

SETTLEMENT AGREEMENT

This Settlement Agreement under the California Labor Code Private Attorneys General Act (“PAGA”) is made by and between plaintiff DeWayne Cassel, on behalf of himself, other aggrieved employees, and the State of California, on the one hand, and defendants Google LLC, Google Inc.¹ and Alphabet Inc. (collectively, including Google LLC, referred to herein as “Google”), on the other hand (collectively, the “Parties”), subject to the approval of the Court in accordance with California Labor Code section 2699(1)(2), and subject to the following terms and conditions.

I. DEFINITIONS

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- A. “Action” means the civil action titled *DeWayne Cassel v Google LLC, et. al.*, filed in the Superior Court of the State of California, County of Santa Clara, Case No. 17CV319202
- B. “Agreement,” “Settlement,” or “Settlement Agreement” means this Settlement Agreement.
- C. “Complaint” means the Complaint filed by Plaintiff on November 15, 2017 in the Action, and all amendments thereto.
- D. “Court” means the Superior Court for the State of California, County of Santa Clara.
- E. “Covered Period” means the period of time from July 31, 2016 to the date the Court grants approval of the Settlement.
- F. “Google” means the defendants in this Action, Google Inc. and Alphabet Inc., and Google LLC.
- G. “Final” means: (1) that the Settlement has been finally approved by the Court with no objections (including objections by Plaintiff or Plaintiff’s counsel as to the award of incentive payments or fees, which must be made within 15 days of the order or are otherwise waived); or, if there are objections, either (1) the California Court of Appeal has rendered a final judgment affirming the Court’s final approval without material modification and the date for further appeal has passed without further appeal; or (2) the applicable date for seeking appellate review of the Court’s final approval of the Settlement has passed without a timely appeal or request for review having been made.
- H. “Google’s Counsel” means Zachary P. Hutton and Cameron W. Fox of Paul Hastings LLP.
- I. “Order” means the Order Granting Approval of Settlement. The parties will submit a proposed Order in the form evidenced by Exhibit A to this Agreement for consideration by the Court.
- J. “Medical Release Form” means the medical release forms identified in the Complaint.

¹ Google Inc. represents that it became Google LLC effective October 1, 2017.

- K. "Medical Release Claims" are claims under PAGA that arise from or relate to the allegations contained in the Complaint that Google unlawfully required employees to sign a Medical Release Form.
- L. "LWDA" means the California Labor and Workforce Development Agency.
- M. "LWDA Payment" means the portion of the payment from the Total Settlement Amount to be paid to the LWDA under the Settlement Agreement.
- N. "Net Settlement Amount" means the amount from the Total Settlement Amount that is available for distribution of the LWDA Payment and as Settlement Shares to the PAGA Settlement Group Members after the deductions set forth in Sections III.C-E. The entire Net Settlement Amount will be distributed to the LWDA and PAGA Settlement Group Members in payment of PAGA penalties.
- O. "PAGA Settlement Group Members" means current and former employees of Google in California who signed the Medical Release Form at any time during the Covered Period.
- P. "Plaintiff" means DeWayne Cassel.
- Q. "Plaintiff's Counsel" means the firm of Baker Curtis & Schwartz, P.C.
- R. "Released Parties" means Google, and any present and former parents, subsidiaries and affiliated companies or entities (not including the Reed Group or Met Life), and their respective officers, directors, employees, partners, shareholders and agents, and any other successors, assigns and legal representatives and its related persons and entities.
- S. "Settlement Administrator" means the administrator Phoenix Class Action Administration Solutions or a comparable vendor approved by the Court.
- T. "Settlement Share" means the portion of the Net Settlement Amount allocable to each PAGA Settlement Group Member as provided by this Agreement.
- U. "Total Settlement Amount" means the total amount to be paid by Google as provided by this Agreement.

II. FACTUAL BACKGROUND

- A. On July 31, 2017, Plaintiff provided notice to the LWDA contending that the Medical Release Form violated Labor Code § 432.5. Thereafter, the parties agreed to toll any applicable statute of limitations pending settlement discussions. These settlement discussions were unsuccessful.
- B. On November 15, 2017, Plaintiff filed the Action. On the same day, Plaintiff served a second notice on the LWDA notifying it of the Medical Release Claims. On November 28, 2018, the Court deemed the case complex and stayed the Action.
- C. On or around December 22, 2017, Google ceased using the Medical Release Form and no longer uses the Reed Group as its third party administrator for leaves and/or accommodation requests.

