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By S. Trinh, Deputy Clerk

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

15 MARISELA MEZA, individually, and on behalf  
16 of all others similarly  
17 situated,

18 *Plaintiff,*

19 v.

20 ARGUS MANAGEMENT COMPANY, LLC, a  
21 California Limited Liability Company;  
22 PROHEALTH PARTNERS, A MEDICAL  
23 GROUP, INC., a California corporation; ARGUS  
24 MEDICAL MANAGEMENT, LLC, an unknown  
25 entity; and DOES 1 through 10, inclusive,

26 *Defendants.*

Case No.: 21STCV31612

**CLASS ACTION**

[Assigned for all purposes to: Hon. Yvette M. Palazuelos, Dept. 9]

**DECLARATION OF JUSTIN F. MARQUEZ  
IN SUPPORT OF PLAINTIFF'S MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

[Filed concurrently with: Plaintiff's Notice of Motion and Motion for Preliminary Approval of Class Action Settlement, Memorandum of Points and Authorities; Declaration of Marisela Meza; and [Proposed] Order Granting Motion]

**PRELIMINARY APPROVAL HEARING**

Date: November 21, 2023

Time: 10:00 a.m.

Dept: 9

Complaint filed: August 26, 2021

Trial date: Not set

1 **DECLARATION OF JUSTIN F. MARQUEZ**

2 I, Justin F. Marquez, declare as follows:

3 1. I am admitted, in good standing, to practice as an attorney in the State of California,  
4 the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Southern,  
5 Eastern, and Northern Districts of California. I am a Senior Partner at Wilshire Law Firm, PLC,  
6 counsel of record for Plaintiff Marisela Meza (“Plaintiff”). I have personal knowledge of the facts  
7 set forth in this declaration and could and would competently testify to them under oath if called  
8 as a witness. This Declaration is submitted in support of Plaintiff’s Motion for Preliminary  
9 Approval of Class Action Settlement.

10 **CASE BACKGROUND**

11 2. This is a wage and hour class and Private Attorneys General Act (“PAGA”) (Cal.  
12 Lab. Code §§ 2699, *et seq.*) representative action. Plaintiff and putative class members worked in  
13 California as hourly-paid or non-exempt employees for Defendants Argus Management Company  
14 LLC and ProHealth Partners, a Medical Group, Inc. (collectively, “Defendants”) during the class  
15 period. Defendant Argus Management Company LLC is based in Long Beach, California and it  
16 provides physician practice management solutions to solo practitioners, groups, and hospitals.  
17 Defendant ProHealth Partners, a Medical Group, Inc. is a medical group consisting of physicians  
18 practicing in Los Angeles County and Orange County.

19 3. Plaintiff alleges that Defendants’ payroll, timekeeping, and wage and hour practices  
20 resulted in Labor Code violations. Plaintiff alleges that Defendants failed to pay for all hours  
21 worked. Plaintiff further alleges that Defendants failed to provide employees with legally  
22 compliant meal and rest periods, and Defendants failed to reimburse business expenses. Based on  
23 these allegations, Plaintiff asserts related claims for failure to provide accurate wage statements,  
24 failure to pay all final wages at termination, unfair business practices, and civil penalties under  
25 PAGA.

26 4. On August 26, 2021, Plaintiff filed a putative wage-and-hour class action complaint  
27 against Defendants for: (1) failure to pay minimum and straight time wages (Labor Code §§ 204,  
28 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194, and 1198); (3)

1 failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and permit  
2 rest periods (Labor Code §§ 226.7 and 512); (5) failure to provide accurate itemized wage  
3 statements (Labor Code § 226); (6) failure to timely pay final wages at termination (Labor Code  
4 §§ 201-203); (7) failure to indemnify employees for expenditures (Labor Code § 2802); and (8)  
5 unfair business practices (Business and Professions Code 17200 et seq.). On September 25, 2023,  
6 Plaintiff filed joint stipulation for leave to file a First Amended Complaint against Defendants  
7 adding claims for civil penalties under Private Attorneys General Act “PAGA” (Labor Code §  
8 2698 et seq.). Plaintiff sent a notice to Defendants and the California Labor & Workforce  
9 Development Agency (“LWDA”) alleging similar wage and hour violations pursuant to the PAGA  
10 (Cal. Lab. Code §§ 2699, *et seq.*) on August 26, 2021.

#### 11 DISCOVERY AND INVESTIGATION

12 5. Following the filing of the Complaint, the Parties exchanged documents and  
13 information before mediating this action. Defendants produced a sample of time and pay records  
14 for class members. Defendants also provided documents of its wage and hour policies and  
15 practices during the class period, and information regarding the total number of current and former  
16 employees in its informal discovery responses.

17 6. After reviewing documents regarding Defendants’ wage and hour policies and  
18 practices, and analyzing Defendants’ timekeeping and payroll records, Class Counsel was able to  
19 evaluate the probability of class certification, success on the merits, and Defendants’ maximum  
20 monetary exposure for all claims. Class Counsel also investigated the applicable law regarding  
21 the claims and defenses asserted in the Litigation. Class Counsel reviewed these records and  
22 utilized an expert to prepare a damages analysis prior to mediation. The damages model was based  
23 on a sample size of 130,802 shifts out of an estimated 902,881 total shifts worked by class  
24 members, which represents a 0.25% margin of error based on a 95% confidence interval.

#### 25 SETTLEMENT NEGOTIATIONS

26 7. On March 23, 2023, the Parties participated in private mediation with experienced  
27 class action mediator, Lisa Klerman, Esq. The mediation was conducted via Zoom. The settlement  
28 negotiations were at arm’s length and, although conducted in a professional manner, were

1 adversarial. The Parties went into the mediation willing to explore the potential for a settlement  
2 of the dispute, but each side was also prepared to litigate their position through trial and appeal if  
3 a settlement had not been reached.

4 8. After extensive negotiations and discussions regarding the strengths and  
5 weaknesses of Plaintiff's claims and Defendants' defenses, the Parties were able to reach a  
6 resolution, the material terms of which are encompassed within the Settlement Agreement.  
7 Attached as **Exhibit 1** is a true and correct copy of the Class Action and PAGA Settlement  
8 Agreement and Class Notice ("Settlement Agreement").

9 9. The Parties used the Los Angeles Superior Court's Form Class Action and PAGA  
10 Settlement Agreement and Class Notice. A document showing edits the parties made to the  
11 template in redline is attached to the Declaration of Justin F. Marquez as **Exhibit 2**.

12 10. Class Counsel submitted the proposed Settlement to the LWDA before filing the  
13 Motion for Preliminary Approval.

14 11. I requested several bids from experienced class action settlement administrators to  
15 handle the responsibilities of the Settlement Administrator under this Settlement. The Parties  
16 accepted the bid of Apex Class Action. Apex's founder has multiple years of experience in the  
17 field of Class Action Administration, particularly in the wage-and-hour arena. In its bid, Apex  
18 agreed to cap its costs at \$19,990 if there are 2,100 class members. Apex's bid also accounts for  
19 Notice in English and Spanish. A true and correct copy of the bid is attached hereto as **Exhibit 3**.

20 12. Plaintiff does not have any interest, financial or otherwise, in the proposed third-  
21 party administrator, Apex.

22 13. No one at Wilshire Law Firm, PLC (meaning the law firm itself and anyone  
23 employed at the law firm) has any interest, financial or otherwise, in the proposed third-party  
24 administrator, Apex.

25 14. Wilshire Law Firm, PLC has no fee-splitting agreement with any other counsel in  
26 this case.

27 15. Class Counsel is not aware of any other pending matter or action asserting claims  
28 that will be extinguished or affected by the Settlement, except for a claim filed by Angelina

1 Marquez with the Labor Commissioner’s Office, case number WC-CM-899996.

2 THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE

3 16. Class Counsel has conducted a thorough investigation into the facts of this case.  
4 Based on the foregoing discovery and their own independent investigation and evaluation, Class  
5 Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best  
6 interests of the Settlement Class Members in light of all known facts and circumstances, the risk  
7 of significant delay, the defenses that could be asserted by Defendants both to certification and on  
8 the merits, trial risk, and appellate risk.

9 17. Based on an analysis of the facts and legal contentions in this case, documents and  
10 information from Defendants, I evaluated Defendants’ maximum exposure. I took into account  
11 the risk of not having the claims certified and the risk of not prevailing at trial, even if the claims  
12 are certified. After using the data Defendants provided, including class member timekeeping and  
13 payroll records, as well as class member demographics (i.e., the number of class members,  
14 workweeks, and average total compensation of the class), with the assistance of a statistics expert,  
15 I created a damages model to evaluate the realistic range of potential recovery for the class. The  
16 damages model is based on the following benchmarks:

17	Total Class Members: 1,956
18	Terminated Class Members during 3-year statute: 1,308
19	Total Workweeks: 104,713
20	Total Shifts Worked by the Class: 902,881
21	PAGA Pay Periods: 52,853
22	PAGA Eligible Employees: 1,449
23	Avg. Hourly Rate: \$18.63

24 18. Based on Plaintiff’s discovery and investigation, Class Counsel reached the  
25 conclusion that Defendants failed to pay class members for all hours worked, including overtime  
26 wages, Defendants had a policy and practice of not providing its employees with California  
27 compliant meal and rest periods which it did not pay appropriate premiums for, and Defendants  
28 required its employees to work “off-the-clock” prior to clocking in for the workday, during meal

1 periods, and after clocking out for the workday, time which it did not pay for, and Defendants  
2 failed to reimburse its employees for business-related expenses. Defendants deny these claims.

3 19. Plaintiff further alleges that Defendants failed to pay for all hours worked, including  
4 minimum wages, straight time wages, and overtime wages, by requiring class members to work  
5 off-the-clock, unpaid. For purposes of calculating Defendants' liability based on a best case  
6 scenario for Plaintiff and the Class, I estimate that Defendants' maximum potential exposure by  
7 assuming that all unpaid work time should have been paid at the overtime rate, not minimum or  
8 straight time wages, even though my expert found that only 41.6% of all shifts worked by class  
9 members were over 8 hours long, and I assumed that Defendants is liable for 1 hour of unpaid  
10 worktime per week. This results in an estimate of \$2,926,204.79 (104,713 weeks \* \$18.63 hourly  
11 overtime rate \* 1.5 overtime rate \* 1 hour of unpaid work per week), but I discounted this figure  
12 by 80% to account for the difficulty of prevailing on a motion for class certification and a trial on  
13 the merits because liability depends on whether Defendants knew or should have known that class  
14 members were working off-the-clock, yielding a realistic damage estimate of \$585,240.96.<sup>1</sup>

15 20. With respect to the meal period claim, Plaintiff alleges that Defendants required her  
16 and similarly situated class members to either work in lieu of taking meal periods, or their meal  
17 periods were untimely or interrupted. My expert analyzed Defendants' timekeeping records and  
18 opined that approximately 13.5% of all meal breaks (121,804 total shifts) had violations of short,  
19 missed, or no meal periods. Potential liability for the meal period claim, which includes shifts over  
20 six hours long and shifts over 12 hours long, is \$2,269,208.52 (121,804 \* \$18.63). However, the  
21 data showed that Defendants paid approximately \$697,965 in meal period premium payments since  
22 2017, so I reduced Defendants' liability by this amount, yielding \$1,571,243.52. I further  
23 discounted this figure by 80% to account for the difficulty of certifying and proving meal period  
24 claims, as well as Defendants' contention that the claim lacks merit, particularly in light of its  
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26 <sup>1</sup> An 80% discount for risk at certification and trial is reasonable because the Judicial  
27 Council of California found that only 21.4% of all class actions were certified either as part of a  
28 settlement *or* as part of a contested certification motion. *See* Findings of the Study of California  
Class Action Litigation, 2000-2006, available at [http:// www.courts.ca.gov/documents/class-  
action-lit-study.pdf](http://www.courts.ca.gov/documents/class-action-lit-study.pdf).

