

**FIRST AMENDED JOINT STIPULATION OF
CLASS ACTION AND PAGA SETTLEMENT AND RELEASE**

This First Amended Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,” “Settlement Agreement,” or “Agreement”) is entered into by Plaintiffs CANDON LOVETT (“Plaintiff Lovett”), KENNITH BOOZE (“Plaintiff Booze”), DEARTIS SUDDUTH (“Plaintiff Sudduth”), and JONATHAN GIRVIN (“Plaintiff Girvin”) (collectively, “Plaintiffs”) on the one hand, and Defendant WONDER ICE CREAM, INC. (“Defendant”), on the other (collectively, Plaintiffs and Defendant are referred to as the “Parties”), pursuant to the terms set forth in Section 20 below.

The Parties agree to supplant the Joint Stipulation of Class Action and PAGA Settlement and Release entered into by the Parties on or around February 28, 2023, with this First Amended Joint Stipulation of Class Action and PAGA Settlement and Release.

WHEREAS, Plaintiffs are former employees of Defendant;

WHEREAS, on August 4, 2021, Plaintiffs Lovett and Booze filed a Class Action Complaint for Damages initiating the action entitled *Candon Lovett, et al. v. Wonder Ice Cream, Inc., et al.*, in the Superior Court of California for the County of Alameda, Case No. RG21109738 (“Action”);

WHEREAS, on September 1, 2021, Plaintiffs Lovett, Booze, and Sudduth filed a First Amended Class Action Complaint for Damages in the Action, which added Plaintiff Sudduth as a named plaintiff;

WHEREAS, on April 28, 2022, Plaintiff Girvin filed a Class Action Complaint for Restitution initiating the action entitled *Jonathan Girvin v. Wonder Ice Cream Company, LLC, et al.*, in the Superior Court of California for the County of Santa Clara, Case No. 22CV397371 (“Girvin Action”);

WHEREAS, the Action and the *Girvin* Action are together referred to as the “Actions”;

WHEREAS, on September 21, 2022, Plaintiff Sudduth provided written notice to the Labor and Workforce Development Agency (“LWDA”) and Defendant of the specific provisions

of the California Labor Code that were allegedly violated (“Sudduth LWDA Letter”);

WHEREAS, on October 5, 2022, Plaintiff Lovett provided written notice to the LWDA and Defendant of the specific provisions of the California Labor Code that were allegedly violated (“Lovett LWDA Letter”);

WHEREAS, on October 5, 2022, Plaintiff Booze provided written notice to the LWDA and Defendant of the specific provisions of the California Labor Code that were allegedly violated (“Booze LWDA Letter”);

WHEREAS, on October 5, 2022, Plaintiff Girvin provided written notice to the LWDA and Defendant of the specific provisions of the California Labor Code that were allegedly violated (“Girvin LWDA Letter”);

WHEREAS, the Sudduth LWDA Letter, Lovett LWDA Letter, Booze LWDA Letter, and Girvin LWDA Letter are collectively referred to as the “LWDA Letters”;

WHEREAS, on September 7, 2022, the Parties commenced a full-day mediation with mediator Francis J. Ortman III, Esq., and reached a settlement of all claims in the Actions;

WHEREAS, on May 5, 2023, Plaintiffs filed a Second Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“Second Amended Complaint” or “Operative Complaint”) in the Action, which, *inter alia*, added Plaintiff Girvin as a named plaintiff and added a cause of action under the California Labor Code Private Attorneys General Act of 2004, Cal. Lab. Code § 2698, *et seq.* (“PAGA”);

WHEREAS, to avoid the inherent risk and costs of litigation, the Parties want to completely settle the Actions, Released Class Claims, and Released PAGA Claims (as defined herein);

NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE to settle all such claims as follows:

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I. DEFINITIONS

The terms defined above shall have the meanings therein given, for all purposes in this Settlement, including in any exhibits hereto. The following defined terms used in this Settlement and any exhibits hereto will have the meanings given them below.

1. Agreement. “Agreement”, “Settlement”, “Settlement Agreement” means this First Amended Joint Stipulation of Class Action and PAGA Settlement and Release.

2. Aggrieved Employees. “Aggrieved Employees” means all of Defendant’s current and former non-exempt employees in the State of California and all salaried sales employees who worked for Defendant in the State of California as DSD Route Sales Representatives, or other similar positions, classified under the outside salesperson exemption, during the PAGA Period.

3. Aggrieved Employee Amount. “Aggrieved Employee Amount” means the twenty-five percent (25%) portion of the PAGA Penalties, or Twenty-Five Thousand Dollars and Zero Cents, (\$25,000.00), to be distributed to Aggrieved Employees on a *pro rata* basis based on their Workweeks during the PAGA Period.

4. Class. “Class” or “Class Members” means all of Defendant’s current and former non-exempt employees in the State of California and all salaried sales employees who worked for Defendant in the State of California as DSD Route Sales Representatives, or other similar positions, classified under the outside salesperson exemption, during the Class Period.

5. Class Certification. “Class Certification” means certification of the Class pursuant to Cal. Code Civ. Proc. § 382 and other applicable law, for purposes of this Settlement only, without prejudice to Defendant’s ability to oppose or otherwise challenge such certification, except that Defendant shall not so oppose or otherwise challenge such certification for purposes of performing Defendant’s duties under this Settlement, which include to make all reasonable efforts to give such Settlement full force and effect.

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6. Class Counsel. “Class Counsel” refers collectively to: Edwin Aiwazian, Arby Aiwazian, Joanna Ghosh, and Alexandra Rose of Lawyers for Justice, PC of 410 West Arden Avenue, Suite 203, Glendale, California 91203.

7. Class Counsel Fees and Costs. “Class Counsel Fees and Costs” means an amount of thirty-five percent (35%) of the Gross Settlement Amount in attorneys’ fees, subject to Court approval, in addition to reimbursement of actual costs and expenses incurred by Class Counsel related to the Actions as supported by declaration, with those costs and expenses not to exceed \$17,000. The Settlement Administrator may purchase an annuity to utilize U.S. treasuries and bonds or utilize other attorney fee deferral vehicles for Class Counsel, and any additional expenses for doing so shall be paid separately by Class Counsel and shall not be included within the Settlement Administration Costs. Class Counsel Fees and Costs shall be paid to Class Counsel from the Qualified Settlement Fund by the Settlement Administrator. Such payment of Class Counsel Fees and Costs shall be deemed to be full satisfaction of any obligations by Defendant to pay any attorney fees and attorney costs to Plaintiffs, Class Members, and/or Class Counsel in relation to the Actions. Any future adjustments to the amount of the Class Counsel Fees and Costs, including by the Court, shall not constitute a basis for this Settlement being void or Void *Ab Initio*. Any portion of the Class Counsel Fees and Costs not awarded to Class Counsel shall be part of the Net Settlement Amount for the benefit of Settlement Class Members.

8. Class List. “Class List” means a complete list of all Class Members that Defendant will diligently and in good faith compile from its records and confidentially provide to the Settlement Administrator. The Class List will include each Class Member’s last-known full name, mailing address, Social Security number, dates worked as a non-exempt employee or salaried employee of Defendant as a DSD Route Sales Representative, or other similar position, classified under the outside salesperson exemption in the State of California during the Class Period, and such other information as is necessary for the Settlement Administrator to calculate Workweeks.

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9. Class Notice. “Class Notice” means the Notice of Class Action Settlement to Class Members pursuant to California Rules of Court Rule 3.766, substantially in the form indicated in **Exhibit “A”** hereto, to be distributed by the Settlement Administrator to the Class, subject to Court approval, in accordance with Section II.5 below.

10. Class Period. “Class Period” refers to the time period from August 4, 2017 through Preliminary Approval, subject to Section II.15 below.

11. Class Settlement. “Class Settlement” means the settlement and resolution of all Released Class Claims.

12. Court. “Court” refers to the Superior Court of the State of California for the County of Alameda.

13. Date of Preliminary Approval. “Date of Preliminary Approval” means the date on which the Court signs and enters its order granting Preliminary Approval.

14. Defendant’s Counsel. “Defendant’s Counsel,” “Defense Counsel,” or “Counsel for Defendant” shall mean Fisher & Phillips LLP, One Montgomery Street, Suite 3400, San Francisco, California 94104, and the attorneys in such firm including Nathan K. Low (State Bar No. 299587), and Kevin L. Quan (State Bar No. 317798).