- D. On March 22, 2018, the Parties participated in a mediation presided over by David Rotman. This mediation resulted in a Memorandum of Agreement. This Agreement replaces and supersedes the Memorandum of Agreement entered into at the mediation.
- E. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Google that Plaintiff's claims in the Action have merit or that it has any liability to Plaintiff or the PAGA Settlement Group on those claims, or as an admission by Plaintiff that Google's defenses in the Action have merit.

III. SETTLEMENT TERMS AND CONDITIONS

- A. **Stipulation for Settlement Only.** Consistent with this Agreement, Plaintiff will stipulate to the dismissal with prejudice of all claims against Google that arise from or relate to the Medical Release Forms.
- B. **Representation Regarding Access to Medical Records.** Google represents that its practice is (and always has been) not to solicit, receive or use any medical records provided by a Google employee to the Reed Group or MetLife in Response to the Reed Group's Authorization and Provider's Release of Medical Records to Reed Group and MetLife. Google will instruct the Reed Group and Met Life and use reasonable steps to require the Reed Group and Met Life to provide a written representation that it has not and will not transmit any such records to Google, or outside attorneys, private investigators, or consumer reporting agencies acting on Google's behalf. If Reed Group or Met Life were to determine that any such records have been transmitted, Google will instruct the Reed Group and Met Life and use reasonable steps to require the Reed Group or Met Life to identify the records and the persons to whom they have been transmitted. Google will take reasonable steps to ensure the records are destroyed or deleted.
- B. **Representation Regarding PAGA Settlement Group Members.** Google represents that there are approximately 2,539 individuals that compose the PAGA Settlement Group Members. The accuracy of this number will not affect this settlement unless it differ by more than 10% from the total referenced herein.
- C. **Total Settlement Amount.** Subject to the terms and conditions of this Agreement, the Total Settlement Amount is \$251,157.00. The Total Settlement Amount will cover (a) all Settlement Shares to PAGA Settlement Group Members pursuant to the Settlement (described in Section III.F-G); (b) the LWDA Payment; (c) Plaintiff's attorneys' fees, costs, and expenses related to the claims encompassed by this Agreement (which includes all such fees and costs incurred to date, as well as all such fees and costs incurred in documenting the settlement, securing court approval of the settlement including any and all motions related thereto, and obtaining a dismissal of the claims encompassed by this Agreement) (described in Section III.D); (d) the incentive payment set forth in Section III.E; and (e) the Settlement Administrator's fees and expenses.
- D. **Attorneys' Fees and Litigation Costs.** Google will not oppose an application for attorneys' fees in an amount that does not exceed 33% of the Total Settlement Amount (\$82,881.81). Google will not oppose an application for up to \$25,000 in litigation costs. IRS Forms 1099 and state and local equivalents will be issued to Plaintiff's Counsel for any awarded attorneys' fees and expenses. Plaintiff's Counsel will not seek, or be

entitled to any attorneys' fees and/or expenses related to the claims encompassed by this Agreement, other than those specified in this Agreement.

- E. **Incentive Payments.** Plaintiff's Counsel will request, and Google will not oppose, incentive payments to Plaintiff from the Total Settlement Amount in an amount not to exceed \$1,000. This incentive payment shall be in addition to whatever payment Plaintiff is otherwise entitled to as PAGA Settlement Group Members. Plaintiff will be issued an IRS Form 1099 and its state and local equivalents for any incentive payment amount received under the Settlement.
- F. **Settlement Shares.** Subject to the terms and conditions of this Agreement, each PAGA Settlement Group Member will be allocated a Settlement Share from 25% of the Net Settlement Amount; the remainder of the Net Settlement Amount shall be paid to the LWDA, as described below in Section III.I. The Settlement Share is intended to settle claims for civil penalties. Accordingly, the payments to PAGA Settlement Group Members will not be reduced by payroll tax withholding and deductions; and, instead, the Settlement Administrator will issue to the PAGA Settlement Group Member a Form 1099 with respect to the payment.
- G. **Distribution of Settlement Shares to PAGA Settlement Group Members.** After deducting for the amounts for the LWDA Payment, the Settlement Administrator's fees and expenses, the PAGA Representative Payment, and attorneys' fees, costs, and expenses, the remainder of the Net Settlement Amount will be paid as Settlement Shares to each PAGA Settlement Group Member. The portion of the Net Settlement Amount available for distribution to PAGA Settlement Group Members (25% of the Net Settlement Amount) will be divided equally among all PAGA Settlement Group Members.
- H. **Payments to Settlement Administrator.** The Settlement Administrator will pay to itself out of the Total Settlement Amount its reasonable fees and expenses as approved by the Court.
- I. **Payment to LWDA.** The Settlement Administrator will pay 75% of the Net Settlement Amount to the LWDA as its share of the Settlement attributable to civil penalties under PAGA (the "LWDA Payment"). If the Court approves an LWDA Payment of less than 75%, the remainder will be retained in the Net Settlement Amount.
- J. **Appointment of Settlement Administrator.** In connection with a Joint Motion to the Court for an Order Approving this Agreement ("Joint Motion"), the Parties will propose a Settlement Administrator to distribute Settlement Shares and other payments due under the Settlement; and otherwise administer the Settlement. In the event that the Settlement is not approved, Google will pay the Settlement Administrator's reasonable fees incurred as of that time. The Settlement Administrator, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator's duties will include preparing, printing, and mailing the Notice Packet to the PAGA Settlement Group Members; conducting a National Change of Address search and using Accurant and other reasonable and cost-effective skip trace methods to locate any PAGA Settlement Group Member whose Notice Packet was returned by the U.S. Postal Service as non-deliverable, and re-mailing the Notice Packet to the PAGA Settlement Group Member's new address; issuing the checks to effectuate the payments due under the Settlement; and otherwise administering

