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 LEEANN BRUTOUT

9 UNITED STATES DISTRICT COURT  
 10 SOUTHERN DISTRICT OF CALIFORNIA

12 LEEANN BRUTOUT, individually, and on  
 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 MAP COMMUNICATIONS, INC., a  
 16 Delaware corporation; and DOES 1 through  
 10, inclusive,

17 Defendants.

Case No.: 3:21-cv-01533-TWR-AGS

CLASS ACTION

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

Action Filed: July 21, 2021  
 Action Removed: August 30, 2021  
 Trial Date: Not set

## CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff LEEANN BRUTOUT (“Plaintiff”) and defendant MAP COMMUNICATIONS, INC. (“MAP”). The Agreement refers to Plaintiff and MAP collectively as “Parties,” or individually as “Party.”

### 1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against MAP captioned *Brutout v. MAP Communications, Inc.*, initiated on July 21, 2021 and pending in the United States District Court for the Southern District of California.
- 1.2. “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means a person employed by MAP in California and classified as a non-exempt employee who worked for MAP during the PAGA Period.
- 1.5. “Class” means all persons employed by MAP in California and classified as non-exempt employees who worked for MAP during the Class Period.
- 1.6. “Class Counsel” means MOON & YANG, APC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in MAP’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-

- 1 Participating Class Member who qualifies as an Aggrieved Employee).
- 2 1.10. “Class Member Address Search” means the Administrator’s investigation and search for
- 3 current Class Member mailing addresses using all reasonably available sources, methods
- 4 and means including, but not limited to, the National Change of Address database, skip
- 5 traces, and direct contact by the Administrator with Class Members.
- 6 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION
- 7 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be
- 8 mailed to Class Members in English in the form, without material variation, attached as
- 9 Exhibit A and incorporated by reference into this Agreement.
- 10 1.12. “Class Period” means the period from July 21, 2017 to December 31, 2022.
- 11 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action
- 12 seeking Court approval to serve as a Class Representative.
- 13 1.14. “Class Representative Service Payment” means the payment to the Class Representative
- 14 for initiating the Action and providing services in support of the Action.
- 15 1.15. “Court” means the United States District Court, Southern District of California.
- 16 1.16. “MAP” means named Defendant MAP COMMUNICATIONS, INC.
- 17 1.17. “Defense Counsel” means GORDON REES SCULLY MANSUKHANI.
- 18 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the
- 19 Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b)
- 20 the Judgment is final. The Judgment is final as of the latest of the following occurrences:
- 21 (a) if no Participating Class Member objects to the Settlement, the day the Court enters
- 22 Judgment; (b) if one or more Participating Class Members objects to the Settlement, the
- 23 day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal
- 24 from the Judgment is filed, the day after the appellate court affirms the Judgment and
- 25 issues a remittitur.
- 26 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 27 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of
- 28 the Settlement.

- 1 1.21. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval  
2 of the Settlement.
- 3 1.22. "Gross Settlement Amount" means \$380,000.00 which is the total amount MAP agrees to  
4 pay under the Settlement except as provided in Paragraphs 3.1 below. The Gross  
5 Settlement Amount will be used to pay Individual Class Payments, Individual PAGA  
6 Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel  
7 Litigation Expenses Payment, Class Representative Service Payment and the  
8 Administrator's Expenses.
- 9 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the  
10 Net Settlement Amount calculated according to the number of Workweeks worked during  
11 the Class Period.
- 12 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of  
13 the PAGA Penalties calculated according to the number of Workweeks worked during the  
14 PAGA Period.
- 15 1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 16 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency  
17 entitled, under Labor Code § 2699(i).
- 18 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA  
19 under Labor Code § 2699(i).
- 20 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following  
21 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA  
22 PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment,  
23 Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment.  
24 The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 25 1.29. "Non-Participating Class Member" means any Class Member who opts out of the  
26 Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 27 1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked  
28 for MAP for at least one day during the PAGA Period.

- 1 1.31. "PAGA Period" means the period from July 17, 2020 to December 31, 2022.
- 2 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 3 1.33. "PAGA Notice" means Plaintiff's July 17, 2021 letter to MAP and the LWDA providing  
4 notice pursuant to Labor Code § 2699.3(a).
- 5 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the  
6 Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$10,000.00) and the  
7 75% to LWDA (\$30,000.00) in settlement of PAGA claims.
- 8 1.35. "Participating Class Member" means a Class Member who does not submit a valid and  
9 timely Request for Exclusion from the Settlement.
- 10 1.36. "Plaintiff" means LEEANN BRUTOUT, the named plaintiff in the Action.
- 11 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the  
12 Settlement.
- 13 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval  
14 and Approval of PAGA Settlement.
- 15 1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.2  
16 below.
- 17 1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3  
18 below.
- 19 1.41. "Released Parties" means: MAP and each of its former and present directors, officers,  
20 shareholders, owners, attorneys, insurers, predecessors, successors, assigns, subsidiaries,  
21 and affiliates.
- 22 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be  
23 excluded from the Class Settlement signed by the Class Member.
- 24 1.43. "Response Deadline" means 60 days after the Administrator mails Notice to Class  
25 Members and Aggrieved Employees, and shall be the last date on which Class Members  
26 may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email,  
27 or mail his or her Objection to the Settlement. The Response Deadline for Class Members  
28 to whom Notice Packets are resent after having been returned undeliverable to the

1 Administrator shall be extended by 14 calendar days beyond the original Response  
2 Deadline.

3 1.44. "Settlement" means the disposition of the Action effected by this Agreement and the  
4 Judgment.

5 1.45. "Workweek" means the number of calendar weeks which a Class Member worked for  
6 MAP during the Class Period.

7  
8 **2. RECITALS.**

9 2.1. On July 21, 2021, Plaintiff commenced this Action by filing a Complaint alleging causes  
10 of action against MAP, alleging that MAP (1) failed to provide meal periods (Lab. Code §§  
11 204, 223, 226.7, 512 and 1198 and Wage Order); (2) failed to provide rest periods (Lab.  
12 Code §§ 204, 223, 226.7 and 1198 and Wage Order); (3) failed to pay minimum and  
13 overtime time wages (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198 and  
14 Wage Order as to minimum wage); (4) failed to provide accurate itemized wage statements  
15 (Lab. Code §§ 226(a)); (5) failed to timely pay all final wages (Lab. Code §§ 201, 202 and  
16 203); (6) failed to indemnify for job-related expenses (Lab. Code § 2802); and, (7) engaged  
17 in Unfair Competition (Bus. & Prof. Code §§ 17200 et seq.). In conjunction with a Motion  
18 for Preliminary Approval, Plaintiff will seek leave to file a First Amended Complaint  
19 alleging an additional claim for relief against MAP for violation of PAGA. The First  
20 Amended Complaint will be the operative complaint in the Action for purposes of  
21 settlement (the "Operative Complaint."). MAP denies the allegations in the Operative  
22 Complaint, denies any failure to comply with the laws identified in in the Operative  
23 Complaint and denies any and all liability for the causes of action alleged.

24 2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to MAP and the  
25 LWDA by sending the PAGA Notice.

26 2.3. On June 21, 2022, the Parties participated in an all-day mediation presided over by  
27 experienced mediator Steve Serratore, Esq. The Action did not settle at that time. The  
28 Parties continued to review data produced for mediation and exchange analyses of

potential exposure in the Action. In subsequent discussions, a settlement was reached in this matter, based on a review of exposure analysis data exchanged by the Parties.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, documents from Defendant, including payroll records and timekeeping data for the Class. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) (“*Dunk/Kullar*”). The criteria used in the *Dunk/Kullar* analysis is comparable to the criteria utilized by federal courts evaluating the adequacy of proposed class action settlements.

