

1 HAMMONDLAW, P.C.  
Julian Hammond (SBN 268489)  
2 jhammond@hammondlawpc.com  
Adrian Barnes (SBN 253131)  
3 abarnes@hammondlawpc.com  
Polina Brandler (SBN 269086)  
4 pbrandler@hammondlawpc.com  
Ari Cherniak (SBN 290071)  
5 acherniak@hammondlawpc.com  
1201 Pacific Avenue, Suite 600  
6 Tacoma, WA 98402  
(310) 601-6766  
7 (310) 295-2385 (Fax)

8 *Attorneys for Plaintiff and the Settlement Class*

9  
10  
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF ALAMEDA**

13  
14 **CHRISTOPHER BRANDMEIR**, individually  
and on behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17  
18 **COLUMBIA SOUTHERN UNIVERSITY,**  
**INC.**, an Alabama Corporation,

19  
20 Defendant.

CASE NO. 22CV013638

**[PROPOSED] ORDER AND JUDGMENT  
GRANTING FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT**

1 This matter is before the Court on Plaintiff’s unopposed Motion for Order Granting Final  
2 Approval of Class Action Settlement and Motion for Approval of Attorneys’ Fees, Costs and Service  
3 Award for Class Representative, in the above-entitled case. The motions, having been fully considered  
4 by the Court, it is ruled and adjudged as follows:

4 **RECITALS**

5 On June 30, 2022 Plaintiff Christopher Brandmeir initiated this action against Defendant  
6 Columbia Southern University, Inc.

7 On September 12, 2022 Plaintiff filed a First Amended Complaint adding a cause of action  
8 pursuant to the California’s Private Attorneys General Act, Cal. Labor Code §§ 2698, et seq. (“PAGA”).

9 On February 2, 2023, Plaintiff filed a Second Amended Complaint dismissing claims alleged on  
10 behalf of non-instructional employees of Defendant.

11 On May 22, 2023, the Court granted Plaintiff’s Motion for Preliminary Approval and certified a  
12 provisional class.

13 The parties now seek final approval of the settlement as well as an award of attorneys’ fees, out-  
14 of-pocket litigation costs, and service award for the named Plaintiff and Class Representative.

15 Class action settlements must be approved by the court as “fair, adequate, and reasonable.” (CRC  
16 3.769, subd. (g); *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244. In approving class  
17 action settlements, the court considers (1) the relative strength of the plaintiffs’ case; (2) the risk, expense,  
18 complexity, and the likely duration of further litigation of this dispute; (3) the risk of maintaining class  
19 status through trial; (4) the amount offered in settlement; (5) the extent of discovery completed and stage  
20 of the proceedings; (6) the experience and views of counsel that settlement is reasonable; and (7) the  
21 presence or lack of any objections to the proposed settlement. (See *id.* at pp. 244-245; *Dunk v. Ford*  
22 *Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.

23 Representative litigants must submit any settlement of PAGA representative action for court  
24 approval. (See Lab. Code § 2699, subd. (1)(2).) Because the Labor & Workforce Development Agency  
25 (“LWDA”) is not present at the negotiating table, the court’s review of a PAGA settlement must make  
26 sure that the interests of the LWDA in civil enforcement are defended and that the settlement is fair,  
27 adequate, and reasonable under all the circumstances. (See *O’Connor v. Uber Technologies, Inc.* (N.D.  
28 Cal. 2016) 201 F.Supp.3d 1110, 1133; see also Gov. Code, § 12652, subd. (e)(2)(B) [requiring False  
Claims Act *qui tam* settlements be “fair, adequate, and reasonable under all circumstances”].)

///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14

## FINDINGS

In considering the relevant factors, the Court approves of the settlement as fair, reasonable, and adequate. The settlement is an arm’s length agreement reached after several hours of arm’s-length settlement negotiations. (Declaration of Julian Hammond ISO of PI’s Mot. for Preliminary Approval of Class Action Settlement, filed on May 1, 2023, ¶ 28.)

The gross settlement amount is \$320,000.

The Court finds that the Class Notice has been mailed to Class Members as previously ordered by the Court, and that such Notice fairly and adequately described the terms of the proposed Settlement Agreement, the manner in which Class Members could object to or opt-out of the settlement; was the best notice practicable under the circumstances; was mailed with sufficient notice to all Class Members; and complied fully with California Rule of Court 3.769, and all other applicable laws. The Court further finds that a full and fair opportunity has been afforded to Class Members to participate in the proceedings convened to determine whether the proposed Settlement Agreement should be given final approval.

As of the date of this Order, none out of the 51 notice packets were returned as undeliverable. (Declaration of Taylor Mitzner With Respect to Notification and Settlement Administration ¶ 7). There have been no disputes, no objections, and no opt outs (*Id.*, ¶¶ 8-10).

## ORDER AND JUDGMENT

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1. The Settlement Agreement attached as **Exhibit 1**, is fully and finally approved and is hereby incorporated by reference.

2. Pursuant to California Rules of Court, Rule 3.769(d), this Court makes final the conditional class certification contained in the Order Granting Preliminary Approval of Class Action Settlement, and thus certifies the following class:

All full and part-time faculty and instructors who worked for Defendant in California during the Class Period.

3. Plaintiff is appointed and designated, for all purposes, as Class Representative, and the law firm HammondLaw, P.C., is appointed and designated as counsel for the Class. The Court finds that attorneys for the Class are experienced in similar litigation and have expressed the view that the Settlement is fair, reasonable, and adequate, which further supports the Settlement.

