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LA'NICHOL D. HARRIS

17  
18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
19 **COUNTY OF ALAMEDA**  
20

21 LA'NICHOL D HARRIS, on behalf of herself  
and all others similarly situated, and on behalf  
22 of the general public,

23 Plaintiff,

24 v.

25 MADISON PARK FINANCIAL  
CORPORATION, a California Corporation,  
26 and DOES 1 through 10, inclusive,

27 Defendants.  
28

Case No. 23CV026049

**AMENDED JOINT STIPULATION  
SETTLEMENT AGREEMENT (CLASS  
ACTION AND PAGA)**

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and  
2 between plaintiff La’Nichol D Harris (“Plaintiff”) and defendant Madison Park Financial  
3 Corporation (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as  
4 “Parties,” or individually as “Party.”

5 1. **DEFINITIONS.**

- 6 1.1. “Actions” means the Plaintiff’s class action lawsuit alleging wage and hour  
7 violations against Defendant captioned La Nichol D Harris, et al. v. Madison Park  
8 Financial Corporation, initiated on September 8, 2022 and pending in Superior  
9 Court of the State of California, County of Alameda (Case No. 22CV017436)  
10 (hereinafter referred to as the “Class Action”) and Plaintiff’s representative action  
11 lawsuit seeking penalties pursuant the Private Attorneys General Act (“PAGA”)  
12 against Defendant captioned La Nichol D Harris, et al. v. Madison Park Financial  
13 Corporation, initiated on January 20, 2023 and pending in Superior Court of the  
14 State of California, County of Alameda (Case No. 23CV026049) (hereinafter  
15 referred to as the “PAGA Action”).
- 16 1.2. “Administrator” means Apex Class Action, LLC (“Apex”), the neutral entity the  
17 Parties have agreed to appoint to administer the Settlement.
- 18 1.3. “Administration Expenses Payment” means the amount the Administrator will be  
19 paid from the Gross Settlement Amount to reimburse its reasonable fees and  
20 expenses in accordance with the Administrator’s “not to exceed” bid submitted to  
21 the Court in connection with Preliminary Approval of the Settlement.
- 22 1.4. “Aggrieved Employee” means all current and former non-exempt or hourly  
23 employees of Defendant who worked for Defendant in California during the PAGA  
24 Period.
- 25 1.5. “Class” means all current and former non-exempt or hourly employees of  
26 Defendant who worked for Defendant in California at any time during the Class  
27 Period.
- 28 1.6. “Class Counsel” means Otkupman Law Firm, A Law Corporation.
- 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 1.10. “Class Member Address Search” means the Administrator’s investigation and  
2 search for current Class Member mailing addresses using all reasonably available  
3 sources, methods and means including, but not limited to, the National Change of  
4 Address database, skip traces, and direct contact by the Administrator with Class  
5 Members.
- 6 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS AND  
7 REPRESENTATIVE ACTION SETTLEMENT AND HEARING DATE FOR  
8 FINAL COURT APPROVAL, to be mailed to Class Members in English, attached  
9 hereto as Exhibit A, or a substantially similar form.
- 10 1.12. “Class Period” means the period from September 8, 2018 through May 28, 2024.
- 11 1.13. “Class Representative” means Plaintiff La’Nichol D Harris.
- 12 1.14. “Class Representative Service Payment” means the payment to the Class  
13 Representative for initiating the Action and providing services in support of the  
14 Action.
- 15 1.15. “Court” means the Superior Court of California, County of Alameda.
- 16 1.16. “Defendant” means named Defendant Madison Park Financial Corporation.
- 17 1.17. “Defense Counsel” means Janelle Sahouria of Jackson Lewis, P.C.
- 18 1.18. “Effective Date” shall mean the date upon which the Court issues its Final Approval  
19 Order and Judgment, in the event there are no objections submitted. In the event  
20 there are valid objections submitted, thirty-five (35) calendar days have passed  
21 since the Court has entered a final Order and Judgment certifying the Settlement  
22 Class and approving the Settlement or, if any appeal, writ, or other appellate  
23 proceeding opposing the Court’s final Order approving the Settlement has been  
24 filed, five (5) business days after any appeal, writ, or other appellate proceedings  
25 opposing the Settlement has been finally and conclusively dismissed with no right  
26 to pursue further remedies or relief.
- 27 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement  
28 in the Action.
- 1.20. “Final Approval Hearing(s)” means the Court’s hearing(s) on the Motion for Final  
Approval of the Settlement in the Action.
- 1.21. “Final Judgment(s)” means the Judgment(s) Entered by the Court upon Granting  
Final Approval of the Settlement in the Action.
- 1.22. “Gross Settlement Amount” means the maximum settlement amount Defendant  
shall pay in any event in exchange for the settlement and release of claims alleged  
in the Actions, which is Two Hundred Fifty Thousand Dollars and No Cents  
(\$250,000.00). The Gross Settlement Amount will be used to pay Individual Class  
Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel

1 Fees, Class Counsel Expenses, Class Representative Service Payment, and the  
2 Administration Expense Payment.

3 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share  
4 of the Net Settlement Amount calculated according to the number of Workweeks  
worked during the Class Period.

5 1.24. “Individual PAGA Payment” means the Aggrieved Employees’ pro rata share of  
6 25% of the PAGA Penalties calculated according to the number of Workweeks  
worked during the PAGA Period.

7 1.25. “Judgment(s)” means the judgment(s) entered by the Court based upon the Final  
8 Approval.

9 1.26. “LWDA” means the California Labor and Workforce Development Agency, the  
agency entitled, under Labor Code section 2699, subd. (i).

10 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the  
11 LWDA under Labor Code section 2699, subd. (i).

12 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following  
13 payments in the amounts approved by the Court: Individual PAGA Payments, the  
14 LWDA PAGA Payment, Class Representative Service Payment, Class Counsel  
15 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.

16 1.29. “Non-Participating Class Member” means any Class Member who opts out of the  
17 Settlement by sending the Administrator a valid and timely Request for Exclusion.

18 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.

19 1.31. “PAGA Period” means the period from September 8, 2021 through May 28, 2024.

20 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

21 1.33. “PAGA Notice” means Plaintiff’s September 7, 2022 letter to Defendant and the  
22 LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).

23 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from  
24 the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and the  
75% to LWDA in settlement of PAGA claims.

25 1.35. “Participating Class Member” means a Class Member who does not submit a valid  
26 and timely Request for Exclusion from the Settlement.