the Settlement pursuant to this Agreement. The Settlement Administrator's reasonable fees and expenses, including the cost of printing and mailing the Notice Packet, will be paid out of the Total Settlement Amount.

K. Procedure for Approving Settlement.

1. Motion for an Order Approving the Settlement.
 - a. The Parties will cooperate in seeking approval of the Settlement, including by drafting and filing the Joint Motion. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents reasonably necessary to be prepared or filed and shall take all steps that may be requested by the Court relating to the approval and implementation of the Settlement. Plaintiff's Counsel shall submit the Settlement Agreement and motion papers to the LWDA no later than three business days after the Settlement Agreement and motion papers are filed with the Court. See Exhibit C.
 - b. At the hearing on the Joint Motion, the Parties will jointly appear, support the granting of the motion, and submit an order granting the motion in the form evidenced by Exhibit A to this Agreement.
 - c. The Parties will jointly file the Joint Motion. If the Court does not grant the application for approval and issue an order approving the Settlement, under the specific terms requested, the Parties agree to meet and confer to address the Court's concerns and determine whether resolution of the claims encompassed by the Settlement can be obtained in a manner consistent with the Court's concerns.
 - d. If the Court does not grant approval of the Settlement, or if the Court's final approval of the Settlement is reversed or materially modified on appellate review, then the Settlement will become null and void. A modification of amounts payable in attorneys' fees or expenses shall not be deemed a material modification of the Settlement.

L. **No Right to Opt Out.** The Parties agree there is no statutory right for any PAGA Settlement Group Member to opt out or otherwise exclude himself or herself from the Settlement.

M. **Notice and Payment of Settlement Shares to PAGA Settlement Group Members.** After the Court enters its order granting the Joint Motion, every PAGA Settlement Group Member will be provided with a notice concerning the Settlement (see Exhibit B; "Notice Packet") and payment of the PAGA Settlement Group Member's Settlement Share.

1. Consistent with the timeframes set forth in Section III.P, the Settlement Administrator will send each PAGA Settlement Group Member the Notice Packet and payment of the PAGA Settlement Group Member's Settlement Share. The Settlement Administrator will mail the Notice Packets and Settlement Share payments to all identified PAGA Settlement Group Members, using the mailing address information provided by Google, unless modified by any updated address

information that the Settlement Administrator obtains in the course of administration of the Settlement.

2. In the event of returned or non-deliverable Notice Packets, the Settlement Administrator will make reasonable efforts to locate PAGA Settlement Group Members and re-send the Notice Packets. The Settlement Administrator will promptly, and not later than 15 days from receipt of the returned packet, search for a more current address for the PAGA Settlement Group Member using Accurint and other reasonable and cost-effective skip trace methods, and re-mail the Notice Packet to the PAGA Settlement Group Member. The Settlement Administrator will use the PAGA Settlement Group Members' data and otherwise work with Google to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, court orders, and fee, as agreed to with Plaintiff's Counsel and according to the following deadlines, to trace the mailing address of any PAGA Settlement Group Member for whom a Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps will include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to PAGA Settlement Group Members for whom new addresses are found. If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records and notify Plaintiff's Counsel and Google's Counsel of the date and address of each such re-mailing as part of a weekly status report provided to the Parties. Plaintiff's Counsel and Google's Counsel will be entitled to receive from the Settlement Administrator any updated address information about a PAGA Settlement Group Member as the Settlement Administrator obtains such information.