2.5. The Court has not granted class certification.

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

**3. MONETARY TERMS.**

3.1. Gross Settlement Amount. MAP promises to pay \$380,000.00 and no more as the Gross Settlement Amount, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. MAP has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to MAP.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$7,500.00 (in addition to any Individual Class Payment and any

1 Individual PAGA Payment the Class Representative is entitled to receive as a  
2 Participating Class Member). MAP will not oppose Plaintiff's request for a Class  
3 Representative Service Payment that does not exceed this amount. As part of the  
4 motion for Class Counsel Fees Payment and Class Litigation Expenses Payment,  
5 Plaintiff will seek Court approval for any Class Representative Service Payments  
6 no later than 28 court days prior to the Final Approval Hearing. If the Court  
7 approves a Class Representative Service Payment less than the amount requested,  
8 the Administrator will retain the remainder in the Net Settlement Amount. The  
9 Administrator will pay the Class Representative Service Payment using IRS Form  
10 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on  
11 the Class Representative Service Payment.

12 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33 and 1/3%,  
13 which is currently estimated to be \$126,666.67 and a Class Counsel Litigation  
14 Expenses Payment of not more than \$20,000.00. MAP will not oppose requests for  
15 these payments provided that do not exceed these amounts. Plaintiff and/or Class  
16 Counsel will file a motion for Class Counsel Fees Payment and Class Litigation  
17 Expenses Payment no later than 27 court days prior to the Final Approval Hearing.  
18 If the Court approves a Class Counsel Fees Payment and/or a Class Counsel  
19 Litigation Expenses Payment less than the amounts requested, the Administrator  
20 will allocate the remainder to the Net Settlement Amount. Released Parties shall  
21 have no liability to Class Counsel or any other Plaintiff's Counsel arising from any  
22 claim to any portion any Class Counsel Fee Payment and/or Class Counsel  
23 Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees  
24 Payment and Class Counsel Expenses Payment using one or more IRS 1099  
25 Forms. Class Counsel assumes full responsibility and liability for taxes owed on  
26 the Class Counsel Fees Payment and the Class Counsel Litigation Expenses  
27 Payment and holds MAP harmless, and indemnifies MAP, from any dispute or  
28 controversy regarding any division or sharing of any of these Payments.



1                   3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed  
2                   \$18,000.00 except for a showing of good cause and as approved by the Court. To  
3                   the extent the Administration Expenses are less or the Court approves payment less  
4                   than \$18,000.00 the Administrator will retain the remainder in the Net Settlement  
5                   Amount.

6                   3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by  
7                   (a) dividing the Net Settlement Amount by either the total number of Workweeks,  
8                   days, or hours worked by all Participating Class Members during the Class Period  
9                   (dependent upon the availability of data to maximize the precision of the allocation  
10                  to each Class Member) and (b) multiplying the result by each Participating Class  
11                  Member's Workweeks, or days worked, or total hours worked (dependent upon  
12                  the availability of data to maximize the precision of the allocation to each Class  
13                  Member).

14                 3.2.4.1. Tax Allocation of Individual Class Payments. 25% of each Participating  
15                 Class Member's Individual Class Payment will be allocated to settlement  
16                 of wage claims (the "Wage Portion"). The Wage Portions are subject to tax  
17                 withholding and will be reported on an IRS W-2 Form. The remaining  
18                 75% of each Participating Class Member's Individual Class Payment will  
19                 be allocated to settlement of claims for interest and penalties (the "Non-  
20                 Wage Portion"). The Non-Wage Portions are not subject to wage  
21                 withholdings and will be reported on IRS 1099 Forms. Participating Class  
22                 Members assume full responsibility and liability for any employee taxes  
23                 owed on their Individual Class Payment.

24                 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual  
25                 Class Payments. Non-Participating Class Members will not receive any  
26                 Individual Class Payments. The Administrator will retain amounts equal to  
27                 their Individual Class Payments in the Net Settlement Amount for  
28                 distribution to Participating Class Members on a pro rata basis.

1                   3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of  
2                   \$40,000 to be paid from the Gross Settlement Amount, with 75% (\$30,000.00)  
3                   allocated to the LWDA PAGA Payment and 25% (\$10,000.00) allocated to the  
4                   Individual PAGA Payments.

5                   3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a)  
6                   dividing the amount of the Aggrieved Employees' 25% share of PAGA  
7                   Penalties (\$10,000.00) by the total number of PAGA Period Pay Periods  
8                   worked by all Aggrieved Employees during the PAGA Period and (b)  
9                   multiplying the result by each Aggrieved Employee's PAGA Period Pay  
10                  Periods. Aggrieved Employees assume full responsibility and liability for  
11                  any taxes owed on their Individual PAGA Payment.

12                  3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested,  
13                  the Administrator will allocate the remainder to the Net Settlement  
14                  Amount. The Administrator will report the Individual PAGA Payments on  
15                  IRS 1099 Forms.

16  
17 **4. SETTLEMENT FUNDING AND PAYMENTS.**

18                  4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records  
19                  to date, MAP estimates there were approximately 760 Class Members who collectively  
20                  worked a total of 33,500 Workweeks as of the date of December 31, 2022, and there were  
21                  approximately 7,750 PAGA Pay Periods worked through December 31, 2022.

22                  4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the  
23                  Settlement, MAP will deliver the Class Data to the Administrator, in the form of a  
24                  Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator  
25                  must maintain the Class Data in confidence, use the Class Data only for purposes of this  
26                  Settlement and for no other purpose, and restrict access to the Class Data to Administrator  
27                  employees who need access to the Class Data to effect and perform under this Agreement.  
28

1 MAP has a continuing duty to immediately notify Class Counsel if it discovers that the  
2 Class Data omitted class member identifying information and to provide corrected or  
3 updated Class Data as soon as reasonably feasible. Without any extension of the deadline  
4 by which MAP must send the Class Data to the Administrator, the Parties and their  
5 counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise  
6 resolve any issues related to missing or omitted Class Data.

7 4.3. Funding of Gross Settlement Amount. MAP shall fully fund the Gross Settlement  
8 Amount, and also fund the amounts necessary to fully pay MAP's share of payroll taxes by  
9 transmitting the funds to the Administrator no later than 14 days after the Effective Date.

10 4.4. Payments from the Gross Settlement Amount. Within 14 days after MAP funds the Gross  
11 Settlement Amount, the Administrator will mail checks for all Individual Class Payments,  
12 all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses  
13 Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses  
14 Payment, and the Class Representative Service Payment. Disbursement of the Class  
15 Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class  
16 Representative Service Payment shall not precede disbursement of Individual Class  
17 Payments and Individual PAGA Payments.

18 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or  
19 Individual PAGA Payments and send them to the Class Members via First Class  
20 U.S. Mail, postage prepaid. The face of each check shall prominently state the  
21 date (not less than 180 days after the date of mailing) when the check will be  
22 voided. The Administrator will cancel all checks not cashed by the void date. The  
23 Administrator will send checks for Individual Settlement Payments to all  
24 Participating Class Members (including those for whom Class Notice was returned  
25 undelivered). The Administrator will send checks for Individual PAGA Payments  
26 to all Aggrieved Employees including Non-Participating Class Members who  
27 qualify as Aggrieved Employees (including those for whom Class Notice was  
28 returned undelivered). The Administrator may send Participating Class Members a

1 single check combining the Individual Class Payment and the Individual PAGA  
2 Payment. Before mailing any checks, the Settlement Administrator must update  
3 the recipients' mailing addresses using the National Change of Address Database.

4 4.4.2. The Administrator must conduct a Class Member Address Search for all other  
5 Class Members whose checks are returned undelivered without USPS forwarding  
6 address. Within seven days of receiving a returned check the Administrator must  
7 re-mail checks to the USPS forwarding address provided or to an address  
8 ascertained through the Class Member Address Search. The Administrator need  
9 not take further steps to deliver checks to Class Members whose re-mailed checks  
10 are returned as undelivered. The Administrator shall promptly send a replacement  
11 check to any Class Member whose original check was lost or misplaced, requested  
12 by the Class Member prior to the void date.