4. In response to the Notice, no Class Member validly requested to be excluded from the Settlement.

1           5.       In response to the Notice, no Class Member submitted an objection to the Settlement. The  
2 Court finds that given the absence of objections, and objections being a prerequisite to appeal, that this  
3 Order and Judgment shall be considered as final as of the date of notice of entry.

4           6.       Accordingly, as of the Effective Date, Released Parties are discharged and released from  
5 any and all liability with respect to the Released Class Claims.

6           7.       The Court hereby finally and unconditionally approves the Settlement Agreement as fair,  
7 reasonable, and adequate and directs the parties to implement its terms, and specifically,

8               a.       Approves the Gross Settlement Amount of \$320,000.00;

9               b.       Approves the application for Class Representative's service award of \$7,500 to  
10 Plaintiff Christopher Brandmeir;

11              c.       Approves Class Counsels' request for an award of \$106,666.67, as reasonable  
12 attorneys' fees;

13              d.       Approves Class Counsel's hourly rates as reasonable, and within the range of  
14 market rates that attorneys with similar levels of skill, experience and reputation for handling matters of  
15 similar complexity; finds that the fees' request is justified under the lodestar/multiplier analysis;

16              e.       10% of the attorneys fees shall be kept in the settlement administrator's trust fund  
17 until completion of the distribution process and the Court approval of a final accounting;

18              f.       Approves Class Counsel's request for reimbursement of litigation expenses of  
19 \$5,828.61 (Declaration of Julian Hamond ISO PI's Mot. for Final App. of Class Action Settlement and  
20 Mot. for Approval of Attnys' Fees and Costs, and Service Award for Class Rep., ¶ 27);

21              g.       Approves payment to Phoenix of \$4,950 as costs of settlement administration  
22 (Declaration of Taylor Mitzner With Respect to Notification and Settlement Administration ¶ 19);

23              h.       Approves the allocation of \$10,000 as payment for penalties under the California  
24 Labor Code Private Attorney Generals Act ("PAGA"), and further approves of payment of \$7,500 to the  
25 Labor and Workforce Development Agency for its portion of the PAGA penalties;

26              i.       Approves that any amounts from uncashed settlement checks be sent to Bet  
27 Tzedek as the *cy pres* beneficiary;

28              j.       Approves the payment from the Net Settlement of amounts determined by the  
Settlement Administrator to be due to Class Members, including the allocation of such amounts between  
wages, and expenses, penalties, and interest, as specified in the Settlement Agreement.

1           8.       A Final Accounting is set for January 30, 2024 at 3:00 p.m. in Department 23. Counsel  
2 shall submit a final report in the form of an Administrator Declaration and proposed amended judgment  
3 pursuant to Code of Civil Procedure § 384 at least 5 court days prior to that hearing regarding the status  
4 of the settlement administration. The final report must include all information necessary for the Court  
5 to determine the total amount actually paid to class members and any amounts tendered to the designated  
*cy pres* recipient.

6           9.       The Court retains exclusive and continuing jurisdiction over the litigation for purposes of  
7 supervising, implementing, interpreting, and enforcing this Final Approval Order and the Settlement  
8 Agreement, and, if necessary, to conduct a further hearing on certification of distribution of settlement  
9 amounts.

10 **IT IS SO ORDERED AND ADJUDGED.**

11 Dated: \_\_\_\_\_

\_\_\_\_\_  
12 Hon. Brad Seligman  
13 Judge of the Superior Court  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT 1

## CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Christopher Brandmeir (“Plaintiff”), individually and as a representative of the Participating Class Members and Aggrieved Employees, on the one hand, and Defendant Columbia Southern University, Inc. (“Defendant”), on the other hand. The Plaintiff, Class (as defined below), Aggrieved Employees (as defined below), and Defendant are jointly referred to herein as the “Parties,” and individually as a “Party.”

### 1. DEFINITIONS

1.1 “Action” means the civil action entitled *Christopher Brandmeir v. Columbia Southern University, Inc.*, Case No. 22CV013638, commenced on June 30, 2022 in the Alameda County Superior Court.

1.2 “Administrator” refers to Phoenix Settlement Administrators, the neutral entity selected by the Parties to administer the Settlement.

1.3 “Administration Expenses Payment” means all fees and costs owed to the Administrator in connection with administering the settlement in this Action under the terms of this Settlement.

1.4 “Aggrieved Employees” means all full and part-time faculty and instructors who worked for Defendant in California during the PAGA Period.

1.5 “Aggrieved Employee Pay Periods” means the number of pay periods an individual Aggrieved Employee worked during the PAGA Period.

1.6 “Class” or “Class Members” means all full and part-time faculty and instructors who worked for Defendant in California during the Class Period.

1.7 “Class Counsel” means the attorneys of record for the Class Representative, i.e., Julian Hammond, Polina Brandler, and Ari Cherniak of HammondLaw, P.C.

1.8 “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 incurred to prosecute the Action, respectively.

1.9 “Class Data” means Class Member identifying information in Defendant’s possession consisting of the Class Member’s name, last-known mailing address, Social Security number, and number of Individual Class Member Pay Periods and Aggrieved Employee Pay Periods.

1.10 “Class Member Address Search” means the Administrator’s investigation and search for current Class Members’ mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11 “Class Pay Periods” mean the total number of pay periods worked by all of the Participating Class Members during the Class Period.