1 numerous meal period premium payments, yielding a realistic damage estimate of \$314,248.70.

2 21. With respect to the rest period claim, Plaintiff alleges that Defendants required her  
3 and similarly situated class members to work in lieu of taking rest periods, or their rest periods  
4 were untimely or interrupted. Assuming a 25% violation rate for the class period based on  
5 Plaintiff's and other class members' experience working for Defendants, Defendants' potential  
6 liability for the rest period claim is \$4,205,168.26 (902,881 shifts \* 0.25 \* \$18.63); however, I  
7 discounted this figure by 90% to account for the difficulty of certifying and proving rest period  
8 claims, particularly because rest periods do not have to be recorded, and to account for the  
9 possibility of class members voluntarily choosing to forego a rest period, yielding a realistic  
10 damage estimate of \$420,516.83.

11 22. Plaintiff alleges that Defendants failed to reimburse necessary business expenses.  
12 Defendants' employees (including Plaintiff) were frequently required to use their personal cell  
13 phones to communicate with their supervisors and managers about work-related duties. This  
14 included communication regarding their schedules and/or the following day's or week's tasks. For  
15 purposes of calculating Defendants' liability based on a best case scenario for Plaintiff and the  
16 Class, I estimated that Defendants were liable to each class member for \$300 in unreimbursed  
17 expenses, for a total amount of \$586,800 (\$300 \* 1,956); however, I discounted this figure by 80%  
18 to account for the difficulty of certifying and proving expense reimbursement claims, particularly  
19 in light of written policies and practices providing a mechanism for class member's to seek  
20 reimbursement, yielding a realistic damage estimate of \$58,680.00.

21 23. In sum, I estimated that Plaintiff's maximum recovery for the off-the-clock claim,  
22 meal period violations, rest period violations, and failure to reimburse expenses is \$9,289,416.56,  
23 but, after factoring in the risk and uncertainty of prevailing at certification and trial, I estimate that  
24 Plaintiff's realistic estimated recovery for the non-penalty claims is \$1,378,686.49.

25 24. With respect to Plaintiff's derivative claims for statutory and civil penalties,  
26 Plaintiff estimated that Defendants' realistic potential liability is \$432,596.90. While Defendants'  
27 maximum potential liability for waiting time penalties is \$5,848,329.60 based on approximately  
28 1,308 terminated class members during the 3-year statute (1,308 \* 18.63 \* 8 hours \* 30 days),

1 \$5,212,850 for inaccurate wage statements based on approximately 1,449 class members who  
2 worked 52,853 pay periods within the 1-year statute, and \$5,285,300.00 for PAGA violations based  
3 on the Court assessing a \$100 penalty for initial violations for all 52,853 pay periods within the 1-  
4 year statute, I believe that it would be unrealistic to expect the Court to award the full  
5 \$16,346,479.60 in penalties given Defendants' defenses, the contested nature of Plaintiff's claims,  
6 and the discretionary nature of penalties. Considering that the underlying claims are realistically  
7 estimated to be \$1,378,686.49, such a disproportionate award would also raise due process  
8 concerns. Weighing these factors and applying a discount of 90% to account for the risk and  
9 uncertainty of prevailing at trial, I arrived at \$1,634,647.96 for statutory and civil penalties.

10 25. Using these estimated figures, Plaintiff predicted that the realistic maximum  
11 recovery for all claims, including penalties, would be \$3,013,334.45. This means that the  
12 \$1,750,000.00 settlement figure represents 58% of the realistic maximum recovery  
13 ( $\$1,750,000.00 / \$3,013,334.45 = 58\%$ ). Considering the risk and uncertainty of prevailing at class  
14 certification and at trial, this is an excellent result for the Class.<sup>2</sup> Indeed, because of the proposed  
15 Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an  
16 unfavorable judgment.

17 26. While Plaintiff is confident in the merits of her claims, a legitimate controversy  
18 exists as to each cause of action. Plaintiff also recognizes that proving the amount of wages due  
19 to each Class Member would be an expensive, time-consuming, and uncertain proposition.

20 27. This Settlement avoids the risks and the accompanying expense of further litigation.  
21 Although the Parties had engaged in a significant amount of investigation, informal discovery and  
22 class-wide data analysis, the Parties had not yet completed formal written discovery. Plaintiff  
23 intended to depose corporate officers and managers of Defendants. Moreover, preparation for class  
24

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25 <sup>2</sup> See, e.g., *Wise v. Ulta Salon, Cosmetics & Fragrance, Inc.* (E.D. Cal. Aug. 21, 2019)  
26 2019 WL 3943859 at \*8 (granting preliminary approval where the proposed allocation to settle  
27 class claims was between 9.53 percent of Plaintiffs' maximum recovery); *Bravo v. Gale*  
28 *Triangle, Inc.* (C.D. Cal. Feb 16, 2017) 2017 WL 708766 at \* 10 (finding that "a settlement for  
fourteen percent recovery of Plaintiffs' maximum recovery is reasonable"); *In re Omnivision*  
*Techs., Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036, 1042 (approving settlement amount that "is  
just over 9% of the maximum potential recovery asserted by either party.").

1 certification and a trial remained for the Parties as well as the prospect of appeals in the wake of a  
2 disputed class certification ruling for Plaintiff and/or adverse summary judgment ruling. Had the  
3 Court certified any claims, Defendants could move to decertify the claims. As a result, the Parties  
4 would incur considerably more attorneys' fees and costs through trial.

5 28. The Net Settlement Amount available for Class Member settlement payments is  
6 estimated to be \$1,061,666.67, for a class of 1,956 persons.<sup>3</sup> As a result, each Settlement Class  
7 Member is eligible to receive an average net benefit of approximately \$542.77.

8 29. The proposed Settlement of \$1,750,000.00, therefore, represents a substantial  
9 recovery when compared to Plaintiff's reasonably forecasted recovery. When considering the risks  
10 of litigation, the uncertainties involved in achieving class certification, the burdens of proof  
11 necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that the  
12 settlement amount of \$1,750,000.00 is within the "ballpark" of reasonableness, and preliminary  
13 settlement approval is appropriate.

14 ENHANCEMENT AWARD FOR PLAINTIFF IS REASONABLE

15 30. Class Counsel represent that Plaintiff devoted a great deal of time and work assisting  
16 counsel in the case, communicated with counsel very frequently for litigation and to prepare for  
17 mediation, and was frequently in contact with Class Counsel during the mediation. Plaintiff's  
18 requested enhancement award is reasonable particularly in light of the substantial benefits Plaintiff  
19 generated for all class members.

20 31. Throughout this Litigation, Plaintiff, who is a former employee of Defendants, has  
21 cooperated immensely with my office and has taken many actions to protect the interests of the  
22 class. Plaintiff provided valuable information regarding the off-the-clock, meal period, and rest  
23 period claims. Plaintiff also informed my office of developments and information relevant to this  
24 action, participated in decisions concerning this action, made herself available to answer questions  
25 during the mediation, and provided my office with the names and contact information of potential

26  
27 <sup>3</sup> The Net Settlement Amount is: \$1,750,000.00 minus \$583,333.33 for Class Counsel's  
28 attorneys' fees, minus \$25,000.00 for Class Counsel's litigation expenses, minus \$20,000.00 in  
administration costs, minus \$50,000.00 for the PAGA payment, and minus \$10,000.00 for the  
class representative service award to Plaintiff.

1 witnesses in this action. Before we filed this case, Plaintiff provided my office with documents  
2 regarding the claims alleged in this action. The information and documentation provided by  
3 Plaintiff was instrumental in establishing the wage and hour violations alleged in this action, and  
4 the recovery provided for in the Settlement Agreement would have been impossible to obtain  
5 without Plaintiff's participation.

6 32. At the same time, Plaintiff faced many risks in adding herself as the class  
7 representative in this matter. Plaintiff faced actual risks with her future employment, as putting  
8 herself on public record in an employment lawsuit could also very well affect her likelihood for  
9 future employment. Furthermore, as part of this Settlement, Plaintiff is executing a general release  
10 of all claims against Defendants.

11 33. In turn, class members will now have the opportunity to participate in a settlement,  
12 reimbursing them for alleged wage violations they may have never known about on their own or  
13 been willing to pursue on their own. If these class members would have each tried to pursue their  
14 legal remedies on their own, that would have resulted in each having to expend a significant amount  
15 of their own monetary resources and time, which were obviated by Plaintiff putting herself on the  
16 line on behalf of these other class members.

17 34. In the final analysis, this class action would not have been possible without the aid  
18 of Plaintiff, who put her own time and effort into this Litigation, sacrificed the value of her own  
19 individual claims, and placed himself at risk for the sake of the class members. The requested  
20 enhancement award for Plaintiff for her service as the class representative and for her general  
21 release of all individual claims is a relatively small amount of money when the time and effort put  
22 into the Litigation are considered and in comparison to enhancements granted in other class actions.  
23 The requested incentive award is therefore reasonable to compensate Plaintiff for her active  
24 participation in this lawsuit. Indeed, in *Karl Adams, III, et al. v. MarketStar Corporation, et al.*,  
25 No. 2:14-cv-02509-TLN-DB, a wage and hour class action alleging that class members were  
26 misclassified as exempt outside salespersons, I was co-lead Class Counsel and helped negotiate a  
27 \$2.5 million class action settlement for 339 class members, and the court approved a \$25,000.00  
28 class representative incentive award for each named Plaintiffs.

1                   THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

2           35.     The Settlement provides for attorney's fees payable to Class Counsel in an amount  
3 up to one-third (33 1/3%) of the Settlement Amount, for a maximum fees award of \$583,333.33,  
4 plus actual costs and expenses not to exceed \$25,000.00. The proposed award of attorneys' fees  
5 to Class Counsel in this case can be justified under either method – lodestar or percentage recovery.  
6 Class Counsel, however, intend to base the proposed award of fees, costs and expenses on the  
7 percentage method as many of the entries in the time records will have to be redacted to preserve  
8 attorney-client and attorney work product privileges.

9           36.     I am informed and believe that the fee and costs provision is reasonable. The fee  
10 percentage requested is less than that charged by my office for most employment cases. My office  
11 invested significant time and resources into the case, with payment deferred to the end of the case,  
12 and then, of course, contingent on the outcome.

13           37.     It is further estimated that my office will need to expend at least another 50 to 100  
14 hours to monitor the process leading up to the final approval and payments made to the class. My  
15 office also bears the risk of taking whatever actions are necessary if Defendants fail to pay.

16           38.     The risk to my office has been very significant, particularly if we would not be  
17 successful in pursuing this class action. In that case, we would have been left with no compensation  
18 for all the time taken in litigating this case. Indeed, I have taken on a number of class action cases  
19 that have resulted in thousands of attorney hours being expended and ultimately having  
20 certification denied or the defendant company going bankrupt. The contingent risk in these types  
21 of cases is very real and they do occur regularly. Furthermore, we were precluded from focusing  
22 on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

23           39.     Because most individuals cannot afford to pay for representation in litigation on an  
24 hourly basis, Wilshire Law Firm, PLC represents virtually all of its employment law clients on a  
25 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless  
26 we prevail at trial or successfully settle our clients' cases. Because Wilshire Law Firm, PLC is  
27 taking the risk that we will not be reimbursed for our time unless our client settles or wins his or  
28 her case, we cannot afford to represent an individual employee on a contingency basis if, at the

1 end of our representation, all we are to receive is our regular hourly rate for services. It is essential  
2 that we recover more than our regular hourly rate when we win if we are to remain in practice so  
3 as to be able to continue representing other individuals in civil rights employment disputes.

4 MY EXPERIENCE AND QUALIFICATIONS

5 40. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World  
6 Report as one of the nation’s Best Law Firms since 2020 and is comprised of over 55 attorneys  
7 and over 400 employees. Wilshire Law Firm, PLC is actively and continuously practicing in  
8 employment litigation, representing employees in both individual and class actions in both state  
9 and federal courts throughout California.