13 4.4.3. For any Class Member whose Individual Class Payment check or Individual  
14 PAGA Payment check is uncashed and cancelled after the void date, the  
15 Administrator shall transmit the funds represented by such checks to the California  
16 Controller's Unclaimed Property Fund in the name of the Class Member thereby  
17 leaving no "unpaid residue" subject to the requirements of California Code of Civil  
18 Procedure § 384(b).

19 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall  
20 not obligate MAP to confer any additional benefits or make any additional  
21 payments to Class Members (such as 401(k) contributions or bonuses) beyond  
22 those specified in this Agreement.

23  
24 **5. RELEASES OF CLAIMS.**

25 Effective on the date when MAP fully funds the entire Gross Settlement Amount and funds all employer  
26 payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and  
27 Class Counsel will release claims against all Released Parties as follows:

28 5.1. Plaintiff's Release.

1                   5.1.1. Scope of Plaintiff's Release. Plaintiff and his or her respective former and present  
2 spouses, representatives, agents, attorneys, heirs, administrators, successors, and  
3 assigns generally, release and discharge Released Parties from all claims,  
4 transactions, or occurrences that occurred during the Class Period, including, but  
5 not limited to: (a) all claims that were, or reasonably could have been, alleged,  
6 based on the facts contained, in the Operative Complaint and (b) all PAGA claims  
7 that were, or reasonably could have been, alleged based on facts contained in the  
8 Operative Complaint and Plaintiff's PAGA Notice. ("Plaintiff's Release.")  
9 Plaintiff's Release does not extend to any claims or actions to enforce this  
10 Agreement, or to any claims for vested benefits, unemployment benefits, disability  
11 benefits, social security benefits, workers' compensation benefits that arose at any  
12 time, or based on occurrences outside the Class Period. Plaintiff acknowledges that  
13 Plaintiff may discover facts or law different from, or in addition to, the facts or law  
14 that Plaintiff now knows or believes to be true but agrees, nonetheless, that  
15 Plaintiff's Release shall be and remain effective in all respects, notwithstanding  
16 such different or additional facts or Plaintiff's discovery of them.

17                   5.1.2. Plaintiff's Waiver of Rights Under California Civil Code § 1542. For purposes of  
18 Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions,  
19 rights, and benefits, if any, of Section 1542 of the California Civil Code, which  
20 reads:

21                   **A general release does not extend to claims that the creditor or**  
22                   **releasing party does not know or suspect to exist in his or her favor**  
23                   **at the time of executing the release, and that if known by him or her**  
24                   **would have materially affected his or her settlement with the debtor**  
25                   **or Released Party.**

26                   5.2. Release by Participating Class Members: All Participating Class Members, on behalf of  
27 themselves and their respective former and present representatives, agents, attorneys, heirs,  
28 administrators, successors, and assigns, release Released Parties from (i) all claims that  
were alleged, or reasonably could have been alleged, based on the Class Period facts stated  
in the Operative Complaint, including all claims that MAP (1) failed to provide meal

1 periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198 and Wage Order); (2) failed to  
2 provide rest periods (Lab. Code §§ 204, 223, 226.7 and 1198 and Wage Order); (3) failed  
3 to pay minimum and overtime time wages (Lab. Code §§ 223, 510, 1194, 1194.2, 1197,  
4 1997.1 and 1198 and Wage Order as to minimum wage); (4) failed to provide accurate  
5 itemized wage statements (Lab. Code §§ 226(a)); (5) failed to timely pay all final wages  
6 (Lab. Code §§ 201, 202 and 203); (6) failed to indemnify for job-related expenses (Lab.  
7 Code § 2802); and, (7) engaged in Unfair Competition (Bus. & Prof. Code §§ 17200 et  
8 seq.). Excluded from this portion of the release are claims for PAGA penalties that were  
9 alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in  
10 the Operative Complaint and the PAGA Notice. Except as set forth in Section 5.3 of this  
11 Agreement, Participating Class Members do not release any other claims, including claims  
12 for vested benefits, wrongful termination, violation of the Fair Employment and Housing  
13 Act, unemployment insurance, disability, social security, workers' compensation, or claims  
14 based on facts occurring outside the Class Period.

15 5.3. Release by Class Members Who Are Aggrieved Employees: All Class Members who are  
16 Aggrieved Employees are deemed to release, on behalf of themselves and their respective  
17 former and present representatives, agents, attorneys, heirs, administrators, successors, and  
18 assigns, the Released Parties from all claims for PAGA penalties that were alleged, or  
19 reasonably could have been alleged, based on the PAGA Period facts stated in the  
20 Operative Complaint and the PAGA Notice.

## 22 **6. MOTION FOR PRELIMINARY APPROVAL.**

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

25 6.1. MAP’s Declaration in Support of Preliminary Approval. Within 14 days of the full  
26 execution of this Agreement, MAP will prepare and deliver to Class Counsel a signed  
27 Declaration from MAP and Defense Counsel disclosing all facts relevant to any actual or  
28 potential conflicts of interest with the Administrator. In their Declarations, Defense

1 Counsel and MAP shall aver that they are not aware of any other pending matter or action  
2 asserting claims that will be extinguished or adversely affected by the Settlement.

3 6.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all  
4 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the  
5 notice, and memorandum in support, of the Motion for Preliminary Approval that includes  
6 an analysis of the Settlement under *Dunk/Kullar* and similar federal cases and a request for  
7 approval of the PAGA Settlement under Labor Code § 2699(f)(2)); (ii) a draft proposed  
8 Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft  
9 proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not  
10 to exceed" bid for administering the Settlement and attesting to its willingness to serve;  
11 competency; operative procedures for protecting the security of Class Data; the existence  
12 of insurance coverage for any data breach, defalcation of funds or other misfeasance; all  
13 facts relevant to any actual or potential conflicts of interest with Class Members; and the  
14 nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense  
15 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to  
16 serve and disclosing all facts relevant to any actual or potential conflicts of interest with  
17 Class Members or the Administrator; (v) a signed declaration from each Class Counsel  
18 firm attesting to its competency to represent the Class Members; its timely transmission to  
19 the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code §  
20 2699.3(a)), Operative Complaint (Labor Code § 2699(l)(1)), and this Agreement (Labor  
21 Code § 2699(l)(2)). In their Declarations, Plaintiff and Class Counsel Declaration shall  
22 aver that they are not aware of any other pending matter or action asserting claims that will  
23 be extinguished or adversely affected by the Settlement.

24 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible  
25 for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 45  
26 days after the full execution of this Agreement; obtaining a prompt hearing date for the  
27 Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the  
28 Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's

1 Preliminary Approval to the Administrator.

2 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for  
3 Preliminary Approval and/or the supporting declarations and documents, Class Counsel  
4 and Defense Counsel will expeditiously work together on behalf of the Parties by meeting  
5 in person or by telephone, and in good faith, to resolve the disagreement. If the Court does  
6 not grant Preliminary Approval or conditions Preliminary Approval on any material  
7 change to this Agreement, Class Counsel and Defense Counsel will expeditiously work  
8 together on behalf of the Parties by meeting in person or by telephone, and in good faith, to  
9 modify the Agreement and otherwise satisfy the Court's concerns.

10  
11 **7. SETTLEMENT ADMINISTRATION.**

12 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Settlement  
13 Administrators to serve as the Administrator and verified that, as a condition of  
14 appointment, Phoenix Settlement Administrators agrees to be bound by this Agreement  
15 and to perform, as a fiduciary, all duties specified in this Agreement in exchange for  
16 payment of Administration Expenses. The Parties and their Counsel represent that they  
17 have no interest or relationship, financial or otherwise, with the Administrator other than a  
18 professional relationship arising out of prior experiences administering settlements.

19 7.2. Employer Identification Number. The Administrator shall have and use its own Employer  
20 Identification Number for purposes of calculating payroll tax withholdings and providing  
21 reports state and federal tax authorities.

