the final
22 approval order and judgment; (b) final affirmance of the final approval order and
23 judgment by an appellate court as a result of any appeal(s), or (c) final dismissal or
24 denial of all such appeals (including any petition for review, rehearing, certiorari, etc.)
25 such that the final approval order and judgment concerning the Actions is no longer
26 subject to further judicial review. If this settlement is approved through motions in
27 both Courts, then Effective Date shall mean the latter of both approvals.
- 28

- 1 O. "Service Award" means an award in the amount of \$10,000 or in an amount that the
2 Court authorizes to be paid to the Class Representative, in addition to his Individual
3 Settlement Payment and his individual Aggrieved Employee Payment, in recognition
4 of his efforts and risks in assisting with the prosecution of the Action.
- 5 P. "Funding Date" shall mean the date by which Defendants have paid the entire Gross
6 Settlement Amount to the Claims Administrator in accord with the terms of this
7 Agreement. Defendants will pay the Gross Settlement Amount to the Claims
8 Administrator thirty (30) calendar days after the Effective Date.
- 9 Q. "Gross Settlement Amount" means Four Hundred and Fifty Thousand Dollars
10 (\$450,000.00) that Defendants must pay into the QSF in connection with this
11 Settlement, inclusive of the sum of Individual Settlement Payments, Administration
12 Costs, Attorneys' Fees and Attorneys' Expenses, Service Award, and the PAGA
13 Penalties and *exclusive* of the employer's share of payroll tax, if any, triggered by any
14 payment under this Settlement.
- 15 R. "Individual Settlement Payments" means the amount payable from the Net Settlement
16 Amount to each Settlement Class Member and excludes any amounts distributed to
17 Aggrieved Employees pursuant to PAGA.
- 18 S. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less
19 Attorneys' Fees and Attorneys' Expenses, Service Award, PAGA Penalties, and
20 Administration Costs.
- 21 T. "Notice Packet" means the Class Notice to be provided to the Class Members by the
22 Settlement Administrator in the form set forth as **Exhibit A** to this Agreement (other
23 than formatting changes to facilitate printing by the Settlement Administrator).
- 24 U. "Operative Complaint" shall mean the Third Amended Complaint on file in the
25 Action filed on March 21, 2023.
- 26 V. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
27 Labor Code § 2698 *et seq.*
28

- 1 W. "PAGA Payment Ratio" means the respective Pay Periods during the PAGA Period
2 for each Aggrieved Employee divided by the sum total of the Pay Periods for all
3 Aggrieved Employees during the PAGA Period.
- 4 X. "PAGA Pay Periods," for purposes of calculating the distribution of the Aggrieved
5 Employee Payment, as defined herein, means the number of pay periods of
6 employment during the PAGA Period that each Aggrieved Employee worked in
7 California.
- 8 Y. "PAGA Period" means the period beginning August 27, 2020, through March 6,
9 2023.
- 10 Z. "PAGA Penalties" shall mean Twenty-Five Thousand Dollars (\$25,000) to be
11 allocated from the Gross Settlement Amount, with 25% of the payment going to the
12 Aggrieved Employees ("Aggrieved Employee Payment") and 75% of the payment
13 going to the Labor and Workforce Development Agency ("LWDA Payment"). The
14 amount of the PAGA Penalties is subject to Court approval pursuant to California
15 Labor Code section 2699(l). Any reallocation of the Gross Settlement Amount to
16 increase the PAGA Penalties will not constitute grounds by either party to void this
17 Agreement, so long as the Gross Settlement Amount remains the same.
- 18 AA. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean either
19 Plaintiff or Defendants, individually.
- 20 BB. "Payment Ratio" means the respective Workweeks for each Class Member divided
21 by the sum total Workweeks for all Class Members.
- 22 CC. "Plaintiff" shall mean Lucas Delacruz.
- 23 DD. "QSF" means the Qualified Settlement Fund established, designated, and maintained
24 by the Settlement Administrator to fund the Gross Settlement Amount.
- 25 EE. "Released Class Claims" shall mean the release from the Class Members of all class
26 claims alleged in the operative Third Amended Complaint, or which could have been
27 alleged in the operative complaint based on the facts alleged, which occurred during
28 the Class Period, and expressly excluding all other claims, including claims for vested

benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period.

FF. "Released PAGA Claims" shall mean the release from the Aggrieved Employees of all PAGA claims alleged in the operative Third Amended Complaint and Plaintiff's PAGA notices to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

GG. "Released Parties" shall mean Defendants Bonobos, Inc., and Wal-Mart Associates, Inc., along with each of its current and former subsidiaries, parent corporations, affiliates, predecessors, insurers, agents, employees, successors, assigns, officers, officials, directors, employers, attorneys, personal representatives, executors, and shareholders, including their respective pension, profit, sharing, savings, health, and other employee benefit plans of any nature, the successors of such plans, and those plans' respective current or former trustees and administrators, agents, employees, and fiduciaries, as well as the personal representatives or executors of any such persons.

HH. "Response Deadline" means the date forty-five (45) calendar days after the Settlement Administrator mails Notice Packets to Class Members and the last date on which Class Members may submit requests for exclusion or objections to the Settlement.

II. "Settlement" means the disposition of the Action pursuant to this Agreement.

JJ. "Settlement Administrator" means Apex Class Action LLC, located at 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700. The Settlement Administrator establishes, designates and maintains, as a QSF under Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1, into which the amount of the Gross Settlement Amount is deposited for the purpose of resolving the claims of Settlement Class Members. The Settlement Administrator shall maintain the funds until distribution in an account(s) segregated from the assets of Defendants and any

person related to Defendants. *All accrued interest shall be paid and distributed to the Settlement Class Members as part of their respective Individual Settlement Payment.*

KK. “Settlement Class Members” or “Settlement Class” means all Class Members who have not submitted a timely and valid request for exclusion as provided in this Agreement.

LL. “Workweeks,” for purposes of calculating the distribution of the Net Settlement Amount, means the number of weeks of employment during the Class Period that each Class Member was employed by Defendants in California.

II. RECITALS

A. On August 27, 2021, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency (LWDA) and served the same on Defendants.

B. On November 1, 2021, Plaintiff filed the Action, alleging claims for:

1. Unfair competition (Bus. & Prof. Code §§ 17200 *et seq.*);
2. Failure to pay overtime wages (Labor Code §§ 510 *et seq.*);
3. Minimum wage violations (Labor Code §§ 1194, 1197 and 1197.1)
4. Meal period violations (Labor Code §§ 226.7, 512 and the applicable Wage Order);
5. Rest period violations (Labor Code §§ 226.7, 516 and the applicable wage order);
6. Failure to reimburse employees for required expenses (Labor Code § 2802);
7. Wage statement violations (Labor Code § 226 and 226.2 *et seq.*);
8. Failure to Pay Sick Pay at the Correct Rate (Labor Code § 246);
9. Failure to provide wages when due (Labor Code §§ 201, 202, 203; 204);
10. Violation of the Private Attorneys General Act (Labor Code §§ 2698, *et seq.*);

C. On December 27, 2021, Plaintiff filed a First Amended Complaint dismissing cause of action number 8, Failure to Pay Sick Pay at the Correct Rate (Labor Code § 246),

1 and cause of action number 9, Failure to provide wages when due (Labor Code §§
2 201, 202, 203; 204).

3 D. On August 31, 2022, Plaintiff filed a Second Amended Complaint for the purpose of
4 incorporating the claims and factual allegations for an alleged failure to provide
5 seating claim pursuant to Cal. Code of Reg., Title 8, Section 1 1070(14).

6 E. On March 21, 2023, Plaintiff filed the operative Third Amended Complaint adding
7 the claims for Defendants' alleged failure to pay wages when due in violation of Labor
8 Code §§ 201, 202, and 203, and to add additional allegations regarding off-the-clock
9 Covid-19 screenings.

10 F. On March 21, 2023, Plaintiff sent an amended PAGA notice to the LWDA adding
11 claims for Defendants' alleged failure to pay wages when due in violation of Labor
12 Code §§ 201, 202, and 203, and to add additional allegations regarding off-the-clock
13 COVID-19 screenings.

14 G. The Class Representative believes he has claims based on alleged violations of the
15 California Labor Code, and the Industrial Welfare Commission Wage Orders, and
16 that class certification is appropriate because the prerequisites for class certification
17 can be satisfied in the Action, and this action is manageable as a PAGA representative
18 action.

19 H. Defendants deny any liability or wrongdoing of any kind associated with the claims
20 alleged in the Action, disputes any wages, damages and penalties claimed by the Class
21 Representative, alleged in the Operative Complaint, and/or alleged in the Class
22 Representative's PAGA notices to the LWDA are owed, and further contend that, for
23 any purpose other than settlement, the Action is not appropriate for class or
24 representative action treatment. Defendants contend, among other things, that at all
25 times they complied with the California Labor Code and the Industrial Welfare
26 Commission Wage Orders.

27 I. The Class Representative is represented by Class Counsel. Class Counsel investigated
28 the facts relevant to the Action, including conducting an independent investigation as

1 to the allegations, reviewing documents and information exchanged through informal
2 discovery, and reviewing documents and information provided by Defendants
3 pursuant to informal requests for information to prepare for mediation. Defendants
4 produced for the purpose of settlement negotiations certain employment data
5 concerning the Class, which Class Counsel reviewed and analyzed with the assistance
6 of an expert. Based on their own independent investigation and evaluation, Class
7 Counsel are of the opinion that the Settlement with Defendants is fair, reasonable, and
8 adequate, and is in the best interest of the Class considering all known facts and
9 circumstances, including the risks of significant delay, defenses asserted by
10 Defendants, uncertainties regarding class certification, and numerous potential
11 appellate issues. Although it denies any liability, Defendants are agreeing to this
12 Settlement solely to avoid the inconveniences and cost of further litigation. The
13 Parties and their counsel have agreed to settle the claims on the terms set forth in this
14 Agreement.

15 J. On March 6, 2023, the Parties participated in mediation presided over by Jeffrey A.
16 Ross, an experienced mediator of wage and hour class and PAGA actions. The Parties
17 accepted a Mediator's settlement proposal, which was subsequently memorialized in
18 the form of a Memorandum of Understanding.

19 K. This Agreement replaces and supersedes the Memorandum of Understanding and any
20 other agreements, understandings, or representations between the Parties. This
21 Agreement represents a compromise and settlement of highly disputed claims.
22 Nothing in this Agreement is intended or will be construed as an admission by
23 Defendants that the claims in the Action of Plaintiff or the Class Members have merit
24 or that Defendants bear any liability to Plaintiff or the Class on those claims or any
25 other claims, or as an admission by Plaintiff that Defendants' defenses in the Action
26 have merit.

27 L. The Parties believe that the Settlement is fair, reasonable, and adequate. The
28 Settlement was arrived at through arm's-length negotiations, taking into account all

relevant factors. The Parties recognize the uncertainty, risk, expense, and delay attendant to continuing the Action through trial and any appeal. Accordingly, the Parties desire to settle, compromise and discharge all disputes and claims arising from or relating to the Action fully, finally, and forever.

M. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendants reserve the right to contest certification of any class for any reason and reserve all available defenses to the claims in the Action. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with any litigation.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. TERMS OF AGREEMENT

A. Settlement Consideration and Settlement Payments by Defendants.

1. Settlement Consideration. In full and complete settlement of the Action, and in exchange for the releases set forth below, Defendants will pay the sum of the Individual Settlement Payments, the Service Award, the Attorneys' Fees and Attorneys' Expenses, PAGA Penalties, and the Administration Costs, as specified in this Agreement, equal to the Gross Settlement Amount of Four Hundred and Fifty Thousand Dollars (\$450,000.00). The Parties agree that this is a non-reversionary Settlement and that no portion of the Gross Settlement Amount shall revert to Defendants. Other than the Defendants' share of employer payroll taxes and as provided in Section III.A.2 below, Defendants shall not be required to pay more than the Gross Settlement Amount.
2. Class Size. Defendants represent that the Class was comprised of approximately 291 individuals who collectively worked approximately 14,000 workweeks during the Class Period. Should the Workweeks increase beyond 5% of the Projected Workweeks (*i.e.*, more than 14,700 Workweeks),

Defendants shall notify Plaintiff that it will, at Defendants' sole discretion, either (i) increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of Workweeks worked by the Class members above five percent (5%) (*e.g.*, if the number of Workweeks increases by 6%, the Gross Settlement Amount will increase by one percent (1%)); or (ii) end the Class Period at any point before the Workweeks do not exceed 14,700.

3. Settlement Payment. Defendants shall deposit the Gross Settlement Amount into the QSF, through the Settlement Administrator on or before the Funding Date. Any interest accrued will be added to the NSA and distributed to the Settlement Class Members except that if final approval is reversed on appeal, then Defendants are entitled to prompt return of the principal and all interest accrued.

4. Defendants' Share of Payroll Taxes. Defendants' share of employer side payroll taxes is in addition to the Gross Settlement Amount and shall be paid together with the Gross Settlement Amount on the Funding Date.

B. Release by Settlement Class Members. As of the Funding Date, in exchange for the consideration set forth in this Agreement, Plaintiff and the Settlement Class Members release the Released Parties from the Released Class Claims for the Class Period.

C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the consideration set forth in this Agreement, the Plaintiff, the LWDA and the State of California release the Released Parties from the Released PAGA Claims for the PAGA Period. As a result of this release, the Aggrieved Employees shall be precluded from bringing claims against Defendants for the Released PAGA Claims.

D. Conditions Precedent: This Settlement will become final and effective only upon the occurrence of all of the following events:

1. The Court enters an order granting preliminary approval of the Settlement;

2. The Court enters an order granting final approval of the Settlement and a Final Judgment;
 3. If an objector appears at the final approval hearing, the time for appeal of the Final Judgment and Order Granting Final Approval of Class Action Settlement expires; or, if an appeal is timely filed, there is a final resolution of any appeal from the Judgment and Order Granting Final Approval of Class Action Settlement; and
 4. Defendants fully fund the Gross Settlement Amount.
- E. Nullification of Settlement Agreement. If this Settlement Agreement is not preliminarily or finally approved by the Court, fails to become effective, or is reversed, withdrawn, or modified by the Court, or in any way prevents or prohibits Defendants from obtaining a complete resolution of the Released Class Claims and Released PAGA Claims, or if Defendants fail to fully fund the Gross Settlement Amount:
1. This Settlement Agreement shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural;
 2. The conditional class certification (obtained for any purpose) shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and
 3. None of the Parties to this Settlement will be deemed to have waived any claims, objections, defenses or arguments in the Action, including with respect to the issue of class certification.
- F. In the event that Defendants fail to fund the Gross Settlement Amount, Defendants shall bear the sole responsibility for any cost to issue or reissue any curative notice to the Settlement Class Members and all Settlement Administration Costs incurred to the date of nullification.

1 G. Certification of the Class. The Parties stipulate to conditional class certification of the
2 Class for the Class Period for purposes of settlement only. In the event that this
3 Settlement is not approved by the Court, fails to become effective, or is reversed,
4 withdrawn or modified by the Court, or in any way prevents or prohibits Defendants
5 from obtaining a complete resolution of the Released Class Claims and Released
6 PAGA Claims, the conditional class certification (obtained for any purpose) shall be
7 void *ab initio* and of no force or effect, and shall not be admissible in any judicial,
8 administrative or arbitral proceeding for any purpose or with respect to any issue,
9 substantive or procedural.

10 H. Tax Liability. The Parties make no representations as to the tax treatment or legal
11 effect of the payments called for, and Class Members and/or Aggrieved Employees are
12 not relying on any statement or representation by the Parties in this regard. Class
13 Members and/or Aggrieved Employees understand and agree that they will be
14 responsible for the payment of any taxes and penalties assessed on the Individual
15 Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved
16 Employee Payment described and will be solely responsible for any penalties or other
17 obligations resulting from their personal tax reporting of Individual Settlement
18 Payments and/or Aggrieved Employees' individual shares of the Aggrieved Employee
19 Payment. .

20 I. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
21 the "acknowledging party" and each Party to this Agreement other than the
22 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision
23 of this Agreement, and no written communication or disclosure between or among the
24 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
25 such communication or disclosure constitute or be construed or be relied upon as, tax
26 advice within the meaning of United States Treasury Department circular 230 (31 CFR
27 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
28 her or its own, independent legal and tax counsel for advice (including tax advice) in

1 connection with this Agreement, (b) has not entered into this Agreement based upon
2 the recommendation of any other Party or any attorney or advisor to any other Party,
3 and (c) is not entitled to rely upon any communication or disclosure by any attorney
4 or adviser to any other party to avoid any tax penalty that may be imposed on the
5 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
6 any limitation that protects the confidentiality of any such attorney's or adviser's tax
7 strategies (regardless of whether such limitation is legally binding) upon disclosure by
8 the acknowledging party of the tax treatment or tax structure of any transaction,
9 including any transaction contemplated by this Agreement.