10 41. Wilshire Law Firm, PLC is qualified to handle this Litigation because its attorneys  
11 are experienced in litigating Labor Code violations in both individual, class action, and  
12 representative action cases. Wilshire Law Firm, PLC has handled, and is currently handling,  
13 numerous wage and hour class action lawsuits, as well as class actions involving consumer rights  
14 and data privacy litigation.

15 42. I graduated from the University of California, Los Angeles’s College Honors  
16 Program in 2004 with Bachelor of Arts degrees in History and Japanese, *magna cum laude* and *Phi*  
17 *Beta Kappa*. As an undergraduate, I also received a scholarship to study abroad for one year at  
18 Tokyo University in Tokyo, Japan. I received my Juris Doctor from Notre Dame Law School in  
19 2008.

20 43. My practice is focused on advocating for the rights of consumers and employees in  
21 class action litigation and appellate litigation. I am currently the primary attorney in charge of  
22 litigating several class action cases in state and federal courts across the United States.

23 44. I have received numerous awards for my legal work. From 2017 to 2020, Super  
24 Lawyers selected me as a “Southern California Rising Star,” and in 2022 and 2023, I was selected  
25 as a “Southern California Super Lawyer.” I was selected as one of the “Best Lawyers in America”  
26 in 2023. In 2016 and 2017, the National Trial Lawyers selected me as a “Top 40 Under 40”  
27 attorney. I am also rated 10.0 (“Superb”) by Avvo.com.

28 45. I am on the California Employment Lawyers Association (“CELA”)’s Wage and

1 Hour Committee and Mentor Committee, and I was selected to speak at CELA’s 2019 Advanced  
2 Wage & Hour Seminar on the topic of manageability of class actions. Since 2013, I have actively  
3 mentored young attorneys through CELA’s mentorship program.

4 46. I am also a past member of the Consumer Attorneys of California (“CAOC”). In  
5 2020, I was selected for a position on CAOC’s Board of Directors. I am also a past member of  
6 CAOC’s Diversity Committee, and I helped assist the CAOC in defeating bills that harm  
7 employees. Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC,  
8 in defeating AB 443, which proposed legislation that sought to limit the enforceability of California  
9 Labor Code § 226.

10 47. As the attorney responsible for day-to-day management of this matter at the  
11 Wilshire Law Firm, PLC, I have over thirteen years of experience with litigating wage and hour  
12 class actions. Over the last thirteen years, I have managed and assisted with the litigation and  
13 settlement of several wage and hour class actions. In those class actions, I performed similar tasks  
14 as those performed in the course of prosecuting this action. My litigation experience includes:

- 15 a. I served as lead or co-lead in negotiating class action settlements worth over \$10  
16 million in gross recovery to class members for each year since 2020, including over  
17 \$37.5 million in 2022 and over \$50 million in 2023.
- 18 b. I was part of the team of attorneys that prevailed in *Moore v. Centrelake Medical*  
19 *Group, Inc.* (2022) 83 Cal.App.5th 515, the first California appellate decision in a  
20 data breach class action holding that consumer plaintiffs adequately alleged injury  
21 in fact under the benefit of the bargain theory and monitoring-costs theory.
- 22 c. In 2022, Top Verdict recognized Wilshire Law Firm and myself for having one case  
23 in the Top 20 Labor & Employment Settlements (including number 19 for the \$1.6  
24 million settlement in *Moreno v. Pretium Packaging, L.L.C.*) and four additional  
25 cases in the Top 50 Labor & Employment Settlements (numbers 27, 30, 33, and 37).
- 26 d. To my knowledge, I am the only attorney to appear on each of the following Top  
27 Verdict lists for 2018 in California: Top 20 Civil Rights Violation Verdicts, Top 20  
28 Labor & Employment Settlements, and Top 50 Class Action Settlements.

- 1 e. As lead counsel, on April 29, 2021, I prevailed against CVS Pharmacy, Inc. by  
2 winning class certification on behalf of hundreds of thousands of consumers for  
3 misleading advertising claims in *Joseph Mier v. CVS Pharmacy, Inc.*, U.S. Dist. Ct.  
4 C.D. Cal. no. SA CV 20-1979-DOC-(ADSx).
- 5 f. As lead counsel, I prevailed against Bank of America by: winning class certification  
6 on behalf of thousands of employees for California Labor Code violations; defeating  
7 appellate review of the court’s order certifying the class; defeating summary  
8 judgment; and defeating a motion to dismiss. (*Frausto v. Bank of America, N.A.*  
9 (N.D. Cal. 2019) 334 F.R.D. 192, 2020 WL 1290302 (9th Cir. Feb. 27, 2020), 2019  
10 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug. 2,  
11 2018).). The decision certifying the class in *Frausto* is also discussed in Class  
12 Certification Under Fed. R. Civ. P. 23 in Action by Information Technology or Call  
13 Center Employees for Violation of State Law Wage and Hour Rules, 35 A.L.R. Fed.  
14 3d Art. 8.
- 15 g. I was the primary author of the class certification and expert briefs in *ABM*  
16 *Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class action  
17 for over 40,000 class members for off-the-clock, meal period, split shift, and  
18 reimbursement claims. *ABM Industries Overtime Cases* is the first published  
19 California appellate authority to hold that an employer’s “auto-deduct policy for  
20 meal breaks in light of the recordkeeping requirements for California employers is  
21 also an issue amenable to classwide resolution.” (*Id.* at p. 310.)<sup>4</sup> Notably, the Court  
22 of Appeal also held that expert analysis of timekeeping records can also support the  
23 predominance requirement for class certification. (*Id.* at p. 310-11.) In 2021, the  
24 case settled for \$140 million, making it one of the largest ever wage and hour class  
25 action settlements for hourly-paid employees in California.

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26  
27 <sup>4</sup> As a California district court observed before the *ABM Industries Overtime* decision,  
28 “[t]he case law regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE*  
*Connectivity Networks, Inc.* (N.D. Cal. Feb. 9, 2017) No. 14-CV-04872-EDL, 2017 WL  
1758048, \*7.)

- 1 h. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d  
2 1057. The Ninth Circuit ruled in my client’s favor and held that non-class claims  
3 under California’s Private Attorney Generals Act (“PAGA”) cannot be used to  
4 calculate the amount in controversy under the Class Action Fairness Act (“CAFA”).  
5 This case is cited in several leading treatises such as Wright & Miller’s Federal  
6 Practice & Procedure, and Newberg on Class Actions. In October 2016, the U.S.  
7 Supreme Court denied review of a case that primarily concerned *Yocupicio*. That  
8 effort was led by Theodore J. Boutrous, who brought the cert petition, with amicus  
9 support from a brief authored by Andrew J. Pincus.<sup>5</sup> Considering that leading  
10 Supreme Court practitioners from the class action defense bar were very motivated  
11 in undermining *Yocupicio* case, but failed, this demonstrates the national importance  
12 of the *Yocupicio* decision.
- 13 i. On December 13, 2018, the United States District Court granted final approval of  
14 the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services,*  
15 *LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 in  
16 which I served as lead counsel. In doing so, the Court found: “Class Counsel’s  
17 declarations show that the attorneys are experienced and successful litigators.” (*Id.*  
18 at p. \*10.)
- 19 j. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS 129852, a  
20 reported decision permitting class-wide discovery even though the employer has a  
21 lawful policy because “[t]he fact that a company has a policy of not violating the  
22 law does not mean that the employees follow it, which is the issue here.” The court  
23 also ordered defendant to pay for the cost of *Belaire-West* notice.
- 24 k. In 2013, I represented a whistleblower that reported that his former employer was  
25 defrauding the State of California with the help of bribes to public employees. The  
26 case, a false claims (qui tam) action, resulted in the arrest and criminal prosecution  
27

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28 <sup>5</sup> <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

1 of State of California employees by the California Attorney General’s Office.

2 1. In 2013, I was part of a team of attorneys that obtained conditional certification for  
3 over 2,000,000 class members in a federal labor law case for misclassification of  
4 independent contractors that did crowdsourced work on the Internet, *Otey v.*  
5 *CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the  
6 following pro-plaintiff reported decisions:

7 i. 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding that an  
8 unaccepted Rule 68 offer doesn’t moot plaintiff’s claims, and granting  
9 plaintiff’s motion to strike defendant’s affirmative defenses based on  
10 *Twombly/Iqbal*).

11 ii. 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order granting  
12 conditional collective certification).

13 iii. 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming the  
14 magistrate judge’s discovery ruling which held that “evidence of other  
15 sources of income is irrelevant to the question of whether a plaintiff is an  
16 employee within the meaning of the FLSA”).

17 iv. 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting broad  
18 discovery because “an FLSA plaintiff is entitled to discovery from locations  
19 where he never worked if he can provide some evidence to indicate  
20 company-wide violations”).

21 m. From 2012 to 2013, I was part of a team of attorneys that obtained class certification  
22 for over 60,000 class members for off-the-clock claims, *Linares v. Securitas*  
23 *Security Services USA, Inc.*, Los Angeles Superior Court No. BC416555. We also  
24 successfully opposed subsequent appeals to the California Court of Appeal and  
25 California Supreme Court.

26 48. My current contingent billing rate of \$850.00 per hour is consistent with my practice  
27 area, lead appellate experience in the Ninth Circuit Court of Appeals, numerous awards received,  
28 legal market and accepted hourly rates:

- 1 a. In the December 8, 2008 article “Billable Hours Aren’t the Only Game in Town  
2 Anymore,” NATIONAL LAW JOURNAL, the following hourly billing rates were  
3 reported by Sheppard, Mullin, Richter & Hampton, a leading firm in the defense of  
4 wage-and-hour class actions that I opposed when litigating wage-and-hour class  
5 actions: Partners: \$475-\$795; Associates: 1st Year - \$275, 2nd Year - \$310, 3rd  
6 Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year - \$415, 7th Year - \$435,  
7 8th Year - \$455. I am a 14th year attorney and Senior Partner, with most of my  
8 experience in class action litigation as a primary practice area. Having successfully  
9 briefed and argued a published appeal in the Ninth Circuit Court of Appeals  
10 involving CAFA and PAGA, having experience certifying large class actions  
11 (including ABM Industries Overtime Cases, which was decided on appeal), and  
12 having received numerous awards for my legal work, my hourly rate should be  
13 adjusted upward.
- 14 b. On May 6, 2022 the Hon. Jay A. Garcia-Gregory of the United States District Court  
15 in Puerto Rico approved my \$850 hourly rate when he granted final approval of the  
16 class action settlement in *Serrano v. Inmediata Corp.*, No. 3:19-cv-01811-JAG, Dkt.  
17 57 (U.S. Dist. Ct. P.R. May 6, 2022).
- 18 c. On September 9, 2021, the Hon. Peter Wilson of the Orange County Superior Court  
19 approved my \$800 hourly rate when he granted final approval of the class action  
20 settlement in *Ricardo Campos Hernandez v. Adams Iron Co., Inc.*, No. 30-2019-  
21 01066522-CU-OE-CXC.
- 22 d. On August 6, 2021, the Hon. Stanley Blumenfeld, Jr. of the United States District  
23 Court granted final approval of the \$1,600,000 class action settlement in *Carlos*  
24 *Moreno v. Pretium Packaging, Inc.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-  
25 SB-DFM, 2021 WL 3673845 in which I served as lead counsel. In doing so, the  
26 Court approved my then \$750 hourly rate after finding it was “reasonable, given the  
27 qualifications of the attorneys who worked on this matter.” (*Id.* at p. \*3.)
- 28 e. On January 19, 2021, the Hon. Elihu M. Berle of the Los Angeles County Superior

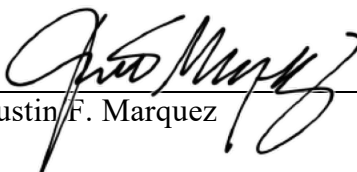
1 Court approved my \$750 hourly rate when he granted final approval of the class  
2 action settlement in *Faye Zhang v. Richemont North America, Inc.*, Case No.  
3 19STCV32396.