- N. **Submission of Order.** Plaintiff shall submit a copy of the order providing for or denying an award of civil penalties within 10 days after entry of the dismissal and/or Order, in compliance with Section 2699(1)(3) of the California Labor Code. If Plaintiff fails to satisfy this condition in strict compliance with Section 2699(1)(3) of the California Labor Code, the Settlement shall be voidable at Google's option.
- O. **Waiver of Right to Appeal.** Provided that the court's approval of this Settlement is consistent with the material terms of this Agreement, Plaintiff, Google, and their respective counsel hereby waive any and all rights to appeal the final approval of the Settlement, and the Order therefore will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings or any waiver of Plaintiff's Counsel's choice to contest the Court's award of fees, costs, or incentive payments. If an appeal is taken, the time for consummating the Settlement (including making payments under the Settlement) will be suspended until such time as their appeal is finally resolved and the Order becomes Final, as defined in this Agreement.
- P. **Timing of Settlement Payments and Receipt of Contact Information.** Within 5 days after the Settlement becomes Final, as defined in this Agreement, the Settlement Administrator will provide Google with wire transfer information. Within 20 days after the Settlement Administrator provides Google with wire transfer information, Google will transfer the Total Settlement Amount to the Settlement Administrator via wire transfer. Also within 20 days after the Settlement Administrator provides Google with

wire transfer information, Google will provide to the Settlement Administrator the names, last known addresses and telephone numbers, and Social Security numbers of all PAGA Settlement Group Members. This information will remain confidential and will not be disclosed to anyone, except in order to carry out the reasonable efforts described in Section III.M.3, or pursuant to Google's express written authorization or by order of the Court. Google shall provide to Plaintiff's Counsel, and the Settlement Administrator will confirm, the total number of Settlement Group Members. The Settlement Shares, the LWDA Payment, and the attorneys' fees, costs, and expenses will be paid within 7 days after Google transfers the Total Settlement Amount to the Settlement Administrator.

Q. Uncashed Settlement Share Checks. A PAGA Settlement Group Member must receive or cash his or her Settlement Share payment or check within 180 calendar days after it is mailed to him or her. If a check is returned to the Settlement Administrator, the Settlement Administrator will make all reasonable efforts to re-mail it to the PAGA Settlement Group Member at his or her correct address. If any PAGA Settlement Group Member's Settlement Share check is not cashed within 120 days after its last mailing to the PAGA Settlement Group Member, the Settlement Administrator will send the PAGA Settlement Group Member a letter or postcard informing him or her that unless the check is cashed in the next 60 days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If a PAGA Settlement Group Member fails to cash the check for his or her Settlement Share within 180 days after it is mailed to him or her, the Settlement Administrator will distribute the funds represented by the uncashed check to the California State Controllers' Office Unclaimed Property Fund.

R. Release and Waiver of Claims.

1. **PAGA Settlement Group Members.** In consideration for the LWDA Payment and the PAGA Settlement Group Members awarded Settlement Shares, as of the date the Settlement becomes Final, the LWDA and PAGA Settlement Group Members release any and all known and unknown claims under PAGA against the Released Parties that arise out of or relate to the Medical Release Claims, including but not limited to claims for violation of California Labor Code section 432.5 (the "PAGA Settlement Group Members' Released Claims"). Such claims include claims for attorneys' fees and costs. This Release does not apply to claims against the Reed Group or Met Life.
2. **Waiver of Rights under California Civil Code Section 1542.** The PAGA Settlement Group Members' Released Claims include all such respective claims, whether known or unknown by the releasing party. Thus, even if a PAGA Settlement Group Member (including Plaintiff) discovers facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the PAGA Settlement Group Members' Released Claims, those claims will remain released and forever barred. Therefore, with respect only to those respective released claims, Plaintiff and the PAGA Settlement Group Members expressly waive and relinquish the provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time