15. Effective Date. “Effective Date” shall mean the date on which all of the following have occurred:

- (a) Full execution of this Agreement by all Parties, and expiration of any applicable revocable periods related to such signatures;
- (b) Entry by the Court of Preliminary Approval;
- (c) Receipt by Defendant of written notice of such entry of Preliminary Approval pursuant to the California Code of Civil Procedure and the California Rules of Court, or Defendant’s express waiver of such notice;
- (d) The Court setting and conducting a Final Approval Hearing pursuant to California Rules of Court Rule 3.769(g);
- (e) Entry by the Court of the Final Approval Order and Judgment;

(f) Service by Plaintiffs of written notice of such entry of Final Approval Order and Judgment, or Defendant's express waiver of such notice;

(g) Final Approval has become Final. For purposes of this provision, "Final" means:

- i. if no objections are made to the Class Settlement and/or are made to the Class Settlement and withdrawn, the date the Court enters the Final Approval Order and Judgment pursuant to California Rules of Court Rule 3.769(h);
- ii. if any objections are made to the Class Settlement and not withdrawn, and if no rehearing, reconsideration, or appellate review is sought from or with respect to the Final Approval Order and Judgment, the sixty-first (61st) day after entry of the Final Approval Order and Judgment; and
- iii. if rehearing, reconsideration, and/or appellate review of the Final Approval Order and Judgment is sought, the day after any and all avenues of rehearing, reconsideration, and appellate review have been exhausted and no further rehearing, reconsideration, or appellate review is permitted, and the time for seeking such review has expired, and the Final Approval Order and Judgment has not been modified, amended, or reversed in any way.

16. Final Approval. "Final Approval" means the determination by the Court that the Settlement is fair, reasonable, and adequate, and entry of the Final Approval Order and Judgment based thereon.

17. Final Approval Order and Judgment. "Final Approval Order and Judgment" means an order of the Court finally approving this Settlement pursuant to California Rules of Court Rule 3.769 and granting Class Certification.

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18. Final Approval Hearing. “Final Approval Hearing” means the hearing on a motion for Final Approval, scheduled and conducted pursuant to California Rules of Court Rule 3.769.

19. Gross Settlement Amount. “Gross Settlement Amount” means the amount Defendant shall pay as a consequence of this Settlement, which is One Million One Hundred Thousand Dollars and Zero Cents (\$1,100,000.00), subject to increase pursuant to Section II.15 below.

20. Individual PAGA Payment. “Individual PAGA Payment” means an Aggrieved Employee’s *pro rata* share of the Aggrieved Employee Amount that an Aggrieved Employee is eligible to receive for the PAGA Settlement.

21. Individual Settlement Payment. “Individual Settlement Payment” means the net payment of a Settlement Class Member’s Individual Settlement Share, after reduction for the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share.

22. Individual Settlement Share. “Individual Settlement Share” means the share of the Net Settlement Amount that a Class Member may be eligible to receive for the Class Settlement.

23. LWDA. “LWDA” means the California Labor and Workforce Development Agency.

24. LWDA Payment. “LWDA Payment” shall mean the amount payable to the LWDA, which shall be Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00). This amount shall be deemed to be seventy-five percent (75%) of the PAGA Penalties.

25. Named Plaintiffs. “Named Plaintiffs” means Plaintiffs Candon Lovett, Kenneth Booze, DeArtis Sudduth, and Jonathan Girvin.

26. Net Settlement Amount. “Net Settlement Amount” means the portion of the Gross Settlement Amount that is available for distribution to Settlement Class Members, which is the Gross Settlement Amount minus (a) Settlement Administration Costs, (b) Class Counsel Fees and Costs, (c) PAGA Penalties, and (d) Service Awards.

27. Non-exempt Workweeks. “Non-exempt Workweeks” means the number of weeks each Class Member performed work for Defendant as a non-exempt employee in the State of California during the Class Period.

28. Objection. “Objection” means a Class Member’s written objection to the Class Settlement, which must: (a) contain the case name and number of the Action; (b) contain the objector’s full name, signature, address, telephone number, and last four digits of Social Security number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

29. Opt-Out Request. “Opt-Out Request” means a written request for exclusion from the Class Settlement submitted by a Class Member, which must: (a) contain the case name and number of the Action; (b) contain the full name, signature, address, telephone number, and last four digits of the Social Security number of the Class Member requesting exclusion; (c) clearly state that the Class Member does not wish to be included in the Class Settlement; and (d) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

30. PAGA. “PAGA” means the California Labor Code Private Attorneys General Act of 2004, Cal. Lab. Code §§ 2698, *et seq.*

31. PAGA Penalties. “PAGA Penalties” means the allocation of One Hundred Thousand Dollars and Zero Cents (\$100,000.00) from the Gross Settlement Amount for the settlement and resolution of the Released PAGA Claims (i.e., PAGA Settlement). Pursuant to PAGA, seventy-five percent (75%) of the PAGA Penalties, or Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00) (i.e., the LWDA Payment), will be paid to the LWDA, and the remaining twenty-five percent (25%), or Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), will be distributed to Aggrieved Employees on a *pro rata* basis based on their Workweeks during the PAGA Period (i.e., the Aggrieved Employee Amount).

32. PAGA Period. “PAGA Period” refers to the time period from August 4, 2020 through Preliminary Approval, subject to Section II.15.

33. Party. “Party” means, individually, one of the Parties, and each of them.

34. Preliminary Approval. “Preliminary Approval” means entry of an order of the Court preliminarily approving this Settlement pursuant to California Rules of Court Rule 3.769, granting conditional Class Certification for purposes of the Settlement, certifying Class Counsel, approving the form of the Class Notice, and scheduling a Final Approval Hearing.

35. PAGA Settlement. “PAGA Settlement” means the settlement and resolution of all Released PAGA Claims.

36. QSF / Qualified Settlement Fund. “QSF” or “Qualified Settlement Fund” means the Qualified Settlement Fund to be established by the Settlement Administrator for the funding and disbursement of the Gross Settlement Amount.

37. Released Class Claims. “Released Class Claims” means any and all claims, demands, liabilities, damages, attorneys’ fees, costs, and penalties, asserted in the Operative Complaint or any other claims that could have been asserted in the Operative Complaint based on the facts alleged, arising during the Class Period, including but not limited to claims arising from alleged failure to pay unpaid wages, minimum wages, regular wages, and overtime and double time wages; failure to provide meal periods and associated premium pay; failure to provide rest periods and associated premium pay; failure to reimburse necessary business-related expenses; failure to time pay wages upon termination of employment; failure to timely pay wages during employment; failure to provide compliant wage statements; failure to maintain accurate payroll records; failure to provide a day of rest; and unfair or unlawful business practices pursuant to California Business and Professions Code § 17200, *et seq.* based on the aforementioned.

38. Released PAGA Claims. “Released PAGA Claims” means any and all claims for civil penalties asserted in the Operative Complaint or any other claims for civil penalties that could have been asserted in the Operative Complaint based on the facts alleged, under the

Private Attorneys General Act, California Labor Code Section 2698, *et seq.*, arising during the PAGA Period, including but not limited to claims arising from alleged failure to pay unpaid wages, minimum wages, regular wages, and overtime and double time wages; failure to provide meal periods and associated premium pay; failure to provide rest periods and associated premium pay; failure to reimburse necessary business-related expenses; failure to time pay wages upon termination of employment; failure to timely pay wages during employment; failure to provide compliant wage statements; failure to maintain accurate payroll records; and failure to provide a day of rest.

39. Released Parties. “Released Parties” means Defendant Wonder Ice Cream, Inc., Wonder Ice Cream Company, LLC, WIC, LLC, Wonder Ice Cream, LLC, their parents, subsidiaries, affiliates, insurers, related entities and divisions, and their respective: (i) predecessors, successors, and assigns, and (ii) current and former agents, heirs, executors, administrators, principals, officers, directors, shareholders, employees, founders, members, assigns, insurers, attorneys, and all others claiming through or by any of them.

40. Response Deadline. “Response Deadline” means the deadline by which Class Members must submit an Opt-Out Request, Objection, and/or Workweeks Dispute, which shall be the date that is forty-five (45) calendar days from the initial mailing of the Class Notice by the Settlement Administrator, unless the 45th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended by fifteen (15) calendar days from the original Response Deadline.

41. Salaried Workweeks. “Salaried Workweeks” means the number of weeks each Class Member performed work for Defendant in the State of California as a salaried sales employee as a DSD Route Sales Representative, or other similar position, classified under the outside salesperson exemption during the Class Period.