4 49. Benjamin H. Haber is a seventh-year Associate Attorney at Wilshire Law Firm. His  
5 current hourly rate is \$650. He graduated from the University of California, Los Angeles, with a  
6 Bachelor of Arts in Political Science, and received his Juris Doctor from the University of  
7 California, Hastings College of the Law in 2016. During law school, he was a member of the  
8 executive board for the Hastings Law Journal and student mediator at the San Francisco Superior  
9 Court, Small Claims Division. He was admitted to practice law in the State of California in 2017.  
10 Since graduating from law school, he has focused his legal work primarily on wage-and-hour  
11 litigation and has helped obtain dozens of settlements on behalf of tens of thousands of workers in  
12 California.

13 50. Arrash T. Fattahi is a third-year Associate Attorney at Wilshire Law Firm, PLC. He  
14 was admitted to practice law in the State of California and the Central and Southern Districts of  
15 California in January 2021. Arrash graduated from the University of California, Los Angeles, with  
16 a Bachelor of Arts in Political Science, summa cum laude. He received his Juris Doctor from The  
17 George Washington University Law School. During law school, he was a member of the student  
18 editorial board for the Federal Circuit Bar Journal. Since January 2021, his practice has mainly  
19 been focused on wage and hour class action litigation. His current contingent billing rate for this  
20 case is \$450 per hour.

21 I declare under penalty of perjury under the laws of the State of California and the United  
22 States that the foregoing is true and correct.

23 Executed on September 25, 2023, at Los Angeles, California.

24  
25   
26 Justin F. Marquez  
27  
28

# Exhibit 1

# CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is dated June 22, 2023 and made by and between plaintiff Marisela Meza (“Plaintiff”) and defendants Argus Management Company, LLC, a California limited liability company and ProHealth Partners, a Medical Group, Inc., a California corporation (collectively, “Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

## 1. DEFINITIONS.

- 1.1. “Actions” means the Plaintiff’s lawsuits alleging wage and hour violations against Defendant captioned (i) *Marisela Meza v. Argus Management Company, LLC, and ProHealth Partners, a Medical Group, Inc.*, in Los Angeles County Superior Court Case No. 21STCV31612 (the “Class Action”) and (ii) *Marisela Meza v. Argus Management Company, LLC, and ProHealth Partners, a Medical Group, Inc.*, in Los Angeles County Superior Court Case No. 21STCV40740 (the “PAGA Action”)
- 1.2. “Administrator” means Apex Class Action, 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 Defendant in California and classified as a non-exempt or hourly-paid employee who worked for Defendant during the PAGA Period.
- 1.5. “Class” means all persons employed by Defendant in California and classified as a non-exempt or hourly-paid employee who worked for Defendant during the Class Period.
- 1.6. “Class Counsel” means Justin Marquez, Benjamin Haber, and Arrash Fattahi of Wilshire Law Firm, PLC.
- 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 Defendant’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-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member 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 Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation, if applicable, in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from August 26, 2017 to March 23, 2023.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Los Angeles.
- 1.16. “Defendant” means named Argus Management Company, LLC, a California limited liability company and ProHealth Partners, a Medical Group, Inc., a California corporation.
- 1.17. “Defense Counsel” means Ian Chuang of Madden, Jones, Cole & Johnson, APC..
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (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 if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

- 1.21. “Final Judgment” means the Judgment entered by the Court upon granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means \$1,750,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “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.
- 1.30. “PAGA Pay Period” means any pay period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period from August 26, 2021 to March 23, 2023.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notice” means Plaintiff’s August 26, 2021 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

- 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties (\$50,000.00) to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$12,500.00) and the 75% to LWDA (\$37,500.00) in settlement of PAGA claims.
- 1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. "Plaintiff" means Marisela Meza, the named plaintiff in the Actions.
- 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval of the Settlement.
- 1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.
- 1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3 below.
- 1.41. "Released Parties" means: Argus Management Company, LLC, and ProHealth Partners, a Medical Group, and each of its former and present directors, managers, officers, shareholders, members, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.
- 1.42. "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.
- 1.43. "Response Deadline" means 45 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 his or her 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 has expired.
- 1.44. "Settlement" means the disposition of the Actions effected by this Agreement and the Judgment.
- 1.45. "Workweek" means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

## **2. RECITALS.**

- 2.1. On August 26, 2021, Plaintiff commenced the Class Action by filing a Complaint alleging causes of action against Defendant for Failure to Pay Minimum and Straight Time Wages, Failure to Pay Overtime Wages, Failure to Provide Meal Periods, Failure to Authorize and Permit Rest Periods, Failure to Timely Pay Final Wages at Termination, Failure to Provide Accurate Itemized Wage Statements, Failure to Indemnify Employees for Expenditures, and Unfair Business Practices. On November 4, 2021, Plaintiff commenced a separate action against Defendant alleging Violation of the Private Attorneys General Act (“PAGA”). Defendant denies the allegations in both the Class Action and the PAGA Action, denies any failure to comply with the laws identified in in the Class Action and or the PAGA Action and denies any and all liability for the causes of action alleged.
- 2.2. Plaintiff will file a Joint Stipulation seeking the Court’s leave to file a First Amended Class and Representative Action Complaint (the “Operative Complaint”) in the Class Action to combine the two above-referenced actions (i.e., add the pending PAGA claim to the Class Action initially filed on August 26, 2021). Plaintiff will dismiss with prejudice the PAGA Action within 5 days of the Court’s approval of leave to file the Operative Complaint.
- 2.3. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.4. On March 23, 2023, the Parties participated in an all-day mediation presided over by Lisa Klerman, Esq. which led to this Agreement to settle the Actions.
- 2.5. Prior to mediation, Plaintiff obtained, through informal discovery, documents relevant to this case, including Plaintiff’s personnel files, a sampling of time and pay data for the Class Members, and policy documents related to Plaintiff’s claims. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4<sup>th</sup> 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4<sup>th</sup> 116, 129-130 (“*Dunk/Kullar*”).
- 2.6. The Court has not granted class certification.
- 2.7. Plaintiff and Class 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. Defendant and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that may be extinguished or affected by the Settlement except for a claim filed by Angelina Marquez with the Labor Commissioner’s Office, case number WC-CM-899996.

### **3. MONETARY TERMS.**

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$1,750,000.00 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. Defendant 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 Defendant.

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 \$10,000.00 (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 that does not exceed this amount. As part of the Final Approval motion, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment 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 employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33 1/3%, which is currently estimated to be \$583,333.33 and a Class Counsel Litigation Expenses Payment of not more than \$25,000.00. Defendant will not oppose requests for these payments provided that 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. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$20,000.00 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 less

than \$20,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. One-fourth of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining three-quarters of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. 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.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$50,000.00 to be paid from the Gross Settlement Amount, with 75% (\$37,500.00) allocated to the LWDA PAGA Payment and 25% (\$12,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$12,500.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties 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. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 1,956 Class Members who collectively worked a total of 203,649 Workweeks, and 967 of Aggrieved Employees who worked a total 34,446 PAGA Pay Periods.
- 4.2. Class Data. Not later than 21 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.
- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. 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.
  - 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Participating Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class

Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

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

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

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Participating Class Member and/or Aggrieved Employee (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

**5. RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, and Participating Class Members will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, and Plaintiff's PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless,

that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1 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.

5.2 Release by Participating Class Members: 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 any and all claims involving any recovery of unpaid minimum wages and unpaid overtime (Cal. Lab. Code §§ 204, 1194, 1194.2, 1197, 1198), failure to provide meal and rest periods (Cal. Lab. Code §§ 226.7, 512), failure to provide accurate wage statements (Cal. Lab. Code § 226), failure to pay all wages due at separation (Cal. Lab. Code §§ 201-203), failure to reimburse business expenses (Cal. Lab. Code § 2802), and violation of Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, et seq.). Except as set forth in Section 6.3 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.

5.3 Release by Participating and Non-Participating Class Members who are Aggrieved Employees: All Participating and Non-Participating Class Members who are Aggrieved Employees, the State of California, and the LWDA 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 facts stated in the Operative Complaint and the PAGA Notice, including any and all claims involving any alleged failure to pay minimum wages or overtime, failure to provide meal and rest periods, failure to provide accurate wage statements, failure to pay all wages due at separation, and failure to reimburse business expenses, including Labor Code sections 201, 202, 203, 210, 216, 223, 225.5, 226, 226.3, 226.7, 245-248.5, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 during the PAGA Period. Aggrieved Employees only release these claims for the duration of the PAGA Period.

6. **MOTION FOR PRELIMINARY APPROVAL.** Plaintiff agrees to prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with

the Court's current checklist for Preliminary Approvals. The Parties agree to work cooperatively to ensure that the Motion for Preliminary Approval is granted.

- 6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a statement from the Administrator attaching its "not to exceed" bid for administering the Settlement; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members and the Administrator; (v) a signed declaration from Class Counsel attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and all facts relevant to any actual or potential conflict of interest with Class Members and/or the Administrator. Plaintiff's and Class Counsel's Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 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.
- 6.3 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 Defense 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 Defense 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.

## 7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected Apex Class Action to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action 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.

- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4 Notice to Class Members.
- 7.4.1 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, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 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 with Spanish translation, substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3 Not later than 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.
- 7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 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.
- 7.4.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they 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 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever ever are later.

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

- 7.5.1 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 days after the Administrator mails the Class Notice (plus an additional 14 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.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 7.5.3 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 Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4 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 Paragraph 6.4 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA 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 Workweeks 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 Workweeks and/or 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 Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 Objections to Settlement.

7.7.1 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.

7.7.2 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 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

7.8 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.

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval

and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

- 7.8.2           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 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense 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; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 7.8.3           Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense 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 Workweeks and/or 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.
- 7.8.4           Workweek and/or 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 Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5           Administrator’s Declaration. Not later than 7 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 Defense 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 the Class Notice, the total number of 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), the number of written objections and attach the Exclusion List. 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.
- 7.8.6           Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report

detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense 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.

**8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.**

8.1 Based on its records, Defendant estimates that there are approximately 1,956 Class Members and 203,649 Total Workweeks during the Class period.

8.2 The Gross Settlement Amount was agreed upon based on Defendant's records produced at the time of mediation. If the number of number of Workweeks during the Class Period exceeds 203,649 by more than ten percent (10%), the Gross Settlement Amount shall be increased on a pro rata basis per Workweek exceeding the 10% increase (i.e., if the number increases by 11%, the Gross Settlement Amount shall be increased by 1%).

**9. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

**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 approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel as soon as practicable prior to filing the Motion for Final Approval. Class Counsel and Defense 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. The Motion for Final Approval shall include a provision that the Operative Action is dismissed with prejudice, which shall constitute a final and binding resolution of Plaintiff's claims.

10.1 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.

- 10.2 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 Participating 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.
- 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Actions, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 10.4 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 reflected 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, except as to matters that do not affect the amount of the Net Settlement Amount.
- 10.5 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 and a proposed amended judgment.

## 12. ADDITIONAL PROVISIONS.

- 12.1 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 Actions 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 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 Actions, 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 Actions 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). The Agreement and any related documents may not be cited or used as an admission of liability.
- 12.2 Confidentiality. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, 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, via a press release, press conference, or publication of information about the settlement on any website or through any social media except: (1) to the Parties' attorneys, 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 Defense 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.
- 12.3 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.

- 12.4 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 oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5 Attorney Authorization. Class Counsel and Defense 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.
- 12.6 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.
- 12.7 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.
- 12.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense 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.
- 12.9 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.
- 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 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.
- 12.12 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.