1.12 “Class Period” means the period from June 30, 2018, to April 25, 2023.

1.13 “Class Representative” means Christopher Brandmeir.

1.14 “Class Representative Service Payment” means the amount awarded by the Court to the Class Representative pursuant to Section 3.3.1 for initiating the Action and providing services in support of the Action, and for his general release.

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

1.16 “Defendant’s Counsel” means Sandra McCandless and Jessica Peterson of Dentons US, LLP.

1.17 “Effective Date” means the earlier occurring of the following:

1.17.1 The date the Court enters the Judgment granting final approval of the settlement, if there are no objectors at the time of final approval.

1.17.2 The date all of the objectors withdraw an objection after the court enters the judgment granting final approval of the settlement.

1.17.3 The date the appeal time expires if an objection has been filed.

1.17.4 The date any appeals process initiated by an objector at final approval finally terminates with no change in the Court’s judgment granting final approval of the settlement.

1.18 “Employer Taxes” means Defendant’s portion of payroll taxes as the Class Members’ current or former employer owed to the appropriate taxing authorities arising out of the portion of the Individual Class Payments allocated as wages. Defendant will pay its portion of payroll taxes separate and apart from the Gross Settlement Amount.

1.19 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.20 “Judgment” means the judgment entered by the Court after it grants final approval of this Settlement.

1.21 “Gross Settlement Amount” or “GSA” means \$320,000.00 which is the total amount Defendant agrees to pay under the Settlement. The Gross Settlement Amount will be used to pay Individual Class Payments, PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payment and Administration Expenses Payment.

1.22 “Individual Class Payment” means each Participating Class Member’s pro rata share of the Net Settlement Amount calculated pursuant to Section 3 of this Agreement.



1.23 “Individual Class Member Pay Periods” means the number of pay periods an individual Participating Class Member worked during the Class Period.

1.24 “Judgment” means the final order entered by the Court approving this Agreement.

1.25 “LWDA” means the Labor & Workforce Development Agency.

1.26 “Net Settlement Amount” or “NSA” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments

1.27 “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.28 “Operative Complaint” means the Second Amended Complaint filed on February 2, 2023.

1.29 “PAGA Payment” means the total sum of \$10,000 of the Gross Settlement Amount allocated to payment for penalties under PAGA which shall be allocated as follows:

1.29.1 “LWDA Payment” means the 75% of the PAGA Payment to be paid to the California Labor and Workforce Development Agency (\$7,500.00);

1.29.2 “Total Individual PAGA Payment Amount” means the remaining 25% of the PAGA Payment (\$2,500.00); and

1.29.3 “Individual PAGA Payment” means the proportionate share of the Total Individual PAGA Payment Amount which will be distributed to each Aggrieved Employee based on the number of Aggrieved Employee Pay Periods.

1.30 “PAGA Pay Periods” mean the total number of pay periods worked by all of the Aggrieved Employees during the PAGA Period.

1.31 “PAGA Period” means June 28, 2021 to April 25, 2023.

1.32 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.33 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.34 “Preliminary Approval Order” means the Order Granting Preliminary Approval.

1.35 “Released Class Claims” means the claims being released as described in Section 5 below.

1.36 “Released PAGA Claims” means the claims being released as described in Section 5 below.

1.37 “Released Parties” means Defendant and each and every past, present and/or future, direct and/or indirect, parent, subsidiary, associated, affiliated, and successor entities, and the owners, employees, officers, directors, attorneys, contractors, consultants, shareholders, representatives, agents, insurance companies, administrators, and assigns, of each, and each of them, and any individual or entity which could be jointly liable with any of the foregoing.

1.38 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.39 “Response Deadline” means 45 calendar days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail their Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline.

1.40 “Settlement” means the disposition of the Action effected by this Agreement.

## **2. RECITALS.**

2.1 On June 30, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for its alleged (a) failure to pay wages for all hours worked, including overtime, as required under Cal. Labor Code §§ 226.2, 1194, 510 and IWC Wage Order No. 4-2001, §§ 3 and 4; (b) failure to authorize and permit paid rest breaks and pay premium pay as required under Cal. Labor Code §§ 226.2 and 226.7 and Wage Order No. 4-2001, §§ 4, 12; (c) failure to pay compensation due on discharge from employment in violation of Cal. Labor Code §§ 201-203; (d) failure to issue accurate itemized wage statements in violation of Cal. Labor Code §§ 226(a) and (e) and 226.2; (e) failure to reimburse for necessarily incurred business expenses in violation of Cal. Labor Code § 2802; and (f) unfair, unlawful, and/or fraudulent business practices in violation of Business & Professions Code § 17200, et seq. On September 12, 2022, Plaintiff filed a First Amended Complaint adding a cause of action for PAGA penalties for the labor code violations alleged in the Complaint. On February 2, 2023 Plaintiff filed a Second Amended Complaint dismissing claims alleged on behalf of non-instructional employees of Defendant.

2.2 On January 13, 2023, the Parties participated in a settlement negotiation session. After intensive negotiations, during which the Parties, through their respective counsel, recognized the burdens and risks of continuing with the litigation, the Parties reached an agreement to settle and resolve the Action and to release claims as described in Section 5. The Parties jointly represent that this is a fair, reasonable and adequate Settlement, and that they have arrived at this Settlement through arms-length negotiations.