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42. Service Awards. “Service Awards” means the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00) to be paid to each Plaintiff (total, \$40,000.00) in recognition of their effort and work in prosecuting the Actions on behalf of Class Members, the State of California, and Aggrieved Employees. The Service Awards, which will be paid from the Gross Settlement Amount, subject to Court approval, will be in addition to any other payment Plaintiffs may be eligible to receive under the Settlement, e.g., their Individual Settlement Payment and/or Individual PAGA Payment. The Settlement Administrator will issue IRS Forms 1099 to Plaintiffs for their Service Awards, and Plaintiffs shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. Should the Court approve the Service Awards in amounts less than that is set forth above, the difference between the lesser amounts approved by the Court and the amount allocated toward the Service Awards will be part of the Net Settlement Amount for the benefit of Settlement Class Members.

43. Settlement Administrator. “Settlement Administrator” means Phoenix Settlement Administrators, or any other third-party class action settlement administrator agreed to by the Parties and approved by the Court for purposes of administering the Settlement. The Parties and their counsel each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

44. Settlement Administration Costs. “Settlement Administration Costs” means the reasonable costs of administration of the Settlement and distribution of payments under the Settlement, which is currently estimated not to exceed Twelve Thousand Dollars and Zero Cents (\$12,000.00). These costs, which will be paid from the Gross Settlement Amount, subject to Court approval, will include, *inter alia*, translating, printing, distributing, and tracking Class Notices and other documents for this Settlement, calculating and distributing payments due under the Settlement, issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances, providing necessary reports and declarations, and other

duties and responsibilities set forth herein to process this Settlement, and as requested by the Parties. To the extent actual Settlement Administration Costs are greater than the estimated amount stated herein, such excess amount will be deducted from the Gross Settlement Amount, subject to Court approval. Any portion of the estimated, designated, and/or awarded Settlement Administration Costs which are not in fact awarded or required to fulfill payment to the Settlement Administrator to undertake the requirement settlement administration duties will be part of the Net Settlement Amount for the benefit of Settlement Class Members.

45. Settlement Class Members. “Settlement Class Members” or “Settlement Class” means all Class Members who do not submit a timely and valid Opt-Out Request.

46. Void Ab Initio. “Void *Ab Initio*” shall mean a circumstance in which this Agreement is null and void and the Parties shall be returned to conditions such that the Agreement had never been entered into. Such circumstance will be deemed to exist only if any of the following having occurred: (a) the Court has so ordered; (b) any of the Parties have materially breached this Agreement and either such breach cannot be cured, or after reasonable notice to the breaching Party and a reasonable opportunity to cure such breach to the satisfaction of the non-breaching Parties, the breaching Party has failed to do so, unless (i) the non-breaching Parties have stipulated in writing that such breach is non-material; or (ii) the Court has ruled that such un-cured or un-curable breach is non-material; (c) conditions have become such (including, for example, that the Court has refused to approve the Settlement) that the Effective Date has not occurred and cannot occur in the future; and/or (d) as otherwise specifically provided for in this Agreement.

47. Workweeks. “Workweeks” means Non-exempt Workweeks and Salaried Workweeks, which will be calculated by the Settlement Administrator, based on Class Members’ and Aggrieved Employees’ dates worked during the Class Period as a non-exempt employee or salaried employee of Defendant as a DSD Route Sales Representative, or other similar position, classified under the outside salesperson exemption in the State of California, as any week worked by a Class Member or Aggrieved Employee for Defendant during the period of seven (7)

calendar days, commencing with Sunday at 12:00 a.m.

48. Workweeks Dispute. “Workweeks Dispute” means a written letter by a Class Member disputing the number of Workweeks to which they have been credited, as reflected in their Class Notices. A Workweeks Dispute must: (a) contain the case name and number of the Action; (b) contain the full name, signature, address, telephone number, and the last four digits of the Social Security number of the disputing Class Member; (c) clearly state that the Class Member disputes the number of Non-exempt Workweeks, Salaried Workweeks, or both, credited to him or her and what he or she contends is the correct number to be credited to him or her; (d) include information and/or attach documentation demonstrating that the number of Non-exempt Workweeks, Salaried Workweeks, or both that he or she contends should be credited to him or her are correct; and (e) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

II. TERMS AND CONDITIONS OF SETTLEMENT

In addition to the definitional elements set forth above, the terms and conditions of the Settlement shall be as follows:

1. Contentions and Defenses: Compromise. The Parties have determined that this Settlement represents a fair and reasonable compromise of disputed claims for wages and other monetary and non-monetary relief, following a reasonably thorough investigation. The Parties have entered into this Settlement to avoid the inherent risks and costs of further litigation. Named Plaintiffs do not stipulate that this Settlement represents the maximum extent of such relief to which they or the Class would be entitled if the Actions were to be further litigated. Defendant does not stipulate that, should the Actions be further litigated, Named Plaintiffs and/or the Class would be entitled to any relief whatsoever. Neither Named Plaintiffs nor Defendant admit to any unlawful conduct or wrongdoing. The Parties hereby reserve all of their rights to litigate the Actions and seek all available forms of relief should this Settlement not be given effect.

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2. Confidentiality and Class Member Communications. On September 9, 2022, the Parties filed notices of settlement in the Action and *Girvin* Action and, since then, multiple joint statements advising the courts that the settlement-related paperwork is being finalized; until Class Counsel files a motion for preliminary approval, the Parties will otherwise keep the existence and terms of Settlement confidential. Until such time, Class Counsel may discuss the terms of this Settlement with Class Members other than the Named Plaintiffs only if such additional Class Members initiate contact with Class Counsel in such regard. No Party or their counsel may otherwise make any public statement or comment or make any disclosures of any kind about this Settlement to anyone, including without limitation, the public, or press, or on any public or semi-public forum on the internet (such as social media) without the express written permission of each of the other Parties. Such confidentiality provisions shall remain in force following Preliminary Approval as well, with the following exceptions: (a) the Settlement Administrator may take steps reasonably necessary to perform administration duties; (b) Class Counsel and Named Plaintiffs may take reasonably necessary steps to perform their duties as such; and (c) Class Counsel may list or disclose the Action and Settlement as among their handled cases in court filings or motions only, but may not disclose the terms of the Settlement on any firm publication or other public media. In the interest of permitting the Class Notice and administration process to function on its own, Named Plaintiffs agree not to discuss this Settlement with any Class Members or any other individuals except for their attorneys, financial representatives, accountants, and/or spouse. Defendant agrees not to encourage Class Members to, or discourage Class Members from, the exercise of any objection or opt-out rights pursuant to this Agreement. Defendant will instruct their officers, directors, managers, and supervisors that, should they be contacted by Class Members or persons who believe they may be Class Members in relation to this Agreement, such officers, directors, managers, and supervisors should make no comment except by directing the employees to the Settlement Administrator. Nothing herein will restrict Class Counsel from including publicly available information regarding this Settlement in future judicial submissions regarding Class Counsel's qualifications and

experience. Furthermore, Plaintiffs and Class Counsel will undertake any and all disclosures required to be made to the LWDA in conformity with PAGA.

3. Motion for Preliminary Approval. As soon as possible following execution of this Agreement, Plaintiffs shall move the Court for Preliminary Approval. Plaintiffs will apply to the Court for the entry of an order that would (i) conditionally certify the Class for settlement purposes only; (ii) grant Preliminary Approval of the Settlement; (iii) preliminarily appoint Plaintiffs as the representatives of the Class; (iv) preliminarily approve Class Counsel as counsel for the Class; (v) approve, as to form and content, the mutually-agreed upon and proposed Class Notice and directing its mailing to the Class by First Class U.S. Mail; (vi) approve the Opt-Out Request, Objection, and Workweek Dispute procedures set forth in this Settlement, and (vii) set a date and time for the Final Approval Hearing. The Parties shall give all reasonable cooperation necessary to obtain Preliminary Approval from the Court. As of the date of the signing of this Agreement, Class Counsel had already filed the motion for preliminary approval on March 15, 2023; if for any reason the motion has to be re-filed, Class Counsel will follow the procedures set forth herein with respect to the renewed or re-filed motion.

4. Class List. Within twenty-one (21) days of Preliminary Approval, Defendant shall cause to be delivered, as confidential and privileged information by email or otherwise, to the Settlement Administrator the Class List, which information shall be based upon Defendant's reasonably available business records and/or the best reasonably available personal knowledge of Defendant's employees and agents.

5. Notice to Class.

Within ten (10) calendar days after receiving the Class List from Defendant, the Settlement Administrator will perform a search based on the National Change of Address Database or any other similar services available, such as provided by Experian, for information to update and correct for any known or identifiable address changes, and will mail a Class Notice in English and Spanish to each Class Member via United States Mail, first class, postage prepaid to each Class Member's last-known address.