- 12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Actions and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator’s obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court’s discharge of the Administrator’s obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.
- 12.15 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.
- 12.16 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. 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.
- 12.17 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:**

Justin Marquez  
[justin@wilshirelawfirm.com](mailto:justin@wilshirelawfirm.com)  
Benjamin Haber  
[benjamin@wilshirelawfirm.com](mailto:benjamin@wilshirelawfirm.com)  
**WILSHIRE LAW FIRM, PLC**  
3055 Wilshire Blvd., 12th Floor  
Los Angeles, CA 90010

**To Defendant:**

Ian Chuang  
[ianchuang@maddenjones.com](mailto:ianchuang@maddenjones.com)

**MADDEN, JONES, COLE & JOHNSON**  
3010 Old Ranch Parkway, Suite 450  
Seal Beach, California 90740

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. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

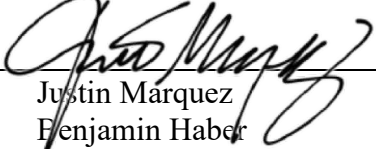
Date: June 22, 2023

PLAINTIFF:

DocuSigned by:  
  
4FF6005B060E453  
MARISELA MEZA

APPROVED AS TO FORM:

WILSHIRE LAW FIRM

By:   
Justin Marquez  
Benjamin Haber  
Arrash Fattahi  
Attorneys for Plaintiff

DEFENDANT:

MADDEN, JONES, COLE, AND JOHNSON

PROHEALTH PARTNERS, A MEDICAL GROUP, INC.

By: \_\_\_\_\_  
Ian Chuang  
Attorneys for Defendant

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ARGUS MANAGEMENT COMPANY, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MADDEN, JONES, COLE & JOHNSON**  
3010 Old Ranch Parkway, Suite 450  
Seal Beach, California 90740

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. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

PLAINTIFF:

\_\_\_\_\_  
MARISELA MEZA

APPROVED AS TO FORM:

WILSHIRE LAW FIRM

By: \_\_\_\_\_  
Justin Marquez  
Benjamin Haber  
Arrash Fattahi  
Attorneys for Plaintiff

DEFENDANT:

PROHEALTH PARTNERS, A MEDICAL  
GROUP, INC.

By: \_\_\_\_\_  
Name: Peter Ferrera, M.D.  
Title: President, ProHealth Partners MG

MADDEN, JONES, COLE, AND JOHNSON

By: \_\_\_\_\_  
Ian Chuang  
Attorneys for Defendant

ARGUS MANAGEMENT COMPANY, LLC

By: Barry S. Allswang MD  
Name: Barry S. Allswang MD  
Title: Argus President

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL**

[case name and number]

*The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.*

**You may be eligible to receive money** from an employee class action lawsuit (“Action”) against Argus Management Company, LLC and ProHealth Partners, a Medical Group (collectively; “Argus and ProHealth”) for alleged wage and hour violations. The Action was filed by a former employee Marisela Meza (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of hourly employees (“Class Members”) who worked for Argus during the Class Period (August 26, 2017 to March 23, 2023); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all hourly employees who worked for Argus during the PAGA Period (August 26, 2021 to March 23, 2023) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Argus and ProHealth to fund Individual Class Payments, and (2) a PAGA Settlement requiring Argus to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Argus and ProHealth’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ \_\_\_\_\_ (less withholding) and your Individual PAGA Payment is estimated to be \$ \_\_\_\_\_**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Argus and ProHealth’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Argus and ProHealth’s records showing that **you worked \_\_\_\_\_ workweeks** during the Class Period and **you worked \_\_\_\_\_ workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Argus and ProHealth to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Argus and ProHealth.

If you worked for Argus and ProHealth during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Argus and ProHealth .
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Argus and ProHealth, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

**Argus and ProHealth will not retaliate against you for any actions you take with respect to the proposed Settlement.**

**SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<p><b>You Don't Have to Do Anything to Participate in the Settlement</b></p>	<p>If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Argus and ProHealth that are covered by this Settlement (Released Claims).</p>
<p><b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b></p> <p><b>The Opt-out Deadline is [date]</b></p>	<p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Argus and ProHealth must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p>
<p><b>Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement</b></p>	<p>All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members.</p>

<b>Written Objections Must be Submitted by [date]</b>	You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
<b>You Can Participate in the [date] Final Approval Hearing</b>	The Court’s Final Approval Hearing is scheduled to take place on [date]. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
<b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b>  <b>Written Challenges Must be Submitted by [date]</b>	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Argus Medical and ProHealth’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [date]. See Section 4 of this Notice.

**1. WHAT IS THE ACTION ABOUT?**

Plaintiff is a former employee. The Action accuses Argus and ProHealth of Failure to Pay Minimum and Straight Time Wages, Failure to Pay Overtime Wages, Failure to Provide Meal Periods, Failure to Authorize and Permit Rest Periods, Failure to Timely Pay Final Wages at Termination, Failure to Provide Accurate Itemized Wage Statements, Failure to Indemnify Employees for Expenditures, and Unfair Business Practices. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: Justin Marquez, Benjamin Haber, and Arrash Fattahi of Wilshire Law Firm, PLC (“Class Counsel.”)

Argus and ProHealth strongly deny violating any laws or failing to pay any wages and contend it complied with all applicable laws.

**2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?**

So far, the Court has made no determination whether Argus and ProHealth or Plaintiff is correct on the merits. Plaintiff and Argus and ProHealth participated in a mediation conducted by an experienced, neutral mediator to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Argus and ProHealth have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed

Settlement is a compromise of disputed claims. By agreeing to settle, Argus and ProHealth does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Argus and ProHealth have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

### **3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

1. Argus and ProHealth Will Pay \$1,750,000 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Argus Medical and ProHealth will fund the Gross Settlement not more than [14] days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
  - A. Up to [\$ amount] (x% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$[amount] for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
  - B. Up to \$[amount] as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
  - C. Up to \$[amount] to the Administrator for services administering the Settlement.
  - D. Up to \$[amount] for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Argus and ProHealth are asking the Court to approve an allocation of 25% of each Individual Class Payment to taxable wages (“Wage Portion”) and 75% to interest and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Argus and ProHealth will separately pay employer payroll taxes they owe on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Argus and ProHealth have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [date], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [date] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Argus and ProHealth.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Argus and ProHealth based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Argus and ProHealth have agreed that, in either case, the Settlement will be void: Argus and Prohealth will not pay any money and Class Members will not release any claims against Argus and Prohealth.
8. Administrator. The Court has appointed a neutral company, Apex Class Action (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and Argus and Prohealth have fully funded the Gross Settlement, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Argus and Prohealth or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

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 any and all claims involving any recovery of unpaid minimum wages and unpaid overtime (Cal. Lab. Code §§ 204, 1194, 1194.2, 1197, 1198), failure to provide meal and rest periods (Cal. Lab. Code §§ 226.7, 512), failure to provide accurate wage statements (Cal. Lab. Code § 226), failure to pay all wages due at separation (Cal. Lab. Code §§ 201-203), failure to reimburse business expenses (Cal. Lab. Code § 2802), and violation of Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, et seq.) Except as set forth in Section 6.3 of the Settlement 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.<sup>i</sup>

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Argus and ProHealth have paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Argus and ProHealth, whether or not they exclude themselves from the

Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Argus and ProHealth or their related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees, the State of California and the LWDA 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, including any and all claims involving any alleged failure to pay minimum wages or overtime, failure to provide meal and rest periods, failure to provide accurate wage statements, failure to pay all wages due at separation, and failure to reimburse business expenses, including Labor Code sections 201, 202, 203, 210, 216, 223, 225.5, 226, 226.3, 226.7, 245-248.5, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 during the PAGA Period. Aggrieved Employees only release these claims for the duration of the PAGA Period.

#### **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$[amount] by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Argus and ProHealth's records, are stated in the first page of this Notice. You have until [date] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Argus and ProHealth's calculation of Workweeks and/or Pay

Periods based on Argus and ProHealth's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Argus and ProHealth's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

## 5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

**Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.**

## 6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as Meza v. Argus Management and ProHealth Partners, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [date], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

## 7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Argus and ProHealth are asking the Court to approve. At least [insert] days before the [date] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class

Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website **[need details]** or the Court's website **[need details]**.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [date]**. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action [case caption] and include your name, current address, telephone number, and approximate dates of employment for [Argus and ProHealth] and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

## **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

You can, but don't have to, attend the Final Approval Hearing on [date] at [time] in Department [7] of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). **[confirm]**. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [[www.etc.](http://www.etc.)] beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

## **9. HOW CAN I GET MORE INFORMATION?**

The Agreement sets forth everything Argus and ProHealth and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to **[specify whose]** website at [URL of website]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) **[confirm]** and entering the Case Number for the Action, Case No. [number]. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION  
ABOUT THE SETTLEMENT.**

Class Counsel:

[Name of Attorney]

[Email Address]

[Name of Firm]

[Mailing Address]

[Telephone]

Settlement Administrator:

[Name of Company]

[Email Address]

[Mailing Address]

[Telephone]

[Fax Number]

## **10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

## **11. WHAT IF I CHANGE MY ADDRESS?**

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

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<sup>i</sup> Releases in Notice should track the releases in the Settlement Agreement.

# Exhibit 2

# ~~FORM~~ CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE<sup>1</sup>

This Class Action and PAGA Settlement Agreement (“Agreement”) is dated June 22, 2023 and made by and between plaintiff Marisela Meza (“Plaintiff”) and defendants Argus Management Company, LLC, a California limited liability company and ProHealth Partners, a Medical Group, Inc., a California corporation (collectively, “Defendant”), defendant XYZ (“XYZ”). The Agreement refers to Plaintiff and Defendant XYZ collectively as “Parties,” or individually as “Party.”

## 1. DEFINITIONS.

- 1.1. “~~Actions~~ Action” means the Plaintiff’s ~~lawsuits~~ lawsuit alleging wage and hour violations against Defendant XYZ captioned (i) Marisela Meza v. Argus Management Company, LLC, [caption] and ProHealth Partners, a Medical Group, Inc., in Los Angeles County case number [ ] initiated on [filing date] and pending in Superior Court Case No. 21STCV31612 (of the “Class Action”) and (ii) . Marisela Meza v. Argus Management Company, LLC, and ProHealth Partners, a Medical Group, Inc., in Los Angeles County Superior Court Case No. 21STCV40740 (the “PAGA Action”) State of California, County of Los Angeles.
- 1.2. “Administrator” means Apex Class Action, [name], 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 ~~[e.g.,~~ a person employed by Defendant XYZ in California and classified as a non-exempt or hourly-paid employee who worked for Defendant XYZ during the PAGA Period.
- 1.5. “Class” means ~~[define class e.g.,~~ all persons employed by Defendant XYZ in California and classified as a non-exempt or hourly-paid employee who worked for Defendant XYZ during the Class Period.
- 1.6. “Class Counsel” means Justin Marquez, Benjamin Haber, and Arrash Fattahi of Wilshire Law Firm, PLC, [name].
- 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.

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- 1.8. “Class Data” means Class Member identifying information in Defendant’s XYZ’s possession including the Class Member’s name, last-known mailing address, Social Security number, ~~and~~ 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-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member 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 Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English ~~with a Spanish translation, if applicable,~~ in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from August 26, 2017~~[date]~~ to March 23, 2023~~[date]~~.<sup>#</sup>
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Los Angeles.
- 1.16. “Defendant” means named Argus Management Company, LLC, a California limited liability company and ProHealth Partners, a Medical Group, Inc., a California corporation. ~~“XYZ” means named Defendant [name].~~
- 1.17. “Defense Counsel” means Ian Chuang of Madden, Jones, Cole & Johnson, APC.~~[name]~~.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (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 if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment ~~entered~~Entered by the Court upon ~~granting~~Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means ~~\$1,750,000.00~~{amount} which is the total amount ~~DefendantXYZ~~ agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “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.
- 1.30. “PAGA Pay Period” means any ~~pay period~~Pay Period during which an Aggrieved Employee worked for ~~DefendantXYZ~~ for at least one day during the PAGA Period.