2.3 The Settlement represents a compromise and settlement of highly disputed claims. Nothing in this Settlement is intended, or may be construed, as an admission by Defendant that any of the claims alleged in the Action have merit, or that Defendant bears any liability to the Class

Members or Aggrieved Employees on those claims, nor as an admission by the Class Members or Aggrieved Employees that Defendant's defenses in the Action have merit.

2.4 The Parties, Class Counsel and Defendant's 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.

NOW THEREFORE, in consideration of the covenants and agreements set forth herein and of the release of all Released Class and PAGA Claims, the Parties agree to the terms and provisions of this Settlement Agreement, subject to the approval of the Court.

### **3. GSA, FUNDING OF THE GSA, CALCULATION OF NSA AND DISTRIBUTION OF SETTLEMENT PROCEEDS**

3.1 Gross Settlement Amount. The total value of the Settlement is a non-reversionary \$320,000. This is the gross amount Defendant can be required to pay under this Agreement, with the exception of its obligation to pay Employer Taxes. The Gross Settlement Amount includes without limitation: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorneys Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Service Payment paid to the Class Representative, as approved by the Court; (4) the Administration Costs, as approved by the Court; and (5) the PAGA Payment, as approved by the Court. Employer Taxes will be paid outside of and in addition to the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant for any reason. 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.

3.2 Funding of the Gross Settlement Amount. Within 15 business days of the Effective Date, Defendant shall transmit the Gross Settlement Amount to the Administrator.

3.3 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 Judgment:

3.3.1 To Plaintiff: A Class Representative Service Payment of not more than \$7,500.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment. If the Court approves a Class Representative Service Payment for less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for taxes owed on the Class Representative Service Payment.

3.3.2 To Class Counsel: A Class Counsel Fees Payment of not more than 35% of the GSA, (i.e., \$112,000.00) and a Class Counsel Litigation Expenses Payment of not more than \$20,000.00. If the GSA were to increase pursuant to the Escalator Clause, the Class Counsel Fees Payment will increase to not more than 35% of the increased GSA. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class

Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing or other deadline set by the Court. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment for less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the Class Counsel Fees Payment and the Class Counsel Expenses Payment in accordance with proper IRS reporting.

3.3.3 To the Administrator: An Administrator Expenses Payment not to exceed \$6,000.00, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment for less than \$6,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.3.4 To Each Participating Class Member: Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the Individual Class Member Pay Periods, divided by (ii) the Class Pay Periods, which is then multiplied by the Net Settlement Amount. One day worked in a given pay period during the Class Period will be credited as a pay period for purposes of this calculation.

3.3.4.1 Some of the Participating Class Members were paid on a monthly basis. To compensate all Participating Class Members who were paid monthly on an equal basis to those who were paid bi-weekly, all monthly pay periods of Participating Class Members who were compensated monthly shall be converted to bi-weekly pay periods using a multiplier of 2.167, derived by dividing the number of bi-weekly pay periods in one year by the number of monthly periods in one year (26 bi-weekly pay periods / 12 monthly pay periods = 2.167 bi-weekly pay periods per a monthly pay period).<sup>1</sup>

3.3.5 Tax Allocation of Individual Class Payments. Payments from the NSA will be allocated 30% as wages subject to wage withholdings, and 70% as expenses, interest, and penalties, which will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any taxes owed on their Individual Class Payment.

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

---

<sup>1</sup> To illustrate by hypothetical, Participating Class Member A and Participating Class Member B worked for Defendant for one year. Participating Class Member A was compensated on a monthly basis (i.e. 12 pay monthly periods). Participating Class Member B was compensated on a bi-weekly basis (i.e. 26 bi-weekly pay periods). Participating Class Member A's pro-rata portion of the Net Settlement Amount will be equivalent to Participating Class Member B's pro rata portion of the Net Settlement Amount. Because Participating Class Member A was paid on a monthly basis, their monthly pay periods will be converted to bi-weekly pay periods using the 2.167 multiplier described above. Participating Class Member A's pay periods for the purposes of calculating their pro rata portion of the Net Settlement Amount will be calculated by multiplying Participating Class Member A's 12 actual monthly pay periods by 2.167 for a total of 26 bi-weekly pay periods (12 monthly pay periods \* 2.167 = 26 bi-weekly pay periods). Participating Class Member B's pro rata portion of the Net Settlement Amount will be calculated using their actual number of pay periods worked (26 bi-weekly pay periods) because they were already paid on a bi-weekly basis.

3.3.7 To the LWDA: The LWDA will receive a payment equal to 75% of the PAGA Payment (\$7,500.00).

3.3.8 To Aggrieved Employees: Each Aggrieved Employee will receive a pro rata share of the Total Individual PAGA Payment Amount that is equal to (i) the Aggrieved Employee Pay Periods, divided by (ii) the PAGA Pay Periods, which is then multiplied by the Total Individual PAGA Payment Amount.<sup>2</sup>

3.3.8.1 Individual PAGA Payments will be made whether or not the Aggrieved Employees opt out of the Settlement as Aggrieved Employees may not opt out of the Individual PAGA Payment nor object to the Individual PAGA Payment.