If any mailed Class Notices are returned as undeliverable on or before the Response Deadline, the Settlement Administrator will perform one “skip trace” or similar search and re-mail the same Class Notice within five (5) calendar days to any new addresses disclosed by such search via First-Class regular U.S. Mail indicating on the Class Notice the date it was re-mailed, and including the extended date of the Response Deadline.

If the process set forth in this Section and any other procedures ordered by the Court are followed, the Class Notice will be deemed to have been adequately provided to all Class Members. In the event the procedures in the Agreement are followed and a Class Member, nonetheless, does not receive the Class Notice, the intended recipient shall remain a Class Member, and will be deemed a Settlement Class Member, unless such intended recipient submits an Objection or Opt-Out Request.

6. Objections, Opt-Out Requests, and Workweeks Disputes.

- (a) *Objections:* Any Settlement Class Member who wishes to make an objection to the Class Settlement may submit a timely and complete Objection to the Settlement Administrator, by mail, on or before the Response Deadline. The postmark will be deemed the exclusive means for determining that the Objection is timely. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Settlement Agreement or appeal from the Final Approval Order and Judgment. Settlement Class Members may also present their objection orally at the Final Approval Hearing. Upon receipt of any Objections, the Settlement Administrator shall forthwith forward such documents to Class Counsel and Defendant’s Counsel by e-mail. Following receipt of such documents, Class Counsel and Defendant’s Counsel shall confer regarding such documents purporting to be Objections.

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(b) *Opt-Out Requests*: Any Class Member who wishes to opt out of the Class Settlement must submit an Opt-Out Request to the Settlement Administrator, by mail, on or before the Response Deadline. The postmark will be the exclusive means for determining that the Opt-Out Request is timely. The Settlement Administrator shall give Class Counsel and Defendant's Counsel no less than weekly notice of the number of Class Members who have submitted Opt-Out Requests, as well as copies of any such Opt-Out Requests upon request. Should any of the Parties wish to dispute the validity of any documents purporting to be Opt-Out Requests, they shall notify the Settlement Administrator and all other Parties via e-mail within ten (10) calendar days of receiving such documents, and in so doing they shall state the factual and legal basis for such dispute. Prior to the deadline for submitting its declaration, the Settlement Administrator shall make a determination as to the validity of the disputed Opt-Out Requests, and shall set forth its determinations in such declaration. The Settlement Administrator's decisions in such regard shall be final and binding. Any Class Member who submits a timely and valid Opt-Out Request will not be bound by the Class Settlement and will not be issued an Individual Settlement Payment. However, if the Class Member is also an Aggrieved Employee, he or she will still be issued an Individual PAGA Payment, irrespective of whether they submit an Opt-Out Request.

(c) *Disputes Concerning Class Member Status*: The Settlement Administrator shall forthwith send any documents of persons purporting to be Class Members, who have not received a Class Notice, or their requests to be included in the Class, to Class Counsel and Defendant's Counsel via email. Upon receipt of such notice, Defendant shall investigate the matter,

including with reference to its business records, and Defendant's Counsel and Class Counsel shall determine jointly whether the person is a Class Member. Then, within five (5) calendar days of the determination of Defendant's Counsel and Class Counsel of whether the person is a Class Member, Defendant shall notify the Settlement Administrator as to the determination of the person's status as a Class Member. If the person is determined to be a Class Member, the Settlement Administrator shall mail that person a Class Notice, whereupon the same procedures for submitting Objections, Opt-Out Requests, and Workweeks Disputes set forth in this Agreement shall apply to such person. If Class Counsel and Defendant's Counsel are unable to come to a mutual agreement to include one or more persons as Class Members who were not originally included in the Class List, the matter will be presented to the Court for decision.

(d) *Workweeks Disputes*: The Class Notice sent to each Class Member shall separately set forth that person's estimated number of Non-exempt Workweeks and Salaried Workweeks during the Class Period and the estimated number of Non-exempt Workweeks and Salaried Workweeks during the PAGA Period, which will be calculated by the Settlement Administrator based on Defendant's records. If for any reason a Class Member disagrees with such estimates, such Class Member shall submit a Workweeks Dispute to the Settlement Administrator, by mail, on or before the Response Deadline. Upon receipt of such Workweeks Disputes, the Settlement Administrator shall forthwith send it to Class Counsel and Defendant's Counsel, via e-mail. Defendant shall investigate the matter, including by examining its business records, and shall, within ten (10) calendar days of receiving notice, inform Class Counsel and the Settlement Administrator as to its determination regarding the Class

Member's number of Workweeks. In the event that the Class Member does not provide any supportive documentation, Defendant's determination shall control. In the event that the Class Member does provide supportive documentation, Defendant shall, within the same ten (10) day period, either notify the Settlement Administrator and Class Counsel that they stipulate to the Class Member's assertions regarding his or her number of Workweeks, or shall notify them that they dispute such assertions, and shall provide the Settlement Administrator and Class Counsel with their proposed determination, and the factual basis therefor, and any supporting documentation. The Settlement Administrator shall then determine the Class Member's number of Workweeks, and its determinations shall control.

- (e) Named Plaintiffs hereby agree that they will not submit an Objection or an Opt-Out Request. Any submissions by Named Plaintiffs purporting to be an Objection or an Opt-Out Request shall be null and void.

7. Settlement Administrator Declaration. Within ten (10) calendar days of the expiration of all the time periods provided for in Sections II.4 through II.6 above, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a declaration attesting, in detail, the steps taken through the date of such declaration in performing its administration duties, the number of Opt-Out Requests, Objections, and Workweeks Disputes, and the Settlement Administrator shall attach copies of all written objections that it receives as one or more exhibits to its declaration, and shall also include the names of the individuals who submitted valid and timely Opt-Out Requests. Should the Settlement Administrator be unable to provide the declaration at such time, it shall forthwith notify Class Counsel and Defendant's Counsel, who shall cooperate with the Settlement Administrator to forthwith remedy any such inability.

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8. Motion for Final Approval. Sixteen (16) court days prior to the Final Approval Hearing, Plaintiffs shall file and serve upon Defendant a motion for Final Approval, and shall include the Settlement Administrator's declaration with such filing. By way of said motion, Plaintiffs will apply for entry of a proposed order and judgment that is mutually agreed-upon by counsel for the Parties, which will provide for (i) approval of the Settlement as fair, reasonable, and adequate, and directing consummation of its terms and provisions; (ii) certification of the Settlement Class; (iii) approval of the application for the Class Counsel Fees and Costs to Class Counsel; (iv) approval of the application for the Service Awards to Plaintiffs; (v) directing Defendant to fund all amounts due under the Settlement and ordered by the Court; and (vi) entering judgment in the Action while maintaining continuing jurisdiction, in conformity with California Rules of Court 3.769, California Code of Civil Procedure 664.6, and the Settlement Agreement.

9. Release of Claims by Settlement Class Members and the State of California.

(a) Class Settlement Release. Upon the full funding of the Gross Settlement Amount and the Effective Date, Plaintiffs and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims.

(b) PAGA Settlement Release. Upon the full funding of the Gross Settlement Amount and the Effective Date, Plaintiffs, as agents and proxies of the State of California will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

10. General Release of Claims by Plaintiffs. In addition, upon the full funding of the Gross Settlement Amount and the Effective Date, Plaintiffs will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all claims, demands, rights, liabilities and causes of action of every nature and description

whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule or regulation arising out of, relating to, or in connection with any act or omission by or on the part of any Defendant. With respect to those claims released by Plaintiffs in individual capacities, Plaintiffs acknowledge and waive any and all rights and benefits available under California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiffs understand and agree that claims or facts in addition to or different from those which are now known or believed by them to exist may hereafter be discovered. It is Plaintiffs' intention to settle fully and release all claims they may now have against the Released Parties, whether known or unknown, suspected or unsuspected. Notwithstanding the above, the general release by Plaintiffs shall not extend to claims for workers' compensation benefits, claims for unemployment benefits, or other claims that may not be released by law.

11. Enforcement. This Agreement is enforceable pursuant to California Rules of Court Rule 3.769(h). If any Party is required to seek relief for an alleged breach of this Agreement, the prevailing Party shall be awarded its reasonable attorney's fees and costs including, if necessary, attorney's fees in connection with collection efforts or enforcement of the confidentiality provisions of this Agreement; provided however, that the aggrieved Party shall be required to give notice to the opposing Party and meet and confer regarding the alleged breach before filing any motion, or application for enforcement of, this Agreement.