- 1.31. “PAGA Period” means the period from August 26, 2021~~[date]~~ to March 23, 2023~~[date]~~.<sup>iii</sup>
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notice” means Plaintiff’s August 26, 2021~~[date]~~ letter to Defendant XYZ and the LWDA ~~[and Plaintiff’s [date] letter to XYZ and the LWDA]~~ providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties (\$50,000.00) to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$12,750~~500.00~~)~~(insert amount)~~ and the 75% to LWDA (\$37,500.00)~~(insert amount)~~ in settlement of PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. “Plaintiff” means Marisela Meza~~[name]~~, the named plaintiff in the Actions~~Action~~.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval ~~and Approval~~ of the PAGA Settlement.
- 1.39. “Released Class Claims” means the claims being released as described in Paragraph 5~~6~~.2 below.
- 1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3~~6~~.2 below.
- 1.41. “Released Parties” means: Argus Management Company, LLC, and ProHealth Partners, a Medical Group, XYZ and each of its former and present directors, managers, officers, shareholders, members, owners, ~~[members]~~, attorneys, insurers, predecessors, successors, assigns, ~~[sub~~subsidaries, and ~~[affiliates]~~.
- 1.42. “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.
- 1.43. "Response Deadline" means 45~~[e.g., 60]~~ 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 his or her 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 has expired.

- 1.44. “Settlement” means the disposition of the ~~Actions~~Action effected by this Agreement and the Judgment.
- 1.45. “Workweek” means any week during which a Class Member worked for ~~Defendant XYZ~~ for at least one day, during the Class Period.<sup>iv</sup>

## 2. RECITALS.

2.1. On August 26, 2021, [date], Plaintiff commenced ~~the Class~~this Action by filing a Complaint alleging causes of action against ~~Defendant XYZ~~ for Failure to Pay Minimum and Straight Time Wages, Failure to Pay Overtime Wages, Failure to Provide Meal Periods, Failure to Authorize and Permit Rest Periods, Failure to Timely Pay Final Wages at Termination, Failure to Provide Accurate Itemized Wage Statements, Failure to Indemnify Employees for Expenditures, and Unfair Business Practices. ~~[specify causes of action]. [The Complaint is the operative complaint in the Action (the “Operative Complaint.”)]~~ ~~[On November 4, 2021, [date], Plaintiff commenced filed a separate action against Defendant [e.g., First Amended Complaint] alleging Violation of the Private Attorneys General Act (“PAGA”). Defendant~~causes of action against XYZ for [specify causes of action]. The [e.g., First Amended] Complaint is the operative complaint in the Action (the “Operative Complaint.”)] ~~XYZ denies the allegations in both the Class Action and the PAGA Action~~the Operative Complaint, denies any failure to comply with the laws identified in in the Class Action and or the PAGA Action~~Operative Complaint~~ and denies any and all liability for the causes of action alleged.

~~2.1.2.2.~~ Plaintiff will file a Joint Stipulation seeking the Court’s leave to file a First Amended Class and Representative Action Complaint (the “Operative Complaint”) in the Class Action to combine the two above-referenced actions (i.e., add the pending PAGA claim to the Class Action initially filed on August 26, 2021). Plaintiff will dismiss with prejudice the PAGA Action within 5 days of the Court’s approval of leave to file the Operative Complaint.

~~2.2.2.3.~~ Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to ~~Defendant XYZ~~ and the LWDA by sending the PAGA Notice.

~~2.3.2.4.~~ On March 23, 2023, [date[s], ~~[the Parties participated in an all-day mediation presided over by Lisa Klerman, Esq. [mediator’s name] which led to this Agreement to settle the~~ Actions~~Action [or describe alternative means of negotiation].~~

~~2.4.2.5.~~ Prior to ~~[mediation,] [negotiating the Settlement]~~, Plaintiff obtained, through ~~[formal] [informal]~~ discovery, ~~[identify documents relevant to this case, including Plaintiff’s personnel files, a sampling of time, testimony and pay data for the Class Members, and policy documents related to Plaintiff’s claims.~~ information

~~obtained.~~ Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

~~2.5-2.6.~~ The Court ~~[has]~~ has not granted class certification. ~~[Insert details as needed.]~~

~~2.6-2.7.~~ ~~Plaintiff and~~The Parties, Class 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.~~ Defendant and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that ~~may will~~ be extinguished or affected by the Settlement ~~except for a claim filed by Angelina Marquez with the Labor Commissioner's Office, case number WC-CM-899996.-~~

### 3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, ~~Defendant~~XYZ promises to pay ~~\$1,750,000.00~~{amount} 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.~~ ~~Defendant.~~XYZ has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph ~~4.36-1~~ 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 ~~Defendant~~XYZ.

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 ~~\$10,000.00~~{amount} (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~~XYZ will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the Final Approval motion ~~for Class Counsel Fees Payment and Class Litigation Expenses Payment~~, Plaintiff will seek Court approval for any Class Representative Service Payments no later than ~~16 court~~ days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment 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 employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33 1/3% ~~—%~~, which is currently estimated to be \$583,333.33~~{amount}~~ and a Class Counsel Litigation Expenses Payment of not more than \$25,000.00~~{amount}~~. Defendant~~{amount}~~. XYZ will not oppose requests for these payments provided that 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. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant~~XYZ~~ harmless, and indemnifies Defendant~~XYZ~~, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$20,000.00~~{amount}~~ 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 less than \$20,000.00~~{amount}~~, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. One-fourth~~{Specify percentage}~~ of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining three-quarters~~{specify percentage}~~ of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for ~~{e.g.,}~~ interest and penalties~~}~~ (the "Non-Wage Portion").<sup>44</sup> The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. 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.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$50,000.00~~{amount}~~ to be paid from the Gross Settlement Amount, with 75% (\$37,500.00~~amount~~) allocated to the LWDA PAGA Payment and 25% (\$12,500.00~~amount~~) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$12,500.00~~amount~~) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties 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. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, DefendantXYZ estimates there are 1,956~~{number}~~ Class Members who collectively worked a total of 203,649~~{amount}~~ Workweeks, and 967~~{number}~~ of Aggrieved Employees who worked a total 34,446~~{amount}~~ of PAGA Pay Periods.

4.2. Class Data. Not later than 21~~{e.g., 15}~~ days after the Court grants Preliminary Approval of the Settlement, DefendantXYZ will ~~simultaneously~~ 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. DefendantXYZ 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 DefendantXYZ 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.

4.3. Funding of Gross Settlement Amount. DefendantXYZ shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay

Defendant's XYZ's share of payroll taxes by transmitting the funds to the Administrator no later than {14} days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within {14} days after Defendant XYZ funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. 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.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Participating Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Participating Class Members and Aggrieved Employees whose checks are returned~~returned~~ undelivered without USPS forwarding address. Within {7} days of receiving a -returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Participating Class Members and Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Participating Class Member and/or Aggrieved Employee whose original check was lost or misplaced, requested by the Participating Class Member and/or Aggrieved Employee prior to the void date.

4.4.3. For any Participating Class Member and/or Aggrieved Employee whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). (b).~~{6}~~

~~to a Court approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b) (“Cy Pres Recipient”) [adding name]]. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.~~

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate ~~Defendant XYZ~~ to confer any additional benefits or make any additional payments to ~~Participating Class Member and/or Aggrieved Employee Members~~ (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

6. **RELEASES OF CLAIMS.** Effective on the date when ~~Defendant XYZ~~ fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, ~~and Participating Class Members, and Class Counsel~~ will release claims against all Released Parties as follows:

6.1 **Plaintiff’s Release.** Plaintiff and ~~his or~~ her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences ~~[that occurred during the Class Period,]~~ including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, ~~and Plaintiff’s PAGA Notice, [or ascertained during the Action and released under 6.2, below].~~ (“Plaintiff’s Release”). Plaintiff’s Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff’s Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff’s discovery of them.

6.1.1 **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.

6.2 **Release by Participating Class Members ~~Who Are Not Aggrieved Employees:~~** All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and

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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, ~~[and ascertained in the course of the Action]~~ [including, e.g., “(a) any and all claims involving any recovery of unpaid minimum wages and unpaid overtime (Cal. Lab. Code §§ 204, 1194, 1194.2, 1197, 1198), failure to provide meal and rest periods (Cal. Lab. Code §§ 226.7, 512), failure to provide accurate wage statements (Cal. Lab. Code § 226), alleged failure to pay all wages due at separation (Cal. Lab. Code §§ 201-203), failure to reimburse business expenses (Cal. Lab. Code § 2802), and violation of Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, et seq.), minimum wage; etc.]. Except as set forth in Section 6.3 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.

6.3 Release by Participating and Non-Participating Class Members who are Who Are Aggrieved Employees: All Participating and Non-Participating Class Members who are Aggrieved Employees, the State of California, and the LWDA 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, ~~[and ascertained in the course of the Action]~~ [including, e.g., “(a) any and all claims involving any alleged failure to pay minimum wages or overtime, failure to provide meal and rest periods, failure to provide accurate wage statements, failure to pay all wages due at separation, and failure to reimburse business expenses, including Labor Code sections 201, 202, 203, 210, 216, 223, 225.5, 226, 226.3, 226.7, 245-248.5, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 during the PAGA Period. Aggrieved Employees only release these claims for the duration of the PAGA Period, etc.].

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7. **MOTION FOR PRELIMINARY APPROVAL.** ~~Plaintiff agrees to~~ The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals. The Parties agree to work cooperatively to ensure that the Motion for Preliminary Approval is granted.

7.1 ~~XYZ’s Declaration in Support of Preliminary Approval.~~ Within [ ] days of the full execution of this Agreement, ~~XYZ will prepare and deliver to Class Counsel a signed Declaration from XYZ and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and XYZ shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.~~

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7.27.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a ~~statements signed declaration~~ from the Administrator attaching its "not to exceed" bid for administering the Settlement ~~and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members [and/or the proposed Cy Pres]; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel;~~ (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members ~~and/or~~ the Administrator ~~and/or the proposed Cy Pres~~; (v) a signed declaration from ~~each~~ Class Counsel ~~firm~~ attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and all facts relevant to any actual or potential conflict of interest with Class Members ~~and/or~~ the Administrator. Plaintiff's and Class Counsel's and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.37.2 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than ~~30~~ 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.

7.47.3 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 Defense 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 Defense 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 Apex Class Action to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action 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 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 8.4 Notice to Class Members.
- 8.4.1 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, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 8.4.2 Using best efforts to perform as soon as possible, and in no event later than [14] 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 [with Spanish translation, if applicable] substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 8.4.3 Not later than [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.
- 8.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an

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additional {14} days beyond the 45{60} 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.

8.4.5 If the Administrator, Defendant XYZ or Class Counsel is contacted by or otherwise discovers any persons who believe they 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} days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

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

8.5.1 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{60} days after the Administrator mails the Class Notice (plus an additional {14} 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.

8.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

8.5.3 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 Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

- 8.5.4 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 Paragraph 6.4 of this Agreement and are eligible for an Individual PAGA Payment.
- 8.6 Challenges to Calculation of Workweeks. Each Class Member shall have ~~45~~<sup>60</sup> days after the Administrator mails the Class Notice (plus an additional ~~14~~ days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA 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 Workweeks 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 Workweeks and/or 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 Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.
- 8.7 Objections to Settlement.
- 8.7.1 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.
- 8.7.2 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~~<sup>60</sup> days after the Administrator's mailing of the Class Notice (plus an additional ~~14~~ days for Class Members whose Class Notice was re-mailed).
- 8.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.
- 8.8 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.

- 8.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- 8.8.2 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~~ days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense 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; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense 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 Workweeks and/or 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.
- 8.8.4 Workweek and/or 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 Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 8.8.5 Administrator’s Declaration. Not later than ~~7~~~~14~~ 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 Defense 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 ~~the~~ Class Notice, the ~~total number of~~ 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), the number of written objections and attach the

Exclusion List. 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.

- 8.8.6 Final Report by Settlement Administrator. Within {10} days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least {15} days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense 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. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.