3.3.8.2 If the Court approves a PAGA Payment of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

#### **4. SETTLEMENT FUNDING AND PAYMENTS**

4.1 Payments from the Gross Settlement Amount. Within 5 business days of the Effective Date, the Administrator will send Class Counsel and Defendant's Counsel the account information so that Defendant can wire the GSA and the Employer Taxes. Within 10 business days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks to the Participating Class Members, Aggrieved Employees, the LWDA, Class Counsel, and Class Representative pursuant to the allocations set forth in Section 3 of this Agreement. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.2 Uncashed Checks. Settlement checks that are not cashed within 120 calendar days from the date of issuance by the Administrator will be voided. The Administrator shall transmit the funds represented by such voided checks in conformity with the Code of Civil Procedure Section 384, subd. (b) to Bet Tzedek ("Cy Pres Recipient").

**5. RELEASE OF CLAIMS.** Upon the Effective Date, Plaintiff, Class Members, PAGA Aggrieved Employees, and Class Counsel will release claims against all Released Parties as follows:

5.1 Release of Class Claims: Upon the Effective Date, each Participating Class Member shall be deemed to have fully and finally released and discharged the Released Parties from all claims that have been pled or could have been pled based on the factual allegations contained in the Operative Complaint that occurred during the Class Period and arising under Cal.

---

<sup>2</sup> Some of the Aggrieved Employees were paid on a monthly basis. To compensate all Aggrieved Employees who were paid monthly on an equal basis to those who were paid bi-weekly, all monthly pay periods of Aggrieved Employees who were compensated monthly shall be converted to bi-weekly pay periods using a multiplier of 2.167, derived by dividing the number of bi-weekly pay periods in one year by the number of monthly periods in one year (26 bi-weekly pay periods / 12 monthly pay periods = 2.167 bi-weekly pay periods per a monthly pay period).

Labor Code §§ 201-203, 226(a) and (e), 226.2, 226.7, 1194, 510, 2802, 2699 et seq., IWC Wage Order No. 4-2001 §§ 3, 4, 12, and Business & Professions Code § 17200, et seq.

5.2 Release of PAGA Claims: Upon the Effective Date, each Aggrieved Employee shall be deemed to have fully and finally released and discharged the Released Parties of all PAGA claims that have been pled or could have been pled based on the factual allegations contained in the Operative Complaint and PAGA letter sent by Plaintiff that occurred during the PAGA Period as to the Aggrieved Employees including, without limitation, violations of Labor Code §§ 201-203, 226(a) and (e), 226.2, 226.7, 1194, 510, 2802, 2699 et seq., IWC Wage Order No. 4-2001 §§ 3, 4, 12, and Business & Professions Code § 17200, et seq.

5.3 Plaintiff's Release. As of the Effective Date, and in exchange for the Class Representative Service Payment to the named Plaintiff in the amount of \$7,500, Class Representative shall be deemed to have fully and finally released and discharged the following claims for himself and his spouse, heirs, successors and assigns the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature whatsoever, from the beginning of time through the date of his signature to this Agreement, known or unknown, suspected or unsuspected, whether in tort, contract, equity, or otherwise, for violation of any federal, state or local statute, rule, ordinance or regulation, including but not limited to all claims arising out of, based upon, or relating to his employment with Defendant or the remuneration for, or termination of, such employment. This release of claims is deemed to exclude only those claims not permitted to be released by law.

5.3.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

**6. TAXES AND WITHHOLDINGS.** The Parties and the Participating Class Members acknowledge and agree that:

6.1 No provision of this Agreement and no written communication or disclosure between or among the Parties or their attorneys and 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 the United States Treasury Department Circular 230 (31 CFR Part 10, as amended).

6.2 Each Party to this Agreement has relied exclusively upon their independent legal and tax counsel for advice in connection with this Agreement and is not entitled to rely upon any communication or disclosure by any attorney or adviser to any Party to avoid any tax penalty that may be imposed on the Party.

6.3 Each Participating Class Member shall be responsible for paying the applicable state, local, and federal income taxes on all amounts the Participating Class Members receive pursuant to this Agreement.

**7. MOTION FOR PRELIMINARY APPROVAL.** Class Counsel will prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”), subject to Defendant’s Counsel’s review and approval, seeking an order approving the Settlement; setting a date for the Final Approval Hearing; approving the distribution of the Notice of Class Action Settlement (the “Class Notice”) in substantively the form attached hereto as “Exhibit A;” and approving the procedures and deadlines for disputing Aggrieved Employee Pay Periods, Individual Class Member Pay Periods, opting-out of the Settlement, and objecting to the Settlement. Defendant’s Counsel will neither respond nor file a notice of non-opposition to the Motion for Preliminary Approval.

7.1 Responsibilities of Counsel. Class Counsel and Defendant’s Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 business days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

7.2 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defendant’s Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defendant’s Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns.

## **8. SETTLEMENT ADMINISTRATION.**

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

8.2 Settlement Administration. Not later than 20 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Class Members’ privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted

class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

### 8.3 Notice to Class Members.

8.3.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, and Individual Class Member Pay Periods, and Aggrieved Employee Pay Periods in the Class Data.

8.3.2 Using best efforts to perform as soon as possible, and in no event later than 10 business days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

8.3.3 Not later than three (3) business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

8.3.4 The deadlines for Class Members’ written objections, challenges to Individual Class Member Pay Periods, and Requests for Exclusion will be extended an additional 14 calendar days beyond the 45 calendar days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

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

### 8.4 Requests for Exclusion (Opt-Outs).

8.4.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 calendar days after the Administrator mails the Class Notice (plus an



additional 14 calendar days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

8.4.2 If there is a question about the authenticity of a request for exclusion, the Settlement Administrator may demand additional proof of the Class Member's identity. Any Class Member who returns a timely, valid, and executed request for exclusion will not participate in or be bound by the Settlement and subsequent judgment and will not receive an Individual Class Payment. All Class Members who do not submit a timely and valid Request for Exclusion will be considered Participating Class Members.