10 J. Preliminary Approval Motion. As soon thereafter as practicable after the execution of
11 this Agreement, Plaintiff shall file with the Court a Motion for Order Granting
12 Preliminary Approval and supporting papers, which shall include this Settlement
13 Agreement. Plaintiff will provide Defendants with a draft of the Motion at least three
14 (3) business days prior to the filing of the Motion to give Defendants an opportunity
15 to review and comment upon the Motion.

16 K. Settlement Administrator. The Settlement Administrator shall be responsible for:
17 establishing and administering the QSF; calculating, processing and mailing payments
18 to the Class Representative, Class Counsel, LWDA and Class Members; printing and
19 mailing the Notice Packets to the Class Members as directed by the Court; receiving
20 and reporting the objections and requests for exclusion; calculating, deducting and
21 remitting all legally required taxes from Individual Settlement Payments and
22 distributing tax forms for the Wage Portion, the Penalties Portion and the Interest
23 Portion of the Individual Settlement Payments and/or Aggrieved Employees'
24 individual shares of the Aggrieved Employee Payment; processing and mailing tax
25 payments to the appropriate state and federal taxing authorities; providing
26 declaration(s) as necessary in support of preliminary and/or final approval of this
27 Settlement; and other tasks as the Parties mutually agree or the Court orders the
28 Settlement Administrator to perform. The Settlement Administrator shall keep the

Parties timely apprised of the performance of all Settlement Administrator responsibilities by among other things, sending a weekly status report to the Parties' counsel stating the date of the mailing, the of number of Elections Not to Participate in Settlement it receives (including the numbers of valid and deficient), and number of objections received.

L. Notice Procedure.

1. Class Data. No later than ten (10) business days after the Preliminary Approval Date, Defendants shall provide the Settlement Administrator with the Class Data for purposes of preparing and mailing Notice Packets to the Class Members.

2. Notice Packets.

a) The Notice Packet shall contain the Notice of Class Action Settlement in a form substantially similar to the form attached as **Exhibit A**. The Notice of Class Action Settlement shall inform Class Members and Aggrieved Employees that they need not do anything in order to receive an Individual Settlement Payment and/or Aggrieved Employees' individual shares of the Aggrieved Employee Payment and to keep the Settlement Administrator apprised of their current mailing address, to which the Individual Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved Employment Payment will be mailed following the Funding Date. The Notice of Class Action Settlement shall set forth the release to be given by all members of the Class who do not request to be excluded from the Settlement Class and/or Aggrieved Employees in exchange for an Individual Settlement Payment and/or Aggrieved Employees' individual shares of the Aggrieved Employment Payment, the number of Workweeks worked by each Class Member during the Class Period and PAGA Period, if any, and the estimated amount of their Individual

1 Settlement Payment if they do not request to be excluded from the
2 Settlement and each Aggrieved Employees' share of the Aggrieved
3 Employment Payment, if any. The Settlement Administrator shall use
4 the Class Data to determine Class Members' Workweeks and PAGA
5 Workweeks. The Notice will also advise the Aggrieved Employees
6 that they will release the Released PAGA Claims and will receive their
7 share of the Aggrieved Employee Payment regardless of whether they
8 request to be excluded from the Settlement.

9 b) The Notice Packet's mailing envelope shall include the following
10 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
11 ENTITLED TO PARTICIPATE IN A CLASS ACTION
12 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
13 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
14 NOTICE."

15 3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
16 Settlement Administrator will perform a search based on the National Change
17 of Address Database to update and correct any known or identifiable address
18 changes. No later than twenty-one (21) calendar days after preliminary
19 approval of the Settlement, the Settlement Administrator shall mail copies of
20 the Notice Packet to all Class Members via regular First-Class U.S. Mail and
21 electronic mail. The Settlement Administrator shall exercise its best judgment
22 to determine the current mailing address for each Class Member. The address
23 identified by the Settlement Administrator as the current mailing address shall
24 be presumed to be the best mailing address for each Class Member.

25 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
26 Administrator as non-delivered on or before the Response Deadline shall be
27 re-mailed to any forwarding address provided. If no forwarding address is
28 provided, the Settlement Administrator shall promptly attempt to determine a

1 correct address by lawful use of skip-tracing, or other search using the name,
2 address and/or Social Security number of the Class Member involved, and
3 shall then perform a re-mailing, if another mailing address is identified by the
4 Settlement Administrator. Class Members who received a re-mailed Notice
5 Packet shall have their Response Deadline extended fifteen (15) days from the
6 original Response Deadline.

7 5. Disputes Regarding Individual Settlement Payments. Class Members will
8 have the opportunity, should they disagree with Defendants' records regarding
9 the start and end dates of employment to provide documentation and/or an
10 explanation to show contrary dates. If there is a dispute, the Settlement
11 Administrator will consult with the Parties to determine whether an
12 adjustment is warranted. The Settlement Administrator shall determine the
13 eligibility for, and the amounts of, any Individual Settlement Payments under
14 the terms of this Agreement. The Settlement Administrator's determination
15 of the eligibility for and amount of any Individual Settlement Payment shall
16 be binding upon the Class Member and the Parties.

17 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
18 by the Settlement Administrator concerning the administration of the
19 Settlement will be resolved by the Court under the laws of the State of
20 California. Before any such involvement of the Court, counsel for the Parties
21 will confer in good faith to resolve the disputes without the necessity of
22 involving the Court.

23 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
24 Packet shall state that Class Members who wish to exclude themselves from
25 the Settlement must submit a signed copy of the Request for Exclusion form
26 to the Settlement Administrator by the Response Deadline. A Request for
27 Exclusion form will be mailed together with the Notice Packet to all Class
28 Members. The Request for Exclusion will not be valid if it is not timely

submitted, if it is not signed by the Class Member, or if it does not contain the name and address and last four digits of the Social Security number of the Class Member. The date of the postmark on the mailing envelope or fax stamp on the Request for Exclusion shall be the exclusive means used to determine whether the request for exclusion was timely submitted. Any Class Member who submits a timely Request for Exclusion shall be excluded from the Settlement Class will not be entitled to an Individual Settlement Payment and will not be otherwise bound by the terms of the Settlement or have any right to object, appeal or comment thereon. However, any Class Member that submits a timely Request for Exclusion that is also an Aggrieved Employee will still receive his/her pro rata share of the Aggrieved Employee Payment, as specified below, and in consideration, will be bound by the Release by the PAGA Class as set forth herein. Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any final judgment entered in this Action if the Settlement is approved by the Court. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a final list of the Class Members who have timely submitted timely Requests for Exclusion. Defendants retain the right, in the exercise of its sole discretion, to nullify the settlement within thirty (30) days after expiration of the exclusion period, if ten percent (10%) or more of Class Members exclude themselves from the Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the Class to submit Requests for Exclusion from the Settlement.

8. Objections. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to object to the Settlement may submit to the Settlement Administrator a written statement of objection (“Notice of Objection”) by the Response Deadline. The postmark date of

1 mailing shall be deemed the exclusive means for determining that a Notice of
2 Objection was served timely. The Notice of Objection, if in writing, must be
3 signed by the Settlement Class Member and state: (1) the case name and
4 number; (2) the name of the Settlement Class Member; (3) the address of the
5 Settlement Class Member; (4) the last four digits of the Settlement Class
6 Member's Social Security number; (5) the basis for the objection; and (6) if
7 the Settlement Class Member intends to appear at the Final
8 Approval/Settlement Fairness Hearing. Settlement Class Members who fail
9 to make objections in writing in the manner specified above may still make
10 their objections orally at the Final Approval/Settlement Fairness Hearing with
11 the Court's permission. Settlement Class Members will have a right to appear
12 at the Final Approval/Settlement Fairness Hearing to have their objections
13 heard by the Court regardless of whether they submitted a written objection.
14 At no time shall any of the Parties or their counsel seek to solicit or otherwise
15 encourage Class Members to file or serve written objections to the Settlement
16 or appeal from the Order and Final Judgment. Class Members who submit a
17 written request for exclusion may not object to the Settlement. Class Members
18 may not object to the PAGA Penalties.

19 M. Funding and Allocation of the Gross Settlement Amount. Defendants are required to
20 pay the Gross Settlement Amount plus any employer's share of payroll taxes as
21 mandated by law within the time specified hereinabove on the Funding Date.

22 1. Calculation of Individual Settlement Payments. Individual Settlement
23 Payments shall be paid from the Net Settlement Amount and shall be paid
24 pursuant to the formula set forth herein. Using the Class Data, the Settlement
25 Administrator shall add up the total number of Workweeks for all Class
26 Members. The respective Workweeks for each Class Member will be divided
27 by the total Workweeks for all Class Members, resulting in the Payment Ratio
28 for each Class Member. Each Class Member's Payment Ratio will then be

1 multiplied by the Net Settlement Amount to calculate each Class Member's
2 estimated Individual Settlement Payments. Each Individual Settlement
3 Payment will be reduced by any legally mandated employee tax withholdings
4 (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class
5 Members who submit valid and timely requests for exclusion will be
6 redistributed to Settlement Class Members who do not submit valid and timely
7 requests for exclusion on a pro rata basis based on their respective Payment
8 Ratios.

9 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
10 Class Data, the Settlement Administrator shall add up the total number of
11 PAGA Pay Periods for all Aggrieved Employees during the PAGA Period.
12 The respective PAGA Pay Periods for each Aggrieved Employees will be
13 divided by the total PAGA Pay Periods for all Aggrieved Employees, resulting
14 in the "PAGA Payment Ratio" for each Aggrieved Employee. Each
15 Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the
16 Aggrieved Employee Payment to calculate each Aggrieved Employee's
17 estimated share of the Aggrieved Employee Payment.

18 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
19 Settlement Payments shall be allocated and treated as 25% wages ("Wage
20 Portion") and 55% penalties ("Penalties Portion"), and 20% pre-judgment
21 interest ("Interest Portion"). The Wage Portion of the Individual Settlement
22 Payments shall be reported on IRS Form W-2 and the Penalty Portion and
23 Interest Portion of the Individual Settlement Payments shall be reported on
24 IRS Form 1099 issued by the Settlement Agreement.

25 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
26 Employee Settlement Payments shall be allocated and treated as 100%
27 penalties and shall be reported on IRS Form 1099.
28

1 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
2 individual shares of the PAGA Penalties made to Settlement Class Members
3 and/or Aggrieved Employees under this Settlement Agreement, as well as any
4 other payments made pursuant to this Settlement Agreement, will not be
5 utilized to calculate any additional benefits under any benefit plans to which
6 any Class Members may be eligible, including, but not limited to profit-
7 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
8 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
9 Parties' intention that this Settlement Agreement will not affect any rights,
10 contributions, or amounts to which any Class Members may be entitled under
11 any benefit plans.

12 6. All monies received by Settlement Class Members under the Settlement which
13 are attributable to wages shall constitute income to such Settlement Class
14 Members solely in the year in which such monies actually are received by the
15 Settlement Class Members. It is the intent of the Parties that Individual
16 Settlement Payments and individual shares of the PAGA Penalties provided for
17 in this Settlement agreement are the sole payments to be made by Defendants to
18 Settlement Class Members and/or Aggrieved Employees in connection with this
19 Settlement Agreement, with the exception of Plaintiff, and that the Settlement
20 Class Members and/or Aggrieved Employees are not entitled to any new or
21 additional compensation or benefits as a result of having received the Individual
22 Settlement Payments and/or their shares of the Aggrieved Employee Payment.

23 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
24 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
25 and/or Aggrieved Employees' last known mailing address no later than thirty
26 (30) business days after the Funding Date.

27 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
28 Employees shall remain valid and negotiable for one hundred and eighty (180)

1 days from the date of their issuance. If a Settlement Class Member and/or
2 Aggrieved Employees does not cash his or her settlement check within 90
3 days, the Settlement Administrator will send a letter to such persons, advising
4 that the check will expire after the 180th day, and invite that Settlement Class
5 Member and/or Aggrieved Employees to request reissuance in the event the
6 check was destroyed, lost or misplaced. In the event an Individual Settlement
7 Payment and/or Aggrieved Employees' individual share of the PAGA
8 Penalties check has not been cashed within one hundred and eighty (180) days,
9 all funds represented by such uncashed checks, plus any interest accrued
10 thereon, shall be transmitted to the California Controller's Unclaimed
11 Property Fund in the name of the Settlement Class Member and/or Aggrieved
12 Employee.

- 13 9. Service Award. In addition to the Individual Settlement Payment as a
14 Settlement Class Member and his individual share of the Aggrieved Employee
15 Payment, Plaintiff will apply to the Court for an award of not more than
16 \$10,000.00, as the Service Award. Defendants will not oppose a Service
17 Award of not more than \$10,000.00 for Plaintiff. The Settlement
18 Administrator shall pay the Service Award, either in the amount stated herein
19 if approved by the Court or some other amount as approved by the Court, to
20 Plaintiff from the Gross Settlement Amount no later than thirty (30) business
21 days after the Funding Date. Any portion of the requested Service Award that
22 is not awarded to the Class Representative shall be part of the Net Settlement
23 Amount and shall be distributed to Settlement Class Members as provided in
24 this Agreement. The Settlement Administrator shall issue an IRS Form 1099
25 — MISC to Plaintiff for his Service Award. Plaintiff shall be solely and
26 legally responsible to pay any and all applicable taxes on his Service Award
27 and shall hold harmless the Released Parties from any claim or liability for
28 taxes, penalties, or interest arising as a result of the Service Award. Approval

1 of this Settlement shall not be conditioned on Court approval of the requested
2 amount of the Service Award. If the Court reduces or does not approve the
3 requested Service Award, Plaintiff shall not have the right to revoke the
4 Settlement, and it will remain binding.

5 10. Attorneys' Fees and Attorneys' Expenses. Defendants understand Class
6 Counsel will file a motion for or Attorneys' Fees not to exceed one-third of
7 the Gross Settlement Amount currently estimated to be \$150,000 **and**
8 Attorneys' Expenses supported by declaration not to exceed Fifteen Thousand
9 Dollars (\$15,000.00). Any awarded Attorneys' Fees and Attorneys' Expenses
10 shall be paid from the Gross Settlement Amount. Any portion of the requested
11 Attorneys' Fees and/or Attorneys' Expenses that are not awarded to Class
12 Counsel shall be part of the Net Settlement Amount and shall be distributed
13 to Settlement Class Members as provided in this Agreement. The Settlement
14 Administrator shall allocate and pay the Attorneys' Fees to Class Counsel
15 from the Gross Settlement Amount no later than thirty (30) calendar days after
16 the Funding Date. Class Counsel shall be solely and legally responsible to
17 pay all applicable taxes on the payment made pursuant to this paragraph. The
18 Settlement Administrator shall issue an IRS Form 1099 — MISC to Class
19 Counsel for the payments made pursuant to this paragraph. In the event that
20 the Court reduces or does not approve the requested Attorneys' Fees, Plaintiff
21 and Class Counsel shall not have the right to revoke the Settlement, or to
22 appeal such order, and the Settlement will remain binding.

23 11. PAGA Penalties. Twenty-Five Thousand Dollars (\$25,000) shall be allocated
24 from the Gross Settlement Amount for settlement of claims for civil penalties
25 under the Private Attorneys General Act of 2004 ("PAGA Penalties"). The
26 Settlement Administrator shall pay seventy-five percent (75%) of the PAGA
27 Penalties (\$18,750) to the California Labor and Workforce Development
28 Agency no later than thirty (30) business days after the Effective Date

(hereinafter "LWDA Payment"). Twenty-five percent (25%) of the PAGA Penalties (\$6,250) will be distributed to the Aggrieved Employees as described in this Agreement (hereinafter "Aggrieved Employee Payment"). For purposes of distributing the PAGA Penalties to the Aggrieved Employees, each Aggrieved Employee shall receive their pro-rata share of the Aggrieved Employee Payment using the PAGA Payment Ratio as defined above.

12. Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Amount. The estimate of the Administration Costs is \$7,500.00. The Settlement Administrator shall be paid the Administration Costs no later than thirty (30) business days after the Effective Date.

N. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Service Award, the Attorneys' Fees and Attorneys' Expenses, the PAGA Penalties, and the Administration Costs. Plaintiff will provide Defendants with a draft of the Motion at least 3 business days prior to the filing of the Motion to give Defendants an opportunity to propose changes or additions to the Motion.

1. Declaration by Settlement Administrator. No later than seven (7) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the number of objections received, the amount of the average Individual Settlement Payment and highest Individual Settlement Payment, the Administration Costs, and any other information as

1 the Parties mutually agree or the Court orders the Settlement Administrator to
2 provide.

3 2. Final Approval Order and Judgment. Class Counsel shall present an Order
4 Granting Final Approval of Class Action Settlement to the Court for its
5 approval, and Judgment thereon, at the time Class Counsel files the Motion
6 for Final Approval.