~~9.9.1~~ Based on its records, Defendant XYZ estimates that, ~~as of the date of this Settlement Agreement, (1) there are approximately 1,956{number} Class Members and 203,649{number} Total Workweeks during the Class period, and (2) there were {number} Aggrieved Employees who worked {number} Pay Periods during the PAGA Period.~~<sup>xxx</sup>

9.2 The Gross Settlement Amount was agreed upon based on Defendant's records produced at the time of mediation. If the number of number of Workweeks during the Class Period exceeds 203,649 by more than ten percent (10%), the Gross Settlement Amount shall be increased on a pro rata basis per Workweek exceeding the 10% increase (i.e., if the number increases by 11%, the Gross Settlement Amount shall be increased by 1%).

10. **DEFENDANT'S XYZ'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10%{specify percentage} of the total of all Class Members, Defendant XYZ may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant XYZ withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant XYZ will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant XYZ must notify Class Counsel and the Court of its election to withdraw not later than {seven} days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
11. **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 approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel as soon as practicable~~not later than {seven} days~~ prior to

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filing the Motion for Final Approval. Class Counsel and Defense 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. [The Motion for Final Approval shall include a provision that the Operative Action is dismissed with prejudice, which shall constitute a final and binding resolution of Plaintiff's claims.](#)

- 11.1 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 ~~that~~ five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 11.2 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 [Participating 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.
- 11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, ~~Actions~~[Action](#), and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 11.4 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 reflected 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, except as to matters that do not affect the amount of the Net Settlement Amount.
- 11.5 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.

**12. 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 and a proposed amended judgment.

**13. ADDITIONAL PROVISIONS.**

13.1 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 DefendantXYZ that any of the allegations in the Operative Complaint have merit or that DefendantXYZ has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant'sXYZ's defenses in the ActionsAction 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 grant Preliminary Approval, Final Approval or enter Judgment, DefendantXYZ reserves the right to contest certification of any class for any reasons, and DefendantXYZ reserves all available defenses to the claims in the ActionsAction, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant'sXYZ's defenses. The Settlement, this Agreement and Parties' willingness to settle the ActionsAction 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). The Agreement and any related documents may not be cited or used as an admission of liability.

13.2 Confidentiality. -Prior to Preliminary Approval. Plaintiff, Class Counsel, DefendantXYZ and Defense 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, via a press release, press conference, or publication of information about the settlement on any website or through any social media except: (1) to the Parties' attorneys, 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, DefendantXYZ and Defense 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.

- 13.3 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.
- 13.4 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 oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant XYZ, 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.
- 13.6 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.
- 13.7 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.
- 13.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant XYZ nor Defense 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.
- 13.9 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.

- 13.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11 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.
- 13.12 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.
- 13.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during ~~Actions~~Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant XYZ in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator’s obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant XYZ unless, prior to the Court’s discharge of the Administrator’s obligation, Defendant XYZ makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.
- 13.15 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.
- 13.16 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. 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.
- 13.17 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:**

Justin Marquez

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[justin@wilshirelawfirm.com](mailto:justin@wilshirelawfirm.com)  
[Benjamin Haber](#)  
[benjamin@wilshirelawfirm.com](mailto:benjamin@wilshirelawfirm.com)  
**WILSHIRE LAW FIRM, PLC**  
3055 Wilshire Blvd., 12th Floor  
Los Angeles, CA 90010

**To Defendant XYZ:**

[Ian Chuang](#)  
[ianchuang@maddenjones.com](mailto:ianchuang@maddenjones.com)  
**MADDEN, JONES, COLE & JOHNSON**  
3010 Old Ranch Parkway, Suite 450  
Seal Beach, California 90740

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13.18 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.

13.19 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. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

PLAINTIFF:

MARISELA MEZA

APPROVED AS TO FORM:

WILSHIRE LAW FIRM

By: \_\_\_\_\_

Justin Marquez

Benjamin Haber

Arrash Fattahi

Attorneys for Plaintiff

DEFENDANT:

PROHEALTH PARTNERS, A MEDICAL GROUP, INC.

MADDEN, JONES, COLE, AND JOHNSON

By: \_\_\_\_\_

Ian Chuang

Attorneys for Defendant

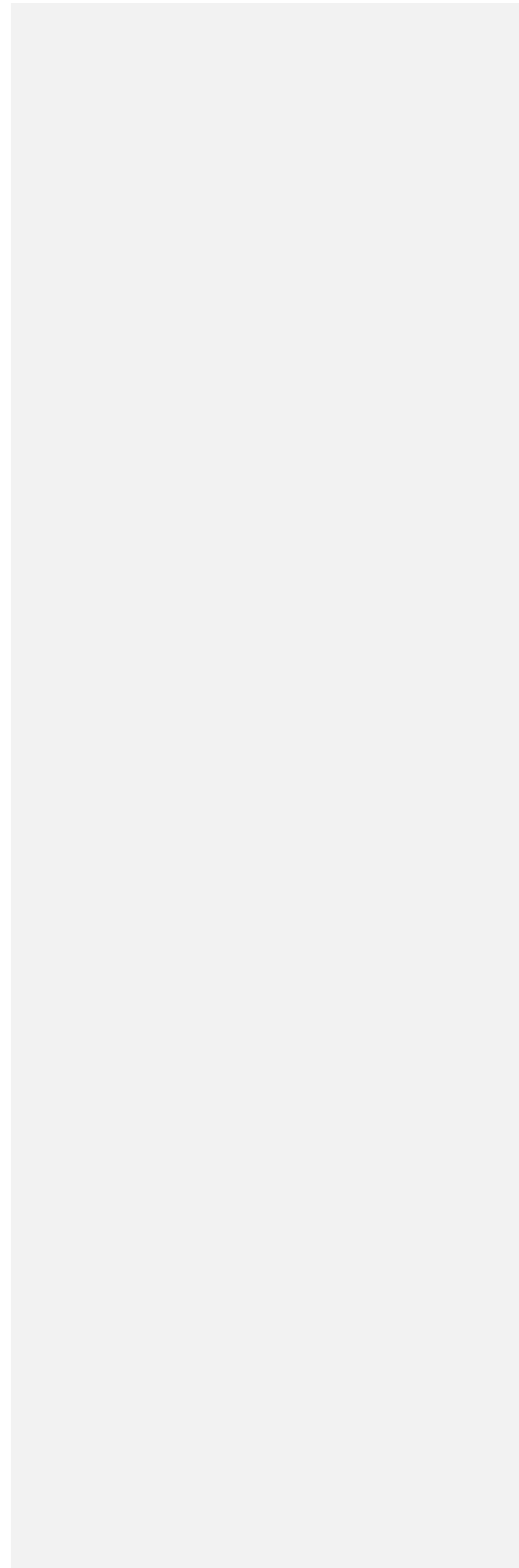
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ARGUS MANAGEMENT COMPANY, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Signature] \_\_\_\_\_ [Signature] \_\_\_\_\_  
[name] For Plaintiff \_\_\_\_\_ [name and title] For XYZ \_\_\_\_\_

[Signature] \_\_\_\_\_ [Signature] \_\_\_\_\_  
[name] Counsel for Plaintiff \_\_\_\_\_ [name] Counsel for XYZ \_\_\_\_\_



**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND  
HEARING DATE FOR FINAL COURT APPROVAL**

[case name and number]

*The Superior Court for the State of California authorized this Notice. Read it carefully!  
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.*

**You may be eligible to receive money** from an employee class action lawsuit (“Action”) against [Argus Management Company, LLC and ProHealth Partners](#), ~~[name of defendant]~~ (abbreviate name; “XYZ” is used herein as a [Medical Group](#) (collectively; “[Argus and ProHealth](#)”) ~~placeholder~~) for alleged wage and hour violations. The Action was filed by a ~~[a]~~ former ~~[XYZ]~~ employee [Marisela Meza](#), ~~[name]~~ (“Plaintiff”) and seeks payment of (1) back wages ~~[and other relief]~~ for a class of ~~[e.g., hourly]~~ employees (“Class Members”) who worked for [ArgusXYZ](#) during the Class Period ([August 26, 2017](#) ~~[date]~~ to [March 23, 2023](#) ~~[date]~~); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all ~~[e.g., hourly]~~ employees who worked for [ArgusXYZ](#) during the PAGA Period ([August 26, 2021](#) ~~[date]~~ to [March 23, 2023](#) ~~[date]~~) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring [Argus and ProHealthXYZ](#) to fund Individual Class Payments, and (2) a PAGA Settlement requiring [ArgusXYZ](#) to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on [Argus and ProHealth’sXYZ’s](#) records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ \_\_\_\_\_ (less withholding) and your Individual PAGA Payment is estimated to be \$ \_\_\_\_\_**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to [Argus and ProHealth’sXYZ’s](#) records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on [Argus and ProHealth’sXYZ’s](#) records showing that **you worked \_\_\_\_\_ workweeks** during the Class Period and **you worked \_\_\_\_\_ workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires [Argus and ProHealthXYZ](#) to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against [Argus and ProHealthXYZ](#).

If you worked for [Argus and ProHealthXYZ](#) during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against [Argus and ProHealthXYZ](#).
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against [Argus and ProHealthXYZ](#), and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

[Argus and ProHealthXYZ](#) will not retaliate against you for any actions you take with respect to the proposed Settlement.

#### SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

<b>You Don't Have to Do Anything to Participate in the Settlement</b>	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against <a href="#">Argus and ProHealthXYZ</a> that are covered by this Settlement (Released Claims).
<b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b>  <b>The Opt-out Deadline is [date]</b>	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.  You cannot opt-out of the PAGA portion of the proposed Settlement. <a href="#">Argus and ProHealthXYZ</a> must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
<b>Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement</b>	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You

<b>Written Objections Must be Submitted by [date]</b>	are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
<b>You Can Participate in the [date] Final Approval Hearing</b>	The Court’s Final Approval Hearing is scheduled to take place on [date]. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
<b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b>  <b>Written Challenges Must be Submitted by [date]</b>	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to <a href="#">Argus Medical and ProHealth’s XYZ’s</a> records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [date]. See Section 4 of this Notice.

## 1. WHAT IS THE ACTION ABOUT?

Plaintiff is a ~~[n]~~ former ~~XYZ~~ employee. The Action accuses [Argus and ProHealth XYZ](#) of ~~Failure violating California labor laws by failing to Pay Minimum pay [e.g., overtime wages, minimum wages, wages due upon termination and reimbursable expenses] and Straight Time Wages, Failure failing to Pay Overtime Wages, Failure to Provide Meal Periods, Failure to Authorize provide [e.g., meal periods, rest breaks] and Permit Rest Periods, Failure to Timely Pay Final Wages at Termination, Failure to Provide Accurate Itemized Wage Statements, Failure to Indemnify Employees for Expenditures, and Unfair Business Practices, accurate itemized wage statements].~~ Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: [Justin Marquez, Benjamin Haber, and Arrash Fattah](#) ~~[name of Wilshire Law Firm, PLC attorney and law firm]~~ (“Class Counsel.”)

[Argus and ProHealth XYZ](#) strongly ~~deny~~ ~~denies~~ violating any laws or failing to pay any wages and ~~contend~~ ~~entends~~ it complied with all applicable laws.

## 2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether [Argus and ProHealth XYZ](#) or Plaintiff is correct on the merits. ~~In the meantime,~~ Plaintiff and [Argus and ProHealth](#) participated in a ~~mediation conducted by XYZ [hired [an experienced, neutral mediator] [a retired judge]] [describe alternative means of negotiations]] in an effort~~ to resolve the Action by negotiating an

to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and [Argus and ProHealthXYZ](#) have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, [Argus and ProHealthXYZ](#) does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) [Argus and ProHealthXYZ](#) has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

### 3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. [Argus and ProHealthXYZ](#) Will Pay ~~\$1,750,000~~~~[\$amount]~~ as the Gross Settlement Amount (Gross Settlement). [DefendantXYZ](#) has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, [Argus Medical and ProHealthXYZ](#) will fund the Gross Settlement not more than [14] days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
  - A. Up to [\$ amount] (x% of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$[amount] for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
  - B. Up to \$[amount] as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
  - C. Up to \$[amount] to the Administrator for services administering the Settlement.