of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

- S. **No Effect on Other Benefits.** The Net Settlement Shares will not result in any additional benefit payments (such as 401(k) or bonus) beyond those provided by this Agreement to Plaintiff or the PAGA Settlement Group Members.
- T. **Confidentiality Preceding Approval.** Prior to filing the Joint Motion, Plaintiff and his attorneys will not issue any press or other media releases or have any communication with the press or media or anyone other than family members, clients, PAGA Settlement Group Members, financial advisors, retained experts, and vendors related to settlement administration, regarding the Settlement. Information regarding the Settlement may be disclosed to the Court if requested or in response to information disclosed by Google. If, before the filing of the Joint Motion, Plaintiff or his attorneys disclose to any unauthorized party (a) that a settlement has been reached or (b) any of the terms of the Settlement except as required by law or to effect the Settlement, Google may rescind the Settlement, rendering it null and void.
- U. **Miscellaneous Terms.**
1. **No Admission of Liability.**
 - a. Google denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, or has any liability to anyone under the claims asserted in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Google, or an admission by Plaintiff that any of his claims was non-meritorious or any defense asserted by Google was meritorious. This Settlement and the fact that Plaintiff and Google were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with the Settlement).
 - b. Whether or not the Order becomes Final, nothing in this Agreement, any document, statement, proceeding or conduct related to the Settlement, or any reports or accounting of those matters, will be construed as, offered or admitted in evidence as, received as, or deemed to be evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage.
 - c. This Section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings to enforce any or all terms of this Agreement, or in defense of any claims released or barred by this Agreement.
 2. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be

deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.

3. **Attorney Authorization.** Plaintiff's Counsel and Google's Counsel warrant and represent that they are authorized by Plaintiff and Google, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court or mediator, and in all cases all such documents, supplemental provisions and assistance of the court will be consistent with this Agreement.
4. **Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their successors-in-interest.
5. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
6. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
7. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
8. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
9. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
10. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and the PAGA Settlement Group:

Chris Baker
Deborah Schwartz
Baker Curtis & Schwartz, P.C.
1 California St., Suite 1250
San Francisco, CA 94111
Telephone: (415) 433-1064
Facsimile: (415) 366-2525
cbaker@bakerlp.com
dschwartz@bakerlp.com

To Google:

Zachary P. Hutton
Paul Hastings LLP
55 Second Street, 24th Floor
San Francisco, California 94105
Telephone: (415) 856-7000
Facsimile: (415) 856-7100
zachhutton@paulhastings.com

Cameron W. Fox
Ankush Dhupar
Paul Hastings LLP
515 South Flower Street, 25th Floor
Los Angeles, CA 90071
Telephone: (213) 683-6000
Facsimile: (213) 627-0705
cameronfox@paulhastings.com
ankushdhupar@paulhastings.com

11. **Execution in Counterpart.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures will be accepted if the original signature is provided within seven days. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 13Sept, 2018

DEWAYNE CASSEL

A. DeWayne Cassel

Dated: 9-11, 2018

GOOGLE LLC

By: Amy J Hambley
VP, Legal

APPROVED AS TO FORM:

Dated: 9/14, 2018

CHRIS BAKER
DEBORAH SCHWARTZ
BAKER CURTIS & SCHWARTZ, P.C.

By: [Signature]
Chris Baker
Attorney for Plaintiff

Dated: 9/16, 2018

ZACHARY P. HUTTON
CAMERON W. FOX
ANKUSH DHUPAR
PAUL HASTINGS LLP

By: [Signature]
Cameron W. Fox
Attorney for Defendant Google LLC

EXHIBIT A

[[PROPOSED] ORDER GRANTING APPROVAL OF SETTLEMENT]

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COUNSEL LISTED ON FOLLOWING PAGE

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

DEWAYNE CASSEL, on behalf of the State of
California and aggrieved employees as to
PAGA, and as an individual seeking a public
injunction

Plaintiff,

vs.

GOOGLE LLC, GOOGLE INC., ALPHABET,
INC., and DOES 1 through 10,

Defendants.

Case No. 17CV319202

**[PROPOSED] ORDER APPROVING
PAGA SETTLEMENT REGARDING
MEDICAL RELEASE FORM**

Department: 1 (COMPLEX)
Judge: Hon. Brian C. Walsh
Hearing Date: September 28, 2018
Time: 9:00 a.m.

Complaint Filed: November 15, 2017
Trial Date: Not Set

1 CHRIS BAKER (State Bar No. 181557)
2 DEBORAH SCHWARTZ (State Bar No. 208934)
3 cbaker@bakerlp.com
4 dschwartz@bakerlp.com
5 BAKER CURTIS & SCHWARTZ, P.C.
6 1 California Street, Suite 1250
7 San Francisco, CA 94111
8 Telephone: (415) 433-1064
9 Fax: (415) 366-2525

10 Attorneys for Plaintiffs
11 DEWAYNE CASSEL

12 ZACHARY P. HUTTON (Cal. State Bar No. 234737)
13 PAUL HASTINGS LLP
14 zachhutton@paulhastings.com
15 55 Second Street
16 Twenty-Fourth Floor
17 San Francisco, California 94105-3441
18 Telephone: 1(415) 856-7000
19 Facsimile: 1(415) 856-7100

20 CAMERON W. FOX (Cal State Bar No. 218116)
21 ANKUSH DHUPAR (Cal State Bar No. 307689)
22 PAUL HASTINGS LLP
23 cameronfox@paulhastings.com
24 ankushdhupar@paulhastings.com
25 515 South Flower Street, 25th Floor
26 Los Angeles, California 90071
27 Telephone: 1(213) 683-6000
28 Facsimile: 1(213) 627-0705

Attorneys for Defendants
GOOGLE INC. and ALPHABET INC.