22 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets  
23 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation §  
24 468B-1.

25 7.4. Notice to Class Members.

26 7.4.1. No later than three (3) business days after receipt of the Class Data, the  
27 Administrator shall notify Class Counsel that the list has been received and state  
28 the number of Class Members, PAGA Members, Workweeks, and Pay Periods in



1 the Class Data.

2 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days  
3 after receiving the Class Data, the Administrator will send to all Class Members  
4 identified in the Class Data, via first-class United States Postal Service (“USPS”)  
5 mail, the Class Notice substantially in the form attached to this Agreement as  
6 **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar  
7 amounts of any Individual Class Payment and/or Individual PAGA Payment  
8 payable to the Class Member, and the number of Workweeks and PAGA Pay  
9 Periods (if applicable) used to calculate these amounts. Before mailing Class  
10 Notices, the Administrator shall update Class Member addresses using the National  
11 Change of Address database.

12 7.4.3. Not later than five business days after the Administrator’s receipt of any Class  
13 Notice returned by the USPS as undelivered, the Administrator shall re-mail the  
14 Class Notice using any forwarding address provided by the USPS. If the USPS  
15 does not provide a forwarding address, the Administrator shall conduct a Class  
16 Member Address Search, and re-mail the Class Notice to the most current address  
17 obtained. The Administrator has no obligation to make further attempts to locate  
18 or send Class Notice to Class Members whose Class Notice is returned by the  
19 USPS a second time.

20 7.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks  
21 and/or Pay Periods, and Requests for Exclusion will be extended an additional 14  
22 days beyond the 60 days otherwise provided in the Class Notice for all Class  
23 Members whose notice is re-mailed. The Administrator will inform the Class  
24 Member of the extended deadline with the re-mailed Class Notice.

25 7.4.5. If the Administrator, MAP or Class Counsel is contacted by or otherwise discovers  
26 any persons who believe they should have been included in the Class Data and  
27 should have received Class Notice, the Parties will expeditiously meet and confer  
28 in person or by telephone, and in good faith, in an effort to agree on whether to

1 include them as Class Members. If the Parties agree, such persons will be Class  
2 Members entitled to the same rights as other Class Members, and the  
3 Administrator will send, via email or overnight delivery, a Class Notice requiring  
4 them to exercise options under this Agreement not later than 14 days after receipt  
5 of Class Notice, or the deadline dates in the Class Notice, which ever are later.

6 **7.5. Requests for Exclusion (Opt-Outs).**

7 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement  
8 must send the Administrator, by fax, email, or mail, a signed written Request for  
9 Exclusion not later than 60 days after the Administrator mails the Class Notice  
10 (plus an additional 14 days for Class Members whose Class Notice is re-mailed).  
11 A Request for Exclusion is a letter from a Class Member or his/her representative  
12 that reasonably communicates the Class Member's election to be excluded from  
13 the Settlement and includes the Class Member's name, address and email address  
14 or telephone number. To be valid, a Request for Exclusion must be timely faxed,  
15 emailed, or postmarked by the Response Deadline.

16 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it  
17 fails to contain all the information specified in the Class Notice. The Administrator  
18 shall accept any Request for Exclusion as valid if the Administrator can reasonably  
19 ascertain the identity of the person as a Class Member and the Class Member's  
20 desire to be excluded. The Administrator's determination shall be final and not  
21 appealable or otherwise susceptible to challenge. If the Administrator has reason to  
22 question the authenticity of a Request for Exclusion, the Administrator may  
23 demand additional proof of the Class Member's identity. The Administrator's  
24 determination of authenticity shall be provisionally final, but shall be subject to  
25 submission to the Court for further review if the determination is not accepted by  
26 the Class Member or any Party.

27 7.5.3. Every Class Member who does not submit a timely and valid Request for  
28 Exclusion is deemed to be a Participating Class Member under this Agreement,

1 entitled to all benefits and bound by all terms and conditions of the Settlement,  
2 including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3  
3 of this Agreement, regardless whether the Participating Class Member actually  
4 receives the Class Notice or objects to the Settlement.

5 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a  
6 Non-Participating Class Member and shall not receive an Individual Class  
7 Payment or have the right to object to the class action components of the  
8 Settlement. Because future PAGA claims are subject to claim preclusion upon  
9 entry of the Judgment, Non-Participating Class Members who are Aggrieved  
10 Employees are deemed to release the claims identified in Paragraph 6.4 of this  
11 Agreement and are eligible for an Individual PAGA Payment.

12 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the  
13 Administrator mails the Class Notice (plus an additional 14 days for Class Members whose  
14 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay  
15 Periods (if any) allocated to the Class Member in the Class Notice. The Class Member  
16 may challenge the allocation by communicating with the Administrator via fax, email or  
17 mail. The Administrator must encourage the challenging Class Member to submit  
18 supporting documentation. In the absence of any contrary documentation, the  
19 Administrator is entitled to presume that the Workweeks contained in the Class Notice are  
20 correct so long as they are consistent with the Class Data. The Administrator's  
21 determination of each Class Member's allocation of Workweeks and/or Pay Periods shall  
22 be provisionally final, but shall be subject to submission to the Court for further review if  
23 the determination is not accepted by the Class Member or any Party. The Administrator  
24 shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay  
25 Periods to Defense Counsel and Class Counsel and the Administrator's determination the  
26 challenges.

27 7.7. Objections to Settlement.

28 7.7.1. Only Participating Class Members may object to the class action components of

1 the Settlement and/or this Agreement, including contesting the fairness of the  
2 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class  
3 Counsel Litigation Expenses Payment and/or Class Representative Service  
4 Payment.

5 7.7.2. Participating Class Members may send written objections to the Administrator, by  
6 fax, email, or mail. In the alternative, Participating Class Members may appear in  
7 Court (or hire an attorney to appear in Court) to present verbal objections at the  
8 Final Approval Hearing. A Participating Class Member who elects to send a  
9 written objection to the Administrator must do so not later than 60 days after the  
10 Administrator's mailing of the Class Notice (plus an additional 14 days for Class  
11 Members whose Class Notice was re-mailed).

12 7.7.3. Non-Participating Class Members have no right to object to any of the class action  
13 components of the Settlement.

14 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be  
15 performed or observed by the Administrator contained in this Agreement or otherwise.

16 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish  
17 and maintain and use an internet website to post information of interest to Class  
18 Members including the date, time and location for the Final Approval Hearing and  
19 copies of the Settlement Agreement, Motion for Preliminary Approval, the  
20 Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion  
21 for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and  
22 Class Representative Service Payment, the Final Approval and the Judgment. The  
23 Administrator will also maintain and monitor an email address and a toll-free  
24 telephone number to receive Class Member calls, faxes and emails.

25 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will  
26 promptly review on a rolling basis Requests for Exclusion to ascertain their  
27 validity. Not later than five days after the expiration of the deadline for submitting  
28 Requests for Exclusion, the Administrator shall email a list to Class Counsel and

1 Defense Counsel containing (a) the names and other identifying information of  
2 Class Members who have timely submitted valid Requests for Exclusion  
3 (“Exclusion List”); (b) the names and other identifying information of Class  
4 Members who have submitted invalid Requests for Exclusion; (c) copies of all  
5 Requests for Exclusion from Settlement submitted (whether valid or invalid).

6 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written  
7 reports to Class Counsel and Defense Counsel that, among other things, tally the  
8 number of: Class Notices mailed or re-mailed, Class Notices returned undelivered,  
9 Requests for Exclusion (whether valid or invalid) received, objections received,  
10 challenges to Workweeks and/or Pay Periods received and/or resolved, and checks  
11 mailed for Individual Class Payments and Individual PAGA Payments (“Weekly  
12 Report”). The Weekly Reports must include provide the Administrator’s  
13 assessment of the validity of Requests for Exclusion and attach copies of all  
14 Requests for Exclusion and objections received.

15 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to  
16 address and make final decisions consistent with the terms of this Agreement on all  
17 Class Member challenges over the calculation of Workweeks and/or Pay Periods.

18 7.8.5. Administrator’s Declaration. Not later than seven days before the date by which  
19 Plaintiff is required to file the Motion for Final Approval of the Settlement, the  
20 Administrator will provide to Class Counsel and Defense Counsel, a signed  
21 declaration suitable for filing in Court attesting to its due diligence and compliance  
22 with all of its obligations under this Agreement, including, but not limited to, its  
23 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing  
24 of Class Notices, attempts to locate Class Members, the total number of Requests  
25 for Exclusion from Settlement it received (both valid or invalid), the number of  
26 written objections and attach the Exclusion List. The Administrator will  
27 supplement its declaration as needed or requested by the Parties and/or the Court.  
28 Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

1                   7.8.6. Final Report by Settlement Administrator. Within 14 days after the Administrator  
2                   disburses all funds in the Gross Settlement Amount, the Administrator will provide  
3                   Class Counsel and Defense Counsel with a final report detailing its disbursements  
4                   by employee identification number only of all payments made under this  
5                   Agreement. At least 14 days before any deadline set by the Court, the  
6                   Administrator will prepare, and submit to Class Counsel and Defense Counsel, a  
7                   signed declaration suitable for filing in Court attesting to its disbursement of all  
8                   payments required under this Agreement. Class Counsel is responsible for filing  
9                   the Administrator's declaration in Court.

10  
11       **8.       CLASS SIZE ESTIMATES**

12       Based on its records, MAP estimates that, as of December 31, 2022, (1) there were approximately 760  
13       Class Members and 33,500 Total Workweeks worked during the Class period to that date and (2) there  
14       were approximately 7,750 Pay Periods during the PAGA Period to that date.

15  
16       **9.       MAP'S RIGHT TO WITHDRAW.**

17       If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 2.5% of the total of  
18       all Class Members, MAP may, but is not obligated, elect to withdraw from the Settlement. The Parties  
19       agree that, if MAP withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever,  
20       and that neither Party will have any further obligation to perform under this Agreement; provided,  
21       however, MAP will remain responsible for paying all Settlement Administration Expenses incurred to that  
22       point. MAP must notify Class Counsel and the Court of its election to withdraw not later than seven days  
23       after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no  
24       effect.

25  
26       **10.      MOTION FOR FINAL APPROVAL.**

27       Not later than 28 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a  
28       motion for final approval of the Settlement that includes a request for approval of the PAGA settlement

1 under Labor Code § 2699(I), a Proposed Final Approval Order and a proposed Judgment (collectively  
2 “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not  
3 later than [seven] days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel  
4 will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any  
5 disagreements concerning the Motion for Final Approval.

6 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by  
7 a Participating Class Member, including the right to file responsive documents in Court no  
8 later than 14 court days prior to the Final Approval Hearing, or as otherwise ordered or  
9 accepted by the Court.

10 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final  
11 Approval on any material change to the Settlement (including, but not limited to, the scope  
12 of release to be granted by Class Members), the Parties will expeditiously work together in  
13 good faith to address the Court’s concerns by revising the Agreement as necessary to  
14 obtain Final Approval. The Court’s decision to award less than the amounts requested for  
15 the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel  
16 Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute  
17 a material modification to the Agreement within the meaning of this paragraph.

18 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the  
19 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for  
20 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement  
21 administration matters, and (iii) addressing such post-Judgment matters as are permitted by  
22 law.

23 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and  
24 conditions of this Agreement, specifically including the Class Counsel Fees Payment and  
25 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the  
26 Parties, their respective counsel, and all Participating Class Members who did not object to  
27 the Settlement as provided in this Agreement, waive all rights to appeal from the  
28 Judgment, including all rights to post-judgment and appellate proceedings, the right to file

1 motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The  
2 waiver of appeal does not include any waiver of the right to oppose such motions, writs or  
3 appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this  
4 Agreement will be suspended until such time as the appeal is finally resolved and the  
5 Judgment becomes final, except as to matters that do not affect the amount of the Net  
6 Settlement Amount.

7 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the  
8 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a  
9 material modification of this Agreement (including, but not limited to, the scope of release  
10 to be granted by Class Members), this Agreement shall be null and void. The Parties shall  
11 nevertheless expeditiously work together in good faith to address the appellate court's  
12 concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis,  
13 any additional Administration Expenses reasonably incurred after remittitur. An appellate  
14 decision to vacate, reverse, or modify the Court's award of the Class Representative  
15 Service Payment or any payments to Class Counsel shall not constitute a material  
16 modification of the Judgment within the meaning of this paragraph, as long as the Gross  
17 Settlement Amount remains unchanged.

18  
19 **11. AMENDED JUDGMENT.**

20 If any amended judgment is required, the Parties will work together in good faith to jointly submit and a  
21 proposed amended judgment.

22  
23 **12. ADDITIONAL PROVISIONS.**

24 12.1. No Admission of Liability, Class Certification or Representative Manageability for Other  
25 Purposes. This Agreement represents a compromise and settlement of highly disputed  
26 claims. Nothing in this Agreement is intended or should be construed as an admission by  
27 MAP that any of the allegations in the Operative Complaint have merit or that MAP has  
28 any liability for any claims asserted; nor should it be intended or construed as an admission



1 by Plaintiff that MAP's defenses in the Action have merit. The Parties agree that class  
2 certification and representative treatment is for purposes of this Settlement only. If, for any  
3 reason the Court does grant Preliminary Approval, Final Approval or enter Judgment,  
4 MAP reserves the right to contest certification of any class for any reasons, and MAP  
5 reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to  
6 move for class certification on any grounds available and to contest MAP's defenses. The  
7 Settlement, this Agreement and Parties' willingness to settle the Action will have no  
8 bearing on, and will not be admissible in connection with, any litigation (except for  
9 proceedings to enforce or effectuate the Settlement and this Agreement).

10 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, MAP and Defense  
11 Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is  
12 filed, they and each of them will not disclose, disseminate and/or publicize, or cause or  
13 permit another person to disclose, disseminate or publicize, any of the terms of the  
14 Agreement directly or indirectly, specifically or generally, to any person, corporation,  
15 association, government agency, or other entity except: (1) to the Parties' attorneys,  
16 accountants, or spouses, all of whom will be instructed to keep this Agreement  
17 confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to  
18 appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in  
19 response to an inquiry or subpoena issued by a state or federal government agency. Each  
20 Party agrees to immediately notify each other Party of any judicial or agency order,  
21 inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, MAP and  
22 Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or  
23 other communication, before the filing of the Motion for Preliminary Approval, any with  
24 third party regarding this Agreement or the matters giving rise to this Agreement except to  
25 respond only that "the matter was resolved," or words to that effect. This paragraph does  
26 not restrict Class Counsel's communications with Class Members in accordance with Class  
27 Counsel's ethical obligations owed to Class Members.

28 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and

1 employees will not solicit any Class Member to opt out of or object to the Settlement, or  
2 appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class  
3 Counsel's ability to communicate with Class Members in accordance with Class Counsel's  
4 ethical obligations owed to Class Members.

5 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement  
6 together with its attached exhibits shall constitute the entire agreement between the Parties  
7 relating to the Settlement, superseding any and all oral representations, warranties,  
8 covenants, or inducements made to or by any Party.

9 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and  
10 represent that they are authorized by Plaintiff and MAP, respectively, to take all  
11 appropriate action required or permitted to be taken by such Parties pursuant to this  
12 Agreement to effectuate its terms, and to execute any other documents reasonably required  
13 to effectuate the terms of this Agreement including any amendments to this Agreement.

14 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their  
15 best efforts, in good faith, to implement the Settlement by, among other things, modifying  
16 the Settlement Agreement, submitting supplemental evidence and supplementing points  
17 and authorities as requested by the Court. In the event the Parties are unable to agree upon  
18 the form or content of any document necessary to implement the Settlement, or on any  
19 modification of the Agreement that may become necessary to implement the Settlement,  
20 the Parties will seek the assistance of a mediator and/or the Court for resolution.

21 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not  
22 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or  
23 encumber to any person or entity and portion of any liability, claim, demand, action, cause  
24 of action, or right released and discharged by the Party in this Settlement.

25 12.8. No Tax Advice. Neither Plaintiff, Class Counsel, MAP nor Defense Counsel are providing  
26 any advice regarding taxes or taxability, nor shall anything in this Settlement be relied  
27 upon as such within the meaning of United States Treasury Department Circular 230 (31  
28 CFR Part 10, as amended) or otherwise.

- 1           12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,  
2                           modified, changed, or waived only by an express written instrument signed by all Parties  
3                           or their representatives, and approved by the Court.
- 4           12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the  
5                           benefit of, the successors of each of the Parties.
- 6           12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be  
7                           governed by and interpreted according to the internal laws of the state of California,  
8                           without regard to conflict of law principles.
- 9           12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of  
10                          this Agreement. This Agreement will not be construed against any Party on the basis that  
11                          the Party was the drafter or participated in the drafting.
- 12           12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered  
13                          during Action and in this Agreement relating to the confidentiality of information shall  
14                          survive the execution of this Agreement.
- 15           12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to  
16                          Evidence Code § 1152 and/or the Fed. R. Evid., and all copies and summaries of the Class  
17                          Data provided to Class Counsel by MAP in connection with the mediation, other  
18                          settlement negotiations, or in connection with the Settlement, may be used only with  
19                          respect to this Settlement, and no other purpose, and may not be used in any way that  
20                          violates any existing contractual agreement, statute, or rule of court. Not later than 90 days  
21                          after the date when the Court discharges the Administrator's obligation to provide a  
22                          Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all  
23                          paper and electronic versions of Class Data received from MAP unless, prior to the Court's  
24                          discharge of the Administrator's obligation, MAP makes a written request to Class  
25                          Counsel for the return, rather than the destructions, of Class Data.
- 26           12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is  
27                          inserted for convenience of reference only and does not constitute a part of this  
28                          Agreement.

1 12.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be  
2 to calendar days. In the event any date or deadline set forth in this Agreement falls on a  
3 weekend or federal legal holiday, such date or deadline shall be on the first business day  
4 thereafter.

5 12.17. Notice. All notices, demands or other communications between the Parties in connection  
6 with this Agreement will be in writing and deemed to have been duly given as of the third  
7 business day after mailing by United States mail, or the day sent by email or messenger,  
8 addressed as follows:

9  
10 To Plaintiff:

11 Kane Moon  
12 H. Scott Leviant  
13 scott.leviant@moonyanglaw.com  
14 Mariam Ghazaryan  
15 mariam.ghazaryan@moonyanglaw.com  
16 MOON & YANG, APC  
17 1055 W. Seventh St., Suite 1880  
18 Los Angeles, California 90017  
19 Telephone: (213) 232-3128  
20 Facsimile: (213) 232-3125

21 To MAP:

22 Eulalio J. Garcia  
23 ejgarcia@grsm.com  
24 GORDON REES SCULLY MANSUKHANI  
25 633 West Fifth Street, 52nd Floor  
26 Los Angeles, CA 90071  
27 Telephone: 213-270-7870

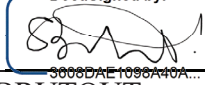
28 12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts  
by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement  
shall be accepted as an original. All executed counterparts and each of them will be  
deemed to be one and the same instrument if counsel for the Parties will exchange between  
themselves signed counterparts. Any executed counterpart will be admissible in evidence  
to prove the existence and contents of this Agreement.

12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the

litigation shall be stayed, except to effectuate the terms of this Agreement.

**Plaintiff & Class Representative:**


Dated: ~~January~~ February 21, 2023

DocuSigned by:  
  
By: \_\_\_\_\_  
LEEANN BRUTOUT

**Plaintiff's Counsel:**

Dated: January 23, 2023

MOON & YANG, APC

By:   
Kane Moon  
H. Scott Leviant  
Mariam Ghazaryan

Attorneys for Plaintiff

**Defendant:**

Dated: January \_\_, 2023

MAP COMMUNICATIONS, INC.

By: \_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**Defendant's Counsel:**

Dated: January \_\_, 2023

GORDON REES SCULLY MANSUKHANI

By: \_\_\_\_\_  
Eulalio J. Garcia

Attorneys for Defendant MAP  
COMMUNICATIONS, INC.

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28

litigation shall be stayed, except to effectuate the terms of this Agreement.

**Plaintiff & Class Representative:**

Dated: January \_\_, 2023

By: \_\_\_\_\_  
LEEANN BRUTOUT

**Plaintiff's Counsel:**

Dated: January \_\_, 2023

MOON & YANG, APC

By: \_\_\_\_\_  
Kane Moon  
H. Scott Leviant  
Mariam Ghazaryan  
Attorneys for Plaintiff

**Defendant:**

Dated: January 20, 2023

MAP COMMUNICATIONS, INC.

By: Morton T. Larmore  
Print Name  
Morton T. Larmore  
Signature  
Chief Financial Officer  
Title

**Defendant's Counsel:**

Dated: January 23, 2023

GORDON REES SCULLY MANSUKHANI

By: [Signature]  
Eulalio J. Garcia  
Attorneys for Defendant MAP  
COMMUNICATIONS, INC.

# **Exhibit “A”**

# NOTICE OF PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT

*Leeann Brutout v. MAP Communications, Inc.*, Case No.: 3:21-cv-01533-TWR-AGS

*A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.*

IF YOU ARE OR WERE A NON-EXEMPT EMPLOYEE OF MAP COMMUNICATIONS, INC. (“DEFENDANT”) WHO WORKED FOR DEFENDANT IN CALIFORNIA AT ANY TIME BETWEEN JULY 21, 2017 TO DECEMBER 31, 2022 (THE “CLASS PERIOD”), THIS PROPOSED CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

## **Why should you read this Notice?**

A proposed settlement (the “Settlement”) has been reached in the class and representative action lawsuit entitled *Leeann Brutout v. MAP Communications, Inc.*, U.S. District Court Case No. 3:21-cv-01533-TWR-AGS (the “Action”). The purpose of this Notice of Proposed Class and Private Attorneys General Act of 2004 (“PAGA”) Representative Action Settlement (“Class Notice”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action.

**YOUR ESTIMATED PAYMENT FROM THIS SETTLEMENT:** Your estimated individual Settlement payment is <<Estimated Payment>>, which includes your Individual Class Payment in the estimated amount of <<Estimated Individual Class Payment>> and, because you [ARE/ARE NOT] a member of the Aggrieved Employee group, your Individual PAGA Payment in the estimated amount of <<Estimated Individual PAGA Payment>>.

A hearing concerning final approval of the proposed Settlement will be held before Hon. Todd W. Robinson on <<FA DATE>>, at <<FA TIME>>, in Courtroom 3A of the United States Courthouse, 221 West Broadway, San Diego, CA 92101, to determine whether the Settlement is fair, adequate and reasonable. As a Class Member, you are eligible to receive an Individual Class Payment under the Settlement and will be bound by the release of claims described in this Notice and the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement.

## **YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:**

<b>DO NOTHING – GET MONEY</b>	If you do nothing, you will be considered a “Participating Class Member” in the Settlement and will receive settlement benefits as explained more fully below. You will also give up rights to pursue a separate legal action against Defendant for the Released Class Claims asserted in the Action as explained more fully below.
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT. DEADLINE TO EXCLUDE YOURSELF: &lt;&lt;RESPONSE DEADLINE&gt;&gt;</b>	You have the option to exclude yourself from the Settlement of the claims in the Action. If you choose to do so, you must exclude yourself, in writing, from the Settlement by submitting a written request to be excluded (“Opt-Out Request”). As a result, you will not receive any benefits under the Settlement (other than any benefit based on the PAGA Claim). Opt-Out Requests must be submitted by <<RESPONSE DEADLINE>>.
<b>OBJECT TO THE SETTLEMENT. DEADLINE TO SUBMIT WRITTEN OBJECTIONS: &lt;&lt;RESPONSE DEADLINE&gt;&gt;</b>	To object to the Settlement, you may mail a written explanation of why you don’t approve of the Settlement to the Settlement Administrator, appear at the Final Approval Hearing, or hire an attorney at your expense to object for you. This option is available only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> submit an Opt-Out Request if you wish to object. <i>Written</i> objections must be submitted by <<RESPONSE DEADLINE>>.



### ***Who is affected by this proposed Settlement?***

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

All persons employed by MAP in California and classified as non-exempt employees who worked for MAP during the Class Period. The “Class Period” is July 21, 2017 to December 31, 2022.

According to Defendant’s records, you are a member of the settlement class (“Class Member”). Aggrieved Employees will automatically receive their *pro rata* share of the \$10,000 allocated from PAGA Penalties to Aggrieved Employees, cannot opt-out of the release of PAGA claims, and will be bound by the release of the PAGA claims even if they opt-out of the Settlement. Defendant’s records indicate you [ARE/ARE NOT] an Aggrieved Employee who worked in the State of California at any time during the PAGA Period of July 17, 2020 to December 31, 2022.

### ***What is this case about?***

In the Action, Plaintiff Leeann Brutout (“Plaintiff”) alleges on behalf of herself and the Class that Defendant: (1) failed to pay minimum and regular rate wages; (2) failed to pay overtime wages; (3) failed to provide meal periods; (4) failed to authorize and permit rest periods; (5) failed to timely pay all wages at termination; (6) failed to furnish accurate itemized wage statements; (7) failed to reimburse necessary business expenses; (8) violated California’s Unfair Competition Law, California Business and Professions Code § 17200 *et seq.*; and (9) violated provisions of the Labor Code giving rise to civil penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, *et seq.*]. Plaintiff seeks unpaid wages, actual, consequential and incidental losses and damages, special damages, liquidated damages, injunctive relief, declaratory relief, statutory penalties, civil penalties under PAGA, restitution, interest, attorneys’ fees, and costs.

**This Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims. Defendant denies all liability and is confident that it has strong legal and factual defenses to the claims, but it recognizes the risks, distractions, and costs associated with litigation. Defendant maintains that its conduct is and has been lawful at all times relevant.**

This Settlement is a compromise reached after good faith, arm’s length negotiations between Plaintiff and Defendant (the “Parties”), through their attorneys, and is not an admission of liability on the part of Defendant. Both sides agree that this Settlement is fair, adequate and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has not ruled on the merits of Plaintiff’s claims or Defendant’s defenses.

### ***Who are the attorneys representing the Parties?***

The attorneys representing the Parties in the Action are:

#### **Class Counsel**

Kane Moon  
H. Scott Leviant  
Mariam Ghazaryan  
MOON & YANG, APC  
1055 W. Seventh St., Suite 1880  
Los Angeles, California 90017  
Telephone: (213) 232-3128  
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#### **Defendant’s Counsel**

Eulalio J. Garcia  
GORDON REES SCULLY MANSUKHANI  
633 West Fifth Street, 52nd Floor  
Los Angeles, CA 90071  
Telephone: 213-270-7870  
ejgarcia@grsm.com

### ***What are the Settlement terms?***

Subject to final Court approval, Defendant will pay \$380,000.00 (the “Gross Settlement Amount”) for: (a) Individual Class Payments to Class Members; (b) the Court-approved Class Representative Service Payment to

Plaintiff (up to \$7,500 to Plaintiff); (c) the Court-approved attorneys' fees and costs to Class Counsel (\$126,666.67 in fees and up to \$20,000 in costs to be requested); (d) \$40,000 in civil penalties pursuant to the PAGA (the "PAGA Penalties"); and (e) payment to the Settlement Administrator for settlement administration services ("Administrative Expenses") (estimated not to exceed \$18,000.)

**Individual Settlement Payments.** Class Members who do not timely and properly request to be excluded from the Settlement (the "Participating Class Members") will receive a share of the Net Settlement Amount (the "Individual Class Payment"), and Class Members who are also Aggrieved Employees will receive a share of the \$10,000 from the PAGA Penalties allocated to Aggrieved Employees, regardless of whether they request exclusion from the Settlement (the total payment to a Class Member is called the "Individual Settlement Payment" in this Notice).

The "Net Settlement Amount" will be calculated by deducting from the Gross Settlement Amount the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payment, the PAGA Penalty, and the Administrator Expenses Payment. The Individual Settlement Payments will be comprised of the Individual Class Payment to each eligible Participating Class Member and the Individual PAGA Payment to each eligible Aggrieved Employee.

The Class Payment shall be divided among all Participating Class Members on a *pro rata* basis based on the total number of workweeks, days, or hours worked by all Participating Class Members during the Class Period (depending upon the availability of data to maximize the precision of the allocation to each Class Member and multiplying the result by each Participating Class Member's Workweeks, or days worked, or total hours worked (depending upon the availability of data to maximize the precision of the allocation to each Class Member).

The PAGA Payment shall be divided among all Aggrieved Employees on a *pro rata* basis based upon the total number of pay periods worked by each PAGA Employee during the PAGA Period. The portion of the PAGA Penalties paid to an Aggrieved Employee = \$10,000 × [the pay periods worked by an Aggrieved Employee (during the PAGA Period) ÷ the pay periods worked by all Aggrieved Employees (during the PAGA Period)].

Your estimated Individual Settlement Payment is <<**Estimated Settlement Payment**>> and the number of work weeks or days worked, or total hours worked by you during the Class Period based on your hire and/or termination dates is <<**Work Weeks**>>. You may seek to dispute the number of your work weeks or days worked, or total hours worked. Such challenges must: (i) be in writing; (ii) state your full name; (iii) include a statement that you are seeking to challenge your estimated Individual Settlement Payment set forth in this Class Notice; (iv) state the number of work weeks you believe you have worked during the Class Period; and (v) be mailed to the Settlement Administrator with a postmark date on or before <<**RESPONSE DEADLINE**>> (the "Response Deadline") at:

Phoenix Settlement Administrators

[**Phoenix Address**]

You must produce documentary evidence supporting your contention. Defendant's records will be presumed correct unless you prove otherwise by credible evidence. If you dispute the accuracy of Defendant's records used to calculate work weeks or days worked, or total hours worked, and the counsel for both parties and the Settlement Administrator cannot resolve the dispute informally, the matter will be referred to the court for final resolution. The Court will resolve and decide all work week, or days worked, or total hours worked disputes, and its decisions will be final and non-appealable. **REMINDER:** If you believe your estimated Individual Settlement Payment is incorrect because your work weeks, or days worked, or total hours worked within the Class Period are wrong, your deadline to dispute this is <<**RESPONSE DEADLINE**>>.

For tax reporting purposes, the Individual Class Payments to Participating Class Members will be allocated as 25% to wages and 75% to penalties and interest. The Individual PAGA Payments will be allocated 100% as penalties. The wage portion of the Individual Settlement Payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable employee-side payroll taxes from the wage portion of the Individual Settlement Payments. The portion of the Individual Settlement Payments allocated as civil penalties and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC if required by governing tax laws. Any taxes owed on that other miscellaneous income will be the responsibility of Class Members receiving those payments. The employer's share of any payroll taxes will be separately paid by Defendant.

All checks for Individual Settlement Payments paid to Class Members will remain valid and negotiable for one hundred eighty (180) days from the date of the check's issuance and shall thereafter automatically be void if not claimed or negotiated by a Class Member within that time. Any Individual Settlement Payment that is not claimed or negotiated by a Class Member within one hundred eighty (180) days of issuance shall be transmitted to the California State Controller's Office to be held as unclaimed property in the name of each check recipient who is the payee of the check. In such event, the Settlement Class Members and Aggrieved Employees shall nevertheless remain bound by the Settlement.

Within 28 calendar days of the Effective Date (and assuming that Defendant has paid all amounts owed under the Settlement), the Settlement Administrator will distribute the Individual Settlement Payments to all Participating Class Members and Aggrieved Employees. The "Effective Date" is when: (1) the Court has held a final approval hearing and entered a final order and judgment certifying the Class and approving this Settlement; and (2) the later of the following events: (a) the day final approval is granted if there are no objections to the settlement; or, (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

Payments to Participating Class Members and Aggrieved Employees will issue only AFTER the payment by Defendant of the Gross Settlement Amount to the Settlement Administrator. **PLEASE BE PATIENT AND UPDATE THE SETTLEMENT ADMINISTRATOR WITH YOUR NEW ADDRESS IF YOU MOVE AFTER RECEIVING THIS NOTICE OR YOU RECEIVED THIS NOTICE AS FORWARDED MAIL.**

None of the Parties or their attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member.

**Class Counsel's Fees and Expenses, the Class Representative Enhancement, Administrative Expenses, the PAGA Penalty Payment.** Class Counsel will ask the Court to award attorneys' fees up to \$126,666.67 (one third) of the Gross Settlement Amount and reimbursement of reasonable costs incurred in the Action not to exceed \$20,000. In addition, Class Counsel will ask the Court to authorize a Class Representative Service Payment made to Plaintiff, not to exceed \$7,500, for her efforts in bringing the Action on behalf of the Class. The Parties estimate the cost of administering the Settlement will not be more than \$18,000 (and is currently estimated to be \$10,000). PAGA Penalties in the amount of \$30,000.00 will also be made to the LWDA for PAGA penalties, which represents 75% of the \$40,000 allocated as PAGA Penalties.

#### ***What claims are being released by the proposed Settlement?***

Upon the final approval by the Court of this Settlement and Defendant's payment of all sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this Settlement, each Participating Class Member and each Aggrieved Employee will release claims as follows:

(a) **The Released Class Claims.** All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, including all claims that MAP (1) failed to provide meal periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198 and Wage Order); (2) failed to provide rest periods (Lab. Code §§ 204, 223, 226.7 and 1198 and Wage Order); (3) failed to pay minimum and overtime time wages (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198 and Wage Order as to minimum wage); (4) failed to provide accurate itemized wage statements (Lab. Code §§ 226(a)); (5) failed to timely pay all final wages (Lab. Code §§ 201, 202 and 203); (6) failed to indemnify for job-related expenses (Lab. Code § 2802); and, (7) engaged in Unfair Competition (Bus. & Prof. Code §§ 17200 et seq.). Excluded from this portion of the release are claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

(b) **Claims Released by Aggrieved Employees.** All Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents,

attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

The “Released Parties” are: MAP Communications, Inc. and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

No Class Member employed during the PAGA Period can request exclusion from the settlement of the Released PAGA Claims. If you are a Class Member and an Aggrieved Employee, and this Settlement is approved, you will release the Released PAGA Claims even if you timely and properly file an Opt-Out Request. The Aggrieved Employees are bound by the release of the Released PAGA Claims regardless of whether they cash their Individual PAGA Payment check.

### ***What are my options in this matter?***

You have two options under this Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive an Individual Class Payment; or (B) exclude yourself from the Settlement. If you choose option (A), you may also object to the Settlement, as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not exclude yourself from the Settlement, you will be subject to any Judgment that will be entered in the Action, including the release of the Released Claims as described above.

**OPTION A. Remain in the Class.** If you wish to remain in the Class and be eligible to receive an Individual Class Payment, **you do not need to take any action.** By remaining in the Class and receiving settlement monies to resolve your class claims, you consent to the release of the Released Class Claims as described above.

Any amount paid to Participating Class Members will not count or be counted for determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by Defendant, unless otherwise required by law.

**Objecting to the Settlement:** If you believe the proposed Settlement is not fair, reasonable, or adequate in any way and you have selected to remain in the Class, you can ask the Court to deny approval of the Settlement by submitting an objection. You can’t object to the release of the PAGA Claim or object to the PAGA Settlement Payment. You can’t ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no additional settlement payments will be sent out and the Action will continue. If that is what you want to happen, you must object.

You may object to the Settlement in writing or by appearing at the Final Approval Hearing, either in-person or through your attorney. If you appear through your own attorney, you are responsible for paying that attorney. You may appear and orally object regardless of whether you submitted a written objection. Written objections should be sent to the Settlement Administrator at Phoenix Settlement Administrators [**Phoenix Address**]. If you submit a written objection, it should contain sufficient information to confirm your identity and the basis of the objection, including: (1) your full name; (2) the grounds for the objection; (3) your signature; and (4) be postmarked on or before <<RESPONSE DEADLINE>> and submitted to the Settlement Administrator at the address listed above. You can also hire an attorney at your own expense to represent you in your objection. The Parties shall file responses to any written objections before the Final Approval Hearing. Regardless of whether you object in writing, the Court may, in its sole discretion, permit you to state any objections you may have at the Final Approval Hearing. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Class Claims as set forth above, unless the Settlement is not finally approved by the Court.** If you submit a written objection and then request exclusion from, and opt out of, the Class Settlement, you would be deemed to have waived your objection.

**OPTION B. Request to Be Excluded from the Class and Receive No Money from the Class Action Portion of the Settlement (Aggrieved Employees Still Will Receive Their Share of the PAGA Employee Payment).**

You may not seek exclusion from the PAGA portion of this Settlement. However, if you do not want to be part of the Class Settlement, you must submit a written request to be excluded to the Settlement Administrator at Phoenix Settlement Administrators [**Phoenix Address**]. In order to be valid, your written request to be excluded from the Class Settlement must be signed and include your full name, address, and telephone number (to confirm

your identity and make certain that only persons requesting exclusion are removed from the settlement), along with a clear statement that you wish to be excluded from the class action portion of the Settlement.

Your written request to be excluded from the Class Settlement must then be signed and postmarked on or before <<RESPONSE DEADLINE>>. If you do not submit a written request to be excluded from the Class Settlement on time (as evidenced by the postmark), your written request to be excluded from the Settlement will be rejected, you will be deemed a Participating Class Member, and you will be bound by the release of Released Class Claims as described above and all other terms of the Settlement. If you submit a written request to be excluded from the Class Settlement by the deadline to request exclusion, you will have no further role in the Action as it relates to the Class claims. You will not be able to complain to the Court about any aspect of the Class Settlement and any written objection to the Class Settlement would not be considered valid. **You will not be entitled to any benefit, including money**, as a result of the Action and Settlement, except for any payment you may be receive from the PAGA portion of this Settlement.

#### ***What is the next step in the approval of the Settlement?***

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payment, the Administrator Expenses Payment, and the PAGA Penalties allocation on <<FINAL APPROVAL HEARING DATE & TIME>>, in Courtroom 3A of the United States Courthouse, 221 West Broadway, San Diego, CA 92101. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive an Individual Settlement Payment.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment will be posted on a website by the Settlement Administrator for a period of at least 90 days following the entry of that Order in the Court record. That website is: <<website>>.

#### ***How can I get additional information?***

This Class Notice summarizes the Action and the basic terms of the Settlement. More details are in the CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE attached to the Declaration of H. Scott Leviant in Support of Plaintiff's Motion for Preliminary Approval. The CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE and all other records relating to the lawsuit are available for inspection and/or copying through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.casd.uscourts.gov> or at the Clerk's Office of the United States District Court. If you choose to access documents online, the Court will charge you a fee for access. Class Counsel can provide you with copies of the settlement documents at no charge. Any motion for an award of attorneys' fees filed by Class Counsel will also be available through those methods.

**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.**