27 1.36. “Plaintiff” means La’Nichol D Harris, the named plaintiff in the Actions.  
28

- 1 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval  
2 of the Settlement in the Action.
- 3 1.38. "Preliminary Approval Order(s)" means the order(s) granting preliminary approval  
4 of the settlement entered by the Court in the Action.
- 5 1.39. "Released Class Claims" means the claims being released as described in  
6 Paragraph 5.2 below.
- 7 1.40. "Released PAGA Claims" means the claims being released as described in  
8 Paragraph 5.3 below.
- 9 1.41. "Released Parties" means: Defendant, including its former and present parent  
10 companies, affiliates, subsidiaries, divisions, predecessors, concepts, corporations,  
11 insurers, reinsurers, successors, investors, and assigns, and their current and former  
12 employees, attorneys, officers, directors, agents, partners, shareholders, insurers  
13 thereof, both individually and in their business capacities, and their employee  
14 benefit plans and programs and the trustees, administrators, fiduciaries, and  
15 insurers of such plans and programs, both individually and in their business  
16 capacities.
- 17 1.42. "Request for Exclusion" means a Class Member's submission of a written request  
18 to be excluded from the Class Settlement signed by the Class Member.
- 19 1.43. "Response Deadline" means 60 days after the Administrator mails Notice to Class  
20 Members and Aggrieved Employees, and shall be the last date on which Class  
21 Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement,  
22 or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to  
23 whom Notice Packets are resent after having been returned undeliverable to the  
24 Administrator shall have an additional 14 calendar days beyond the Response  
25 Deadline has expired.
- 26 1.44. "Settlement" means the disposition of the Actions effected by this Agreement and  
27 the Judgment.
- 28 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 September 8, 2022 Plaintiff filed a Class Action Complaint alleging causes of  
action against Defendant for (1) failure to provide meal periods in violation of  
Labor Code sections 226.7, 512, and 558; (2) failure to provide rest periods in  
violation of Labor Code sections 226.7, 512, and 558; (3) failure to pay all wages  
in violation of Labor Code sections 510, 1194, and 1194.2; (4) knowing and  
intentional failure to comply with itemized employee wage statement provisions in  
violation of Labor Code sections 226(a), (e), and 1174(d); (5) failure to timely pay  
wages due at termination in violation of Labor Code sections 201-203; (6) failure  
to timely pay employees in violation of Labor Code section 204(a), (b); (7) failure  
to reimburse for business expenses in violation of Labor Code section 2802; (8)

1 failure to pay for all hours worked, including overtime hours worked in violation  
2 of Labor Code section 210, 218, 222) failure to provide place of employment that  
3 is safe and healthful in violation of Labor Code sections 6400, 6401, 6403, 6404,  
4 6407, 8 CCR § 3202; and (10) violation of Business and Professions Code section  
5 17200 (the “Class Action”).

6 2.2. On January 20, 2023, Plaintiff filed a PAGA Complaint against Defendant alleging  
7 one cause of action for penalties pursuant to Labor Code section 2699(f) (the  
8 Private Attorneys General Act or “PAGA”) for violations of Labor Code sections  
9 226.7, 512, 558, 510, 1194, 1194.2, 226(a), 226(e), 201 – 203, 204(a), 204(b), 2802,  
10 210, 218, 222, 6400, 6401, 6403, 6404, 6407, 8 CCR 3202 and 17200 (the “PAGA  
11 Action”). Defendant denies the allegations in the Action, denies any failure to  
12 comply with the laws identified in in the Actions and denies any and all liability for  
13 the causes of action alleged. On December 23, 2024, Plaintiff filed a First Amended  
14 Complaint in the PAGA Action, thereby consolidating the Class Action and the  
15 PAGA Action. The Parties will also seek Court approval to file a Second Amended  
16 Complaint in the PAGA Action to revise the definition of Class Members to  
17 comport to this Agreement.

18 2.3. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave written notice to  
19 Defendant and the LWDA by sending the PAGA Notice.

20 2.4. On February 28, 2024, the Parties participated in an all-day mediation presided over  
21 by mediator Louis Marlin which led to this Agreement to settle the Action.

22 2.5. Prior to mediation, Plaintiff obtained, through informal discovery, statistical data,  
23 including records of Defendant’s employees, which consisted of wage statements,  
24 clock-in and clock-out times, times taken for meal breaks, wages earned during the  
25 relevant pay periods, written policies and procedures on meal breaks, rest breaks,  
26 overtime compensation, and reimbursement for business expenses, the number of  
27 workweeks and pay periods in the class, the total number of class members and  
28 aggrieved employees, and the average rate of pay for class members each year in  
question. Plaintiff’s Counsel has represented that the 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”).

2.6. The Court has not granted class certification. The Parties engaged in private  
mediation prior to class certification, and by way of a Motion for Preliminary  
Approval, will request provisional certification of the Class.

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

3. **MONETARY TERMS.**

3.1. Gross Settlement Amount. Defendant promises to pay \$250,000.00 and no more  
as the Gross Settlement Amount, and to separately pay any and all employer payroll

1 taxes owed on the Wage Portions of the Individual Class Payments. Defendant has  
2 no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to  
3 the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will  
4 disburse the entire Gross Settlement Amount without asking or requiring  
5 Participating Class Members or Aggrieved Employees to submit any claim as a  
6 condition of payment. None of the Gross Settlement Amount will revert to  
7 Defendant.

8 3.2. Payments from the Gross Settlement Amount. The Administrator will make and  
9 deduct the following payments from the Gross Settlement Amount, in the amounts  
10 specified by the Court in the Final Approval:

11 3.2.1. To Plaintiff: Class Representative Service Payment to the Class  
12 Representative of not more than \$10,00.00 (in addition to any Individual  
13 Class Payment and any Individual PAGA Payment the Class Representative  
14 is entitled to receive as a Participating Class Member). Defendant will not  
15 oppose Plaintiff's request for a Class Representative Service Payment that  
16 does not exceed this amount. As part of the motion for Class Counsel Fees  
17 Payment and Class Litigation Expenses Payment, Plaintiff will seek Court  
18 approval for any Class Representative Service Payments no later than 16  
19 court days prior to the Final Approval Hearing. If the Court approves a  
20 Class Representative Service Payment less than the amount requested, the  
21 Administrator will retain the remainder in the Net Settlement Amount. The  
22 amount of the Class Representative Service Payment is not a material term  
23 of this Agreement and if the Court approves a Class Representative Service  
24 Payment less than the amount requested, it shall not result in the Agreement  
25 being void. The Administrator will pay the Class Representative Service  
26 Payment using IRS Form 1099. Defendant shall not collect this amount  
27 from monies allegedly owed to Defendant by Plaintiff.

28 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.33%,  
which is currently estimated to be \$82,500 and a Class Counsel Litigation  
Expenses Payment of not more than \$20,000.00. Defendant will not oppose  
requests for these payments provided that they do not exceed these amounts.  
Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees  
Payment and Class Litigation Expenses Payment no later than 16 court days  
prior to the Final Approval Hearing. 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. The amount of the Class Counsel Fees  
Payment and/or the Class Counsel Litigation Expenses Payment is not a  
material term of this Agreement and if the Court approves a Class Counsel  
Fees Payment and/or a Class Counsel Litigation Expenses Payment less  
than the amount requested, it shall not result in the Agreement being void.  
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.

1 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed  
2 \$20,000.00 except for a showing of good cause and as approved by the  
3 Court. To the extent the Administration Expenses are less or the Court  
4 approves payment less than \$20,000.00, the Administrator will retain the  
5 remainder in the Net Settlement Amount.

6 3.2.4. Limitations on Fees and Costs. Except as provided in this Agreement,  
7 Defendant shall not be required to pay any other expenses, costs, damages,  
8 or fees incurred by Plaintiff, by any Class Member, or by any of their  
9 attorneys, experts, advisors, agents, or representatives. Any award of  
10 attorneys' fees and costs payable hereunder to Class Counsel, and the  
11 specific allocation of the award of attorneys' fees and costs payable to Class  
12 Counsel, shall be in complete satisfaction of any and all claims for such  
13 attorneys' fees and costs, under state or federal law, which Plaintiff, Class,  
14 Class Counsel, or any other attorneys have or may have against Defendant  
15 arising out of or in connection with the Action and its settlement, including,  
16 but not limited to, any claims for attorneys' fees and costs involved in  
17 litigating the Action and in negotiating and implementing this Agreement,  
18 as well as attorneys' fees and costs incurred through and after the final  
19 disposition and termination of the Action and including any and all appeals.  
20 Defendant shall not be responsible for distributing or apportioning any  
21 award of attorneys' fees and costs among Class Counsel.

22 3.2.5. To Each Participating Class Member. An Individual Class Payment  
23 calculated by (a) dividing the Net Settlement Amount by the total number  
24 of Workweeks worked by all Participating Class Members during the Class  
25 Period and (b) multiplying the result by each Participating Class Member's  
26 Workweeks.

27 3.2.5.1. Tax Allocation of Individual Class Payments. 20% of each  
28 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. 80% 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"). 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.

3.2.5.2. 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.



1 3.2.6. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount  
2 of \$20,000.00 to be paid from the Gross Settlement Amount, with 75%  
3 (\$15,000.00) allocated to the LWDA PAGA Payment and 25% (\$5,000.00)  
4 allocated to the Individual PAGA Payments.

5 3.2.6.1. The Administrator will calculate each Individual PAGA Payment  
6 by (a) dividing the amount of the Aggrieved Employees' 25%  
7 share of PAGA Penalties (\$5,000.00) by the total number of  
8 PAGA Period Pay Periods worked by all Aggrieved Employees  
9 during the PAGA Period and (b) multiplying the result by each  
10 Aggrieved Employee's PAGA Period Pay Periods. Aggrieved  
11 Employees assume full responsibility and liability for any taxes  
12 owed on their Individual PAGA Payment.

13 3.2.6.2. If the Court approves PAGA Penalties of less than the amount  
14 requested, the Administrator will allocate the remainder to the Net  
15 Settlement Amount. The amount of the PAGA Penalties awarded  
16 by the Court is not a material term of this Agreement and if the  
17 Court approves an amount for PAGA Penalties less than the  
18 amount requested, or requests that the Parties allocate a greater  
19 amount of the Gross Settlement Amount toward the PAGA  
20 Penalties, it shall not result in the Agreement being void. The  
21 Administrator will report the Individual PAGA Payments on IRS  
22 1099 Forms.

23 4. **SETTLEMENT FUNDING AND PAYMENTS.**

24 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its  
25 records as of October 9, 2024, Defendant estimates there are approximately 85  
26 Class Members who worked a total of 4,051 Workweeks from September 8, 2018  
27 through May 28, 2024. This number is an approximation.

28 4.2. Class Data. Not later than 21 days after the Court grants Preliminary Approval of  
the Settlement in this Action, 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 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 deposit the lump sum  
payment 60 days after the Effective Date.

1           4.4.   Payments from the Gross Settlement Amount. Within 14 days after Defendant  
2           make the payment, the Administrator will mail checks for the Class Counsel Fees  
3           Payment, the Class Counsel Litigation Expenses Payment, the Class Representative  
4           Service Payment, the Administration Expenses Payment, all Individual Class  
5           Payments, all Individual PAGA Payments, and the LWDA PAGA Payment.

6           4.4.1. The Administrator will issue checks for the Individual Class Payments  
7           and/or Individual PAGA Payments and send them to the Class Members via  
8           First Class U.S. Mail, postage prepaid. The face of each check shall  
9           prominently state the date (not less than 90 days after the date of mailing)  
10           when the check will be voided. The Administrator will cancel all checks  
11           not cashed by the void date. The Administrator will send checks for  
12           Individual Settlement Payments to all Participating Class Members  
13           (including those for whom Class Notice was returned undelivered). The  
14           Administrator will send checks for Individual PAGA Payments to all  
15           Aggrieved Employees including Non-Participating Class Members who  
16           qualify as Aggrieved Employees (including those for whom Class Notice  
17           was returned undelivered). The Administrator may send Participating Class  
18           Members a single check combining the Individual Class Payment and the  
19           Individual PAGA Payment. Before mailing any checks, the Settlement  
20           Administrator must update the recipients' mailing addresses using the  
21           National Change of Address Database.

22           4.4.2. The Administrator must conduct a Class Member Address Search for all  
23           other Class Members whose checks are returned undelivered without USPS  
24           forwarding address. Within 7 days of receiving a returned check the  
25           Administrator must re-mail checks to the USPS forwarding address  
26           provided or to an address ascertained through the Class Member Address  
27           Search. The Administrator need not take further steps to deliver checks to  
28           Class Members whose re-mailed checks are returned as undelivered. The  
29           Administrator shall promptly send a replacement check to any Class  
30           Member whose original check was lost or misplaced, requested by the Class  
31           Member prior to the void date.

32           4.4.3. For any Class Member whose Individual Class Payment check or Individual  
33           PAGA Payment check is uncashed and cancelled after the void date, and  
34           after the Court approves the final accounting, the Administrator shall  
35           transmit the funds represented by such checks to the Workers' Rights Clinic  
36           of the University of California College of Law, San Francisco, thereby  
37           leaving no "unpaid residue" subject to the requirements of California Code  
38           of Civil Procedure Section 384, subd. (b).

39           4.4.4. The payment of Individual Class Payments and Individual PAGA Payments  
40           shall not obligate Defendant to confer any additional benefits or make any  
41           additional payments to Class Members (such as 401(k) contributions or  
42           bonuses) beyond those specified in this Agreement.

43           4.4.5. Administrator will be responsible for issuing to Plaintiff, Participatin  
44           g Class Members, PAGA Members, itself, and Class Counsel any W-



1 5.3 Release by Named Plaintiff as Proxy or Agent of LWDA: Upon the Effective Date,  
2 the LWDA, by and through Plaintiff as an agent and proxy of the LWDA, shall be  
3 deemed to have fully and finally released and discharged the Released Parties of all  
4 claims for PAGA penalties during the PAGA Period that have been pled or could  
5 have been pled on their behalf based on the factual allegations contained in the  
6 PAGA Notice during the PAGA Period (“Released PAGA Claims”). **The LWDA  
7 may not pursue the same PAGA claims in any representative capacity  
8 (including by and through alleged aggrieved employees) that are being  
9 released herein in another action.**

6 6. **MOTION FOR PRELIMINARY APPROVAL**. Plaintiff agrees to prepare and file a  
7 motion for preliminary approval (“Motion for Preliminary Approval”) no later than 60 days  
8 after the full execution of this Agreement. Plaintiff shall provide a draft of the Motion for  
9 Preliminary Approval paperwork to Defendant prior to filing the paperwork with the Court.

9 7. **SETTLEMENT ADMINISTRATION**.

10 7.1. Selection of Administrator. The Parties have jointly selected Apex Class Action  
11 Administration (Apex) to serve as the Administrator and verified that, as a  
12 condition of appointment, Apex agrees to be bound by this Agreement and to  
13 perform, as a fiduciary, all duties specified in this Agreement in exchange for  
14 payment of Administration Expenses. The Parties and their Counsel represent that  
15 they have no interest or relationship, financial or otherwise, with the Administrator  
16 other than a professional relationship arising out of prior experiences administering  
17 settlements.

15 7.2. Notice to Class Members.

16 7.2.1. No later than 3 business days after receipt of the Class Data, the  
17 Administrator shall notify Class Counsel that the list has been received and  
18 state the number of Class Members, Aggrieved Employees, Workweeks,  
19 and Pay Periods in the Class Data.

19 7.2.2. Using best efforts to perform as soon as possible, and in no event later than  
20 14 days after receiving the Class Data, the Administrator will send to all  
21 Class Members identified in the Class Data, via first-class United States  
22 Postal Service (“USPS”) mail, the Class Notice. The first page of the Class  
23 Notice shall prominently estimate the dollar amounts of any Individual  
24 Class Payment and/or Individual PAGA Payment payable to the Class  
25 Member, and the number of Workweeks and PAGA Pay Periods used to  
26 calculate these amounts. Before mailing Class Notices, the Administrator  
27 shall update Class Member addresses using the National Change of Address  
28 database.

25 7.2.3. Not later than 3 business days after the Administrator’s receipt of any Class  
26 Notice returned by the USPS as undelivered, the Administrator shall re-mail  
27 the Class Notice using any forwarding address provided by the USPS. If  
28 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

1 make further attempts to locate or send Class Notice to Class Members  
2 whose Class Notice is returned by the USPS a second time.

3 7.2.4. The deadlines for Class Members' written objections, Challenges to  
4 Workweeks and/or Pay Periods, and Requests for Exclusion will be  
5 extended an additional 14 days beyond the 60 days otherwise provided in  
6 the Class Notice for all Class Members whose notice is re-mailed. The  
7 Administrator will inform the Class Member of the extended deadline with  
8 the re-mailed Class Notice.

9 7.2.5. If the Administrator, Defendant or Class Counsel is contacted by or  
10 otherwise discovers any persons who believe they should have been  
11 included in the Class Data and should have received Class Notice, the  
12 Parties will expeditiously meet and in good faith in an effort to agree on  
13 whether to include them as Class Members. If the Parties agree, such  
14 persons will be Class Members entitled to the same rights as other Class  
15 Members, and the Administrator will send, via email or overnight delivery,  
16 a Class Notice requiring them to exercise options under this Agreement not  
17 later than 14 days after receipt of Class Notice, or the deadline dates in the  
18 Class Notice, which ever are later.

13 7.3. Requests for Exclusion (Opt-Outs).

14 7.3.1. Class Members who wish to exclude themselves (opt-out of) the Class  
15 Settlement must send the Administrator, by fax, email, or mail, a signed  
16 written Request for Exclusion not later than 60 days after the Administrator  
17 mails the Class Notice (plus an additional 14 days for Class Members whose  
18 Class Notice is re-mailed). A Request for Exclusion is a letter from a Class  
19 Member or his/her representative that reasonably communicates the Class  
20 Member's election to be excluded from the Settlement and includes the  
21 Class Member's name, last four digits of their Social Security Number,  
22 address, email address or telephone number. To be valid, a Request for  
23 Exclusion must be timely faxed, emailed, or postmarked by the Response  
24 Deadline.

25 7.3.2. If a Class Notice is returned because of an incorrect address, within five (5)  
26 calendar days after receipt of the returned Class Notice, the Settlement  
27 Administrator will conduct a search for a more current address for the Class  
28 Member and re-mail the Class Notice to the Class Member. The  
Administrator will use the National Change of Address Database and skip  
tracing to attempt to find the Class Member's current address. The  
Administrator will be responsible for taking reasonable steps to trace the  
mailing address of any Class Member for whom a Class Notice is returned  
by U.S. Postal Service as undeliverable. These reasonable steps shall  
include, at a minimum; (a) tracking of all undelivered mail; (b) performing  
address searches for all mail returned without a forwarding address; and (c)  
promptly re-mailing Class Notices to Class Members for whom new  
addresses are found. If the Administrator is unable to locate a better  
address, the Class Notice shall be re-mailed to the original address. If the

1 Class Notice is remailed, the Administrator will note for its own records the  
2 date and address of each remailing. Those Class Members who receive a  
3 remailed Class Notice, whether by skip trace or forwarded mail, will have  
4 an additional ten (10) calendar days from the original response deadline to  
5 postmark a request for exclusion from or objections to the Settlement. The  
6 Administrator shall mark on the envelope whether the Class Notice is a  
7 remailed Class Notice.

8 7.3.3. The Administrator may not reject a Request for Exclusion as invalid  
9 because it fails to contain all the information specified in the Class Notice.  
10 The Administrator shall accept any Request for Exclusion as valid if the  
11 Administrator can reasonably ascertain the identity of the person as a Class  
12 Member and the Class Member's desire to be excluded. The  
13 Administrator's determination shall be final and not appealable or otherwise  
14 susceptible to challenge. If the Administrator has reason to question the  
15 authenticity of a Request for Exclusion, the Administrator may demand  
16 additional proof of the Class Member's identity. The Administrator's  
17 determination of authenticity shall be final and not appealable or otherwise  
18 susceptible to challenge.

19 7.3.4. Every Class Member who does not submit a timely and valid Request for  
20 Exclusion is deemed to be a Participating Class Member under this  
21 Agreement, entitled to all benefits and bound by all terms and conditions of  
22 the Settlement, including the Participating Class Members' Releases of this  
23 Agreement, regardless of whether the Participating Class Member actually  
24 receives the Class Notice or objects to the Settlement.

25 7.3.5. Every Class Member who submits a valid and timely Request for Exclusion  
26 is a Non-Participating Class Member and shall not receive an Individual  
27 Class Payment or have the right to object to the class action components of  
28 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 in this  
Agreement and are eligible for an Individual PAGA Payment.

7.4. Challenges to Calculation of Workweeks. Each Class Member shall have 60 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.

1           7.5.   Objections to Settlement.

2           7.5.1. Only Participating Class Members may object to the class action  
3           components of the Settlement and/or this Agreement, including contesting  
4           the fairness of the Settlement, and/or amounts requested for the Class  
5           Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or  
6           Class Representative Service Payment.

7           7.5.2. Participating Class Members may send written objections to the  
8           Administrator, by fax, email, or mail. To object to the Agreement, a Class  
9           Member must submit a valid Notice of Objection that includes the case  
10          name and number, the last four digits of their Social Security Number, a  
11          written statement of all grounds for the objection accompanied by any legal  
12          support, copies of all documents upon which the objection is based, the  
13          Class Member's signature and their attorney's signature if they are  
14          represented by counsel. In the alternative, Participating Class Members may  
15          appear in Court (or hire an attorney to appear in Court) to present verbal  
16          objections at the Final Approval Hearing. A Participating Class Member  
17          who elects to send a Notice of Objection to the Administrator must do so  
18          not later than 60 days after the Administrator's mailing of the Class Notice  
19          (plus an additional 14 days for Class Members whose Class Notice was re-  
20          mailed). The postmark or filing date will be deemed the exclusive means  
21          for determining that the Notice of Objection is timely.

22          7.5.3. Non-Participating Class Members have no right to object to any of the class  
23          action components of the Settlement.

24          7.5.4. The Parties agree that there is no statutory right for any Class Member to  
25          object to, opt out of, or otherwise exclude them from the settlement of the  
26          PAGA claims. Accordingly, any timely objection or exclusion from the  
27          Settlement submitted by a Class Member shall be construed as relating only  
28          to the putative class action claims and shall have no effect whatsoever on  
29          the settlement of the PAGA claims.

30          7.6.   Administrator Duties. The Administrator has a duty to perform or observe all tasks  
31          to be performed or observed by the Administrator contained in this Agreement or  
32          otherwise.

33          7.6.1. Website, Email Address and Toll-Free Number. The Administrator will  
34          establish and maintain and use an internet website to post information of  
35          interest to Class Members including the date, time and location for the Final  
36          Approval Hearing and copies of the Agreement, Motion for Preliminary  
37          Approval, the Preliminary Approval, the Class Notice, the Motion for Final  
38          Approval, the Motion for Class Counsel Fees Payment, Class Counsel  
39          Litigation Expenses Payment and Class Representative Service Payment,  
40          the Final Approval and the Judgment. The Administrator will also maintain  
41          and monitor an email address and a toll-free telephone number to receive  
42          Class Member calls, faxes and emails.

1 7.6.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator  
2 will promptly review on a rolling basis Requests for Exclusion to ascertain  
3 their validity. Not later than 5 days after the expiration of the deadline for  
4 submitting Requests for Exclusion, the Administrator shall email a list to  
5 Class Counsel and Defense Counsel containing (a) the names and other  
6 identifying information of Class Members who have timely submitted valid  
7 Requests for Exclusion (“Exclusion List”); (b) the names and other  
8 identifying information of Class Members who have submitted invalid  
9 Requests for Exclusion; (c) copies of all Requests for Exclusion from  
10 Settlement submitted (whether valid or invalid). Defendant has the right in  
11 its sole and exclusive discretion to terminate and withdraw from the  
12 Settlement at any time prior to date the Court enters final approval of this  
13 Settlement if more than 5% of the Class Members timely and validly opt  
14 out of the Settlement. Defendant must make such election within 5 days of  
15 being notified by the Claims Administrator of a greater than 5% opt-out  
16 rate. If Defendant elects this option, it will be responsible for costs  
17 associated with the administration of the file.

11 7.6.3. Workweek and/or Pay Period Challenges. The Administrator has the  
12 authority to address and make final decisions consistent with the terms of  
13 this Agreement on all Class Member challenges over the calculation of  
14 Workweeks and/or Pay Periods. The Administrator’s decision shall be final  
15 and not appealable or otherwise susceptible to challenge.

15 7.6.4. Certification Reports. The Administrator will provide the Parties’ counsel a  
16 weekly report which certifies: (a) number of Participating Class Members  
17 from the Class who have submitted a dispute of workweeks; (b) number of  
18 Class Members who have submitted valid requests for exclusion from the  
19 Settlement or objections; and (c) whether any Class Member has submitted  
20 a challenge to any information contained in the Class Notice. Additionally,  
21 the Administrator will provide the Parties’ counsel any updated reports  
22 regarding the administration of the Agreement as needed or requested.

20 7.6.5. Administrator’s Declaration. Not later than 14 days before the date by  
21 which Plaintiff is required to file the Motion for Final Approval of the  
22 Settlement, the Administrator will provide to Class Counsel and Defense  
23 Counsel, a signed declaration suitable for filing in Court attesting to its due  
24 diligence and compliance with all of its obligations under this Agreement,  
25 including, but not limited to, its mailing of Class Notice, the Class Notices  
26 returned as undelivered, the re-mailing of Class Notices, attempts to locate  
27 Class Members, the total number of Requests for Exclusion from Settlement  
28 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.

27 7.6.6. Final Report by Settlement Administrator. Within 10 days after the  
28 Administrator disburses all funds in the Gross Settlement Amount, the  
Administrator will provide Class Counsel and Defense Counsel with a final



1 report detailing its disbursements by employee identification number only  
2 of all payments made under this Agreement. At least 15 days before any  
3 deadline set by the Court, the Administrator will prepare, and submit to  
4 Class Counsel and Defense Counsel, a signed declaration suitable for filing  
5 in Court attesting to its disbursement of all payments required under this  
6 Agreement. Class Counsel is responsible for filing the Administrator's  
7 declaration in Court.

8 **8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on its records as of  
9 February 28, 2024, Defendant estimates that from September 8, 2018 to February 28, 2024,  
10 there are approximately 3,943 Workweeks. If the actual number of Workweeks increases  
11 by more than 10% for the time period from February 28, 2024 through May 28, 2024,  
12 Defendant has the option of increasing the Gross Settlement Amount pro rata, or  
13 alternatively, shortening the release period. For example, if the number is 11% higher, the  
14 Gross Settlement Amount will be increased by 1%. In the alternative, the Defendant may  
15 elect to shorten the release period to stay within the 10% cushion.

16 **9. MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared  
17 Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the  
18 Settlement.

19 9.1. Response to Objections. Each Party retains the right to respond to any objection  
20 raised by a Participating Class Member, including the right to file responsive  
21 documents in Court no later than 5 court days prior to the Final Approval Hearing,  
22 or as otherwise ordered or accepted by the Court.

23 9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final  
24 Approval on any material change to the Settlement (including, but not limited to,  
25 the scope of release to be granted by Class Members), the Parties will expeditiously  
26 work together in good faith to address the Court's concerns by revising the  
27 Agreement as necessary to obtain Final Approval. The Court's decision to award  
28 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.

9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of  
Judgment, the Court will retain jurisdiction over the Parties, 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.

9.4. 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

1 trial, extraordinary writs, and appeals. The waiver of appeal does not include any  
2 waiver of the right to oppose such motions, writs or appeals. If an objector appeals  
3 the Judgment, the Parties' obligations to perform under this Agreement will be  
4 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.

5 9.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the  
6 reviewing Court vacates, reverses, or modifies the Judgment in a manner that  
7 requires a material modification of this Agreement (including, but not limited to,  
8 the scope of release to be granted by Class Members), this Agreement shall be null  
9 and void. The Parties shall nevertheless expeditiously work together in good faith  
10 to address the appellate court's concerns and to obtain Final Approval and entry of  
11 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 10. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil  
13 Procedure section 384, the Parties will work together in good faith to jointly submit and a  
14 proposed amended judgment.

15 11. **NOTICE OF SETTLEMENT TO LWDA.** Plaintiff and Class Counsel shall provide  
16 notice to the LWDA of the proposed settlement as required by California Labor Code  
17 section 2699, subdivision (1)(2), as well as any other information required by law to be  
18 provided to the LWDA to effectuate the terms of this Agreement.

19 12. **ADDITIONAL PROVISIONS.**

20 12.1. Final Settlement and LWDA Investigation. The Agreement is expressly  
21 conditioned upon the Court's approval of the settlement as to all Defendants.  
Should the LWDA or other government agency choose to respond, the Parties shall  
reengage settlement discussions in conjunction with the mediator or another neutral  
should Mr. Marlin be unavailable.

22 12.2. No Admission of Liability, Class Certification or Representative Manageability for  
23 Other Purposes. This Agreement represents a compromise and settlement of highly  
24 disputed claims. Nothing in this Agreement is intended or should be construed as  
25 an admission by Defendant that any of the allegations in the Class Action  
26 Complaint or PAGA Complaint have merit or that Defendant has any liability for  
27 any claims asserted; nor should it be intended or construed as an admission by  
28 Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that  
class certification and representative treatment is for purposes of this Settlement  
only. If, for any reason the Court does grant Preliminary Approval, Final Approval  
or enter Judgment, Defendant reserves the right to contest certification of any class  
for any reasons, and Defendant reserves all available defenses to the claims in the  
Action, and Plaintiff reserves the right to move for class certification on any

1 grounds available and to contest Defendant's defenses. The Settlement, this  
2 Agreement and Parties' willingness to settle the Action will have no bearing on, and  
3 will not be admissible in connection with, any litigation (except for proceedings to  
enforce or effectuate the Settlement and this Agreement).

4 12.3. Confidentiality Prior to Preliminary Approval. Plaintiff and Class Counsel,  
5 separately agree that, until the Motion for Preliminary Approval of Settlement is  
6 filed, they and each of them will not disclose, disseminate and/or publicize, or cause  
7 or permit another person to disclose, disseminate or publicize, any of the terms of  
8 the Agreement directly or indirectly, specifically or generally, to any person,  
9 corporation, association, government agency, or other entity except: (1) to the  
10 Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep  
11 this Agreement confidential; (2) counsel in a related matter; (3) to the extent  
12 necessary to report income to appropriate taxing authorities; (4) in response to a  
13 court order or subpoena; or (5) in response to an inquiry or subpoena issued by a  
14 state or federal government agency. Plaintiff and Class Counsel agrees to  
immediately notify Defendant and Defendant's Counsel of any judicial or agency  
order, inquiry, or subpoena seeking such information. Plaintiff and Class 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.

15 12.4. No Solicitation. The Parties separately agree that they and their respective counsel  
16 and employees will not solicit any Class Member to opt out of or object to the  
17 Settlement, or appeal from the Judgment. Nothing in this paragraph shall be  
18 construed to restrict Class Counsel's ability to communicate with Class Members  
in accordance with Class Counsel's ethical obligations owed to Class Members.

19 12.5. Integrated Agreement. Upon execution by all Parties and their counsel, this  
20 Agreement shall constitute the entire agreement between the Parties relating to the  
21 Settlement, superseding any and all oral representations, warranties, covenants, or  
22 inducements made to or by any Party.

23 12.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant  
24 and represent that they are authorized by Plaintiff and Defendant, respectively, to  
25 take all appropriate action required or permitted to be taken by such Parties pursuant  
26 to this Agreement to effectuate its terms, and to execute any other documents  
27 reasonably required to effectuate the terms of this Agreement including any  
28 amendments to this Agreement.

12.7. Cooperation. The Parties and their counsel will cooperate with each other and use  
their best efforts, in good faith, to implement the Settlement by, among other things,  
modifying the 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

1 to implement the Settlement, the Parties will seek the assistance of a mediator  
2 and/or the Court for resolution.

3 12.8. No Prior Assignments. The Parties separately represent and warrant that they have  
4 not directly or indirectly assigned, transferred, encumbered, or purported to assign,  
5 transfer, or encumber to any person or entity and portion of any liability, claim,  
6 demand, action, cause of action, or right released and discharged by the Party in  
7 this Settlement.

8 12.9. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel  
9 are providing any advice regarding taxes or taxability, nor shall anything in this  
10 Settlement be relied upon as such within the meaning of United States Treasury  
11 Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

12 12.10. Modification of Agreement. This Agreement, and all parts of it, may be amended,  
13 modified, changed, or waived only by an express written instrument signed by all  
14 Parties or their representatives, and approved by the Court.

15 12.11. Agreement Binding on Successors. This Agreement will be binding upon, and  
16 inure to the benefit of, the successors of each of the Parties.

17 12.12. Applicable Law. All terms and conditions of this Agreement and its exhibits will  
18 be governed by and interpreted according to the internal laws of the state of  
19 California, without regard to conflict of law principles.

20 12.13. Cooperation in Drafting. The Parties have cooperated in the drafting and  
21 preparation of this Agreement. This Agreement will not be construed against any  
22 Party on the basis that the Party was the drafter or participated in the drafting.

23 12.14. Confidentiality. To the extent permitted by law, all agreements made, and orders  
24 entered during Action and in this Agreement relating to the confidentiality of  
25 information shall survive the execution of this Agreement.

26 Plaintiff will not make any public disclosure of the Settlement until after this  
27 Settlement is preliminarily approved by the Court. Class Counsel will not include  
28 or use any settlement for any marketing or promotional purposes. Plaintiff and  
Class Counsel will not have any communications with the media other than to direct  
any media inquiries to the public record of the Action on file with the Court.

Following preliminary approval of the Settlement, Plaintiff and Class Counsel may  
communicate with Class Members about this settlement and lawsuit, as well as  
provide any further information as requested by any courts, the LWDA, or other  
state or federal agencies. Nothing herein will restrict Class Counsel from including  
publicly available information regarding this Settlement in future judicial  
submissions regarding Class Counsel's qualifications and experience.

The Parties agree that violation of this Section constitutes a breach of the agreement  
that cannot practically be cured. Any action to enforce this provision may be

1 brought on an ex parte or otherwise expedited basis, and Defendant may seek any  
2 and all available remedies, including, but not limited to, injunctive relief.

3 12.15. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid.  
4 Code §1152, and all copies and summaries of the Class Data provided to Class  
5 Counsel by Defendant in connection with the mediation, other settlement  
6 negotiations, or in connection with the Settlement, may be used only with respect  
7 to this Settlement, and no other purpose, and may not be used in any way that  
8 violates any existing contractual agreement, statute, or rule of court.

9 12.16. Tax Liability. Defendant Defense Counsel, and Class Counsel make no  
10 representation as to the tax treatment or legal effect of the payments call for  
11 hereunder, and Plaintiff and Class Members are not relying on any statement,  
12 representation, or calculation by Defendant or by the Settlement Administrator in  
13 this regard. Plaintiff and Class Members understand and agree that except for  
14 Defendant's payment of the employer's portion of any payroll taxes, Plaintiff and  
15 Class Members will be solely responsible for the payment of any taxes and penalties  
16 assessed on the payments described herein.

17 12.17. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR  
18 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND  
19 EACH PARTY TO THIS AGREEMENT OTHER THAN THE  
20 ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES  
21 AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO  
22 WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG  
23 THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR  
24 WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR  
25 DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON  
26 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES  
27 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS  
28 AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED  
EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL  
AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN  
CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO  
THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY  
OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER  
PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY  
COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER  
TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE  
IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY  
OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION  
THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S  
OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH  
LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE  
ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX  
STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION  
CONTEMPLATED BY THIS AGREEMENT.

- 1 12.18. No Prior Assignments. The Parties and their counsel represent, covenant, and  
2 warrant they have not directly or indirectly assigned, transferred, encumbered, or  
3 purported to assign, transfer, or encumber to any person or entity any portion of  
4 any liability, claim, demand, action, cause of action or right herein released and  
5 discharged.
- 6 12.19. Headings. The descriptive heading of any section or paragraph of this Agreement  
7 is inserted for convenience of reference only and does not constitute a part of this  
8 Agreement.
- 9 12.20. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement  
10 shall be to calendar days. In the event any date or deadline set forth in this  
11 Agreement falls on a weekend or federal legal holiday, such date or deadline shall  
12 be on the first business day thereafter.
- 13 12.21. Execution in Counterparts. This Agreement may be executed in one or more  
14 counterparts by facsimile, electronically (i.e. DocuSign), or email which for  
15 purposes of this Agreement shall be accepted as an original. All executed  
16 counterparts and each of them will be deemed to be one and the same instrument if  
17 counsel for the Parties will exchange between themselves signed counterparts. Any  
18 executed counterpart will be admissible in evidence to prove the existence and  
19 contents of this Agreement.
- 20 12.22. Stay of Litigation. The Parties agree that upon the execution of this Agreement all  
21 litigation shall be stayed, except to effectuate the terms of this Agreement. The  
22 Parties further agree that upon the signing of this Agreement that pursuant to CCP  
23 section 583.330 to extend the date to bring a case to trial under CCP  
24 section 583.310 for the entire period of this settlement process.
- 25 12.23. Judgment and Continued Jurisdiction. After entry of the Judgment, the Court  
26 will have continuing jurisdiction solely for purposes of addressing: (a)  
27 interpretation and enforcement of the terms of the Settlement; (b) Settlement  
28 administration matters; and (c) such post-Judgment matters as may be  
appropriate under court rules or as set forth in this Agreement.
- 12.24. Exhibit Incorporated by Reference. The terms of this Settlement include the  
terms set forth in any attached Exhibit, which are incorporated by this reference  
as though fully set forth herein. Any Exhibit to this Agreement is an integral  
part of the Settlement.
- 12.25. Termination of Settlement. Either Party may terminate this Settlement if the Court  
declines to enter the Preliminary Approval Order, Final Approval Order, or final  
judgment in substantially the form submitted by the Parties, or the Agreement as  
agreed does not become final because of appellate court action. The terminating  
Party shall give to the other Party (through its counsel) written notice of its  
decision to terminate no later than ten (10) calendar days after receiving notice  
that one of the enumerated events has occurred. Termination shall have the  
following effects:

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12.25.1. The Agreement shall be terminated and shall have no force or effect, and no Party shall be bound by any of its terms;

12.25.2. If the Settlement is terminated, Defendant shall have no obligation to make any payments to any party, State of California (including the LWDA), any class member or any attorney, except that the terminating Party shall pay the Settlement Administrator for services rendered up to the date the Settlement Administrator is notified that the settlement has been terminated; and

12.25.3. The Preliminary Approval Order, Final Approval Order and Judgment, including any order of class action certification, shall be vacated;

12.23.4. The Agreement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Action prior to the settlement;

12.23.5 Neither this Settlement, nor any ancillary documents, actions, statements, or filings in furtherance of Settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

12.26. Entire Agreement. This Agreement, including all exhibit annexed hereto, sets forth the entire agreement of the Parties with respect to its subject matter and supersedes any and all other prior agreements and all negotiations leading up to the execution of this Agreement, whether oral or written, regarding the subjects covered herein. The Parties acknowledge no representations, inducements, warranties, promises, or statements relating to the subjects covered herein, oral or otherwise, have been made by any of the Parties or by anyone acting on behalf of the Parties, which are not embodied or incorporated by reference herein, and further agree no other agreement, covenant, representation, inducement, promise, or statement relating to the subjects covered herein not set forth in writing in this Agreement shall be valid or binding.

12.27. Amendment or Modification. This Agreement may be amended or modified only by a written instrument signed by the named Parties and counsel for all Parties or their successors-in-interest.

12.28. Authorization to Enter into Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

- 1 12.29. Signatories. It is agreed that because the Class Members are so numerous, it is  
2 impossible or impractical to have each member of the Class execute this  
3 Agreement. The Class Notice, attached hereto as Exhibit A, will advise all Class  
4 Members of the binding nature of the release, and the release shall have the same  
5 force and effect as if this Agreement were executed by each member of the Class.
- 6 12.30. Binding on Successors and Assigns. This Agreement will be binding upon, and  
7 inure to the benefit of, the successors or assigns of the Parties hereto, as previously  
8 defined.
- 9 12.31. Execution and Counterparts. This Agreement is subject only to the execution of  
10 all Parties. This Agreement may be executed in one or more counterparts, by  
11 DocuSign, facsimile, and/or by PDF/email. All executed counterparts and each of  
12 them, including facsimile and scanned copies of the signature page, will be  
13 deemed to be one and the same instrument if counsel for the Parties will exchange  
14 among themselves original signed counterparts.
- 15 12.32. Acknowledgement the Settlement is Fair, Reasonable, and Adequate. The Parties  
16 believe this Agreement is a fair, adequate, and reasonable settlement of the Action  
17 and have arrived at this Settlement after arm's-length negotiations and in the  
18 context of adversarial litigation, considering all relevant factors, present and  
19 potential. The Parties acknowledge that they are each represented by competent  
20 counsel and that they have had an opportunity to consult with their counsel  
21 regarding the fairness and reasonableness of this Agreement. The Mediator may  
22 execute a declaration supporting the Settlement and the reasonableness of the  
23 Settlement and the Court may, in its discretion, contact the Mediator to discuss  
24 the Settlement and whether the Settlement is objectively fair and reasonable.
- 25 12.33. Invalidity of Any Provision. Before declaring any provision of this Agreement  
26 invalid, the Court will first attempt to construe the provision as valid to the fullest  
27 extent possible consistent with applicable precedents so as to define all provisions  
28 of this Agreement valid and enforceable. If any one or more of the provisions  
contained in this Agreement shall for any reason be held invalid, illegal, or  
unenforceable in any respect, such invalidity, illegality, or unenforceability shall in  
no way affect any other provision if Defendant's and Class Counsel, on behalf of  
the Released Parties and the Class, mutually elect in writing to proceed as if such  
invalid, illegal, or unenforceable provision had never been included in this  
Agreement.
- 12.34. Plaintiff's Waiver of Right to Be Excluded from the Settlement and Object.  
Plaintiff agrees to sign this Agreement and, by signing this Agreement, is hereby  
bound by the terms herein.
- 12.35. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to  
class action certification for purposes of this Settlement only. Either Party may  
appeal any court order that materially alters the Agreement's terms.
- 12.36. Non-Admission of Liability. The Parties enter this Settlement to resolve the  
dispute that has arisen between them and to avoid the burden, expense, and risk



1 of continued litigation. In entering into this Agreement, Defendant does not admit,  
2 and specifically denies, it has violated any state, federal, or local law; violated  
3 any regulations or guidelines promulgated pursuant to any statute or any other  
4 applicable laws, regulations, or legal requirements; breached any contract;  
5 violated or breached any duty; engaged in any misrepresentation or deception; or  
6 engaged in any other unlawful conduct with respect to its employees. Neither this  
7 Settlement, nor any of its terms or provisions, nor any of the negotiations  
8 connected with it, shall be construed as an admission or concession by Defendant  
9 of any such violations or failures to comply with any applicable law. Except as  
10 necessary in a proceeding to enforce the terms of this Settlement, this Settlement  
11 and its terms and provisions shall not be offered or received as evidence in any  
12 action or proceeding to establish any liability or admission on the part of  
13 Defendant or to establish the existence of any condition constituting a violation  
14 of, or a non-compliance with state, federal, local, or other applicable law.

15 12.37. Captions. The captions and section numbers in this Agreement are inserted for the  
16 reader's convenience and in no way define, limit, construe, or describe the scope  
17 or intent of the provisions of this Agreement.

18 12.38. Waiver. No waiver of any condition or covenant contained in this Settlement or  
19 failure to exercise a right or remedy by any of the Parties hereto will be considered  
20 to imply or constitute a further waiver by such party of the same or any other  
21 condition, covenant, right or remedy.

22 12.39. Enforcement Actions. If one or more of the Parties institutes any legal action or  
23 other proceeding against any other Party or Parties to enforce the provisions of  
24 this Settlement or to declare rights and/or obligations under this Settlement, the  
25 successful Party or Parties will be entitled to recover from the unsuccessful Party  
26 or Parties reasonable attorneys' fees and costs, including expert witness fees  
27 incurred in connection with any enforcement actions.

28 12.40. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms  
and conditions of this Agreement. Accordingly, this Agreement will not be  
construed more strictly against one party than another merely by it may have been  
prepared by counsel for one of the Parties, it being recognized that, because of the  
arms-length negotiations between the Parties, all Parties have contributed equally  
to the preparation of this Agreement.

12.41. Representation by Counsel. The Parties acknowledge they have been represented  
by counsel throughout all negotiations that preceded the execution of this  
Settlement, and this Settlement has been executed with the consent and advice of  
counsel and reviewed in full. Plaintiff and Class Counsel warrant and represent  
that there are no liens on this Settlement.

12.42. All Terms Subject to Final Court Approval. All amounts and procedures described  
in this Settlement herein will be subject to final Court approval.

Notices. Unless otherwise specifically provided herein, all notices, demands, or  
other communications given hereunder shall be in writing and shall be deemed to

1 have been duly given as of the third business day after mailing by United States  
2 registered or certified mail, return receipt requested, addressed as follows:

3 To Plaintiff and Settlement Class:

4 Roman Otkupman  
5 5743 Corsa Ave., Suite 123  
6 Westlake Village, CA 91362

7 To Defendant Madison Park Financial Corporation:

8 Janelle J. Sahouria  
9 JACKSON LEWIS P.C.  
10 50 California Street, Floor 9  
11 San Francisco, CA 94111

12 12.43. Cooperation and Execution of Necessary Documents. All Parties will cooperate in  
13 good faith and execute all documents to the extent reasonably necessary to  
14 effectuate the terms of this Agreement.

15 12.44. Integration Clause. This Agreement contains the entire agreement between the  
16 Parties relating to the settlement and transaction contemplated hereby, and all  
17 prior or contemporaneous agreements, understandings, representations, and  
18 statements, whether oral or written and whether by a party or such party's legal  
19 counsel, are merged herein. No rights hereunder may be waived except in writing.

20 12.45 Binding Agreement. The Parties warrant they understand and have full authority  
21 to enter into this Agreement and further intend this Agreement will be fully  
22 enforceable and binding on all parties, and agree it will be admissible and subject  
23 to disclosure in any proceeding to enforce its terms, notwithstanding any  
24 mediation confidentiality provisions that otherwise might apply under state or  
25 federal law.

26 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily execute this  
27 Agreement between Plaintiff and Defendant as of the date(s) set forth below:

28 **SIGNATURES**

**READ CAREFULLY BEFORE SIGNING**



\_\_\_\_\_  
Plaintiff La'Nichol Harris

Dated: 01 / 28 / 2025  
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\_\_\_\_\_  
By: John Protopappas  
President & CEO  
Defendant Madison Park Financial  
Corporation

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

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have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiff and Settlement Class:

Roman Otkupman  
5743 Corsa Ave., Suite 123  
Westlake Village, CA 91362

To Defendant Madison Park Financial Corporation:

Janelle J. Sahouria  
JACKSON LEWIS P.C.  
50 California Street, Floor 9  
San Francisco, CA 94111

12.43. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Agreement.

12.44. Integration Clause. This Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

12.45 Binding Agreement. The Parties warrant they understand and have full authority to enter into this Agreement and further intend this Agreement will be fully enforceable and binding on all parties, and agree it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under state or federal law.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily execute this Agreement between Plaintiff and Defendant as of the date(s) set forth below:

**SIGNATURES**

**READ CAREFULLY BEFORE SIGNING**



\_\_\_\_\_  
Plaintiff La'Nichol Harris

By: John Protopappas  
President & CEO  
Defendant Madison Park Financial  
Corporation

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

Dated: 1/28/2025

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APPROVED AS TO FORM:

OTKUPMAN LAW FIRM, A LAW CORPORATION

JACKSON LEWIS, P.C.



Roman Otkupman  
Nidah Farishta  
Counsel For Plaintiff

Janelle J. Sahouria  
Counsel For Defendant

Dated: 1/28/2025

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

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APPROVED AS TO FORM:

OTKUPMAN LAW FIRM, A LAW CORPORATION

JACKSON LEWIS, P.C.



Roman Otkupman  
Nidah Farishta  
Counsel For Plaintiff

Janelle J. Sahouria  
Counsel For Defendant

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

Dated: 1/28/2025