1 On September 28, 2018, a hearing was held on the joint motion of defendants Google
2 LLC, Google, Inc. and Alphabet Inc. (collectively "Google") and Plaintiff DeWayne Cassel
3 (collectively "the Parties") for approval of a settlement agreement pursuant to the Labor Code
4 Private Attorneys General Act ("PAGA") (the "Settlement"). Chris Baker of Baker Curtis &
5 Schwartz, P.C. appeared for Plaintiff, and Zachary P. Hutton of Paul Hastings LLP appeared for
6 Google. The Court having considered all papers filed and proceedings herein and otherwise
7 being fully informed, and having made this Order, and good cause appearing,

8 **IT IS HEREBY ORDERED:**

9 1. All terms used for purposes of this Order, not otherwise defined, shall have the
10 same meaning as given in the Settlement Agreement ("Settlement") executed between the Parties
11 on [REDACTED]. A copy of the Settlement is attached as Exhibit 4 to the Baker Declaration
12 filed in support of the Joint Motion for Approval.

13 2. Pursuant to PAGA, Cal. Lab. Code §§ 2699(1)(2), (1)(4), the Labor Workforce and
14 Development Agency ("LWDA") has been given notice of the Settlement. In particular, on the
15 date the parties filed the motion seeking approval of the Settlement with the Court, Plaintiff
16 submitted to the LWDA a notice of the Settlement enclosing a copy of the Settlement. The Court
17 finds and determines that Plaintiffs' notice of the Settlement complied with the statutory
18 requirements of PAGA.

19 3. The Court confirms approval of the Settlement as to the following group of
20 individuals, collectively referred to as the "PAGA Settlement Group Members":

21 All current and former employees of Google in California who
22 signed the Medical Release Form at any time during the Covered
23 Period. The "Covered Period" is defined as the period of time from
24 July 31, 2016 to [the date the Court grants approval of the
Settlement]

25 4. This Court has jurisdiction over the subject matter of this litigation, over all PAGA
26 Settlement Group Members, and over those persons and entities undertaking affirmative
27 obligations under the Settlement.
28

1 5. The Court finds that the Settlement should be approved under Labor Code section
2 2699(1)(2). Accordingly, the Court hereby finally and unconditionally approves the Settlement.

3 6. The Court finds that the Notice to PAGA Settlement Group Members, attached as
4 Exhibit 5 to the Baker Declaration filed in support of the joint motion, fairly and adequately
5 describes the Action as it relates to claims released by this PAGA Settlement, the approved
6 settlement, and is the best notice practicable under the circumstances.

7 7. The Court finds that each PAGA Settlement Group Member, in accordance with
8 the Settlement, releases the following "Released Claims" against the Released Parties.

9 Any and all known and unknown claim under PAGA against the
10 Released Parties, that arise out of or relate to the Medical Release
11 Claims, including but not limited to claims for violation of
California Labor Code section 432.5.

12 8. As to the Released Claims Only, the PAGA Settlement Group Members also
13 waive and relinquish the provisions, rights and benefits of section 1542 of the California Civil
14 Code.

15 9. The Court finds that the Total Settlement Amount, Net Settlement Amount, and
16 the methodology used to calculate and pay each Settlement Share, in accordance with the
17 Settlement should be approved under Labor Code section 2699(1)(2).

18 10. The Court authorizes the Settlement Administrator to calculate and pay the
19 Settlement Shares, fees, costs, and an incentive payment in accordance with the terms of the
20 Settlement and the Court's order as it relates to Plaintiff's motion for fees, costs, and incentive
21 payment.

22 11. The Court authorizes the Settlement Administrator in this Action its fees and costs
23 in accordance with the terms of the Settlement Agreement, not to exceed \$6,490.

24 12. The Court approves the allocations and payment of \$251,557 as for the
25 compromise of claims brought under PAGA, to be paid in accordance with the terms of the
26 Settlement and the Court's order concerning fees, costs, and an incentive payment.

27 13. Under the terms of the Settlement, 75% of the Net Settlement Amount will be paid
28 to the State of California Labor Workforce Development Agency ("LWDA Payment"); the

1 remaining amount of the Net Settlement Amount shall be distributed to the PAGA Settlement
2 Group Members in accordance with the terms of the Settlement.