8.4.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Releases in Section 5 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.4.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Section 5 of this Agreement and are eligible for a pro rata portion of the Total Individual PAGA Payment Amount based on their Aggrieved Employee Pay Periods.

8.4.5 If 7.5% or more of the Class Members make valid and timely requests to be excluded from the settlement (i.e. opt-out of the settlement), Defendant shall have the right (but not the obligation) to deem the settlement null and void and the Parties will revert back to their positions before this Settlement Agreement was executed.

8.5 Challenges to Calculation of Individual Class Member Pay Periods. Each Class Member shall have 45 calendar days after the Administrator mails the Class Notice (plus an additional 14 calendar days for Class Members whose Class Notice is re-mailed) to challenge the number of Individual Class Member Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Individual Class Member Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Individual Class Member Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Individual Class Member Pay Periods to Defendant's Counsel and Class Counsel and the Administrator's determination of the challenges.

## 8.6 Objections to Settlement.

8.6.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

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

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

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

8.7.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an email address and a toll-free telephone number to receive Class Member calls, faxes and emails. The Administrator will also establish a static website on which it will make available important case documents, including the Class Notice, the Settlement Agreement, the Operative Complaint.

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

8.7.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defendant's Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Individual Class Member Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

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

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

8.7.6 Taxes and Withholdings. The Administrator shall be responsible for ensuring that all tax obligations associated with the Settlement are timely paid to the appropriate governmental taxing authorities. The Administrator's responsibilities include the following with respect to taxes and withholding information:

8.7.6.1 filing all federal, state, and local employment tax returns, income tax returns, and any other tax returns associated with the taxes;

8.7.6.2 timely and properly filing of all required federal, state, and local information returns (e.g. 1099s, W-2s, etc.);

8.7.6.3 completion of any other steps necessary for compliance with any tax obligations applicable to the Settlement under federal, state and/or local laws; and

8.7.6.4 determining the amount of any tax withholding to be deducted from each Participating Class Member's Individual Class Payment.

8.7.7 Final Report by Administrator. Within 30 calendar days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defendant's Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 calendar days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defendant's Counsel a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

**9. ESCALATOR CLAUSE.** If the number of Class Pay Periods exceeds 3,554 Class Pay Periods by seven and a half percent (7.5%) or more (i.e., 3,821 Class Pay Periods or more), then the Gross Settlement Amount will increase proportionately over the 7.5%. For example, if the number of Class Pay Periods is 10% higher than 3,554 Class Pay Periods, the Gross Settlement Amount will increase by 2.5%.

**10. MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court a Motion for Final Approval of the Settlement that includes a request for final approval of this Agreement. Plaintiff shall provide drafts of these documents to Defendant's Counsel not later than seven business days prior to filing the Motion for Final Approval. Class Counsel and Defendant's Counsel will

expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

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

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

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

**12. CONTINUING JURISDICTION.** The Parties agree that the Court shall retain continuing jurisdiction over this case under CCP Section 664.6 to ensure the continuing implementation of the provisions of this Agreement and that the time within which to bring this action to trial under CCP Section 583.310 shall be extended from the date of the signing of this Agreement

by all parties until the entry of the Judgment or, if not entered, the date this Agreement shall no longer be of any force or effect.

**13. FINAL ORDER AND JUDGMENT.** A final order and Judgment shall be issued by the Court which shall:

13.1 Grant final approval to the Settlement as fair, reasonable, adequate, in good faith, and in the best interests of the Class as a whole, and order the Parties to carry out the provisions in this Agreement;

13.2 Adjudge that the Participating Class Members and those Class Members who have failed to opt out of the Settlement are conclusively deemed to have released Defendant and the Released Parties from the Released Class Claims, as more specifically set forth above;

13.3 Prohibit and permanently enjoin each Participating Class Member and those Class Members who have failed to opt out from pursuing in any fashion against Defendants or the other Released Parties and all of the Released Class Claims and Released PAGA Claims;

13.4 Enter Judgment in the Action, subject to the Court's ongoing jurisdiction to supervise the Parties' compliance with the terms of the Court-approved settlement; and

13.5 Reserve continuing jurisdiction as provided herein.

**14. ADDITIONAL PROVISIONS.**

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

14.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defendant's Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, independent contractors, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in

response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defendant's Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

14.3 Non-Disparagement. Plaintiff shall instruct any prospective employers to direct all inquiries to Defendant's Human Resources Department. The response to any inquiry about Plaintiff's employment with Defendant shall be directed to Defendant's Human Resources Department which shall confirm the Plaintiff's dates of service and positions held; no other information will be provided.

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

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

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

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

14.8 Enforcement Action. In the event that any Party institutes any legal action or other proceeding against another Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees, incurred in connection with any enforcement action.

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

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

14.11 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

14.12 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

14.13 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

14.14 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

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

14.16 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

14.17 Deadlines. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

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

To Plaintiff: Julian Hammond, Esq., HammondLaw, P.C., 1201 Pacific Avenue, Suite 600, Tacoma, WA 98402; Telephone: (310) 601-6766

To Defendant: Sandra R. McCandless, Esq., Jessica M. Peterson, Esq., Dentons US, LLP, 1999 Harrison Street, Suite 1300, Oakland, California 94612; Telephone: (415) 882-2412.