D. Up to \$[amount] for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Argus and ProHealthXYZ are asking the Court to approve an allocation of 25%[specify percentage] of each Individual Class Payment to taxable wages (“Wage Portion”) and 75%[specify percentage] to ~~[e.g., interest and penalties, etc.]~~ (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Argus and ProHealth[Option 1: XYZ] will separately pay employer payroll taxes ~~they owe it owes~~ on the Wage Portion. ~~}]~~ The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Argus and ProHealthXYZ have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies ~~]~~ will be deposited with the California Controller’s Unclaimed Property Fund in your name. ~~]~~ ~~[will irrevocably lost to you because they will be paid to a non-profit organization or foundation (“Cy Pres”)]~~. ~~[If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.]~~
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [date], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [date] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive

Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against [Argus and ProHealthXYZ](#).

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against [Argus and ProHealthXYZ](#) based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. [Plaintiff](#)~~Plaintiffs~~ and [Argus and ProHealthXYZ](#) have agreed that, in either case, the Settlement will be void: [Argus and ProHealthXYZ](#) will not pay any money and Class Members will not release any claims against [Argus and ProHealthXYZ](#).
8. Administrator. The Court has appointed a neutral company, [Apex Class Action](#)~~[name]~~ (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and [Argus and ProHealth](#) ~~haveXYZ has~~ fully funded the Gross Settlement, ~~[Option 1: (and separately paid all employer payroll taxes)]~~, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against [Argus and ProHealthXYZ](#) or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

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, ~~[and ascertained in the course of the Action]~~ ~~[including, e.g., “(a)~~ any and all claims involving any [recovery of unpaid minimum wages and unpaid overtime \(Cal. Lab. Code §§ 204, 1194, 1194.2, 1197, 1198\), failure to provide meal and rest periods \(Cal. Lab. Code §§ 226.7, 512\), failure to provide accurate wage statements \(Cal. Lab. Code § 226\), alleged failure to pay all wages due at separation \(Cal. Lab. Code §§ 201-203\), failure to reimburse business expenses \(Cal. Lab. Code § 2802\), and violation of Unfair Business Practices \(Cal. Bus. & Prof. Code §§ 17200, et seq.\)](#)~~minimum wage;~~

~~etc.].~~ Except as set forth in Section 6.3 of the Settlement 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.<sup>viii</sup>.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Argus and ProHealth have XYZ has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Argus and ProHealth XYZ, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Argus and ProHealth XYZ or their related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees, the State of California and the LWDA 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, ~~[and ascertained in the course of the Action]~~ including, e.g., ~~(a)~~ any and all claims involving any alleged failure to pay minimum wages or overtime, failure to provide meal and rest periods, failure to provide accurate wage statements, failure to pay all wages due at separation, and failure to reimburse business expenses, including Labor Code sections 201, 202, 203, 210, 216, 223, 225.5, 226, 226.3, 226.7, 245-248.5, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 during the PAGA Period. Aggrieved Employees only release these claims for the duration of the PAGA Period. ~~etc.~~

#### 4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$[amount] by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in [Argus and ProHealth's XYZ's](#) records, are stated in the first page of this Notice. You have until [date] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept [Argus and ProHealth's XYZ's](#) calculation of Workweeks and/or Pay Periods based on [Argus and ProHealth's XYZ's](#) records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and [Argus and ProHealth's XYZ's](#) Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

## 5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

**Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.**

## 6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as [Meza v. Argus Management and ProHealth Partners, \[caption of Action\]](#), and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [date], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

## 7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and [Argus and ProHealthXYZ](#) are asking the Court to approve. At least [insert] days before the [date] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website **[need details]** or the Court's website **[need details]**.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [date]**. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action [case caption] and include your name, current address, telephone number, and approximate dates of employment for [Argus and ProHealthXYZ](#) and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

## 8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [date] at [time] in Department [7] of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). **[confirm]**. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [www.etc.] beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

## 9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything [Argus and ProHealthXYZ](#) and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to [**specify whose**] website at [URL of website]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) [**confirm**] and entering the Case Number for the Action, Case No. [number]. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.**

Class Counsel:

[Name of Attorney]  
[Email Address]  
[Name of Firm]  
[Mailing Address]  
[Telephone]

Settlement Administrator:

[Name of Company]  
[Email Address]  
[Mailing Address]  
[Telephone]  
[Fax Number]

## 10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund [\[website\]](#) for instructions on how to retrieve the funds. ~~you will have no way to recover the money.~~

## 11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

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<sup>i</sup> This Form Class Action and PAGA Settlement Agreement is for settlements of single plaintiff wage and hour actions asserting class claims and PAGA claims against a single employer (XYZ). The parties will need to revise this form if there are multiple plaintiffs or multiple defendants. For settlements of wage and hour class actions that do not include PAGA claims, please use the Form Class Action Settlement Agreement and Class Notice.

<sup>ii</sup> Whether the “date of preliminary approval” yields a fair and adequate payment to Class Members may depend on whether the Class Members, in exchange for their releases of claims, receive consideration for time worked between the date when parties reached a settlement and the date of preliminary approval. The Parties’ *Kullar* analysis must give the Court sufficient information to allow the Court to determine whether the Gross Settlement Amount “represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation.” (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 94–95, internal quotation marks omitted.)

<sup>iii</sup> See endnote ii above.

<sup>iv</sup> The Parties may need to tailor this language to pay periods or shifts depending on the facts of the case.

<sup>v</sup> The Parties are free to negotiate a payment plan structure, if appropriate, and payment deadlines may fall earlier as necessary thereto.

<sup>vi</sup> Note that this is not the only possible appropriate breakdown depending on the claims at issue in the case (e.g. a settlement that is solely a Labor Code Section 226(a) claim.)

<sup>vii</sup> Insert negotiated terms, if any, addressing the possibility that XYZ’s estimates of class size, Workweeks or Pay Periods turn out to be understated such as an ADR clause imposing a duty to engage in good faith negotiations or mediation or an “escalator” clause memorializing XYZ’s promise to increase the Gross Settlement Amount in an agreed upon proportion to the percentage by which the calculated class size, Workweeks, or Pay Periods exceeds XYZ’s estimates.

<sup>viii</sup> Releases in Notice should track the releases in the Settlement Agreement.

# Exhibit 3



**Quotation For:**

Justin F. Marquez, Esq.  
 Wilshire Law Firm, PLC  
 Justin@wilshirelawfirm.com  
 213.381.9988

**Prepared by:**

Sean Hartranft  
 Apex Class Action LLC  
 Sean@apexclassaction.com  
 949.878.3676

**Case Name:** Meza v. Argus Management Company, LLC

Date: 4/7/23  
 RFP Number: 99880011

**Settlement Specifications**

Estimated Class Size:	2,100
Certified Language Translation:	Yes
Basic Settlement Website:	Yes
Percentage of Undeliverable Mail	20%

**Comments or Special Instructions**

None

Service	Unit	Rate	Volume	Amount
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**Data Analytics and Standardization**

Import and Standardize Data*	Per Hour	\$125.00	3	\$375.00
Data Analyst	Per Hour	\$150.00	3	\$450.00
<b>Sub Total:</b>				<b>\$825.00</b>

\*Data provided must be in a workable format. Apex can standardized provided data at an additional cost of \$150/hr.

**Mailing of Class Notice**

Form Set-Up (Formatting for Review and Approval)	Per Hour	\$120.00	2	\$240.00
Print & Mailing of Class Notice	Per Piece	\$1.25	2,100	\$2,625.00
USPS First Class Postage	Per Piece	\$0.58	2,100	\$1,218.00
Remail Notice to Updated Address (Skip Trace)	Per Piece	\$2.00	420	\$840.00
Receive and Process Undeliverable Mail	Per Hour	\$75.00	2	\$150.00
Process Class Member Correspondence via mail, e-mail & fax	Per Hour	\$75.00	3	\$225.00
NCOA Address Update	Static Rate	\$199.00	1	\$199.00
Certified Spanish Translation	Static Rate	\$1,200.00	1	\$1,200.00
<b>Sub Total:</b>				<b>\$6,697.00</b>

**Project Management**

Project Management	Per Hour	\$150.00	2	\$300.00
Project Coordinator	Per Hour	\$90.00	4	\$360.00
Data Analyst and Reporting	Per Hour	\$140.00	3	\$420.00
<b>Sub Total:</b>				<b>\$1,080.00</b>



Service	Unit	Rate	Volume	Amount
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Toll-Free Contact Center, Website & Reporting				
Toll-Free Contact Center	Static Rate	\$250.00	1	\$250.00
Website: Static	Static Rate	\$500.00	1	\$500.00
Status Reports	Static Rate	\$750.00	1	Waived
<b>Sub Total:</b>				<b>\$750.00</b>

Distribution & Fund Management				
Settlement Calculations	Per Hour	\$140.00	5	\$700.00
Account Management and Reconciliation	Per Hour	\$140.00	5	\$700.00
Print & Mailing Distribution Settlement Check	Per Piece	\$1.50	2,100	\$3,150.00
USPS First Class Postage	Per Hour	\$0.58	2,100	\$1,218.00
Remail Distribution to Updated Address (Skip Trace)	Per Piece	\$2.00	210	\$420.00
Individual Income Tax Preparation & Reporting	Per Hour	\$100.00	13	\$1,300.00
QSF Income Tax Reporting (per calendar year)	Per Year	\$1,250.00	1	\$1,250.00
Unclaimed Funds: CA State Controller's Unclaimed Property Fund	Static Rate	\$700.00	1	\$700.00
<b>Sub Total:</b>				<b>\$9,438.00</b>

Post Distribution Reconciliation				
Bank Account Reconciliation	Per Hour	\$135.00	4	\$540.00
Project Management Reconciliation	Per Hour	\$100.00	3	\$300.00
Declarations	Per Hour	\$120.00	3	\$360.00
<b>Sub Total:</b>				<b>\$1,200.00</b>

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**TOTAL ESTIMATED PROJECT COST: \$19,990.00**

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Thank you for your business!

Sean at 949.878.3676

## Terms & Conditions

The following Terms and Conditions govern the provision of all AI services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. **Services:** Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").
2. **Payment Terms:** As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.
3. **Incurred Expenses:** In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.
4. **Invoicing:** Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In case of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.
5. **Case Duration:** The duration of these Terms and Conditions, except for the data storage obligations stated in Section 13, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.
6. **Termination of Services:** Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (i) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.
7. **Independent Contractor:** As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.
8. **Apex warrants** that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services. It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.
9. **Limitation of Liability:** The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.
10. **Indemnification:** The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.

11. **Confidentiality:** Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of these terms may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the parties concerning confidentiality. These terms may only be amended in writing and signed by both parties.
12. **Ownership of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex.** It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.
13. **Upon the completion of the administration and unless retention instructions are ordered by the court, Apex will notify the client that it will destroy and/or return all confidential information and property within 90 days upon the client's written request.** Alternatively, the material may be stored for one year at a monthly fee of \$1.50 per storage box for paper documents and \$0.01 per image for electronic copies over a period of three years, which compensates Apex for its electronic and hard-copy storage costs. Apex will not be liable for any damages, liability, or expenses incurred in connection with any delay in delivery of, or damage to disks, magnetic tapes, or any input data provided by the client or its representatives unless Apex has agreed in writing to assume such responsibility.
14. **COMPLETE AGREEMENT.** These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.
15. **This provision outlines the requirements for providing notice or other communication under this agreement.** All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.
16. **Force Majeure:** In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.
17. **The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions.** No choice of law or conflict of laws provisions shall affect this governing law provision.
18. **Severability:** This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.
19. **Nonwaiver:** This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.