3 14. Checks for the Settlement Shares sent to PAGA Settlement Group Members shall
4 be valid for 180 days after issuance. Funds remaining from any checks for Settlement Shares
5 uncashed after 180 days will be disbursed to the California State Controllers' Office Unclaimed
6 Property Fund.

7 15. The Court retains exclusive and continuing jurisdiction over this Action for
8 purposes of supervising, administering, implementing, interpreting, and enforcing this Order, as
9 well as the Settlement.

10 16. Nothing in this Order or the Settlement shall be construed as an admission or
11 concession by any party. The Settlement and this resulting Order simply represent a compromise
12 of disputed allegations.

13 17. Plaintiffs are directed to submit a copy of this Order to the LWDA within 10 days
14 of the date of this Order.

15 **IT IS SO ORDERED.**

16
17 DATED: _____

HON. BRIAN C. WALSH

EXHIBIT B

[NOTICE OF APPROVAL OF SETTLEMENT]

NOTICE OF SETTLEMENT

On [Date], the Santa Clara Superior Court approved a settlement of claims under the Private Attorneys General Act ("PAGA") against Google LLC, Google, Inc. and Alphabet, Inc. concerning Google's use of a Medical Release Form. The case is entitled *Cassel v. Google et al.*, Case No. *Doe et al. v. Google et al.*, Case No. 17CV319202.

Plaintiff, in a lawsuit brought on behalf of the State of California and as a private individual seeking a public injunction, claimed the Medical Release Form used by Google and its Third Party Administrators when employees sought to take a leave or seek a reasonable accommodation violated the law because it required employees to release employment and medical information to Google and others beyond that required by certain leave and disability laws. Plaintiff also claimed that the Medical Release Form permitted Google and others to use the employment and medical information for impermissible reasons. On or around December 22, 2018, Google ceased use of the Medical Release Form and stopped using the Third Party Administrator that had utilized the Form.

Google denies any liability and denies Plaintiff's allegations. Specifically, Google contends that the release was not overbroad or used as Plaintiff alleged, that it complied with all applicable laws, and that civil penalties under Labor Code are not recoverable.

After good-faith negotiations in which both sides recognized the substantial risk of an uncertain outcome, Plaintiff and Google agreed to settle Plaintiff's claim pursuant to the terms and conditions of the Settlement.

The Settlement covers claims under the Private Attorneys Generals Act ("PAGA") arising from the Medical Release Form. You are member of the Settlement Group, which is defined as:

All current and former employees of Google in California who signed the Medical Release Form at any time during the Covered Period. The "Covered Period" is defined as the period of time from July 31, 2016 to [the date the Court grants approval of the Settlement]

As a result of the Settlement, Google has agreed to pay two hundred fifty-one thousand one hundred and fifty-seven dollars (\$251,557) in civil penalties, an incentive payment, attorneys' fees, costs, and administration costs.

The Settlement approved by the Court includes a release by Settlement Group Members, for the period of July 31, 2016 to [the date the Court grants approval of the Settlement], of any and all known and unknown claims under PAGA against the "**Released Parties**" that arise out of or relate to the "**Medical Release Claims**," including but not limited to claims for violation of California Labor Code section 432.5. Such claims include claims for attorneys' fees and costs. This Release does not apply to claims against the Reed Group or Met Life.

The "**Released Parties**" are Google LLC, Google Inc., Alphabet Inc., and any present and former parents, subsidiaries and affiliated companies or entities (not including the Reed Group or Met Life), and their respective officers, directors, employees, partners, shareholders and agents, and any other successors, assigns and legal representatives and its related persons and entities.

The "**Medical Release Claims**" are claims under PAGA that arise from or relate to the allegations contained in the Complaint that Google unlawfully required employees to sign the

Medical Release Form as a condition of taking a protected leave or seeking a reasonable accommodation.

In addition, as a part of the Settlement, Google has agreed to the following:

Representation Regarding Access to Medical Records. Google represents that its practice is (and always has been) not to solicit, receive or use any medical records provided by a Google employee to the Reed Group or MetLife in Response to the Reed Group's Authorization and Provider's Release of Medical Records to Reed Group and MetLife. Google will instruct the Reed Group and Met Life and use reasonable steps to require the Reed Group and Met Life to provide a written representation that it has not and will not transmit any such records to Google, or outside attorneys, private investigators, or consumer reporting agencies acting on Google's behalf. If Reed Group or Met Life were to determine that any such records have been transmitted, Google will instruct the Reed Group and Met Life and use reasonable steps to require the Reed Group or Met Life to identify the records and the persons to whom they have been transmitted. Google will take reasonable steps to ensure the records are destroyed or deleted.

A complete copy of the settlement, as well as the Court's order approving the settlement, along with other papers relevant to the claims, can be found at [settlement administrator's website link]. You may also review pleadings and other records relevant to the case at the Office of the Clerk of the Court, Superior Court of California for Santa Clara County, 191 N. First St., San Jose, CA 95113 during the Clerk's normal business hours, or by accessing the "Case Information Online" tab at the Santa Clara's Superior Court's website at services at http://scscourt.org/online_services.shtml, and searching for case number 17CV319202.

The Court has approved this settlement. You are receiving the enclosed check because, under PAGA, "aggrieved employees" are entitled to 25% of the civil penalties awarded to the State. Because you signed the Medical Release Form in the applicable time period, you are a member of the Settlement Group, you are entitled to a pro-rated share of the aggrieved employees' share of the civil penalties.

If you have any questions about the settlement, you may contact:

Plaintiffs' counsel at:

Chris Baker
Baker Curtis & Schwartz
1 California Street, Suite 1250
San Francisco, CA 94111
415.433.1064

Or:

The settlement administrator at:

[Address]

Please do not telephone the Court or Google's counsel for information regarding the settlement or the claims process.

EXHIBIT C

[NOTICE TO LWDA]

1 CHRIS BAKER, State Bar No. 181557
2 cbaker@bakerlp.com
3 DEBORAH SCHWARTZ, State Bar No. 208934
4 dschwartz@bakerlp.com
5 BAKER CURTIS & SCHWARTZ, P.C.
6 1 California Street, Suite 1250
7 San Francisco, CA 94104
8 Telephone: (415) 433-1064
9 Fax: (415) 366-2525

10 Attorneys for Plaintiff
11 DEWAYNE CASSEL

12 SUPERIOR COURT OF CALIFORNIA
13 COUNTY OF SANTA CLARA

14 DEWAYNE CASSEL, on behalf of the State of
15 California and aggrieved employees as to
16 PAGA, and as an individual seeking a public
17 injunction

18 Plaintiff,

19 vs.

20 GOOGLE LLC, GOOGLE INC., ALPHABET,
21 INC., and DOES 1 through 10,

22 Defendants.

Case No. 17CV319202

**NOTICE OF PAGA SETTLEMENT RE
MEDICAL RELEASE FORM**

Department: 1 (COMPLEX)
Judge: Hon. Brian C. Walsh
Hearing Date: September 28, 2018
Time: 9:00 a.m.

Complaint Filed: November 15, 2017
Trial Date: November 6, 2018

To the California Labor and Workforce Development Agency:

PLEASE TAKE NOTICE that the parties to this action have settled certain Labor Code Private Attorneys General Act ("PAGA") claims which are part of the case. In accordance with PAGA, Cal. Lab. Code § 2699(1)(2), plaintiff DeWayne Cassel and defendants Google LLC, Google Inc. and Alphabet Inc. (collectively "Google"), provide notice to the LWDA and enclose the following documents:

1. The parties' Settlement Agreement;
2. The parties proposed notice to PAGA Settlement Group members;

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3. The parties' Notice of Joint Motion and Joint Motion for Preliminary Approval of PAGA Settlement and all supporting papers; and

4. Plaintiff's motion for fees, costs, and incentive payments and all supporting papers.

If you have any questions about this notice of the enclosed materials, please contact counsel for the parties, as provided below:

Plaintiffs DeWayne Cassel:
Chris Baker
Deborah Schwartz
BAKER CURTIS & SCHWARTZ,
P.C.
1 California Street, Suite 1250
San Francisco, California 94111
Telephone: 1(415) 433-1064
Facsimile: 1(415) 366-2525

Defendant Google:
Zachary P. Hutton
PAUL HASTINGS LLP
55 Second Street
Twenty-Fourth Floor
San Francisco, California 94105-3441
Telephone: 1(415) 856-7000
Facsimile: 1(415) 856-7100

Cameron W. Fox
Ankush Dhupar
PAUL HASTINGS LLP
515 South Flower Street, 25th Floor
Los Angeles, California 90071-2228
Telephone: (213) 683-6000
Facsimile: (213) 627-0705

Respectfully submitted:

DATED: August ___, 2018

BAKER CURTIS & SCHWARTZ, P.C.

By: _____
Chris Baker
Attorneys for Plaintiff
DEWAYNE CASSEL