12. Settlement Checks.

- (a) *Individual Settlement Share Calculations*. Individual Settlement Shares will be calculated and apportioned from the Net Settlement Amount based on the Class Members' Workweeks, as follows:

- i. After Preliminary Approval, the Settlement Administrator will (i) determine the Workweeks of each Class Member; (ii) multiply the Salaried Workweeks of each Class Member by two (2) to yield the Class Member's "Weighted Salaried Workweeks" and add the Class Member's number of Non-exempt Workweeks, resulting in the Class Member's "Total Weighted Workweeks;" (iii) divide the Net Settlement Amount by the Total Weighted Workweeks of all Class Members to yield the "Estimated Workweek Value;" and (iv) multiply each Class Member's individual Total Weighted Workweeks by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that he or she may be eligible to receive under the Class Settlement.
 - ii. After Final Approval, the Settlement Administrator will divide the final Net Settlement Amount by the Total Weighted Workweeks of all Settlement Class Members to yield the "Final Workweek Value," and multiply each Settlement Class Member's individual Total Weighted Workweeks by the Final Workweek Value to yield his or her Individual Settlement Share.
- (b) *Individual PAGA Payment Calculations.* The Settlement Administrator will (i) determine the Workweeks of each Aggrieved Employee during the PAGA Period; (ii) multiply the Salaried Workweeks of each Aggrieved Employee during the PAGA Period by two (2) to yield the Aggrieved Employee's "Weighted Salaried PAGA Workweeks" and add the Aggrieved Employee's number of Non-exempt Workweeks during the PAGA Period, resulting in the Aggrieved Employee's "Total Weighted PAGA Workweeks;" (iii) divide the Aggrieved Employee Amount by the Total Weighted PAGA Workweeks of all Aggrieved Employees to yield

the “Estimated PAGA Workweek Value;” and (iv) multiply each Aggrieved Employee’s individual Total Weighted PAGA Workweeks by the Estimated PAGA Workweek Value to yield his or her estimated Individual PAGA Payment that he or she is eligible to receive under the PAGA Settlement.

- (c) *Tax Allocation.* The Parties agree that each Individual Settlement Share will be allocated as follows: one-third (1/3) as wages, which will be reported on an IRS Form W-2 by the Settlement Administrator, and two-thirds (2/3) as interest, penalties, and non-wage damages, which will be reported on IRS Form 1099 by the Settlement Administrator. The Settlement Administrator will withhold (and remit to the appropriate taxing authorities) the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their Individual Settlement Payment (i.e., payment of their Individual Settlement Share net of these taxes and withholdings). Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator. Defendant will be responsible for the employer’s share of the taxes on the wages portion of the Individual Settlement Shares, which will be paid by Defendant separately and in addition to the Gross Settlement Amount. The Settlement Administrator shall provide, as appropriate, an IRS Form W-2 and IRS Form 1099, and any other tax documentation required by law, to each Settlement Class Member and Aggrieved Employee.
- (d) *Circular 230 Disclaimer.* Each of the Parties acknowledges and agrees that (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their respective counsel and/or

other advisers is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Circular 230 (31 CFR part 10, as amended); (2) each Party (a) has relied exclusively upon his, her, or its own, independent legal and tax advisors for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other Party or any Counsel or advisor to any other Party, and (c) is not entitled to rely upon any communication or disclosure by any other counsel or advisor to any other Party to avoid any tax penalty that may be imposed on that Party; and (3) no attorney or advisor to any other Party has imposed any limitation that protects the confidentiality of any such attorney's or advisor's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement. Neither Class Counsel nor Defendant or its counsel will provide tax or financial advice, and Class Members and Aggrieved Employees are advised to seek independent professional advice as to the tax or financial consequences of any payment they receive, or may receive, as Class Members and Aggrieved Employees.

- (e) *No Effect on Employee Benefits.* The Individual Settlement Payments and Individual PAGA Payments shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the Class Members and Aggrieved Employees.
- (f) *Individual Settlement Payment and Individual PAGA Payment Checks.* The Settlement Administrator may, at its discretion, distribute a Class

Member's Individual Settlement Payment and Individual PAGA Payment by way of a single check that combines both payments (if applicable). Each Individual Settlement Payment and Individual PAGA Payment will be valid and negotiable for one hundred eighty (180) calendar days from the date the checks were issued, and thereafter, shall be canceled. All funds associated with such canceled checks will be transmitted to California Rural Legal Assistance, Inc., pursuant to Cal. Code. Civ. Proc. § 384. The Parties each represent that they do not have any significant affiliation or involvement with the proposed *cy pres* recipient.

13. Timeline of Payments. Upon Final Approval, the Settlement Administrator shall forthwith establish all financial accounts necessary to establish the Qualified Settlement Fund, and shall promptly notify Defendant's Counsel and Class Counsel by email that such accounts have been established and of the payment details necessary to fund the Qualified Settlement Fund. The Settlement Administrator shall also advise Defendant as to any amounts Defendant will be required to pay for its respective portion of any payroll taxes, deductions, contributions, and other amounts required to be paid to government agencies and/or tax authorities on the wages portion of the Individual Settlement Shares (hereinafter, "Defendant's Payroll Tax"), if any exist. Within thirty (30) calendar days of the Effective Date, Defendant shall deposit the Gross Settlement Amount, including an amount sufficient for Defendant's Payroll Tax. Within seven (7) calendar days after Defendant deposits these amounts, the Settlement Administrator shall disburse, pursuant to this Settlement and other applicable law, the Individual Settlement Shares to Settlement Class Members, Individual PAGA Payments to Aggrieved Employees, LWDA Payment to the LWDA, Service Awards to the Named Plaintiffs, Settlement Administration Costs to itself, and the Class Counsel Fees and Costs to Class Counsel. In disbursing the LWDA Payment, the Settlement Administrator shall also submit to the LWDA any information or documentation required for such disbursement, such as a copy of the Court's Final Approval Order and Judgment. The Settlement Administrator shall promptly notify Class

Counsel and Defendant's Counsel by email that such disbursements and submissions have been made.

14. Termination of Revocation of Settlement. If fifteen percent (15%) or more of the Class Members submit timely and valid Opt-Out Requests, Defendant may elect to rescind the Settlement Agreement by way of writing that is provided to Class Counsel within fourteen (14) calendar days after the Settlement Administrator notifies the Parties of the total number of timely and valid Opt-Out Requests received by the Response Deadline. If the Settlement is terminated due to Defendant's exercise of this option, Defendant will be responsible for paying all Settlement Administration Costs incurred by the Settlement Administrator.

15. Escalator Clause. Defendant estimated that for the period of August 4, 2017 to September 7, 2022, there were approximately 31,993 Workweeks. If it is determined that the total number of Workweeks during the Class Period actually exceed this amount by more than twelve point five percent (12.5%) (i.e., the Workweeks during the Class Period are actually more than 35,992), then, at Defendant's option, the Class Period and PAGA Period will end on the last day that the total Workweeks do not exceed 35,992 Workweeks or the Gross Settlement Amount will increase on a proportional basis to the extent the threshold is exceeded (e.g., if the threshold referenced herein is exceeded by 17.5%, the Gross Settlement Amount will increase by 5%).

16. Cooperation and Reasonable Modifications. The Parties and their respective counsel will cooperate reasonably and in good faith for the purpose of achieving occurrence of the conditions set forth in this Agreement, including without limitation, timely filing of all motions, papers and evidence necessary to do so, and refraining from causing or encouraging directly or indirectly the submission of any objection to this Agreement, the submission of any Objection or Opt-Out Request, or any appeal or petition for writ proceedings seeking review of any order or judgment contemplated by the Settlement. This Agreement contemplates that the Court and the Parties may make reasonable modifications to the Agreement in order to effect its essential terms and to obtain Preliminary Approval and Final Approval. Such modifications shall not render this Agreement Void *Ab Initio*, but rather the Parties shall stipulate to such

reasonable modifications and take all necessary steps to give them effect.

17. Warranty of Authority. The undersigned each represent and warrant that each has authority to enter into this Settlement, and that by doing so they are not in breach or violation of any agreement with any third parties. The Parties further agree that the Actions shall be stayed in all respects until the final payment called for by this Settlement is made pending the occurrence or failure of the Effective Date, except for the purpose of filing motions for Preliminary Approval and Final Approval.