7 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
8 an opportunity for Counsel for Defendants to review the Motions for Preliminary and
9 Final Approval, including the Order Granting Final Approval of Class Action
10 Settlement, and Judgment before filing with the Court. The Parties and their counsel
11 will cooperate with each other and use their best efforts to effect the Court's approval
12 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
13 Judgment.

14 O. Cooperation. The Parties and their counsel will cooperate with each other and use
15 their best efforts to implement the Settlement.

16 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
17 except such proceedings necessary to implement and complete the Settlement, pending
18 the Final Approval/Settlement Fairness Hearing to be conducted by the Court.

19 Q. Amendment or Modification. This Agreement may be amended or modified only by
20 a written instrument signed by counsel for all Parties or their successors-in-interest.

21 R. Plaintiff's Individual Claims. In addition to this Agreement and the claims he is
22 releasing hereby, Plaintiff is entering into a separate individual settlement agreement,
23 which shall provide for a separate individual payment, and which shall provide for an
24 additional broad release, including a waiver of Civil Code Section 1542. That release,
25 waiver and discharge of all claims shall include, but will not be limited to, any and all
26 claims arising out of the Action, as well as additional claims described in the individual
27 settlement agreement, which are separate and different from the claims alleged in the
28 Action.

- 1 S. Entire Agreement. Except with respect to Plaintiff's individual settlement agreement,
2 described in paragraph "R" immediately above, this Agreement and any attached
3 Exhibit constitute the entire Agreement among these Parties, and no oral or written
4 representations, warranties or inducements have been made to any Party concerning
5 this Agreement or its Exhibit other than the representations, warranties and covenants
6 contained and memorialized in this Agreement and its Exhibit.
- 7 T. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
8 represent they are expressly authorized by the Parties whom they represent to negotiate
9 this Agreement and to take all appropriate Action required or permitted to be taken by
10 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
11 documents required to effectuate the terms of this Agreement. The persons signing
12 this Agreement on behalf of Defendants represents and warrants that he/she is
13 authorized to sign this Agreement on behalf of Defendants. Plaintiff represents and
14 warrants that he is authorized to sign this Agreement and that he has not assigned any
15 claim, or part of a claim, covered by this Settlement to a third-party.
- 16 U. No Public Comment: The Parties and their counsel agree that they will not issue any
17 press releases, initiate any contact with the press, respond to any press inquiry, or have
18 any communication with the press about the fact, amount, or terms of the Settlement
19 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
20 of its terms for any marketing or promotional purposes. Nothing herein will restrict
21 Class Counsel from including publicly available information regarding this settlement
22 in future judicial submissions regarding Class Counsel's qualifications and experience.
23 Further, Class Counsel will not include, reference or use the Settlement Agreement for
24 any marketing or promotional purposes, either before or after the Motion for
25 Preliminary Approval is filed.
- 26 V. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
27 to the benefit of, the successors or assigns of the Parties, as previously defined.
28

- 1 W. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
2 shall be governed by and interpreted according to the laws of the State of California.
- 3 X. Counterparts. This Agreement may be executed in one or more counterparts. All
4 executed counterparts and each of them shall be deemed to be one and the same
5 instrument provided that counsel for the Parties to this Agreement shall exchange
6 among themselves copies or originals of the signed counterparts.
- 7 Y. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
8 is a fair, adequate, and reasonable settlement of this Action and have arrived at this
9 Settlement after extensive arms-length negotiations, taking into account all relevant
10 factors, present and potential.
- 11 Z. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
12 respect to the interpretation, implementation and enforcement of the terms of this
13 Agreement and all orders and judgments entered in connection therewith, and the
14 Parties and their counsel submit to the jurisdiction of the Court for purposes of
15 interpreting, implementing and enforcing the settlement and all orders and judgments
16 entered in connection with this Agreement.
- 17 AA. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
18 the Court shall first attempt to construe the provisions valid to the fullest extent
19 possible consistent with applicable precedents so as to define all provisions of this
20 Agreement valid and enforceable.
- 21 BB. No Unalleged Claims. Except with respect to individual claims alleged by Plaintiff
22 and settled separately by an individual settlement agreement between the Parties
23 described in paragraph "R" above, Plaintiff and Class Counsel represent that they do
24 not currently intend to pursue any claims against the Released Parties, including, but
25 not limited to, any and all claims relating to or arising from Plaintiff's employment
26 with Defendants, regardless of whether Class Counsel is currently aware of any facts
27 or legal theories upon which any claims or causes of action could be brought against
28 Released Parties, including those facts or legal theories alleged in the operative

complaint in this Action. The Parties further acknowledge, understand and agree that this representation is essential to the Agreement and that this Agreement would not have been entered into were it not for this representation.

CC. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this settlement only.

DD. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the Released Class Claims and Released PAGA Claims have merit and give rise to liability on the part of Defendants. Defendants claim that the Released Class Claims and Released PAGA Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no documents referred to and no action taken to carry out this Agreement may be construed or used as an admission by or against the Defendants or Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other than as may be specifically set forth herein, each Party shall be responsible for and shall bear its/his own attorney's fees and costs.

IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: Apr 11, 2023

Luke Delacruz

Luke Delacruz (Apr 11, 2023 15:40 PDT)

LUCAS DELACRUZ

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

DATED: April 25, 2023 | 09:37 CDT

Chad Pekron

WAL-MART ASSOCIATES, INC.
BONOBOS, INC.

Chad Pekron

Printed Name

Vice President, Complex Commercial Litigation
Title

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: April 12, 2023

JCL LAW FIRM, A.P.C.

By: 

Attorneys for Plaintiff and the Settlement Class Members

DATED: April 12, 2023

ZAKAY LAW GROUP, APLC

By: 

Attorneys for Plaintiff and the Settlement Class Members

DATED: April 26, 2023

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

By: 

Paloma P. Peracchio, Esq.
Mitchell A. Wrosch, Esq.
Attorneys for Defendants

EXHIBIT A

**NOTICE OF PENDENCY OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT
AND FINAL HEARING DATE**

*Delacruz v. Walmart Associates Inc., et al.,
San Diego County Superior Court Case No. 37-2021-00046421-CU-OE-CTL*

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Individual Settlement Payment is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendants as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of San Diego (the “Court”) has been reached between Plaintiff Lucas Delacruz (“Plaintiff”) and Defendants Bonobos, Inc. (“Bonobos”), and Wal-Mart Associates, Inc. (“Walmart”) (collectively, “Defendants”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

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

All current and former non-exempt California employees who worked at Defendants’ Bonobos stores, including Walmart employees who worked at Bonobos stores, at any time during the period beginning November 1, 2017, through March 6, 2023.

The “Class Period” is the period of time beginning November 1, 2017, through March 6, 2023.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On November 1, 2021, Plaintiff filed a Complaint against Defendants in the Superior Court of the State of California, County of San Diego. Plaintiff asserted claims that Defendants: (1) Violated California Business and Professions Code § 17200 *et seq.*; (2) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (3) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (4) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (5) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (6) Failed to reimburse for required business expenses in violation of California Labor Code § 2802; (7) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (8) Failed to pay sick pay at the correct rate in violation of California Labor Code § 246; (9) Failed to pay wages when due in violation of Cal. Lab. Code §§ 201, 202, 203, and 204; and (10) Violation of the Private Attorneys General Act (Labor Code §§ 2698 *et seq.*). On December 27, 2021, Plaintiff filed a First Amended Complaint, which dismissed the eighth cause of action for failure to pay sick pay at the correct rate (Labor Code § 246) and the ninth cause of action for failure to provide wages when due in violation of California Labor Code §§ 201, 202, 203, and 204. On August 31, 2022, Plaintiff filed a Second Amended Complaint for the purpose of incorporating the claims and factual allegations for an alleged failure to provide seating claim pursuant to Cal. Code of Reg., Title 8, Section 1 1070(14). On April 17, 2023, Plaintiff filed the operative Third Amended Complaint adding claims for Defendants' alleged failure to pay wages when due in violation of Cal. Lab. Code §§ 201-203 and to add allegations regarding off-the-clock COVID-19 screenings.

Defendants expressly deny any liability or wrongdoing of any kind associated with the claims alleged in the Action, dispute any wages, damages and penalties claimed by the Class Representative are owed, and further contend that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment. Defendants contend, among other things, that at all times they complied with the California Labor Code and the Industrial Welfare Commission Wage Orders.

On March 6, 2023, the Parties participated in an all-day mediation with Jeffrey A. Ross, an experienced mediator of wage and hour class and PAGA actions. The Parties accepted a Mediator's settlement proposal and reached an agreement for settlement. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an "all in" amount of Four Hundred and Fifty Thousand Dollars (\$450,000.00) (the "Gross Settlement Amount") to fund the settlement. The Gross Settlement Amount includes the payment of all Individual Settlement Payments, Administration Costs, Attorneys' Fees and Attorneys' Expenses, Service Award, and the PAGA Penalties.

After the Judgment becomes Final, Defendants will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. "Final" means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Administration Costs. Payment to the Settlement Administrator, estimated not to exceed \$7,500.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
- Attorneys' Fees and Attorneys' Expenses. Payment to Class Counsel of an award of Attorneys' Fees of no more than 1/3 of the Gross Settlement Amount (currently \$150,000.00) and Attorneys' Expenses of not more than \$15,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative Service Payment. Class Representative Service Payment of up to Ten Thousand Dollars (\$10,000) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook.
- PAGA Penalties. A payment of \$25,000.00 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$18,750.00 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$6,250.00 will be distributed to Aggrieved Employees as part of the PAGA Penalties.
- Calculation of Payments to Settlement Class Members. After all the above payments of the court-approved Attorneys' Fees, Attorneys' Expenses, the Class Representative Service Payment, the PAGA Penalties, and the Administration Costs are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Individual Settlement Payment for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member's workweeks that occurred during the Class Period. A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendants' records, a member of the class worked at least one-day during any such workweek.
- Calculation of Aggrieved Employees Payments to Aggrieved Employees. The PAGA Penalties shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out. The PAGA Penalties will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. "Aggrieved Employee" means all non-exempt employees who are or previously were employed by Defendants and performed work in California during the PAGA Period. The PAGA Period means the period of August 27, 2020, through March 6, 2023.

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

Tax Matters. Twenty-five percent (25%) of each Individual Settlement Payment is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. Fifty-five percent (55%) of each Individual Settlement Payment is allocated to penalties ("Penalty Portion"). Twenty percent (20%) of each Individual Settlement Payment is allocated to pre-judgment interest ("Interest Portion"). Each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for Penalty Portion and Interest Portion of the Individual Settlement Payments. In addition, no taxes will be withheld from the PAGA Penalties paid to Aggrieved Employees, and each Aggrieved Employee will be issued

an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendants' counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

No Credit Toward Benefit Plans. The Individual Settlement Payments and Aggrieved Employee Payments made to Settlement Class Members and/or Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendants, Plaintiff and the Settlement Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. Released Class Claims means all class claims alleged in the operative Third Amended Complaint, or which could have been alleged in the operative complaint based on the facts alleged, which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period. The Released PAGA Claims shall be released as follows. As of the Effective Date and upon funding in full of the Gross Settlement Amount by Defendants, all Aggrieved Employees shall release all Released PAGA Claims, irrespective of whether they opted-out of the class settlement, and will be bound by this PAGA Release (the "PAGA Release"). "Released PAGA Claims" means all PAGA claims alleged in the operative Third Amended Complaint and Plaintiff's PAGA notices to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

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

5. How much will my payment be?

Defendants' records reflect that you have <<____>> Workweeks worked during the Class Period November 1, 2017, through March 6, 2023).

Based on this information, your estimated Individual Settlement Payment is <<____>>.

Defendants' records reflect that you have <<____>> pay periods worked during the PAGA Period (August 27, 2020, through March 6, 2023).

Based on this information, your estimated Aggrieved Employee Payment is <<____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _____ [forty-five (45) days after the Notice or fifteen (15) days after the re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: Apex Class Action LLC.

The Court will hold a hearing on November 9, 2023 at 8:30 a.m. to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www.apexclassaction.com.

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

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the PAGA Penalties.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than _____. The address for the Settlement Administrator is 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700. The request for exclusion must state in substance that the Class Member has read the Class Notice and that he or she wishes to be excluded from the settlement of the class action lawsuit entitled *Delacruz v. Wal-Mart Associates, Inc., et al.*, currently pending in Superior Court of San Diego, Case No. 36-2021-00046421-CU-OE-CTL. The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

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

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is *Delacruz v. Wal-Mart Associates, Inc., et al., San Diego County Superior Court, Case No. 36-2021-00046421-CU-OE-CTL*. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
Fax: (619) 599-2891
E-Mail: jlapuyade@jcl-lawfirm.com

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Fax: (619) 599-8291
Email: shani@zakaylaw.com

Counsel for Defendants:

Paloma P. Peracchio, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, P.C.
400 South Hope Street, Suite 1200
Los Angeles, CA 90071
T: (213) 239-9800
F: (213) 239-9045
paloma.peracchio@ogletree.com

Counsel for Defendants:

Mitchell A. Wrosch, Esq.
Alis Moon, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, P.C.
Park Tower, Fifteenth Floor
695 Town Center Drive
Costa Mesa, CA 92626
T: (714) 800-7900
F: (714) 754-1298
mitchell.wrosch@ogletree.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing on November 9, 2023 at 8:30 a.m. at the San Diego County Superior Court, Department 74, located at 330 W. Broadway San Diego, CA 92101 before Judge Keri Katz. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at 20371 Irvine Avenue, Newport Beach, CA 92660 or write to *Delacruz v. Wal-Mart Associates, Inc., et al., San Diego County Superior Court, Case No. 36-2021-00046421*, Settlement Administrator, c/o _____.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to JCL Law firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121 or by visiting the website listed in this notice. Please do not contact Defendants.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall transmit any uncashed checks to the California Controller's Unclaimed Property Fund in the name of the Class Member and/or Aggrieved Employee. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 2

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
Sydney Castillo-Johnson (State Bar #343881)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
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ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
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San Diego, CA 92121
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Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com

Attorneys for Plaintiff LUCAS DELACRUZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

LUCAS DELACRUZ, an individual, on behalf
of himself, and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

WAL-MART ASSOCIATES, INC., a
Delaware Corporation; BONOBO, INC., a
Delaware Corporation; and DOES 1 through
50, Inclusive,

Defendants.

Case No. 37-2021-00046421-CU-OE-CTL

~~[PROPOSED]~~ **ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: May 5, 2023

Time: 8:30 a.m.

Judge: Hon. Keri Katz

Dept.: C-74

1 This matter having come before the Honorable Judge Keri Katz of the Superior Court of the
2 State of California, in and for the County of San Diego, at 8:30 a.m. on May 5, 2023, with Jean-Claude
3 Lapuyade, Esq., of the JCL Law Firm, APC and Shani Zakay, Esq. of the Zakay Law Group, APLC,
4 as counsel for plaintiff LUCAS DELACRUZ (“Plaintiff”), and Mitchell A. Wrosch, Esq., and Paloma
5 P. Peracchio, Esq. of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.. appearing for Defendants
6 BONOBO, INC. and WAL-MART ASSOCIATES, INC. (hereinafter “Defendants”). The Court,
7 having carefully considered the briefs, argument of counsel and all the matters presented to the Court,
8 and good cause appearing, hereby GRANTS Plaintiff’s Motion for Preliminary Approval of Class
9 Action and PAGA Settlement.

10 **IT IS HEREBY ORDERED:**

11 1. The Court preliminarily approves the Stipulation of Settlement of Class and PAGA
12 Action Claims and Release of Claims (“Settlement Agreement” or “Agreement”), a true and correct
13 copy of which is attached hereto as **Exhibit “1”**. This is based on the Court’s determination that the
14 Settlement Agreement is within the range of possible final approval, pursuant to the provisions of
15 Section 382 of the California Code of Civil Procedure and California Rules of Court, rule 3.769.

16 2. This Order incorporates by reference the definitions in the Agreement, and all terms
17 defined therein shall have the same meaning in this Order as set forth in the Agreement.

18 3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that
19 Defendants shall pay is Four Hundred and Fifty Thousand Dollars and Zero Cents (\$450,000.00). It
20 appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate, and
21 reasonable as to all Class Members when balanced against the probable outcome of further litigation
22 relating to certification, liability, and damages issues. It further appears that investigation and research
23 have been conducted such that counsel for the Parties are able to reasonably evaluate their respective
24 positions. It further appears to the Court that settlement at this time will avoid substantial additional
25 costs by all Parties, as well as avoid the delay and risks that would be presented by the further
26 prosecution of the litigation. It further appears that the Settlement has been reached as the result of
27 intensive, serious, and non-collusive arms-length negotiations.

4. The Court preliminarily finds that the Settlement appears to be within the range of reasonableness of a settlement that could ultimately be given final approval by this Court. The Court has reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily finds that the monetary settlement awards made available to the Class Members are fair, adequate, and reasonable when balanced against the probable outcome of further litigation relating to certification, liability, and damages issues.

5. Plaintiff seeks Attorneys' Fees and Attorneys' Expenses in the amount of One Hundred Sixty-Five Thousand Dollars and Zero Cents (\$165,000.00) up-to one-third of the Gross Settlement Amount for Attorneys' Fees, currently estimated at One Hundred Fifty Thousand Dollars and Zero Cents (\$150,000.00), and award of Attorneys' Expenses not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00), and proposed Service Award to the Class Representative, Lucas Delacruz, in an amount not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00). While these awards appear to be within the range of reasonableness, the Court will not approve the Attorneys' Fees and Attorneys' Expenses or Service Award until the Final Approval Hearing.

6. The Court recognizes that Plaintiff and Defendants stipulate and agree to certification of a class for settlement purposes only. This stipulation will not be deemed admissible in this or any other proceeding should this Settlement not become final. For settlement purposes only, the Court conditionally certifies the following Class:

“All current and former non-exempt California employees who worked at Defendant Bonobos stores, including Walmart employees who worked at Bonobos stores, at any time during the period beginning November 1, 2017, through March 6, 2023.”

7. The Court concludes that, for settlement purposes only, the Class meets the requirements for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class is ascertainable and so numerous that joinder of all members of the Class Members is impracticable; (b) common questions of law and fact predominate, and there is a well-defined community of interest amongst the Class Members with respect to the subject matter of the litigation; (c) the claims of the

1 Class Representative are typical of the claims of the Class Members; (d) the Class Representative will
2 fairly and adequately protect the interests of the Class Members; (e) a class action is superior to other
3 available methods for the efficient adjudication of this controversy; and (f) Class Counsel are qualified
4 to act as counsel for the Class Representative in her individual capacity and as the representative of the
5 Class Members.

6 8. The Court provisionally appoints Plaintiff Lucas Delacruz as the representative of the
7 Class.

8 9. The Court provisionally appoints Jean-Claude Lapuyade, Esq., of the JCL Law Firm,
9 A.P.C., and Shani O. Zakay, Esq. of the Zakay Law Group, APLC, as Class Counsel for the Class
10 Members.

11 10. The Court hereby approves, as to form and content, the Proposed Notice of Pendency of
12 Class Action Settlement (“Class Notice”) attached to the Agreement as **Exhibit “A”**. The Court finds
13 that both notices appear to fully and accurately inform the Class Members and Aggrieved Employees
14 of all material elements of the proposed Settlement, including right of any Class Member to be excluded
15 from the Class by submitting a written request for exclusion, and of each Class Member’s right and
16 opportunity to object to the Settlement. The Court further finds that the distribution of the notices
17 substantially in the manner and form set forth in the Agreement and this Order meets the requirements
18 of due process, is the most reasonable notice under the circumstances, and shall constitute due and
19 sufficient notice to all persons entitled thereto. The Court orders the mailing of the notices by first class
20 mail, pursuant to the terms set forth in the Agreement.

21 11. The Court hereby appoints Apex Class Action LLC, as Settlement Administrator. Within
22 ten (10) business days of this order, Defendants shall provide, to the Settlement Administrator the Class
23 Data, including information regarding Class Members that Defendants will in good faith compile from
24 its records, including each Class Member’s full name; last known address; Social Security Number;
25 start dates and end dates of employment. Within twenty-one (21) calendar days after preliminary
26 approval of the Settlement, the Settlement Administrator shall mail copies of the Notice Packet to all
27 Class Members via regular First-Class U.S. Mail and electronic mail.

1 12. The Court hereby preliminarily approves the proposed procedure for exclusion from the
2 Settlement. Any Class Member may individually choose to opt out of and be excluded from the
3 Settlement as provided in the Notice by following the instructions for requesting exclusion from the
4 Settlement of the Released Class Claims that are set forth in the Notice. All requests for exclusion must
5 be postmarked or received by the Response Deadline which is forty-five (45) calendar days after the
6 date the Class Notice is mailed to the Class Members or, in the case of a re-mailed Notice, not more
7 than fifteen (15) calendar days after the original Response Deadline. Any such person who chooses to
8 opt out of and be excluded from the Settlement will not be entitled to an Individual Settlement Payment
9 under the Settlement and will not be bound by the Settlement, or have any right to object, appeal or
10 comment thereon. Class Members who have not requested exclusion shall be bound by all
11 determinations of the Court, the Agreement and Judgment. A request for exclusion may only opt out
12 that particular individual, and any attempt to affect an opt-out of a group, class, or subclass of
13 individuals is not permitted and will be deemed invalid.

14 13. Any Class Member who has not opted out may appear at the final approval hearing and
15 may object or express the Class Member's views regarding the Settlement and may present evidence
16 and file briefs or other papers that may be proper and relevant to the issues to be heard and determined
17 by the Court as provided in the Notice. Class Members will have forty-five (45) days from the date the
18 Settlement Administrator mails the Class Notice to postmark their written objections to the Settlement
19 Administrator.

20 14. A final approval hearing shall be held before this Court on **October 20, 2023 at 8:30**
21 **a.m.** in Department C-74 of the San Diego County Superior Court to determine all necessary matters
22 concerning the Settlement, including: whether the proposed settlement of the Action on the terms and
23 conditions provided for in the Agreement is fair, adequate and reasonable and should be finally
24 approved by the Court; whether an Order Granting Final Approval should be entered herein; whether
25 the plan of allocation contained in the Agreement should be approved as fair, adequate and reasonable
26 to the Class; and to finally approve the Attorneys' Fees, Attorneys' Expenses, Service Award, and the
27 Administration Costs. All papers in support of the motion for final approval and the motion for
28

Attorneys' Fee and Attorneys' Costs and Service Award shall be filed with the Court and served on all counsel no later than sixteen (16) court days before the hearing.

15. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder shall be construed as a concession or admission by Defendants in any way, and shall not be used as evidence of, or used against Defendants as, an admission or indication in any way, including with respect to any claim of any liability, wrongdoing, fault or omission by Defendants or with respect to the truth of any allegation asserted by any person. Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit, document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received as or deemed to be evidence for any purpose adverse to the Defendants, including, but not limited to, evidence of a presumption, concession, indication or admission by Defendants of any liability, fault, wrongdoing, omission, concession or damage.

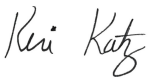
16. In the event the Settlement does not become effective in accordance with the terms of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to become effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties shall revert to their respective positions as of before entering into the Agreement. In such an event, the Court's orders regarding the Settlement, including this Preliminary Approval Order, shall not be used or referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the Settlement Agreement with respect to the effect of the Settlement Agreement if it is not approved.

17. Pending final determination of whether the Settlement should be approved, Class Representative and all Class Members are barred and enjoined from filing, commencing, prosecuting, intervening in, instigating or in any way participating in the commencement or prosecution of any lawsuit, action or administrative, regulatory, arbitration or other proceeding, in any forum, asserting any claims that are, or relate in any way to, the Released Class Claims, unless and until they submit a timely request for exclusion pursuant to the Agreement.

///

1 18. The Court reserves the right to adjourn or continue the date of the final approval hearing
2 and all dates provided for in the Agreement without further notice to Class Members and retains
3 jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

4
5 Dated: 5/18/2023

 Keri G. Katz

6 JUDGE OF THE SUPERIOR COURT
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EXHIBIT 1

JCL LAW FIRM, APC

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Attorneys for Plaintiff LUCAS DELACRUZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

LUCAS DELACRUZ, an individual, on behalf
of himself, and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

WAL-MART ASSOCIATES, INC., a
Delaware Corporation; BONOBO, INC., a
Delaware Corporation; and DOES 1 through
50, Inclusive.

Defendants.

Case No.: 36-2021-00046421

[Action Filed November 1, 2021]

**STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS**

This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is entered into by and between Plaintiff LUCAS DELACRUZ (hereinafter "Plaintiff"), an individual, on behalf of the Settlement Class, and in his representative capacity on behalf of the State of California and the Aggrieved Employees, and Defendants BONOBOs, INC. ("Bonobos"), and WAL-MART ASSOCIATES, INC. ("Walmart") (collectively, "Defendants"):

I. DEFINITIONS

- A. "Action" shall mean the putative class and representative action lawsuit designated *Delacruz v. Wal-Mart Associates, Inc., et al.*, San Diego County Superior Court, Case No. 36-2021-00046421, filed November 1, 2021.
- B. "Administration Costs" shall mean the amount paid to the Settlement Administrator from the Gross Settlement Amount for administering the Settlement pursuant to this Agreement currently estimated not to exceed \$7,500.00.
- C. "Aggrieved Employees" means all current and former non-exempt employees who worked at Defendants' Bonobos stores, including Walmart employees who worked at Bonobos stores, at any time during the PAGA Period.
- D. "Agreement" or "Settlement Agreement" means this Stipulation of Settlement of Class and PAGA Action and Release of Claims.
- E. "Attorneys' Expenses" means the award of expenses that the Court authorizes to be paid to Class Counsel for the expenses they have incurred of up to \$15,000.00.
- F. "Attorneys' Fees" means the award of fees that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff and the Settlement Class in the Action, currently not to exceed one-third of the Gross Settlement Amount currently estimated to be \$150,000.00 out of \$450,000.00. Attorneys' fees will be divided between Class Counsel as follows (50% to JCL Law Firm, APC, and 50% to Zakay Law Group, APLC).
- G. "Class" or the "Class Members" means all current and former non-exempt employees who worked at Defendants Bonobos stores, including Walmart employees that worked at Bonobos stores, at any time during the Class Period.

- 1 H. "Class Counsel" shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC, and
2 Shani O. Zakay, Esq. of Zakay Law Group, APLC.
- 3 I. "Class Data" means information regarding Class Members that Defendants will in
4 good faith compile from its records and provide to the Settlement Administrator. It
5 shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class
6 Member's full name; last known address; Social Security Number; start dates and end
7 dates of employment.
- 8 J. "Class Period" means the period beginning November 1, 2017, through March 6,
9 2023.
- 10 K. "Class Representative" shall mean plaintiff Lucas Delacruz.
- 11 L. "Court" means the Superior Court for the State of California, County of San Diego
12 currently presiding over the Action.
- 13 M. "Defendants" shall mean Bonobos, Inc., and Wal-Mart Associates, Inc.
- 14 N. "Effective Date" means the earliest date, following entry by the Court (or Courts) of
15 an Order (or Orders) and judgment finally approving this Settlement, upon which one
16 of the following have occurred: (i) if no objection is filed to the settlement and no
17 objector appears at the hearing on final approval, the date of the Court's entry of the
18 order granting final approval, (ii) if an objection is filed to the settlement and/or an
19 objector appears at the hearing on final approval, then the earlier of the following: (a)
20 the expiration of all potential appeal periods without a filing of a notice of appeal of
21 the final approval order or judgment, i.e., sixty (60) days after the entry of the final
22 approval order and judgment; (b) final affirmance of the final approval order and
23 judgment by an appellate court as a result of any appeal(s), or (c) final dismissal or
24 denial of all such appeals (including any petition for review, rehearing, certiorari, etc.)
25 such that the final approval order and judgment concerning the Actions is no longer
26 subject to further judicial review. If this settlement is approved through motions in
27 both Courts, then Effective Date shall mean the latter of both approvals.
- 28

- 1 O. "Service Award" means an award in the amount of \$10,000 or in an amount that the
2 Court authorizes to be paid to the Class Representative, in addition to his Individual
3 Settlement Payment and his individual Aggrieved Employee Payment, in recognition
4 of his efforts and risks in assisting with the prosecution of the Action.
- 5 P. "Funding Date" shall mean the date by which Defendants have paid the entire Gross
6 Settlement Amount to the Claims Administrator in accord with the terms of this
7 Agreement. Defendants will pay the Gross Settlement Amount to the Claims
8 Administrator thirty (30) calendar days after the Effective Date.
- 9 Q. "Gross Settlement Amount" means Four Hundred and Fifty Thousand Dollars
10 (\$450,000.00) that Defendants must pay into the QSF in connection with this
11 Settlement, inclusive of the sum of Individual Settlement Payments, Administration
12 Costs, Attorneys' Fees and Attorneys' Expenses, Service Award, and the PAGA
13 Penalties and *exclusive* of the employer's share of payroll tax, if any, triggered by any
14 payment under this Settlement.
- 15 R. "Individual Settlement Payments" means the amount payable from the Net Settlement
16 Amount to each Settlement Class Member and excludes any amounts distributed to
17 Aggrieved Employees pursuant to PAGA.
- 18 S. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less
19 Attorneys' Fees and Attorneys' Expenses, Service Award, PAGA Penalties, and
20 Administration Costs.
- 21 T. "Notice Packet" means the Class Notice to be provided to the Class Members by the
22 Settlement Administrator in the form set forth as **Exhibit A** to this Agreement (other
23 than formatting changes to facilitate printing by the Settlement Administrator).
- 24 U. "Operative Complaint" shall mean the Third Amended Complaint on file in the
25 Action filed on March 21, 2023.
- 26 V. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
27 Labor Code § 2698 *et seq.*
28

- 1 W. "PAGA Payment Ratio" means the respective Pay Periods during the PAGA Period
2 for each Aggrieved Employee divided by the sum total of the Pay Periods for all
3 Aggrieved Employees during the PAGA Period.
- 4 X. "PAGA Pay Periods," for purposes of calculating the distribution of the Aggrieved
5 Employee Payment, as defined herein, means the number of pay periods of
6 employment during the PAGA Period that each Aggrieved Employee worked in
7 California.
- 8 Y. "PAGA Period" means the period beginning August 27, 2020, through March 6,
9 2023.
- 10 Z. "PAGA Penalties" shall mean Twenty-Five Thousand Dollars (\$25,000) to be
11 allocated from the Gross Settlement Amount, with 25% of the payment going to the
12 Aggrieved Employees ("Aggrieved Employee Payment") and 75% of the payment
13 going to the Labor and Workforce Development Agency ("LWDA Payment"). The
14 amount of the PAGA Penalties is subject to Court approval pursuant to California
15 Labor Code section 2699(l). Any reallocation of the Gross Settlement Amount to
16 increase the PAGA Penalties will not constitute grounds by either party to void this
17 Agreement, so long as the Gross Settlement Amount remains the same.
- 18 AA. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean either
19 Plaintiff or Defendants, individually.
- 20 BB. "Payment Ratio" means the respective Workweeks for each Class Member divided
21 by the sum total Workweeks for all Class Members.
- 22 CC. "Plaintiff" shall mean Lucas Delacruz.
- 23 DD. "QSF" means the Qualified Settlement Fund established, designated, and maintained
24 by the Settlement Administrator to fund the Gross Settlement Amount.
- 25 EE. "Released Class Claims" shall mean the release from the Class Members of all class
26 claims alleged in the operative Third Amended Complaint, or which could have been
27 alleged in the operative complaint based on the facts alleged, which occurred during
28 the Class Period, and expressly excluding all other claims, including claims for vested

benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period.

FF. "Released PAGA Claims" shall mean the release from the Aggrieved Employees of all PAGA claims alleged in the operative Third Amended Complaint and Plaintiff's PAGA notices to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

GG. "Released Parties" shall mean Defendants Bonobos, Inc., and Wal-Mart Associates, Inc., along with each of its current and former subsidiaries, parent corporations, affiliates, predecessors, insurers, agents, employees, successors, assigns, officers, officials, directors, employers, attorneys, personal representatives, executors, and shareholders, including their respective pension, profit, sharing, savings, health, and other employee benefit plans of any nature, the successors of such plans, and those plans' respective current or former trustees and administrators, agents, employees, and fiduciaries, as well as the personal representatives or executors of any such persons.

HH. "Response Deadline" means the date forty-five (45) calendar days after the Settlement Administrator mails Notice Packets to Class Members and the last date on which Class Members may submit requests for exclusion or objections to the Settlement.

II. "Settlement" means the disposition of the Action pursuant to this Agreement.

JJ. "Settlement Administrator" means Apex Class Action LLC, located at 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700. The Settlement Administrator establishes, designates and maintains, as a QSF under Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1, into which the amount of the Gross Settlement Amount is deposited for the purpose of resolving the claims of Settlement Class Members. The Settlement Administrator shall maintain the funds until distribution in an account(s) segregated from the assets of Defendants and any

1 person related to Defendants. *All accrued interest shall be paid and distributed to*
2 *the Settlement Class Members as part of their respective Individual Settlement*
3 *Payment.*

4 KK. "Settlement Class Members" or "Settlement Class" means all Class Members who
5 have not submitted a timely and valid request for exclusion as provided in this
6 Agreement.

7 LL. "Workweeks," for purposes of calculating the distribution of the Net Settlement
8 Amount, means the number of weeks of employment during the Class Period that
9 each Class Member was employed by Defendants in California.

10 **II. RECITALS**

11 A. On August 27, 2021, Plaintiff filed a Notice of Violations with the Labor and
12 Workforce Development Agency (LWDA) and served the same on Defendants.

13 B. On November 1, 2021, Plaintiff filed the Action, alleging claims for:

- 14 1. Unfair competition (Bus. & Prof. Code §§ 17200 *et seq.*);
- 15 2. Failure to pay overtime wages (Labor Code §§ 510 *et seq.*);
- 16 3. Minimum wage violations (Labor Code §§ 1194, 1197 and 1197.1)
- 17 4. Meal period violations (Labor Code §§ 226.7, 512 and the applicable Wage
18 Order);
- 19 5. Rest period violations (Labor Code §§ 226.7, 516 and the applicable wage
20 order);
- 21 6. Failure to reimburse employees for required expenses (Labor Code § 2802);
- 22 7. Wage statement violations (Labor Code § 226 and 226.2 *et seq.*);
- 23 8. Failure to Pay Sick Pay at the Correct Rate (Labor Code § 246);
- 24 9. Failure to provide wages when due (Labor Code §§ 201, 202, 203; 204);
- 25 10. Violation of the Private Attorneys General Act (Labor Code §§ 2698, *et seq.*);

26 C. On December 27, 2021, Plaintiff filed a First Amended Complaint dismissing cause
27 of action number 8, Failure to Pay Sick Pay at the Correct Rate (Labor Code § 246),
28

1 and cause of action number 9, Failure to provide wages when due (Labor Code §§
2 201, 202, 203; 204).

3 D. On August 31, 2022, Plaintiff filed a Second Amended Complaint for the purpose of
4 incorporating the claims and factual allegations for an alleged failure to provide
5 seating claim pursuant to Cal. Code of Reg., Title 8, Section 1 1070(14).

6 E. On March 21, 2023, Plaintiff filed the operative Third Amended Complaint adding
7 the claims for Defendants' alleged failure to pay wages when due in violation of Labor
8 Code §§ 201, 202, and 203, and to add additional allegations regarding off-the-clock
9 Covid-19 screenings.

10 F. On March 21, 2023, Plaintiff sent an amended PAGA notice to the LWDA adding
11 claims for Defendants' alleged failure to pay wages when due in violation of Labor
12 Code §§ 201, 202, and 203, and to add additional allegations regarding off-the-clock
13 COVID-19 screenings.

14 G. The Class Representative believes he has claims based on alleged violations of the
15 California Labor Code, and the Industrial Welfare Commission Wage Orders, and
16 that class certification is appropriate because the prerequisites for class certification
17 can be satisfied in the Action, and this action is manageable as a PAGA representative
18 action.

19 H. Defendants deny any liability or wrongdoing of any kind associated with the claims
20 alleged in the Action, disputes any wages, damages and penalties claimed by the Class
21 Representative, alleged in the Operative Complaint, and/or alleged in the Class
22 Representative's PAGA notices to the LWDA are owed, and further contend that, for
23 any purpose other than settlement, the Action is not appropriate for class or
24 representative action treatment. Defendants contend, among other things, that at all
25 times they complied with the California Labor Code and the Industrial Welfare
26 Commission Wage Orders.

27 I. The Class Representative is represented by Class Counsel. Class Counsel investigated
28 the facts relevant to the Action, including conducting an independent investigation as

1 to the allegations, reviewing documents and information exchanged through informal
2 discovery, and reviewing documents and information provided by Defendants
3 pursuant to informal requests for information to prepare for mediation. Defendants
4 produced for the purpose of settlement negotiations certain employment data
5 concerning the Class, which Class Counsel reviewed and analyzed with the assistance
6 of an expert. Based on their own independent investigation and evaluation, Class
7 Counsel are of the opinion that the Settlement with Defendants is fair, reasonable, and
8 adequate, and is in the best interest of the Class considering all known facts and
9 circumstances, including the risks of significant delay, defenses asserted by
10 Defendants, uncertainties regarding class certification, and numerous potential
11 appellate issues. Although it denies any liability, Defendants are agreeing to this
12 Settlement solely to avoid the inconveniences and cost of further litigation. The
13 Parties and their counsel have agreed to settle the claims on the terms set forth in this
14 Agreement.

15 J. On March 6, 2023, the Parties participated in mediation presided over by Jeffrey A.
16 Ross, an experienced mediator of wage and hour class and PAGA actions. The Parties
17 accepted a Mediator's settlement proposal, which was subsequently memorialized in
18 the form of a Memorandum of Understanding.

19 K. This Agreement replaces and supersedes the Memorandum of Understanding and any
20 other agreements, understandings, or representations between the Parties. This
21 Agreement represents a compromise and settlement of highly disputed claims.
22 Nothing in this Agreement is intended or will be construed as an admission by
23 Defendants that the claims in the Action of Plaintiff or the Class Members have merit
24 or that Defendants bear any liability to Plaintiff or the Class on those claims or any
25 other claims, or as an admission by Plaintiff that Defendants' defenses in the Action
26 have merit.

27 L. The Parties believe that the Settlement is fair, reasonable, and adequate. The
28 Settlement was arrived at through arm's-length negotiations, taking into account all

relevant factors. The Parties recognize the uncertainty, risk, expense, and delay attendant to continuing the Action through trial and any appeal. Accordingly, the Parties desire to settle, compromise and discharge all disputes and claims arising from or relating to the Action fully, finally, and forever.

M. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendants reserve the right to contest certification of any class for any reason and reserve all available defenses to the claims in the Action. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with any litigation.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. TERMS OF AGREEMENT

A. Settlement Consideration and Settlement Payments by Defendants.

1. Settlement Consideration. In full and complete settlement of the Action, and in exchange for the releases set forth below, Defendants will pay the sum of the Individual Settlement Payments, the Service Award, the Attorneys' Fees and Attorneys' Expenses, PAGA Penalties, and the Administration Costs, as specified in this Agreement, equal to the Gross Settlement Amount of Four Hundred and Fifty Thousand Dollars (\$450,000.00). The Parties agree that this is a non-reversionary Settlement and that no portion of the Gross Settlement Amount shall revert to Defendants. Other than the Defendants' share of employer payroll taxes and as provided in Section III.A.2 below, Defendants shall not be required to pay more than the Gross Settlement Amount.
2. Class Size. Defendants represent that the Class was comprised of approximately 291 individuals who collectively worked approximately 14,000 workweeks during the Class Period. Should the Workweeks increase beyond 5% of the Projected Workweeks (*i.e.*, more than 14,700 Workweeks),

Defendants shall notify Plaintiff that it will, at Defendants' sole discretion, either (i) increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of Workweeks worked by the Class members above five percent (5%) (*e.g.*, if the number of Workweeks increases by 6%, the Gross Settlement Amount will increase by one percent (1%)); or (ii) end the Class Period at any point before the Workweeks do not exceed 14,700.

3. Settlement Payment. Defendants shall deposit the Gross Settlement Amount into the QSF, through the Settlement Administrator on or before the Funding Date. Any interest accrued will be added to the NSA and distributed to the Settlement Class Members except that if final approval is reversed on appeal, then Defendants are entitled to prompt return of the principal and all interest accrued.

4. Defendants' Share of Payroll Taxes. Defendants' share of employer side payroll taxes is in addition to the Gross Settlement Amount and shall be paid together with the Gross Settlement Amount on the Funding Date.

B. Release by Settlement Class Members. As of the Funding Date, in exchange for the consideration set forth in this Agreement, Plaintiff and the Settlement Class Members release the Released Parties from the Released Class Claims for the Class Period.

C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the consideration set forth in this Agreement, the Plaintiff, the LWDA and the State of California release the Released Parties from the Released PAGA Claims for the PAGA Period. As a result of this release, the Aggrieved Employees shall be precluded from bringing claims against Defendants for the Released PAGA Claims.

D. Conditions Precedent: This Settlement will become final and effective only upon the occurrence of all of the following events:

1. The Court enters an order granting preliminary approval of the Settlement;

2. The Court enters an order granting final approval of the Settlement and a Final Judgment;
3. If an objector appears at the final approval hearing, the time for appeal of the Final Judgment and Order Granting Final Approval of Class Action Settlement expires; or, if an appeal is timely filed, there is a final resolution of any appeal from the Judgment and Order Granting Final Approval of Class Action Settlement; and
4. Defendants fully fund the Gross Settlement Amount.

E. Nullification of Settlement Agreement. If this Settlement Agreement is not preliminarily or finally approved by the Court, fails to become effective, or is reversed, withdrawn, or modified by the Court, or in any way prevents or prohibits Defendants from obtaining a complete resolution of the Released Class Claims and Released PAGA Claims, or if Defendants fail to fully fund the Gross Settlement Amount:

1. This Settlement Agreement shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural;
2. The conditional class certification (obtained for any purpose) shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and
3. None of the Parties to this Settlement will be deemed to have waived any claims, objections, defenses or arguments in the Action, including with respect to the issue of class certification.

F. In the event that Defendants fail to fund the Gross Settlement Amount, Defendants shall bear the sole responsibility for any cost to issue or reissue any curative notice to the Settlement Class Members and all Settlement Administration Costs incurred to the date of nullification.

1 G. Certification of the Class. The Parties stipulate to conditional class certification of the
2 Class for the Class Period for purposes of settlement only. In the event that this
3 Settlement is not approved by the Court, fails to become effective, or is reversed,
4 withdrawn or modified by the Court, or in any way prevents or prohibits Defendants
5 from obtaining a complete resolution of the Released Class Claims and Released
6 PAGA Claims, the conditional class certification (obtained for any purpose) shall be
7 void *ab initio* and of no force or effect, and shall not be admissible in any judicial,
8 administrative or arbitral proceeding for any purpose or with respect to any issue,
9 substantive or procedural.

10 H. Tax Liability. The Parties make no representations as to the tax treatment or legal
11 effect of the payments called for, and Class Members and/or Aggrieved Employees are
12 not relying on any statement or representation by the Parties in this regard. Class
13 Members and/or Aggrieved Employees understand and agree that they will be
14 responsible for the payment of any taxes and penalties assessed on the Individual
15 Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved
16 Employee Payment described and will be solely responsible for any penalties or other
17 obligations resulting from their personal tax reporting of Individual Settlement
18 Payments and/or Aggrieved Employees' individual shares of the Aggrieved Employee
19 Payment. .

20 I. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
21 the "acknowledging party" and each Party to this Agreement other than the
22 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision
23 of this Agreement, and no written communication or disclosure between or among the
24 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
25 such communication or disclosure constitute or be construed or be relied upon as, tax
26 advice within the meaning of United States Treasury Department circular 230 (31 CFR
27 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
28 her or its own, independent legal and tax counsel for advice (including tax advice) in

1 connection with this Agreement, (b) has not entered into this Agreement based upon
2 the recommendation of any other Party or any attorney or advisor to any other Party,
3 and (c) is not entitled to rely upon any communication or disclosure by any attorney
4 or adviser to any other party to avoid any tax penalty that may be imposed on the
5 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
6 any limitation that protects the confidentiality of any such attorney's or adviser's tax
7 strategies (regardless of whether such limitation is legally binding) upon disclosure by
8 the acknowledging party of the tax treatment or tax structure of any transaction,
9 including any transaction contemplated by this Agreement.

10 J. Preliminary Approval Motion. As soon thereafter as practicable after the execution of
11 this Agreement, Plaintiff shall file with the Court a Motion for Order Granting
12 Preliminary Approval and supporting papers, which shall include this Settlement
13 Agreement. Plaintiff will provide Defendants with a draft of the Motion at least three
14 (3) business days prior to the filing of the Motion to give Defendants an opportunity
15 to review and comment upon the Motion.

16 K. Settlement Administrator. The Settlement Administrator shall be responsible for:
17 establishing and administering the QSF; calculating, processing and mailing payments
18 to the Class Representative, Class Counsel, LWDA and Class Members; printing and
19 mailing the Notice Packets to the Class Members as directed by the Court; receiving
20 and reporting the objections and requests for exclusion; calculating, deducting and
21 remitting all legally required taxes from Individual Settlement Payments and
22 distributing tax forms for the Wage Portion, the Penalties Portion and the Interest
23 Portion of the Individual Settlement Payments and/or Aggrieved Employees'
24 individual shares of the Aggrieved Employee Payment; processing and mailing tax
25 payments to the appropriate state and federal taxing authorities; providing
26 declaration(s) as necessary in support of preliminary and/or final approval of this
27 Settlement; and other tasks as the Parties mutually agree or the Court orders the
28 Settlement Administrator to perform. The Settlement Administrator shall keep the

Parties timely apprised of the performance of all Settlement Administrator responsibilities by among other things, sending a weekly status report to the Parties' counsel stating the date of the mailing, the of number of Elections Not to Participate in Settlement it receives (including the numbers of valid and deficient), and number of objections received.

L. Notice Procedure.

1. Class Data. No later than ten (10) business days after the Preliminary Approval Date, Defendants shall provide the Settlement Administrator with the Class Data for purposes of preparing and mailing Notice Packets to the Class Members.

2. Notice Packets.

a) The Notice Packet shall contain the Notice of Class Action Settlement in a form substantially similar to the form attached as **Exhibit A**. The Notice of Class Action Settlement shall inform Class Members and Aggrieved Employees that they need not do anything in order to receive an Individual Settlement Payment and/or Aggrieved Employees' individual shares of the Aggrieved Employee Payment and to keep the Settlement Administrator apprised of their current mailing address, to which the Individual Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved Employment Payment will be mailed following the Funding Date. The Notice of Class Action Settlement shall set forth the release to be given by all members of the Class who do not request to be excluded from the Settlement Class and/or Aggrieved Employees in exchange for an Individual Settlement Payment and/or Aggrieved Employees' individual shares of the Aggrieved Employment Payment, the number of Workweeks worked by each Class Member during the Class Period and PAGA Period, if any, and the estimated amount of their Individual

1 Settlement Payment if they do not request to be excluded from the
2 Settlement and each Aggrieved Employees' share of the Aggrieved
3 Employment Payment, if any. The Settlement Administrator shall use
4 the Class Data to determine Class Members' Workweeks and PAGA
5 Workweeks. The Notice will also advise the Aggrieved Employees
6 that they will release the Released PAGA Claims and will receive their
7 share of the Aggrieved Employee Payment regardless of whether they
8 request to be excluded from the Settlement.

9 b) The Notice Packet's mailing envelope shall include the following
10 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
11 ENTITLED TO PARTICIPATE IN A CLASS ACTION
12 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
13 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
14 NOTICE."

15 3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
16 Settlement Administrator will perform a search based on the National Change
17 of Address Database to update and correct any known or identifiable address
18 changes. No later than twenty-one (21) calendar days after preliminary
19 approval of the Settlement, the Settlement Administrator shall mail copies of
20 the Notice Packet to all Class Members via regular First-Class U.S. Mail and
21 electronic mail. The Settlement Administrator shall exercise its best judgment
22 to determine the current mailing address for each Class Member. The address
23 identified by the Settlement Administrator as the current mailing address shall
24 be presumed to be the best mailing address for each Class Member.

25 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
26 Administrator as non-delivered on or before the Response Deadline shall be
27 re-mailed to any forwarding address provided. If no forwarding address is
28 provided, the Settlement Administrator shall promptly attempt to determine a

1 correct address by lawful use of skip-tracing, or other search using the name,
2 address and/or Social Security number of the Class Member involved, and
3 shall then perform a re-mailing, if another mailing address is identified by the
4 Settlement Administrator. Class Members who received a re-mailed Notice
5 Packet shall have their Response Deadline extended fifteen (15) days from the
6 original Response Deadline.

7 5. Disputes Regarding Individual Settlement Payments. Class Members will
8 have the opportunity, should they disagree with Defendants' records regarding
9 the start and end dates of employment to provide documentation and/or an
10 explanation to show contrary dates. If there is a dispute, the Settlement
11 Administrator will consult with the Parties to determine whether an
12 adjustment is warranted. The Settlement Administrator shall determine the
13 eligibility for, and the amounts of, any Individual Settlement Payments under
14 the terms of this Agreement. The Settlement Administrator's determination
15 of the eligibility for and amount of any Individual Settlement Payment shall
16 be binding upon the Class Member and the Parties.

17 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
18 by the Settlement Administrator concerning the administration of the
19 Settlement will be resolved by the Court under the laws of the State of
20 California. Before any such involvement of the Court, counsel for the Parties
21 will confer in good faith to resolve the disputes without the necessity of
22 involving the Court.

23 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
24 Packet shall state that Class Members who wish to exclude themselves from
25 the Settlement must submit a signed copy of the Request for Exclusion form
26 to the Settlement Administrator by the Response Deadline. A Request for
27 Exclusion form will be mailed together with the Notice Packet to all Class
28 Members. The Request for Exclusion will not be valid if it is not timely

submitted, if it is not signed by the Class Member, or if it does not contain the name and address and last four digits of the Social Security number of the Class Member. The date of the postmark on the mailing envelope or fax stamp on the Request for Exclusion shall be the exclusive means used to determine whether the request for exclusion was timely submitted. Any Class Member who submits a timely Request for Exclusion shall be excluded from the Settlement Class will not be entitled to an Individual Settlement Payment and will not be otherwise bound by the terms of the Settlement or have any right to object, appeal or comment thereon. However, any Class Member that submits a timely Request for Exclusion that is also an Aggrieved Employee will still receive his/her pro rata share of the Aggrieved Employee Payment, as specified below, and in consideration, will be bound by the Release by the PAGA Class as set forth herein. Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any final judgment entered in this Action if the Settlement is approved by the Court. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a final list of the Class Members who have timely submitted timely Requests for Exclusion. Defendants retain the right, in the exercise of its sole discretion, to nullify the settlement within thirty (30) days after expiration of the exclusion period, if ten percent (10%) or more of Class Members exclude themselves from the Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the Class to submit Requests for Exclusion from the Settlement.

8. Objections. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to object to the Settlement may submit to the Settlement Administrator a written statement of objection (“Notice of Objection”) by the Response Deadline. The postmark date of

1 mailing shall be deemed the exclusive means for determining that a Notice of
2 Objection was served timely. The Notice of Objection, if in writing, must be
3 signed by the Settlement Class Member and state: (1) the case name and
4 number; (2) the name of the Settlement Class Member; (3) the address of the
5 Settlement Class Member; (4) the last four digits of the Settlement Class
6 Member's Social Security number; (5) the basis for the objection; and (6) if
7 the Settlement Class Member intends to appear at the Final
8 Approval/Settlement Fairness Hearing. Settlement Class Members who fail
9 to make objections in writing in the manner specified above may still make
10 their objections orally at the Final Approval/Settlement Fairness Hearing with
11 the Court's permission. Settlement Class Members will have a right to appear
12 at the Final Approval/Settlement Fairness Hearing to have their objections
13 heard by the Court regardless of whether they submitted a written objection.
14 At no time shall any of the Parties or their counsel seek to solicit or otherwise
15 encourage Class Members to file or serve written objections to the Settlement
16 or appeal from the Order and Final Judgment. Class Members who submit a
17 written request for exclusion may not object to the Settlement. Class Members
18 may not object to the PAGA Penalties.

19 M. Funding and Allocation of the Gross Settlement Amount. Defendants are required to
20 pay the Gross Settlement Amount plus any employer's share of payroll taxes as
21 mandated by law within the time specified hereinabove on the Funding Date.

22 1. Calculation of Individual Settlement Payments. Individual Settlement
23 Payments shall be paid from the Net Settlement Amount and shall be paid
24 pursuant to the formula set forth herein. Using the Class Data, the Settlement
25 Administrator shall add up the total number of Workweeks for all Class
26 Members. The respective Workweeks for each Class Member will be divided
27 by the total Workweeks for all Class Members, resulting in the Payment Ratio
28 for each Class Member. Each Class Member's Payment Ratio will then be

1 multiplied by the Net Settlement Amount to calculate each Class Member's
2 estimated Individual Settlement Payments. Each Individual Settlement
3 Payment will be reduced by any legally mandated employee tax withholdings
4 (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class
5 Members who submit valid and timely requests for exclusion will be
6 redistributed to Settlement Class Members who do not submit valid and timely
7 requests for exclusion on a pro rata basis based on their respective Payment
8 Ratios.

9 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
10 Class Data, the Settlement Administrator shall add up the total number of
11 PAGA Pay Periods for all Aggrieved Employees during the PAGA Period.
12 The respective PAGA Pay Periods for each Aggrieved Employees will be
13 divided by the total PAGA Pay Periods for all Aggrieved Employees, resulting
14 in the "PAGA Payment Ratio" for each Aggrieved Employee. Each
15 Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the
16 Aggrieved Employee Payment to calculate each Aggrieved Employee's
17 estimated share of the Aggrieved Employee Payment.

18 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
19 Settlement Payments shall be allocated and treated as 25% wages ("Wage
20 Portion") and 55% penalties ("Penalties Portion"), and 20% pre-judgment
21 interest ("Interest Portion"). The Wage Portion of the Individual Settlement
22 Payments shall be reported on IRS Form W-2 and the Penalty Portion and
23 Interest Portion of the Individual Settlement Payments shall be reported on
24 IRS Form 1099 issued by the Settlement Agreement.

25 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
26 Employee Settlement Payments shall be allocated and treated as 100%
27 penalties and shall be reported on IRS Form 1099.
28

1 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
2 individual shares of the PAGA Penalties made to Settlement Class Members
3 and/or Aggrieved Employees under this Settlement Agreement, as well as any
4 other payments made pursuant to this Settlement Agreement, will not be
5 utilized to calculate any additional benefits under any benefit plans to which
6 any Class Members may be eligible, including, but not limited to profit-
7 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
8 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
9 Parties' intention that this Settlement Agreement will not affect any rights,
10 contributions, or amounts to which any Class Members may be entitled under
11 any benefit plans.

12 6. All monies received by Settlement Class Members under the Settlement which
13 are attributable to wages shall constitute income to such Settlement Class
14 Members solely in the year in which such monies actually are received by the
15 Settlement Class Members. It is the intent of the Parties that Individual
16 Settlement Payments and individual shares of the PAGA Penalties provided for
17 in this Settlement agreement are the sole payments to be made by Defendants to
18 Settlement Class Members and/or Aggrieved Employees in connection with this
19 Settlement Agreement, with the exception of Plaintiff, and that the Settlement
20 Class Members and/or Aggrieved Employees are not entitled to any new or
21 additional compensation or benefits as a result of having received the Individual
22 Settlement Payments and/or their shares of the Aggrieved Employee Payment.

23 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
24 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
25 and/or Aggrieved Employees' last known mailing address no later than thirty
26 (30) business days after the Funding Date.

27 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
28 Employees shall remain valid and negotiable for one hundred and eighty (180)

1 days from the date of their issuance. If a Settlement Class Member and/or
2 Aggrieved Employees does not cash his or her settlement check within 90
3 days, the Settlement Administrator will send a letter to such persons, advising
4 that the check will expire after the 180th day, and invite that Settlement Class
5 Member and/or Aggrieved Employees to request reissuance in the event the
6 check was destroyed, lost or misplaced. In the event an Individual Settlement
7 Payment and/or Aggrieved Employees' individual share of the PAGA
8 Penalties check has not been cashed within one hundred and eighty (180) days,
9 all funds represented by such uncashed checks, plus any interest accrued
10 thereon, shall be transmitted to the California Controller's Unclaimed
11 Property Fund in the name of the Settlement Class Member and/or Aggrieved
12 Employee.

- 13 9. Service Award. In addition to the Individual Settlement Payment as a
14 Settlement Class Member and his individual share of the Aggrieved Employee
15 Payment, Plaintiff will apply to the Court for an award of not more than
16 \$10,000.00, as the Service Award. Defendants will not oppose a Service
17 Award of not more than \$10,000.00 for Plaintiff. The Settlement
18 Administrator shall pay the Service Award, either in the amount stated herein
19 if approved by the Court or some other amount as approved by the Court, to
20 Plaintiff from the Gross Settlement Amount no later than thirty (30) business
21 days after the Funding Date. Any portion of the requested Service Award that
22 is not awarded to the Class Representative shall be part of the Net Settlement
23 Amount and shall be distributed to Settlement Class Members as provided in
24 this Agreement. The Settlement Administrator shall issue an IRS Form 1099
25 — MISC to Plaintiff for his Service Award. Plaintiff shall be solely and
26 legally responsible to pay any and all applicable taxes on his Service Award
27 and shall hold harmless the Released Parties from any claim or liability for
28 taxes, penalties, or interest arising as a result of the Service Award. Approval

1 of this Settlement shall not be conditioned on Court approval of the requested
2 amount of the Service Award. If the Court reduces or does not approve the
3 requested Service Award, Plaintiff shall not have the right to revoke the
4 Settlement, and it will remain binding.

5 10. Attorneys' Fees and Attorneys' Expenses. Defendants understand Class
6 Counsel will file a motion for or Attorneys' Fees not to exceed one-third of
7 the Gross Settlement Amount currently estimated to be \$150,000 **and**
8 Attorneys' Expenses supported by declaration not to exceed Fifteen Thousand
9 Dollars (\$15,000.00). Any awarded Attorneys' Fees and Attorneys' Expenses
10 shall be paid from the Gross Settlement Amount. Any portion of the requested
11 Attorneys' Fees and/or Attorneys' Expenses that are not awarded to Class
12 Counsel shall be part of the Net Settlement Amount and shall be distributed
13 to Settlement Class Members as provided in this Agreement. The Settlement
14 Administrator shall allocate and pay the Attorneys' Fees to Class Counsel
15 from the Gross Settlement Amount no later than thirty (30) calendar days after
16 the Funding Date. Class Counsel shall be solely and legally responsible to
17 pay all applicable taxes on the payment made pursuant to this paragraph. The
18 Settlement Administrator shall issue an IRS Form 1099 — MISC to Class
19 Counsel for the payments made pursuant to this paragraph. In the event that
20 the Court reduces or does not approve the requested Attorneys' Fees, Plaintiff
21 and Class Counsel shall not have the right to revoke the Settlement, or to
22 appeal such order, and the Settlement will remain binding.

23 11. PAGA Penalties. Twenty-Five Thousand Dollars (\$25,000) shall be allocated
24 from the Gross Settlement Amount for settlement of claims for civil penalties
25 under the Private Attorneys General Act of 2004 ("PAGA Penalties"). The
26 Settlement Administrator shall pay seventy-five percent (75%) of the PAGA
27 Penalties (\$18,750) to the California Labor and Workforce Development
28 Agency no later than thirty (30) business days after the Effective Date

(hereinafter "LWDA Payment"). Twenty-five percent (25%) of the PAGA Penalties (\$6,250) will be distributed to the Aggrieved Employees as described in this Agreement (hereinafter "Aggrieved Employee Payment"). For purposes of distributing the PAGA Penalties to the Aggrieved Employees, each Aggrieved Employee shall receive their pro-rata share of the Aggrieved Employee Payment using the PAGA Payment Ratio as defined above.

12. Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Amount. The estimate of the Administration Costs is \$7,500.00. The Settlement Administrator shall be paid the Administration Costs no later than thirty (30) business days after the Effective Date.

N. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Service Award, the Attorneys' Fees and Attorneys' Expenses, the PAGA Penalties, and the Administration Costs. Plaintiff will provide Defendants with a draft of the Motion at least 3 business days prior to the filing of the Motion to give Defendants an opportunity to propose changes or additions to the Motion.

1. Declaration by Settlement Administrator. No later than seven (7) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the number of objections received, the amount of the average Individual Settlement Payment and highest Individual Settlement Payment, the Administration Costs, and any other information as

1 the Parties mutually agree or the Court orders the Settlement Administrator to
2 provide.

3 2. Final Approval Order and Judgment. Class Counsel shall present an Order
4 Granting Final Approval of Class Action Settlement to the Court for its
5 approval, and Judgment thereon, at the time Class Counsel files the Motion
6 for Final Approval.

7 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
8 an opportunity for Counsel for Defendants to review the Motions for Preliminary and
9 Final Approval, including the Order Granting Final Approval of Class Action
10 Settlement, and Judgment before filing with the Court. The Parties and their counsel
11 will cooperate with each other and use their best efforts to effect the Court's approval
12 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
13 Judgment.

14 O. Cooperation. The Parties and their counsel will cooperate with each other and use
15 their best efforts to implement the Settlement.

16 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
17 except such proceedings necessary to implement and complete the Settlement, pending
18 the Final Approval/Settlement Fairness Hearing to be conducted by the Court.

19 Q. Amendment or Modification. This Agreement may be amended or modified only by
20 a written instrument signed by counsel for all Parties or their successors-in-interest.

21 R. Plaintiff's Individual Claims. In addition to this Agreement and the claims he is
22 releasing hereby, Plaintiff is entering into a separate individual settlement agreement,
23 which shall provide for a separate individual payment, and which shall provide for an
24 additional broad release, including a waiver of Civil Code Section 1542. That release,
25 waiver and discharge of all claims shall include, but will not be limited to, any and all
26 claims arising out of the Action, as well as additional claims described in the individual
27 settlement agreement, which are separate and different from the claims alleged in the
28 Action.

- 1 S. Entire Agreement. Except with respect to Plaintiff's individual settlement agreement,
2 described in paragraph "R" immediately above, this Agreement and any attached
3 Exhibit constitute the entire Agreement among these Parties, and no oral or written
4 representations, warranties or inducements have been made to any Party concerning
5 this Agreement or its Exhibit other than the representations, warranties and covenants
6 contained and memorialized in this Agreement and its Exhibit.
- 7 T. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
8 represent they are expressly authorized by the Parties whom they represent to negotiate
9 this Agreement and to take all appropriate Action required or permitted to be taken by
10 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
11 documents required to effectuate the terms of this Agreement. The persons signing
12 this Agreement on behalf of Defendants represents and warrants that he/she is
13 authorized to sign this Agreement on behalf of Defendants. Plaintiff represents and
14 warrants that he is authorized to sign this Agreement and that he has not assigned any
15 claim, or part of a claim, covered by this Settlement to a third-party.
- 16 U. No Public Comment: The Parties and their counsel agree that they will not issue any
17 press releases, initiate any contact with the press, respond to any press inquiry, or have
18 any communication with the press about the fact, amount, or terms of the Settlement
19 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
20 of its terms for any marketing or promotional purposes. Nothing herein will restrict
21 Class Counsel from including publicly available information regarding this settlement
22 in future judicial submissions regarding Class Counsel's qualifications and experience.
23 Further, Class Counsel will not include, reference or use the Settlement Agreement for
24 any marketing or promotional purposes, either before or after the Motion for
25 Preliminary Approval is filed.
- 26 V. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
27 to the benefit of, the successors or assigns of the Parties, as previously defined.
28

- 1 W. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
2 shall be governed by and interpreted according to the laws of the State of California.
- 3 X. Counterparts. This Agreement may be executed in one or more counterparts. All
4 executed counterparts and each of them shall be deemed to be one and the same
5 instrument provided that counsel for the Parties to this Agreement shall exchange
6 among themselves copies or originals of the signed counterparts.
- 7 Y. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
8 is a fair, adequate, and reasonable settlement of this Action and have arrived at this
9 Settlement after extensive arms-length negotiations, taking into account all relevant
10 factors, present and potential.
- 11 Z. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
12 respect to the interpretation, implementation and enforcement of the terms of this
13 Agreement and all orders and judgments entered in connection therewith, and the
14 Parties and their counsel submit to the jurisdiction of the Court for purposes of
15 interpreting, implementing and enforcing the settlement and all orders and judgments
16 entered in connection with this Agreement.
- 17 AA. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
18 the Court shall first attempt to construe the provisions valid to the fullest extent
19 possible consistent with applicable precedents so as to define all provisions of this
20 Agreement valid and enforceable.
- 21 BB. No Unalleged Claims. Except with respect to individual claims alleged by Plaintiff
22 and settled separately by an individual settlement agreement between the Parties
23 described in paragraph "R" above, Plaintiff and Class Counsel represent that they do
24 not currently intend to pursue any claims against the Released Parties, including, but
25 not limited to, any and all claims relating to or arising from Plaintiff's employment
26 with Defendants, regardless of whether Class Counsel is currently aware of any facts
27 or legal theories upon which any claims or causes of action could be brought against
28 Released Parties, including those facts or legal theories alleged in the operative

complaint in this Action. The Parties further acknowledge, understand and agree that this representation is essential to the Agreement and that this Agreement would not have been entered into were it not for this representation.

CC. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this settlement only.

DD. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the Released Class Claims and Released PAGA Claims have merit and give rise to liability on the part of Defendants. Defendants claim that the Released Class Claims and Released PAGA Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no documents referred to and no action taken to carry out this Agreement may be construed or used as an admission by or against the Defendants or Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other than as may be specifically set forth herein, each Party shall be responsible for and shall bear its/his own attorney's fees and costs.

IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: Apr 11, 2023

Luke Delacruz

Luke Delacruz (Apr 11, 2023 15:40 PDT)

LUCAS DELACRUZ

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

DATED: April 25, 2023 | 09:37 CDT

Chad Pekron

WAL-MART ASSOCIATES, INC.
BONOBOS, INC.

Chad Pekron

Printed Name

Vice President, Complex Commercial Litigation
Title

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: April 12, 2023

JCL LAW FIRM, A.P.C.

By: 

Attorneys for Plaintiff and the Settlement Class Members

DATED: April 12, 2023

ZAKAY LAW GROUP, APLC

By: 

Attorneys for Plaintiff and the Settlement Class Members

DATED: April 26, 2023

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

By: 

Paloma P. Peracchio, Esq.
Mitchell A. Wrosch, Esq.
Attorneys for Defendants

EXHIBIT A

**NOTICE OF PENDENCY OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT
AND FINAL HEARING DATE**

*Delacruz v. Walmart Associates Inc., et al.,
San Diego County Superior Court Case No. 37-2021-00046421-CU-OE-CTL*

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Individual Settlement Payment is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendants as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of San Diego (the “Court”) has been reached between Plaintiff Lucas Delacruz (“Plaintiff”) and Defendants Bonobos, Inc. (“Bonobos”), and Wal-Mart Associates, Inc. (“Walmart”) (collectively, “Defendants”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

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

All current and former non-exempt California employees who worked at Defendants’ Bonobos stores, including Walmart employees who worked at Bonobos stores, at any time during the period beginning November 1, 2017, through March 6, 2023.

The “Class Period” is the period of time beginning November 1, 2017, through March 6, 2023.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On November 1, 2021, Plaintiff filed a Complaint against Defendants in the Superior Court of the State of California, County of San Diego. Plaintiff asserted claims that Defendants: (1) Violated California Business and Professions Code § 17200 *et seq.*; (2) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (3) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (4) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (5) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (6) Failed to reimburse for required business expenses in violation of California Labor Code § 2802; (7) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (8) Failed to pay sick pay at the correct rate in violation of California Labor Code § 246; (9) Failed to pay wages when due in violation of Cal. Lab. Code §§ 201, 202, 203, and 204; and (10) Violation of the Private Attorneys General Act (Labor Code §§ 2698 *et seq.*). On December 27, 2021, Plaintiff filed a First Amended Complaint, which dismissed the eighth cause of action for failure to pay sick pay at the correct rate (Labor Code § 246) and the ninth cause of action for failure to provide wages when due in violation of California Labor Code §§ 201, 202, 203, and 204. On August 31, 2022, Plaintiff filed a Second Amended Complaint for the purpose of incorporating the claims and factual allegations for an alleged failure to provide seating claim pursuant to Cal. Code of Reg., Title 8, Section 1 1070(14). On April 17, 2023, Plaintiff filed the operative Third Amended Complaint adding claims for Defendants' alleged failure to pay wages when due in violation of Cal. Lab. Code §§ 201-203 and to add allegations regarding off-the-clock COVID-19 screenings.

Defendants expressly deny any liability or wrongdoing of any kind associated with the claims alleged in the Action, dispute any wages, damages and penalties claimed by the Class Representative are owed, and further contend that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment. Defendants contend, among other things, that at all times they complied with the California Labor Code and the Industrial Welfare Commission Wage Orders.

On March 6, 2023, the Parties participated in an all-day mediation with Jeffrey A. Ross, an experienced mediator of wage and hour class and PAGA actions. The Parties accepted a Mediator's settlement proposal and reached an agreement for settlement. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an "all in" amount of Four Hundred and Fifty Thousand Dollars (\$450,000.00) (the "Gross Settlement Amount") to fund the settlement. The Gross Settlement Amount includes the payment of all Individual Settlement Payments, Administration Costs, Attorneys' Fees and Attorneys' Expenses, Service Award, and the PAGA Penalties.

After the Judgment becomes Final, Defendants will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. "Final" means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Administration Costs. Payment to the Settlement Administrator, estimated not to exceed \$7,500.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
- Attorneys' Fees and Attorneys' Expenses. Payment to Class Counsel of an award of Attorneys' Fees of no more than 1/3 of the Gross Settlement Amount (currently \$150,000.00) and Attorneys' Expenses of not more than \$15,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative Service Payment. Class Representative Service Payment of up to Ten Thousand Dollars (\$10,000) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook.
- PAGA Penalties. A payment of \$25,000.00 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$18,750.00 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$6,250.00 will be distributed to Aggrieved Employees as part of the PAGA Penalties.
- Calculation of Payments to Settlement Class Members. After all the above payments of the court-approved Attorneys' Fees, Attorneys' Expenses, the Class Representative Service Payment, the PAGA Penalties, and the Administration Costs are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Individual Settlement Payment for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member's workweeks that occurred during the Class Period. A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendants' records, a member of the class worked at least one-day during any such workweek.
- Calculation of Aggrieved Employees Payments to Aggrieved Employees. The PAGA Penalties shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out. The PAGA Penalties will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. "Aggrieved Employee" means all non-exempt employees who are or previously were employed by Defendants and performed work in California during the PAGA Period. The PAGA Period means the period of August 27, 2020, through March 6, 2023.

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

Tax Matters. Twenty-five percent (25%) of each Individual Settlement Payment is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. Fifty-five percent (55%) of each Individual Settlement Payment is allocated to penalties ("Penalty Portion"). Twenty percent (20%) of each Individual Settlement Payment is allocated to pre-judgment interest ("Interest Portion"). Each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for Penalty Portion and Interest Portion of the Individual Settlement Payments. In addition, no taxes will be withheld from the PAGA Penalties paid to Aggrieved Employees, and each Aggrieved Employee will be issued

an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendants' counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

No Credit Toward Benefit Plans. The Individual Settlement Payments and Aggrieved Employee Payments made to Settlement Class Members and/or Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendants, Plaintiff and the Settlement Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. Released Class Claims means all class claims alleged in the operative Third Amended Complaint, or which could have been alleged in the operative complaint based on the facts alleged, which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period. The Released PAGA Claims shall be released as follows. As of the Effective Date and upon funding in full of the Gross Settlement Amount by Defendants, all Aggrieved Employees shall release all Released PAGA Claims, irrespective of whether they opted-out of the class settlement, and will be bound by this PAGA Release (the "PAGA Release"). "Released PAGA Claims" means all PAGA claims alleged in the operative Third Amended Complaint and Plaintiff's PAGA notices to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

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

5. How much will my payment be?

Defendants' records reflect that you have <<____>> Workweeks worked during the Class Period November 1, 2017, through March 6, 2023).

Based on this information, your estimated Individual Settlement Payment is <<____>>.

Defendants' records reflect that you have <<____>> pay periods worked during the PAGA Period (August 27, 2020, through March 6, 2023).

Based on this information, your estimated Aggrieved Employee Payment is <<____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _____ [forty-five (45) days after the Notice or fifteen (15) days after the re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: Apex Class Action LLC.

The Court will hold a hearing on October 20, 2023 at 8:30 a.m. to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www.apexclassaction.com.

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

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the PAGA Penalties.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than _____. The address for the Settlement Administrator is 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700. The request for exclusion must state in substance that the Class Member has read the Class Notice and that he or she wishes to be excluded from the settlement of the class action lawsuit entitled *Delacruz v. Wal-Mart Associates, Inc., et al.*, currently pending in Superior Court of San Diego, Case No. 36-2021-00046421-CU-OE-CTL. The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

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

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is ***Delacruz v. Wal-Mart Associates, Inc., et al., San Diego County Superior Court, Case No. 36-2021-00046421-CU-OE-CTL***. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
Fax: (619) 599-2891
E-Mail: jlapuyade@jcl-lawfirm.com

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Fax: (619) 599-8291
Email: shani@zakaylaw.com

Counsel for Defendants:

Paloma P. Peracchio, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, P.C.
400 South Hope Street, Suite 1200
Los Angeles, CA 90071
T: (213) 239-9800
F: (213) 239-9045
paloma.peracchio@ogletree.com

Counsel for Defendants:

Mitchell A. Wrosch, Esq.
Alis Moon, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, P.C.
Park Tower, Fifteenth Floor
695 Town Center Drive
Costa Mesa, CA 92626
T: (714) 800-7900
F: (714) 754-1298
mitchell.wrosch@ogletree.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing on October 20, 2023 at 8:30 a.m. at the San Diego County Superior Court, Department 74, located at 330 W. Broadway San Diego, CA 92101 before Judge Keri Katz. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at 20371 Irvine Avenue, Newport Beach, CA 92660 or write to *Delacruz v. Wal-Mart Associates, Inc., et al., San Diego County Superior Court, Case No. 36-2021-00046421*, Settlement Administrator, c/o _____.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to JCL Law firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121 or by visiting the website listed in this notice. Please do not contact Defendants.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall transmit any uncashed checks to the California Controller's Unclaimed Property Fund in the name of the Class Member and/or Aggrieved Employee. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 3

Laura Gonzalez Mendez

From: Natalia Michele <natalia@zakaylaw.com>
Sent: Thursday, April 13, 2023 5:39 PM
To: Keshawna Wright; Madelyn Uchiyama
Subject: Delacruz

Categories: Save

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Date: Thursday, April 13, 2023 at 5:38 PM
To: Natalia Michele <natalia@zakaylaw.com>
Subject: Thank you for your Proposed Settlement Submission

04/13/2023 05:38:08 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 4

EXHIBIT 5

JCL Law Firm

Transaction Report

All Dates

DATE	TRANSACTION TYPE	NUM	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT	BALANCE
Delacruz v. Walmart (002-244)								
08/27/2021	Expense		LWDA		Client costs deferred	Chase Card 7349	75.00	75.00
08/31/2021	Journal Entry	August 2021 Postage		Postage for Aug 2021	Client costs deferred	-Split-	16.10	91.10
08/31/2021	Journal Entry	August 2021 Postage		Copies for Aug 2021	Client costs deferred	-Split-	1.30	92.40
11/15/2021	Journal Entry	Sept 2022 Postage		Copies for Sep 2021	Client costs deferred	-Split-	1.50	93.90
11/15/2021	Journal Entry	Sept 2022 Postage		Postage for Sep 2021	Client costs deferred	-Split-	7.33	101.23
11/15/2021	Expense		One Legal LLC	One Legal Order Number: 17224607 - Filing Fee Re: Proof of Service of 30-day Summons & Complaint	Client costs deferred	Chase Card 7349	12.35	113.58
11/30/2021	Journal Entry	Nov 2021 Postage		Copies for Nov 2021	Client costs deferred	-Split-	0.10	113.68
12/29/2021	Expense		One Legal LLC	One Legal Order Number: 17428238 - Filing Fee Re: Proof of Service, Amended Complaint	Client costs deferred	Chase Card 7349	12.35	126.03
12/31/2021	Journal Entry	Dec 2021 Postage		Postage for Dec 2021	Client costs deferred	-Split-	4.72	130.75
12/31/2021	Journal Entry	Dec 2021 Postage		Copies for Dec 2021	Client costs deferred	-Split-	15.10	145.85
03/31/2022	Journal Entry	Mar 2022 Postage		Postage for Mar 2022	Client costs deferred	-Split-	31.04	176.89
03/31/2022	Journal Entry	Mar 2022 Postage		Copies for Mar 2022	Client costs deferred	-Split-	7.50	184.39
04/30/2022	Journal Entry	April 2022 Postage		Copies for April 2022	Client costs deferred	-Split-	0.20	184.59
05/31/2022	Journal Entry	May 2022 Postage		Copies for May 2022	Client costs deferred	-Split-	0.25	184.84
07/31/2022	Journal Entry	July 2022 Postage		Copies for July 2022	Client costs deferred	-Split-	0.30	185.14
09/02/2022	Expense		One Legal LLC	One Legal Order Number: 18838986 - Filing Fee Re: Amended Complaint, Proof of Service	Client costs deferred	Chase Card 7349	12.87	198.01
10/31/2022	Journal Entry	Oct. 2022 Postage		Copies for October 2022	Client costs deferred	-Split-	0.10	198.11
12/29/2022	Expense		One Legal LLC	One Legal Order Number: 19548925 - Filing Fee Re: Case Management Statement, Proof of Service	Client costs deferred	Chase Card 7349	12.87	210.98
12/31/2022	Journal Entry	Dec 2022 Postage		Copies for December 2022	Client costs deferred	-Split-	0.10	211.08
01/19/2023	Check		Jeffrey A. Ross	Mediation - Inv. 2350	Client costs deferred	US Bank-Checking - 4270	6,250.00	6,461.08
01/31/2023	Journal Entry	Jan 2023 Postage		Copies for January 2023	Client costs deferred	-Split-	0.45	6,461.53
03/15/2023	Check	3190	Berger Consulting Group	Inv. 8348	Client costs deferred	US Bank-Checking - 4270	1,365.00	7,826.53
03/31/2023	Journal Entry	Mar 2023 Postage		Copies for March 2023	Client costs deferred	-Split-	8.30	7,834.83
03/31/2023	Journal Entry	Mar 2023 Postage		Postage for March 2023	Client costs deferred	-Split-	20.04	7,854.87
04/15/2023	Expense		One Legal LLC	One Legal Order no. 20214564 - Filing Fee Re: Motion - Other, Memorandum of Points and Authorities, Declaration	Client costs deferred	Chase Card 7349	75.10	7,929.97
04/27/2023	Expense		One Legal LLC	One Legal Order no. 20306603 - Filing Fee Re: Declaration, Other, Proof of Service	Client costs deferred	Chase Card 7349	13.33	7,943.30
04/30/2023	Journal Entry	April 2023 Postage		Copies for April 2023	Client costs deferred	-Split-	0.20	7,943.50
05/24/2023	Expense		SD Superior Court		Client costs deferred	Chase Card 7349	2.00	7,945.50
05/26/2023	Expense		One Legal LLC	One Legal Order Number: 20484330 - Filing Fee Re: Case Management Statement, Proof of Service	Client costs deferred	Chase Card 7349	13.33	7,958.83
05/31/2023	Journal Entry	May 2023 Postage		Copies for May 2023	Client costs deferred	-Split-	0.40	7,959.23
06/30/2023	Journal Entry	June 2023 Postage		Copies for June 2023	Client costs deferred	-Split-	0.20	7,959.43
Total for Delacruz v. Walmart (002-244)							\$7,959.43	
TOTAL							\$7,959.43	

EXHIBIT 6

JCL Law Firm

Unbilled Time

Activity: All Dates

ACTIVITY DATE	POSTING	EMPLOYEE	MEMO/DESCRIPTION	RATE	DURATION	AMOUNT	BALANCE
Delacruz v. Walmart (002-244)							
07/28/2021	No	Jean Claude Lapuyade	Drafted Complaint	550.00	5:30	3,025.00	3,025.00
08/25/2021	No	Jean Claude Lapuyade	Drafted PAGA Letter and Complaint	550.00	4:30	2,475.00	5,500.00
08/26/2021	No	Jean Claude Lapuyade	Pleading - Revised PAGA Notice and Complaint	550.00	2:30	1,375.00	6,875.00
09/27/2021	No	Jean Claude Lapuyade	Drafted Complaint	550.00	4:12	2,310.00	9,185.00
11/03/2021	No	Jean Claude Lapuyade	Drafted Complaint	550.00	4:30	2,475.00	11,660.00
12/13/2021	No	Jean Claude Lapuyade	Drafted, Revised and Edited Complaint	550.00	3:30	1,925.00	13,585.00
01/31/2022	No	Jean Claude Lapuyade	Pleadings - Reviewed Defendant's Answer	550.00	1:54	1,045.00	14,630.00
01/31/2022	No	Jean Claude Lapuyade	Legal Research - Motion to Strike Answer	550.00	2:48	1,540.00	16,170.00
02/11/2022	No	Jean Claude Lapuyade	Amended PAGA letter	550.00	0:30	275.00	16,445.00
03/11/2022	No	Jean Claude Lapuyade	Pleadings - Drafted, Revised and EditedFAC	550.00	2:30	1,375.00	17,820.00
03/11/2022	No	Jean Claude Lapuyade	Amended PAGA Letter	550.00	0:48	440.00	18,260.00
03/15/2022	No	Jean Claude Lapuyade	Belaire Notice	550.00	0:48	440.00	18,700.00
03/15/2022	No	Jean Claude Lapuyade	Discovery - Telephonic M&C w/ OC Re Data, Class List and Mediation	550.00	0:30	275.00	18,975.00
03/20/2022	No	Jean Claude Lapuyade	R&R Emails to/form OC Re Mediation	550.00	0:30	275.00	19,250.00
03/29/2022	No	Jean Claude Lapuyade	Correspondence to OC re Amended PAGA letter	550.00	0:18	165.00	19,415.00
04/12/2022	No	Jean Claude Lapuyade	Stip to Amend and SAC	550.00	1:48	990.00	20,405.00
05/03/2022	No	Jean Claude Lapuyade	Discovery - Emails to/from OC Re Mediation Data	550.00	0:30	275.00	20,680.00
06/02/2022	No	Jean Claude Lapuyade	Law and Motion - Emails to/from OPC RE Stip to Amend	550.00	0:30	275.00	20,955.00
06/03/2022	No	Jean Claude Lapuyade	Revised SAC	550.00	0:42	385.00	21,340.00
06/10/2022	No	Jean Claude Lapuyade	Emails to/from OC re stipulating to the filing of SAC	550.00	0:18	165.00	21,505.00
06/23/2022	No	Jean Claude Lapuyade	Pleadings to/from OPC Re SAC	550.00	0:30	275.00	21,780.00
06/23/2022	No	Jean Claude Lapuyade	Emails to/from OC re SAC	550.00	0:24	220.00	22,000.00
06/30/2022	No	Jean Claude Lapuyade	Emails to/from OC re SAC and proposed	550.00	0:30	275.00	22,275.00

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Unbilled Time

Activity: All Dates

ACTIVITY DATE	POSTING	EMPLOYEE	MEMO/DESCRIPTION	RATE	DURATION	AMOUNT	BALANCE
		Lapuyade	changes. Revised SAC.				
07/01/2022	No	Jean Claude Lapuyade	Emails to/from OC re proposed SAC.	550.00	0:18	165.00	22,440.00
07/05/2022	No	Jean Claude Lapuyade	Case Management - Drafted CMS	550.00	1:30	825.00	23,265.00
07/06/2022	No	Jean Claude Lapuyade	Emails to/from OC re proposed changes to SAC.	550.00	0:12	110.00	23,375.00
07/14/2022	No	Jean Claude Lapuyade	Case Management - Emails to/from OC Re Stip to File FAC	550.00	0:18	165.00	23,540.00
07/22/2022	No	Jean Claude Lapuyade	Case Management - Emails from Co-Counsel Re CMC	550.00	0:18	165.00	23,705.00
08/19/2022	No	Jean Claude Lapuyade	Case Management - Emails to/from OC Re Service of SAC	550.00	0:12	110.00	23,815.00
10/04/2022	No	Jean Claude Lapuyade	R&R Defendant's Answer to FAC	550.00	1:12	660.00	24,475.00
10/28/2022	No	Jean Claude Lapuyade	Mediation - Emails to/from Mediator and OC Re Mediation	550.00	0:06	55.00	24,530.00
11/23/2022	No	Jean Claude Lapuyade	Mediation - Emails to/from OC Re Mediation	550.00	0:18	165.00	24,695.00
12/29/2022	No	Jean Claude Lapuyade	Case Management - Drafted Revised and Edited CMS	550.00	1:00	550.00	25,245.00
01/03/2023	No	Sydney Castillo-Johnson	Mediation - draft data demand and stip to stay	300.00	1:15	375.00	25,620.00
01/08/2023	No	Sydney Castillo-Johnson	Case management	300.00	0:10	50.00	25,670.00
01/11/2023	No	Sydney Castillo-Johnson	Emails re stip and data demand	400.00	0:06	40.00	25,710.00
01/13/2023	No	Sydney Castillo-Johnson	Attend CMC	400.00	0:25	166.67	25,876.67
01/19/2023	No	Sydney Castillo-Johnson	Emails to client	400.00	0:06	40.00	25,916.67
01/19/2023	No	Sydney Castillo-Johnson	Call with client re claims	400.00	0:30	200.00	26,116.67
01/20/2023	No	Sydney Castillo-Johnson	Calls and emails to OC re stip and data demand	400.00	0:15	100.00	26,216.67
01/23/2023	No	Sydney Castillo-Johnson	Emails to call OC	400.00	0:12	80.00	26,296.67
01/24/2023	No	Sydney	Emails re call with OC - scope of mediation	400.00	0:15	100.00	26,396.67

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Unbilled Time

Activity: All Dates

ACTIVITY DATE	POSTING	EMPLOYEE	MEMO/DESCRIPTION	RATE	DURATION	AMOUNT	BALANCE
		Castillo-Johnson					
01/24/2023	No	Sydney Castillo-Johnson	Call with OC re mediation	400.00	0:15	100.00	26,496.67
01/24/2023	No	Jean Claude Lapuyade	Discovery - Emails to/from OC Re Mediation Sample	550.00	0:24	220.00	26,716.67
01/26/2023	No	Sydney Castillo-Johnson	Emails to OC re stip and data demand	400.00	0:12	80.00	26,796.67
01/30/2023	No	Sydney Castillo-Johnson	Review OC revisions to stip	400.00	0:20	133.33	26,930.00
02/07/2023	No	Sydney Castillo-Johnson	Emails re mediation	400.00	0:40	266.67	27,196.67
02/08/2023	No	Jean Claude Lapuyade	Mediation - Emails to/from OC Re Mediation Data	550.00	0:24	220.00	27,416.67
02/08/2023	No	Sydney Castillo-Johnson	Follow up on data demand and stip	400.00	0:12	80.00	27,496.67
02/10/2023	No	Sydney Castillo-Johnson	Emails re mediation	400.00	0:45	300.00	27,796.67
02/10/2023	No	Jean Claude Lapuyade	Discovery - emails to/from OC Re Mediation Data	550.00	0:36	330.00	28,126.67
02/10/2023	No	Jean Claude Lapuyade	Discovery - Emails to/from OC Re Data	550.00	0:18	165.00	28,291.67
02/13/2023	No	Sydney Castillo-Johnson	Email re mediation, data demand, and stip	400.00	1:00	400.00	28,691.67
02/15/2023	No	Sydney Castillo-Johnson	Emails re mediation	400.00	0:20	133.33	28,825.00
02/16/2023	No	Sydney Castillo-Johnson	Review mediation data	400.00	1:00	400.00	29,225.00
02/16/2023	No	Jean Claude Lapuyade	Discovery - R&R Mediation Data Production	550.00	6:06	3,355.00	32,580.00
02/17/2023	No	Jean Claude Lapuyade	Discovery - Emails to/from Expert Re Data Analysis	550.00	0:48	440.00	33,020.00
02/17/2023	No	Jean Claude Lapuyade	Discovery - Email to/from Expert Re Damage Analysis	550.00	0:54	495.00	33,515.00
02/17/2023	No	Sydney Castillo-Johnson	Emails with client re claims and docs	400.00	0:25	166.67	33,681.67
02/17/2023	No	Sydney	Call with client re claims	400.00	0:20	133.33	33,815.00

JCL Law Firm

Unbilled Time

Activity: All Dates

ACTIVITY DATE	POSTING	EMPLOYEE	MEMO/DESCRIPTION	RATE	DURATION	AMOUNT	BALANCE
		Castillo-Johnson					
02/19/2023	No	Jean Claude Lapuyade	Discovery - Emails to/from OC Re Class Demographics	550.00	0:12	110.00	33,925.00
02/21/2023	No	Jean Claude Lapuyade	Discovery - R&R Class Demographics and Data	550.00	2:12	1,210.00	35,135.00
02/22/2023	No	Sydney Castillo-Johnson	Mediation - draft mediation brief and exhibits	400.00	3:40	1,466.67	36,601.67
02/22/2023	No	Sydney Castillo-Johnson	Legal research - mediation brief claims	400.00	2:30	1,000.00	37,601.67
02/22/2023	No	Sydney Castillo-Johnson	Review expert report	400.00	0:45	300.00	37,901.67
02/22/2023	No	Jean Claude Lapuyade	Discovery - R&R Expert Damage Analysis	550.00	1:18	715.00	38,616.67
02/23/2023	No	Sydney Castillo-Johnson	Review client docs	400.00	0:15	100.00	38,716.67
02/23/2023	No	Jean Claude Lapuyade	Legal Research - OTC Claims, Double Time and AWS	550.00	4:30	2,475.00	41,191.67
02/24/2023	No	Jean Claude Lapuyade	Law and Motion - R&R Mediation Brief	550.00	2:54	1,595.00	42,786.67
02/24/2023	No	Jean Claude Lapuyade	Law and Motion - R&R Mediation Brief	550.00	3:24	1,870.00	44,656.67
02/27/2023	No	Sydney Castillo-Johnson	Mediation - revise brief	400.00	1:00	400.00	45,056.67
03/01/2023	No	Jean Claude Lapuyade	Mediation - Attended Mediation	550.00	8:30	4,675.00	49,731.67
03/02/2023	No	Sydney Castillo-Johnson	Emails re mediation brief	400.00	0:12	80.00	49,811.67
03/02/2023	No	Jean Claude Lapuyade	Law and Motion - R&R and Finalized Mediation Brief	550.00	0:48	440.00	50,251.67
03/02/2023	No	Jean Claude Lapuyade	Discovery - Emails to/from Expert Re Damage Analysis	550.00	0:18	165.00	50,416.67
03/06/2023	No	Sydney Castillo-Johnson	Attend mediation	400.00	7:00	2,800.00	53,216.67
03/07/2023	No	Sydney Castillo-Johnson	Emails re MOU and MPA dates	400.00	0:30	200.00	53,416.67
03/15/2023	No	Sydney Castillo-Johnson	Request bid from admin	400.00	0:20	133.33	53,550.00

JCL Law Firm

Unbilled Time

Activity: All Dates

ACTIVITY DATE	POSTING	EMPLOYEE	MEMO/DESCRIPTION	RATE	DURATION	AMOUNT	BALANCE
03/20/2023	No	Sydney Castillo-Johnson	Settlement - draft class notice	400.00	1:00	400.00	53,950.00
03/21/2023	No	Jean Claude Lapuyade	Pleadings - Emails to/from OC Re Stip to File TAC	550.00	0:18	165.00	54,115.00
03/23/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:24	220.00	54,335.00
03/23/2023	No	Sydney Castillo-Johnson	Emails to OC re SAR	400.00	0:20	133.33	54,468.33
03/31/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:12	110.00	54,578.33
03/31/2023	No	Sydney Castillo-Johnson	Follow up with OC on SAR revisions	400.00	0:06	40.00	54,618.33
04/03/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:18	165.00	54,783.33
04/03/2023	No	Sydney Castillo-Johnson	Law and Motion - draft MPA	400.00	4:00	1,600.00	56,383.33
04/03/2023	No	Sydney Castillo-Johnson	Legal research - MPA standards and claims	400.00	2:00	800.00	57,183.33
04/05/2023	No	Jean Claude Lapuyade	Legal Research - MPA Issues (Case Law)	550.00	3:00	1,650.00	58,833.33
04/05/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:12	110.00	58,943.33
04/05/2023	No	Sydney Castillo-Johnson	Settlement - review OC revisions to SAR	400.00	1:00	400.00	59,343.33
04/05/2023	No	Sydney Castillo-Johnson	Follow up with OC on SAR revisions	400.00	0:06	40.00	59,383.33
04/05/2023	No	Jean Claude Lapuyade	Settlement - R&R SAR Per Defense Edited	550.00	1:24	770.00	60,153.33
04/06/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:18	165.00	60,318.33
04/06/2023	No	Sydney Castillo-Johnson	Settlement - request additional admin bids	400.00	0:45	300.00	60,618.33
04/06/2023	No	Jean Claude Lapuyade	Law and Motion - R&R MPA	550.00	3:18	1,815.00	62,433.33
04/10/2023	No	Sydney Castillo-Johnson	Emails re SAR revisions	400.00	1:00	400.00	62,833.33
04/11/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:18	165.00	62,998.33

JCL Law Firm

Unbilled Time

Activity: All Dates

ACTIVITY DATE	POSTING	EMPLOYEE	MEMO/DESCRIPTION	RATE	DURATION	AMOUNT	BALANCE
04/12/2023	No	Sydney Castillo-Johnson	Case management	400.00	0:20	133.33	63,131.66
04/12/2023	No	Sydney Castillo-Johnson	Emails re executed SAR	400.00	0:12	80.00	63,211.66
04/13/2023	No	Sydney Castillo-Johnson	Finalize MPA	400.00	0:30	200.00	63,411.66
04/24/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:18	165.00	63,576.66
04/26/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:18	165.00	63,741.66
05/04/2023	No	Jean Claude Lapuyade	Law and Motion - R&R. COurt's Tentative	550.00	0:24	220.00	63,961.66
05/04/2023	No	Sydney Castillo-Johnson	Review court's tentative	400.00	0:10	66.67	64,028.33
05/05/2023	No	Sydney Castillo-Johnson	emails re MPA and MFA	400.00	0:30	200.00	64,228.33
05/05/2023	No	Jean Claude Lapuyade	Law and Motion - R&R Report from Associate Re MPA Hearing	550.00	0:30	275.00	64,503.33
05/08/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re Proposed Order	550.00	0:24	220.00	64,723.33
05/15/2023	No	Jean Claude Lapuyade	Settlement - R&R SAR w/ Defense Edits	550.00	1:12	660.00	65,383.33
05/16/2023	No	Sydney Castillo-Johnson	Case management	400.00	0:15	100.00	65,483.33
05/19/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC RE SAR	550.00	0:48	440.00	65,923.33
05/22/2023	No	Sydney Castillo-Johnson	Review CMS	400.00	0:20	133.33	66,056.66
05/23/2023	No	Sydney Castillo-Johnson	Emails re MPA	400.00	0:20	133.33	66,189.99
05/23/2023	No	Jean Claude Lapuyade	Case Management - Drafted, Revised and Edited Joint CMS	550.00	1:30	825.00	67,014.99
05/24/2023	No	Jean Claude Lapuyade	Case Management - R&R Defendant's CMS	550.00	0:18	165.00	67,179.99
05/29/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from Admin Re Notice	550.00	0:24	220.00	67,399.99
05/31/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from Admin Re Class Data	550.00	0:30	275.00	67,674.99

JCL Law Firm

Unbilled Time

Activity: All Dates

ACTIVITY DATE	POSTING	EMPLOYEE	MEMO/DESCRIPTION	RATE	DURATION	AMOUNT	BALANCE
06/05/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from Admin Re Notice	550.00	0:24	220.00	67,894.99
06/05/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:18	165.00	68,059.99
06/06/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from Admin Re Notice	550.00	0:30	275.00	68,334.99
06/14/2023	No	Jean Claude Lapuyade	Settlement- Emails to/from Admin Re MPA Order	550.00	0:24	220.00	68,554.99
06/16/2023	No	Jean Claude Lapuyade	Settlement - R&R Admin Report	550.00	0:30	275.00	68,829.99
06/16/2023	No	Sydney Castillo-Johnson	Review weekly report	400.00	0:20	133.33	68,963.32
06/20/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from Admin Re Notice	550.00	0:18	165.00	69,128.32
06/22/2023	No	Sydney Castillo-Johnson	File maintenance	350.00	0:30	175.00	69,303.32
06/23/2023	No	Sydney Castillo-Johnson	Review weekly report	400.00	0:20	133.33	69,436.65
06/28/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:12	110.00	69,546.65
06/30/2023	No	Jean Claude Lapuyade	Settlement - R&R Admin Report	550.00	0:18	165.00	69,711.65
06/30/2023	No	Sydney Castillo-Johnson	Review weekly report	400.00	0:20	133.33	69,844.98
07/10/2023	No	Jean Claude Lapuyade	Settlement - R&R Admin Report	550.00	0:12	110.00	69,954.98
07/10/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:24	220.00	70,174.98
07/11/2023	No	Sydney Castillo-Johnson	Review weekly report	400.00	0:20	133.33	70,308.31
07/17/2023	No	Jean Claude Lapuyade	Settlement - R&R Admin Report Re Class Notice	550.00	0:30	275.00	70,583.31
07/20/2023	No	Sydney Castillo-Johnson	Review weekly report	400.00	0:20	133.33	70,716.64
07/28/2023	No	Jean Claude Lapuyade	Law and Motion - Revised, Revised and Edited Admin Dec. ISO Final	550.00	1:00	550.00	71,266.64
08/01/2023	No	Jean Claude Lapuyade	Law and Motion - Emails to/from Admin Re Dec. ISO Final	550.00	0:18	165.00	71,431.64
08/05/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SA%	550.00	0:12	110.00	71,541.64

JCL Law Firm

Unbilled Time

Activity: All Dates

ACTIVITY DATE	POSTING	EMPLOYEE	MEMO/DESCRIPTION	RATE	DURATION	AMOUNT	BALANCE
08/07/2023	No	Jean Claude Lapuyade	Legal Research - Motion for Fees Loadstar Cross Check Cases	550.00	3:54	2,145.00	73,686.64
08/15/2023	No	Sydney Castillo- Johnson	Legal research - MFA and fees standards	400.00	1:30	600.00	74,286.64
08/25/2023	No	Jean Claude Lapuyade	Law and Motion - Drafted, Revised and Edited MFA	550.00	3:36	1,980.00	76,266.64
08/28/2023	No	Jean Claude Lapuyade	Law and Motion - Drafted, Revised and Edited Motion for Fees	550.00	3:30	1,925.00	78,191.64
08/28/2023	No	Sydney Castillo- Johnson	Law and Motion - draft MFA/fees	400.00	5:00	2,000.00	80,191.64
09/06/2023	No	Jean Claude Lapuyade	Law and Motion - Drafted, Reviewed and Reviewed Motion for Final Approval P&Ss, Order and Decs. ISO	550.00	3:12	1,760.00	81,951.64
09/08/2023	No	Sydney Castillo- Johnson	Law and Motion - review OC revisions to MFA	400.00	0:20	133.33	82,084.97
Total for Delacruz v. Walmart (002-244)					162:19	\$82,084.97	

EXHIBIT 7

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);