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

**IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on behalf of the Parties, as follows:**

**Plaintiff and Proposed Class Representative**

Dated: April 10, 2023 By: Christopher Brandmeir  
Christopher Brandmeir

**Columbia Southern University**

Dated: April 11, 2023 By: Ken Styron  
Ken Styron  
President

***APPROVED AS TO FORM:***

**Counsel for Plaintiff and Proposed Class Counsel**

Dated: April 10, 2023 By: J. Hammond  
Julian Hammond  
HammondLaw, P.C.

**Counsel for Defendant**

Dated: April 11, 2023 By: Sandra R. McCandless  
Sandra R. McCandless  
Denton US, LLP



# EXHIBIT A

# NOTICE OF PROPOSED CLASS ACTION AND PAGA SETTLEMENT AND HEARING DATE FOR FINAL APPROVAL

*Brandmeir v. Columbia Southern University, Inc.*  
(Alameda County Superior Court, Case No. 22CV013638)

**As a current or former Full-Time or Part-Time Faculty Member or Instructor of  
Columbia Southern University in California, you are entitled to receive money from a  
class action settlement.**

**Please read this Notice carefully. This Notice relates to a proposed settlement (“Settlement”) of class action litigation.**

You have received this Notice of Class Action and PAGA Settlement because Columbia Southern University, Inc.’s (“Defendant” or “CSU”) records show you are a “Class Member” and therefore entitled to a payment from this class action settlement. “Class Member” refers to all persons who were employed by Defendant in California as part-time and full-time faculty and instructors at any time between June 30, 2018 through April 25, 2023 (the “Class Period”).

- The settlement resolves a class-action lawsuit, *Brandmeir v. Columbia Southern University, Inc.* (the "Lawsuit"), which alleges that Defendant: (i) failed to pay wages for all hours worked, including overtime; (ii) failed to provide compliant rest breaks; (iii) failed to pay compensation due on discharge from employment; (iv) failed to issue accurate itemized wage statements; and (v) failed to reimburse for necessary expenses.
- On DATE, the Alameda County Superior Court granted preliminary approval of this class action Settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. CSU vigorously denies the claims in the Lawsuit and contends that it fully complied with all applicable laws.
- The Final Fairness and Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at Department 23 of Alameda Superior Court on \_\_\_\_\_, located at 1221 Oak Street, Oakland, California, 94612, before the Honorable Brad Seligman. You are not required to attend the Hearing, but you are welcome to do so.

## **Why Am I Receiving This Notice?**

You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit and about your options before the Court decides whether to finally approve the settlement. If the Court approves the Settlement, a "Settlement Administrator" appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how you will obtain them.

## **What Is This Case About?**

Christopher Brandmeir worked as a part-time instructor and full-time faculty member for CSU in California during the Class Period. He is the “Plaintiff” in this case and is suing on behalf of himself and Class Members for CSU’s alleged failure to pay wages for all hours worked, including overtime, failure to provide Class Members

**Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX**

with legally compliant rest breaks, failure to pay all wages owed upon separation from employment, failure to furnish timely and accurate wage statements, and failure to reimburse for necessary expenses.

CSU vigorously denies all of the allegations made by Plaintiff and denies that it violated any law. The Court has made no ruling on the merits of Plaintiff's claims. The Court has only preliminarily approved a Class Action Settlement Agreement. The Court will decide whether to give final approval to the Settlement at the Final Fairness and Approval Hearing.

### **Summary of the Settlement Terms**

Plaintiff and CSU have agreed to settle this case on behalf of the Class for the Gross Settlement Amount of \$320,000. The Gross Settlement Amount includes: (1) Administration Costs up to \$6,000; (2) a service payment of up to \$7,500 to Plaintiff for his time and efforts in exchange for the general release of claims Plaintiff will enter into as part of the Settlement with CSU; (3) attorney's fees of up to 35% of the Settlement Amount (\$112,000) and up to \$20,000.00 in litigation costs to Class Counsel; and (4) payment allocated to PAGA penalties in the amount of \$10,000 (with \$7,500 to be paid to the Labor and Workforce Development Agency ("LWDA") and \$2,500 to be paid equally to Class Members who worked during the PAGA Period (defined as June 28, 2021 through April 25, 2023). After deducting these sums, a total of approximately \$164,500 will be available for distribution to Class Members ("Net Settlement Amount"). In addition to the Gross Settlement Amount, Defendant will bear all employer-side payroll tax payments due and payable to federal and state tax authorities as a result of this Settlement.

### **Distribution to Class Members**

The Net Settlement shall be paid to Class Members pro-rata based on the number of pay periods that they worked as a part-time or full-time faculty member or instructor during the Class Period, in proportion to all such pay periods worked by all Class Members.

In addition, the \$2,500 in PAGA penalties shall be paid on a pro rata basis to Aggrieved Employees who worked for CSU in California during the PAGA Period. You will receive this payment and will release your Released PAGA Claims (defined below) regardless of whether or not you opt-out of the Settlement.