18. Defendant's Ability to Seek Relief. Defendant shall have the right to request, and Named Plaintiffs nor their Class Counsel will not oppose, that the Court enter an order that pending Final Approval, Class Members who do not opt-out of the Class Settlement are barred from instituting or prosecuting any claims or actions against the Released Parties which fall within the definition of the Released Class Claims and that any pending actions against the Released Parties, whether in court or arbitration, are stayed on an interim basis only as to any claims which fall within the definition of the Released Class Claims.

19. Interim Stay of Proceedings. The Parties agree to hold in abeyance all proceedings in the Actions (including, and not limited to, the deadline to bring the Actions to trial under California Code of Civil Procedure section 583.310), except such proceedings necessary to implement and complete the Settlement Agreement, pending the Final Approval Hearing to be conducted by the Court.

20. Amendment. Prior to the filing of the motion for preliminary approval of the Settlement, the Parties may not amend or modify any provision of this Settlement Agreement except by written agreement signed by counsel for all of the Parties. After the filing of the motion for preliminary approval of the Settlement, the Parties may not amend or modify any provision of this Settlement Agreement except by written agreement signed by counsel for all of the Parties and subject to Court approval.

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21. California Law Governs. All terms of this Settlement Agreement and attached exhibits hereto will be governed by and interpreted according to the laws of the State of California.

22. Notices to Counsel. All notices, requests, demands, and other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be delivered personally or mailed, postage prepaid, by first-class United States mail, to the undersigned persons at their respective addresses as set forth herein (and, to the extent notice by email is called for), the below email addresses shall be used:

Counsel for Plaintiffs:	Counsel for Defendant:
EDWIN AIWAZIAN, SBN 232943 edwin@calljustice.com ARBY AIWAZIAN, SBN 269827 arby@calljustice.com JOANNA GHOSH, SBN 272479 joanna@calljustice.com ALEXANDRA ROSE, SBN 329407 a.rose@calljustice.com LAWYERS for JUSTICE, PC 410 West Arden Avenue, Suite 203 Glendale, California 91203 Telephone: (818) 265-1020 Facsimile: (818) 265-1021	NATHAN K. LOW, SBN 299587 nlow@fisherphillips.com KEVIN L. QUAN, SBN 317798 kquan@fisherphillips.com FISHER & PHILLIPS LLP One Montgomery Street, Suite 3400 San Francisco, California 94104 Telephone: (415) 490-9000 Facsimile: (415) 490-9001

23. Documents to LWDA. Class Counsel shall be responsible for submitting the Settlement and related orders and information to the LWDA.

24. Entire Agreement. This Agreement embodies the entire agreement of all the Parties hereto who have executed it and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied, between the Parties to this Agreement. The Parties to this Agreement each acknowledge that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by them, or anyone acting on their behalf, which are not embodied in this Agreement; that

they have not executed this Agreement in reliance on any representation, inducement, promise, agreements, warranty, fact or circumstances, not expressly set forth in this Agreement; and that no representation, inducement, promise, agreement or warranty not contained in this Agreement including, but not limited to, any purported settlements, modifications, waivers or terminations of this Agreement, shall be valid or binding, unless executed in writing by all of the Parties to this Agreement.

25. Arbitration. Nothing in this Agreement shall be construed or deemed to result in a waiver of any right to arbitrate or to compel arbitration as to any claims other than the Released Class Claims of Settlement Class Members.

26. Counterparts. This Agreement may be executed in counterparts by way of true and correct copies (including pdf's or other electronic images) of signatures, each of which shall have the same force and effect as an original, and all of which together shall constitute one and the same instrument.

27. Final Approval Order and Judgment. The Parties shall provide the Settlement Administrator with a copy of the Final Approval Order and Judgment once it is entered by the Court, and the Settlement Administrator shall post the Final Approval Order and Judgment on its website for sixty (60) calendar days. No individualized notice of the Final Approval Order and Judgment, to the Class, will be required.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this First Amended Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiffs and Defendant:

[SIGNATURES ON FOLLOWING PAGE]

APPROVED AS TO FORM:

Dated: May 12, 2023

LAWYERS for JUSTICE, PC

By:  _____

Edwin Aiwazian
Joanna Ghosh
Alexandra Rose
Attorneys for Plaintiffs
CANDON LOVETT, KENNITH BOOZE,
DEARTIS SUDDUTH, and JONATHAN
GIRVIN

Dated: May 12, 2023

FISHER & PHILLIPS LLP

By:  _____

Nathan K. Low
Kevin L. Quan
Attorneys for Defendant
WONDER ICE CREAM, INC.

IT IS SO AGREED.

PLAINTIFF CANDON LOVETT

Dated: _____

Plaintiff Candon Lovett

PLAINTIFF KENNITH BOOZE

Dated: _____

Plaintiff Kenneth Booze

APPROVED AS TO FORM:

Dated: _____

LAWYERS *for* JUSTICE, PC

By: _____

Edwin Aiwazian
Joanna Ghosh
Alexandra Rose
Attorneys for Plaintiffs
CANDON LOVETT, KENNITH BOOZE,
DEARTIS SUDDUTH, and JONATHAN
GIRVIN

Dated: _____

FISHER & PHILLIPS LLP

By: _____

Nathan K. Low
Kevin L. Quan
Attorneys for Defendant
WONDER ICE CREAM, INC.

IT IS SO AGREED.

Dated: 05/12/2023

PLAINTIFF CANDON LOVETT

Nintex AssureSign® 2023-05-12 20:00:03 UTC - 174.50.180.52
6740995c-d9b6-4136-a493-b000014354aL

Plaintiff Candon Lovett

PLAINTIFF KENNITH BOOZE

Dated: _____

Plaintiff Kenneth Booze

APPROVED AS TO FORM:

Dated: _____

LAWYERS *for* JUSTICE, PC

By: _____

Edwin Aiwazian
Joanna Ghosh
Alexandra Rose
Attorneys for Plaintiffs
CANDON LOVETT, KENNITH BOOZE,
DEARTIS SUDDUTH, and JONATHAN
GIRVIN

Dated: _____

FISHER & PHILLIPS LLP

By: _____

Nathan K. Low
Kevin L. Quan
Attorneys for Defendant
WONDER ICE CREAM, INC.

IT IS SO AGREED.

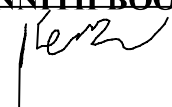
PLAINTIFF CANDON LOVETT

Dated: _____


Plaintiff Candon Lovett

PLAINTIFF KENNITH BOOZE

Dated: 05/12/2023 _____

2023-05-12 22:08:25 UTC - 172.59.129.138

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Plaintiff Kenneth Booze

PLAINTIFF DEARTIS SUDDUTH

Electronically Signed

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Nintex AssuranceSign®
9c5db778-ec24-490d-ab90-b000011e5b4a

Dated: 05/12/2023 _____

Plaintiff DeArtis Sudduth

PLAINTIFF JONATHAN GIRVIN

Dated: _____

Plaintiff Jonathan Girvin

DEFENDANT WONDER ICE CREAM, INC.

Dated: _____

Name:
Title:
On behalf of Defendant Wonder Ice Cream, Inc.


PLAINTIFF DEARTIS SUDDUTH

Dated: _____

Plaintiff DeArtis Sudduth

PLAINTIFF JONATHAN GIRVIN

Dated: 05/12/2023

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Plaintiff Jonathan Girvin

DEFENDANT WONDER ICE CREAM, INC.

Dated: _____

Name:
Title:
On behalf of Defendant Wonder Ice Cream, Inc.

PLAINTIFF DEARTIS SUDDUTH

Dated: _____

Plaintiff DeArtis Sudduth

PLAINTIFF JONATHAN GIRVIN

Dated: _____

Plaintiff Jonathan Girvin

DEFENDANT WONDER ICE CREAM, INC.

Dated: 5/12/2023

DocuSigned by:
Ghassan Elfar
5CCF811F0B654F8...

Name: Ghassan Elfar
Title: CEO
On behalf of Defendant Wonder Ice Cream, Inc.

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.*

However, your legal rights are affected by whether you act or don't act, so read this notice carefully.

TO: All persons who worked for Wonder Ice Cream, Inc. (“Defendant”) classified as a non-exempt employee in the State of California and/or salaried sales employee who worked as a DSD Route Sales Representative, or other similar position, classified under the outside salesperson exemption in the State of California from August 4, 2017 to [Insert Date of Preliminary Approval, subject to Section II.15 of the Settlement Agreement].

The California Superior Court, County of Alameda has granted preliminary approval of a proposed settlement of the above-captioned action (“Action”). Because your rights may be affected by the settlement, it is important that you read this Notice of Class Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes (“Class” or “Class Members”):

All of Defendant’s current and former non-exempt employees in the State of California and all salaried sales employees who worked for Defendant in the State of California as DSD Route Sales Representatives, or other similar positions, classified under the outside salesperson exemption, during the period from August 4, 2017 to [Insert Date of Preliminary Approval, subject to Section II.15 of the Settlement Agreement].

The purpose of this Notice is to provide a brief description of the claims alleged in the Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

WHAT INFORMATION IS IN THIS NOTICE

1. Important Definitions.....	Page 2
2. Why Have I Received This Notice?.....	Page 2
3. What is This Case About?.....	Page 2
4. What Are My Options?.....	Page 3
5. What are the Main Terms of the Settlement and How Much Can I Expect to Receive?.....	Page 4
6. How Do I Dispute my Workweeks?.....	Page 5
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9. What are the Released Claims?.....	Page 7
10. Additional Information.....	Page 7

1. *Important Definitions*

“**Class**” means all of Defendant’s current and former non-exempt employees in the State of California and all salaried sales employees who worked for Defendant in the State of California as DSD Route Sales Representatives, or other similar positions, classified under the outside salesperson exemption, during the Class Period.

“**Class Member**” means a member of the Class.

“**Class Period**” means the time period from August 4, 2017 to [the date of Preliminary Approval, subject to Section II.15 of Settlement Agreement].

“**Class Settlement**” means the settlement and resolution of all Released Class Claims (described in Section 9 below).

“**Aggrieved Employees**” means all of Defendant’s current and former non-exempt employees in the State of California and all salaried sales employees who worked for Defendant in the State of California as DSD Route Sales Representatives, or other similar positions, classified under the outside salesperson exemption, during the PAGA Period.

“**PAGA Period**” means the time period from August 4, 2020 to [the date of Preliminary Approval, subject to Section II.15 of Settlement Agreement].

“**PAGA Settlement**” means the settlement and resolution of all Released PAGA Claims (described in Section 9 below).

2. *Why Have I Received This Notice?*

Wonder Ice Cream, Inc.’s records indicate that you may be a Class Member. The Settlement will resolve all Released Class Claims, as described in Section 9 below, and all Released PAGA Claims, as described in Section 9 below.

A Preliminary Approval Hearing was held on [the date of Preliminary Approval], in the California Superior Court, County of Alameda. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court will hold a Final Approval Hearing concerning the proposed settlement on [the date of final approval hearing], 2023 at [time a.m./p.m.], before Judge Evelio Grillo, located at the Rene C. Davidson Courthouse, 1221 Oak Street, Oakland, California 94612, Department 21. The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear in person or remotely if you wish to.

3. *What Is This Case About?*

The Action entitled *Candon Lovett, et al. v. Wonder Ice Cream, Inc., et al.* was pursued by Plaintiffs Candon Lovett, Kenneth Booze, DeArtis Sudduth, and Jonathan Girvin (collectively, the “Plaintiffs”) in the Alameda County Superior Court (Case Number RG21109738) against Wonder Ice Cream, Inc., Wonder Ice Cream Company, LLC, WIC, LLC, and Wonder Ice Cream, LLC on alleged claims for failure to pay minimum wages, failure to pay overtime wages, failure to provide compliant meal and rest periods and associated premiums, failure to timely pay wages during employment and upon termination of employment and associated waiting-time penalties, failure to provide accurate itemized wage statements, failure to maintain accurate payroll records, failure to reimburse business expenses, failure

to provide a day of rest, and thereby engaging in unfair business practices in violation of California Business and Professions Code section 17200, *et seq.*, and conduct that gives rise to penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”).

On August 4, 2021, Plaintiffs Lovett and Booze filed a Class Action Complaint for Damages initiating the Action. On September 1, 2021, Plaintiffs Lovett, Booze, and Sudduth filed a First Amended Class Action Complaint for Damages, which added Plaintiff Sudduth as a named plaintiff. On May 5, 2023, Plaintiffs Lovett, Booze, Sudduth, and Girvin filed a Second Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“Operative Complaint”), which added Plaintiff Girvin as a named plaintiff and added a cause of action under PAGA.

The Court has not made any determination as to whether the claims advanced by Plaintiffs have any merit whatsoever.

In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiffs or Defendant. Instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all Parties avoid the risks and cost of a trial.

Defendant expressly denies that it did anything wrong or that it violated the law and further denies any liability whatsoever to Plaintiffs or to the Class.

The Parties participated in mediation with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into the First Amended Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement” or “Settlement Agreement”).

Plaintiffs and Class Counsel believe the Settlement is fair and reasonable. The Court must also review the terms of the Settlement and determine if it is fair and reasonable to the Class.

On [the date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed Phoenix Settlement Administrators as the administrator of the Settlement (“Settlement Administrator”), Plaintiffs Candon Lovett, Kenneth Booze, DeArtis Sudduth, and Jonathan Girvin as the representatives of the Class (“Class Representatives”), and the following Plaintiffs’ attorneys as counsel for the Class (“Class Counsel”):

Edwin Aiwazian
Arby Aiwazian
Joanna Ghosh
Alexandra Rose
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020 / Fax: (818) 265-1021

4. What Are My Options?

The purpose of this Notice is to inform you of the proposed Settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: Defendant will not retaliate against you in any way for either participating or not participating in the Settlement.

- **DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of the lawsuit and may receive an Individual Settlement Payment and Individual PAGA Payment (if applicable). You will release all of the Released Class Claims, as defined in Section 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may “opt out” of the Class Settlement, by submitting an Opt-Out Request, as defined in Section 7 below. If the Court grants final approval of the Settlement, you will not receive an Individual Settlement Payment and you will not be bound by the terms of the Class Settlement, and you will not release the Released Class Claims described in Section 9 below.

If you are an Aggrieved Employee, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment, irrespective of whether you have excluded yourself from the Class Settlement.
- **OBJECT:** See Section 8 on how to object to the Class Settlement.

The procedures for opting out and objecting are set forth below in the Sections entitled “How Do I Opt Out or Exclude Myself From The Class Settlement” and “How Do I Object To The Class Settlement?”

5. *What are the Main Terms of the Settlement and How Much Can I Expect to Receive?*

The total gross settlement amount is One Million One Hundred Thousand Dollars (\$1,100,000) (“Gross Settlement Amount”). The portion of the Gross Settlement Amount that is available for payment to Class Members is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Gross Settlement Amount less the following payments, which are subject to approval by the Court: (1) Class Counsel Fees and Costs, consisting of attorneys’ fees in an amount of up to 35% of the Gross Settlement Amount (i.e., \$385,000) and reimbursement of litigation costs and expenses in an amount up to Seventeen Thousand Dollars (\$17,000) to Class Counsel; (2) Service Awards of up to Ten Thousand Dollars (\$10,000) each to Plaintiffs for their services in the Action; (3) the amount of One Hundred Thousand Dollars (\$100,000) allocated toward civil penalties under the Private Attorneys General Act (“PAGA Penalties”); and (4) Settlement Administration Costs in an amount not to exceed Twelve Thousand Dollars (\$12,000) to the Settlement Administrator. The PAGA Penalties will be distributed 75% (i.e., \$75,000) to the Labor and Workforce Development Agency (“LWDA Payment”) and the remaining 25% (i.e., \$25,000) will be distributed to Aggrieved Employees (“Aggrieved Employee Amount”).

Class Members are eligible to receive payment under the Class Settlement of their share of the Net Settlement Amount (“Individual Settlement Share”) based on their Non-Exempt Workweeks and Salaried Workweeks (together, “Workweeks”).

- “Non-exempt Workweeks” means the number of weeks each Class Member performed work for Defendant as a non-exempt employee in the State of California during the Class Period.
- “Salaried Workweeks” means the number of weeks each Class Member performed work for Defendant in the State of California as a salaried sales employee as a DSD Route Sales Representative, or other similar position, classified under the outside salesperson exemption during the Class Period.

The Settlement Administrator has (i) multiplied the Salaried Workweeks of each Class Member by two (2) to yield the Class Member’s “Weighted Salaried Workweeks,” and added the Class Member’s number of Non-exempt Workweeks, resulting in the Class Member’s “Total Weighted Workweeks;” (ii) divided the Net Settlement Amount by the Total Weighted Workweeks of all Class Members to yield the “Estimated Workweek Value;” and (iv) multiplied each Class Member’s individual Total Weighted Workweeks by the Estimated Workweek Value to yield their estimated Individual Settlement Share.

Each Individual Settlement Share will be allocated as one-third (1/3) wages, which will be reported on an IRS Form W-2, and two-thirds (2/3) as interest, penalties, and non-wage damages, which will be reported on an IRS Form 1099 (if applicable). Each Individual Settlement Share will be subject to reduction for the employee's share of payroll taxes and withholdings with respect to the wages portion of the Individual Settlement Share (the net payment is referred to as the "Individual Settlement Payment"). Class Members who do not submit a timely and valid Opt-Out Request ("Settlement Class Members") will be issued their final Individual Settlement Payment. The employer's share of taxes and contributions on the wages portion of the Individual Settlement Shares will be paid by Defendant separately and in addition to the Gross Settlement Amount.

Aggrieved Employees are eligible to receive payment under the PAGA Settlement of their share of the Aggrieved Employee Amount ("Individual PAGA Payment") based on their Workweeks during the PAGA Period.

The Settlement Administrator has (i) multiplied the Salaried Workweeks of each Aggrieved Employee during the PAGA period by two (2) to yield the Aggrieved Employee's "Weighted Salaried PAGA Workweeks" and added the Aggrieved Employee's number of Non-exempt Workweeks during the PAGA Period, resulting in the Aggrieved Employee's "Total Weighted PAGA Workweeks;" (ii) divided the Aggrieved Employee Amount by the Total Weighted PAGA Workweeks of all Aggrieved Employees to yield the "Estimated PAGA Workweek Value;" and (iii) multiplied each Aggrieved Employee's individual Total Weighted PAGA Workweeks by the Estimated PAGA Workweek Value to yield his or her estimated Individual PAGA Payment.

Each Individual PAGA Payment will be allocated as 100% civil penalties, which will be reported on IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members and Individual PAGA Payments will be mailed to Aggrieved Employees at the address that is on file with the Settlement Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ [REDACTED].

The Individual Settlement Share is subject to reduction for the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [REDACTED].

The Individual PAGA Payment will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Share and Individual PAGA Payment (if applicable) reflected in this Notice are only estimates. Your actual Individual Settlement Share and Individual PAGA Payment (if applicable) may be higher or lower.

6. How Do I Dispute my Workweeks?

According to Defendant's records:

- **From August 4, 2017 to [Insert Date of Preliminary Approval, subject to Section II.15 of the Settlement Agreement] (i.e., Class Period), you are credited as having worked [REDACTED] Non-exempt Workweeks and [REDACTED] Salaried Workweeks.**

- From August 4, 2020 to **[Insert Date of Preliminary Approval, subject to Section II.15 of the Settlement Agreement]** (i.e., **PAGA Period**), you are credited as having worked **[redacted]** Non-exempt Workweeks and **[redacted]** Salaried Workweeks.

If you wish to dispute the Workweeks credited to you, you must submit a written letter (“Workweeks Dispute”) to the Settlement Administrator. The Workweeks Dispute must: (a) contain the case name and number of the Action (*Candon Lovett, et al. v. Wonder Ice Cream, Inc., et al.*, Case No. RG21109738); (b) contain your full name, signature, address, telephone number, and the last four digits of your Social Security number; (c) clearly state that you dispute the number of Non-exempt Workweeks, Salaried Workweeks, or both, credited to you and what you contend is the correct number to be credited to you; (d) include information and/or attach documentation demonstrating that the number of Non-exempt Workweeks, Salaried Workweeks, or both that you contend should be credited to you; and (e) be submitted by mail to the Settlement Administrator at the specified address below, postmarked on or before **[Response Deadline]**

[Settlement Administrator]
[Mailing Address]

7. How Do I Opt Out Or Exclude Myself From The Class Settlement?

If you do not want to take part in the Class Settlement, you must submit a written request for exclusion (“Opt-Out Request”) to the Settlement Administrator. The Opt-Out Request must: (a) contain the case name and number of the Action (*Candon Lovett, et al. v. Wonder Ice Cream, Inc., et al.*, Case No. RG21109738); (b) state your full name, signature, address, telephone number, and last four digits of your Social Security number; (c) clearly state that you do not wish to be included in the Class Settlement; and (d) be submitted by mail to the Settlement Administrator at the specified address in Section 6 above, postmarked on or before **[Response Deadline]**.

If the Court grants final approval of the Settlement, any Class Member who submits a valid and timely Opt-Out Request will not be entitled to receive an Individual Settlement Payment, will not be bound by the release of Released Class Claims (described in Section 9 below), and will not have any right to object to, appeal, or comment on the Settlement. Class Members who do not submit a valid and timely Opt-Out Request will be deemed Settlement Class Members and will be bound by all terms of the Settlement, including those pertaining to the release of claims described in Section 9 below, as well as any judgment that may be entered by the Court based thereon. However, if a Class Member is also an Aggrieved Employee, he or she will still be issued an Individual PAGA Payment, irrespective of whether they submit an Opt-Out Request.

8. How Do I Object To The Class Settlement?

If you are a Class Member who does not submit an Opt-Out Request, you may object to the Class Settlement, personally or through an attorney, by submitting a written objection (“Objection”) to the Settlement Administrator. The Objection must: (a) contain the case name and number of the Action (*Candon Lovett, et al. v. Wonder Ice Cream, Inc., et al.*, Case No. RG21109738); (b) contain your full name, signature, address, telephone number, and last four digits of your Social Security number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be submitted by mail to the Settlement Administrator at the specified address in Section 6 above, postmarked on or before **[Response Deadline]**.

Settlement Class Members may also present their objection orally at the Final Approval Hearing, whether or not they submit an Objection.

Settlement Class Members who fail to object in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Class Settlement.

9. *What are the Released Claims?*

Upon the full funding of the Gross Settlement Amount and the Effective Date, Plaintiffs and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims.

Upon the full funding of the Gross Settlement Amount and the Effective Date, Plaintiffs, as agents and proxies of the State of California, will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

“Released Class Claims” means any and all claims, demands, liabilities, damages, attorneys’ fees, costs, and penalties, asserted in the Operative Complaint or any other claims that could have been asserted in the Operative Complaint based on the facts alleged, arising during the Class Period, including but not limited to claims arising from alleged failure to pay unpaid wages, minimum wages, regular wages, and overtime and double time wages; failure to provide meal periods and associated premium pay; failure to provide rest periods and associated premium pay; failure to reimburse necessary business-related expenses; failure to time pay wages upon termination of employment; failure to timely pay wages during employment; failure to provide compliant wage statements; failure to maintain accurate payroll records; failure to provide a day of rest; and unfair or unlawful business practices pursuant to California Business and Professions Code § 17200, *et seq.* based on the aforementioned.

“Released PAGA Claims” means any and all claims for civil penalties asserted in the Operative Complaint or any other claims for civil penalties that could have been asserted in the Operative Complaint based on the facts alleged, under the Private Attorneys General Act, California Labor Code Section 2698, *et seq.*, arising during the PAGA Period, including but not limited to claims arising from alleged failure to pay unpaid wages, minimum wages, regular wages, and overtime and double time wages; failure to provide meal periods and associated premium pay; failure to provide rest periods and associated premium pay; failure to reimburse necessary business-related expenses; failure to time pay wages upon termination of employment; failure to timely pay wages during employment; failure to provide compliant wage statements; failure to maintain accurate payroll records; and failure to provide a day of rest.

“Released Parties” means Defendant Wonder Ice Cream, Inc., Wonder Ice Cream Company, LLC, WIC, LLC, Wonder Ice Cream, LLC, their parents, subsidiaries, affiliates, insurers, related entities and divisions, and their respective: (i) predecessors, successors, and assigns, and (ii) current and former agents, heirs, executors, administrators, principals, officers, directors, shareholders, employees, founders, members, assigns, insurers, attorneys, and all others claiming through or by any of them.

10. *Additional Information*

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at the telephone number listed below, toll free. Please refer to Wonder Ice Cream, Inc. class action Settlement.

This Notice does not contain all of the terms of the proposed Settlement or all of the details of these proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the Court by visiting the Records Management, at George E. McDonald Hall of Justice, 2233 Shore Line Drive, Alameda, CA 94501, between 8:30 a.m. and 2:00 p.m., or online by visiting the following website: <https://portal.alameda.courts.ca.gov/?q=node/388>.

For more information regarding how to schedule yourself to appear remotely at the Final Approval Hearing, please visit: <https://www.alameda.courts.ca.gov/general-information/remote-appearances>.

PLEASE DO NOT TELEPHONE THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.