Some Class Members and Aggrieved Employees were paid on a monthly basis. To compensate all Class Members and Aggrieved Employees who were paid monthly on an equal basis to those who were paid bi-weekly, all monthly pay periods of Class Members and Aggrieved Employees who were compensated monthly shall be converted to bi-weekly pay periods using a multiplier of 2.167, derived by dividing the number of bi-weekly pay periods in one year by the number of monthly periods in one year (26 bi-weekly pay periods / 12 monthly pay periods = 2.167 bi-weekly pay periods per a monthly pay period).

### **Your Estimated Settlement Award**

Defendant's records show that you are a member of the Class and worked a total of: <<**PAY PERIODS**>> during the Class Period. Your estimated share of the Net Settlement Amount allocated to the Class is [\$XXX].

Defendant's records show that you are a member of the PAGA Aggrieved Employees. Your estimated share of the PAGA Payment is [\$XXX].

**Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX**

If you believe that the number of pay periods is incorrect, you may notify the Settlement Administrator by fax, email, or mail and provide any supporting documents and information to the Settlement Administrator at the address listed below no later than the RESPONSE DEADLINE.

### **Tax Reporting**

For tax reporting purposes, the Class payment paid to the Class will be allotted 30% to wages subject to withholdings and 70% to expenses, penalties, and interest which will be reported on IRS 1099 Forms.

For tax reporting purposes, the PAGA payment paid to the Aggrieved Employees will be reported on IRS 1099 Forms.

Please consult a tax advisor regarding the tax consequences of your Settlement Award. This notice is not intended to provide legal or tax advice.

### **Claims That You Are Releasing Under the Settlement**

**Class Released Claims:** If finally approved by the Court, each Class Member who does not request exclusion from the Settlement will be bound by all of the terms of the Settlement, and will release CSU from all claims that have been pled or could have been pled based on the factual allegations contained in the Second Amended Complaint that occurred during the Class Period and arising under Cal. Labor Code §§ 201, 202, 203, 226(a) and (e), 226.2, 226.7, 510, 1194, and 2802; IWC Wage Order No. 4-2001, §§ 3, 4, 12, and Cal. Business & Professions Code §§ 17200 et seq.

**PAGA Released Claims:** If finally approved by the court, all Aggrieved Employees who worked during the PAGA Period, whether or not they opt out of the Settlement, will release all their PAGA claims that have been pled or could have been pled based on the factual allegations contained in the Second Amended Complaint and PAGA letter sent by Plaintiff that occurred during the PAGA Period including, without limitation, violations of Labor Code §§ 201-203, 226(a) and (e), 226.2, 226.7, 1194, 510, 2802, 2699 et seq., IWC Wage Order No. 4-2001 §§ 3, 4, 12, and Business & Professions Code §§ 17200, et seq.

### **Your Options Under the Settlement**

#### ***Option 1 – Do Nothing and Receive Your Payment***

If you do not opt out, you are automatically entitled to your payment because you are a Class Member. If you do not dispute your pay periods calculation and do not opt out of the settlement, you will be bound by the settlement and receive a settlement payment. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment set forth above.**

#### ***Option 2 – Opt Out of the Settlement***

If you do not wish to participate in the Settlement, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name, address, telephone number, case name and number, and last four digits of your Social Security Number. Sign, date, and mail your written request for exclusion by U.S. First-Class Mail to:

**Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX**

**Phoenix Settlement Administrators**  
**[Address]**

The written request to be excluded from the Settlement must be postmarked or received by the Administrator not later than [RESPONSE DEADLINE]. If you exclude yourself from the Settlement then you will get no payment, other than your share of PAGA penalties, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit, other than your claim for PAGA civil penalties.

**Option 3 – *File an Objection to the Settlement***

If you wish to object to the Settlement you may file an objection in writing or appear at the hearing. All written objections must provide your full name, address and telephone number, the case name and number, the last four digits of your Social Security Number, and your reasons why you think the Court should not approve the Settlement. Your objection must be mailed the Administrator no later than [RESPONSE DEADLINE]. Please note that you cannot both object to the Settlement and exclude yourself. If the Court overrules your objection, you will be bound by the Settlement and will receive your share of the Settlement.

**Final Fairness and Approval Hearing**

The Final Fairness and Approval Hearing is set for \_\_\_\_\_ at \_\_\_\_\_ in Dept 23, Administration Building, located at 1221 Oak Street Oakland, California 94612.

**Additional Information**

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may visit [www.\\_\\_\\_\\_\\_.com](http://www._____.com), call the Settlement Administrator at [PHONE NUMBER] or Class Counsel at:

HAMMONDLAW, P.C.  
Julian Hammond (SBN 268489)  
jhammond@hammondlawpc.com  
Polina Brandler (SBN 269086)  
pbrandler@hammondlawpc.com  
Ari Cherniak (SBN 290071)  
acherniak@hammondlawpc.com  
1201 Pacific Avenue, Suite 600  
Tacoma, WA 98402  
Tel: (310) 601-6766  
Fax: (310) 295-2385

The pleadings and other records in this Lawsuit may be examined online on the Alameda County Superior Court's Website, known as 'eCourt Public Portal,' at <https://eportal.alameda.courts.ca.gov>. After arriving at the website, click the 'Search' tab at the top of the page, then select the Document Downloads link, enter the case number (22CV013638) and click 'Submit.' Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge at the Clerk's office at the Superior Court of the State of California for the County of Alameda, 1225 Fallon Street, Oakland, CA 94612.

**Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX**

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator or Class Counsel.

**PLEASE DO NOT CONTACT THE COURT OR CLERK OF THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT.**

**Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX**