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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF LOS ANGELES**

10 **SPRING STREET COURTHOUSE**

11 JOSE PENA, individually, and on behalf of all  
others similarly situated,

12 Plaintiff,

13 vs.

14 BUNZL UTAH, LLC, a limited liability  
15 company; and DOES 1 through 10, inclusive,

16 Defendants

Case No.: 20STCV48809

CLASS ACTION

[Hon. Daniel J. Buckley, Dept. 1]

**[AMENDED PROPOSED] ORDER  
GRANTING PLAINTIFFS' MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

PRELIMINARY APPROVAL HEARING

Date: April 4, 2022

Time: 10:30

Dept: 1

1           The Court has before it Plaintiff Jose Pena’s (“Plaintiff”) Motion for Preliminary  
2 Approval of Class Action Settlement. Having reviewed the Motion for Preliminary Approval  
3 of Class Action Settlement, the Declaration of Kane Moon, the Declaration of Plaintiff Jose  
4 Pena, , the Joint Stipulation re: Class Action Settlement (which is referred to here as the  
5 “Settlement Agreement” or “Settlement”), and good cause appearing, the Court hereby finds  
6 and orders as follows:

7           1.       The Court finds on a preliminary basis that the Settlement Agreement appears to  
8 be fair, adequate, and reasonable and therefore meets the requirements for preliminary  
9 approval. The Court grants preliminary approval of the Settlement and the Settlement Class  
10 based upon the terms set forth in the Settlement Agreement attached to the Declaration of  
11 Kane Moon in Support of Plaintiff’s Motion for Preliminary Approval of Class Action  
12 Settlement (“Moon Declaration”) as Exhibit 1. The Court preliminarily finds that the terms of  
13 the Settlement appear to be within the range of possible approval, pursuant to California Code  
14 of Civil Procedure § 382 and applicable law.

15           2.       The Settlement falls within the range of reasonableness of a settlement which  
16 could ultimately be given final approval by this Court, and appears to be presumptively valid,  
17 subject only to any objections that may be raised at the Final Approval Hearing and final  
18 approval by this Court. The Court notes that Defendant has agreed to create a common fund  
19 of \$700,000.00 to cover (a) settlement payments to class members who do not validly opt out;  
20 (b) Class Representative service payment of up to \$7,500.00 for Plaintiff; (d) Class Counsel’s  
21 attorneys’ fees, not to exceed 33 1/3% of the Gross Settlement Amount (\$233,333.33), and up  
22 to \$20,000.00 in costs for actual litigation expenses incurred by Class Counsel; (e) Settlement  
23 Administration Costs of up to \$10,000.00; and (f) PAGA penalties paid to the Labor and  
24 Workforce Development Agency (“LWDA”) in the amount of \$52,500.00.

25           3.       The Court finds on a preliminary basis that: (1) the settlement amount is fair  
26 and reasonable to the class members when balanced against the probable outcome of further  
27 litigation relating to class certification, liability and damages issues, and potential appeals; (2)  
28 significant informal discovery, investigation, research, and litigation have been conducted

1 such that counsel for the Parties at this time are able to reasonably evaluate their respective  
2 positions; (3) settlement at this time will avoid substantial costs, delay, and risks that would  
3 be presented by the further prosecution of the litigation; and (4) the proposed settlement has  
4 been reached as the result of intensive, serious, and non-collusive negotiations between the  
5 Parties. Accordingly, the Court preliminarily finds that the Settlement Agreement was entered  
6 into in good faith.

7 4. A final fairness hearing on the question of whether the proposed settlement,  
8 attorneys' fees and costs to Class Counsel, and the class representative service payment  
9 should be finally approved as fair, reasonable, and adequate as to the members of the class is  
10 hereby set in accordance with the Implementation Schedule set forth below.

11 5. The Court provisionally certifies for settlement purposes only the following  
12 class (the "Class" or "Class Members"): "All non-exempt or hourly-paid employees of  
13 Defendant who worked for Defendant in California during the Class Period." Excluded from  
14 the Class are all persons who properly and timely elect to opt out.

15 6. "Released Claims" means any and all claims for wages, damages, unpaid costs,  
16 penalties, liquidated damages, benefits, fringes, interest, attorney fees, litigation costs,  
17 restitution, or equitable relief, against any of the Released Parties, that were pled or could  
18 have been pled based on the factual allegations, circumstances, and/or primary rights set forth  
19 in the First Amended Complaint and/or PAGA Letter, including all claims under the  
20 California Labor Code, Industrial Welfare Commission Wage Orders and applicable law for:  
21 failure to pay wages (including overtime wages, regular wages, minimum wages, and  
22 rounding), failure to provide compliant meal and/or rest periods or proper premiums in lieu  
23 thereof, failure to pay wages timely during employment and upon termination, failure to  
24 maintain payroll records, failure to provide legally-compliant wage statements, all claims for  
25 violation of California Business and Professions Code §§ 17200, et seq., arising from the  
26 above-referenced claims and those claims in the First Amended Complaint; and all claims for  
27 penalties under California Labor Code § 2698, et. seq.

28 7. "Released PAGA Claims" means all Released Claims arising under PAGA

1 during the PAGA Period that were alleged in the PAGA Letter.

2 8. “Released Parties” means, as alleged in the First Amended Complaint,  
3 Defendant and its past, present and/or future, direct and/or indirect, officers, directors,  
4 members, employees, agents, representatives, attorneys, insurers, investors, parent companies,  
5 subsidiaries, affiliates, and any individual or entity that could be jointly liable with Defendant.

6 9. The Court finds, for settlement purposes only, that the Class meets the  
7 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the  
8 Class are so numerous that joinder is impractical; (2) there are questions of law and fact that  
9 are common, or of general interest, to all individuals in the Class, which predominate over  
10 individual issues; (3) Plaintiff’s claims are typical of the claims of the Class; (4) Plaintiff and  
11 Class Counsel will fairly and adequately protect the interests of the Class; and (5) a class  
12 action is superior to other available methods for the fair and efficient adjudication of the  
13 controversy.

14 10. The Court appoints, for settlement purposes only, Jose Pena as Class  
15 Representatives.

16 11. The Court appoints, for settlement purposes only, Moon & Yang, APC, as Class  
17 Counsel. The Court further preliminarily approves Class Counsel’s ability to request attorneys’  
18 fees of up to thirty-three and one-third percent (33 1/3%) of the Gross Settlement Amount  
19 (\$233,333.33), and costs not to exceed \$20,000.00.

20 12. The Court appoints Phoenix Settlement Administrators as the Settlement  
21 Administrator with reasonable administration costs estimated not to exceed \$10,000.00.

22 13. The Court approves, as to form and content, the Notice attached as **Exhibit A**  
23 hereto, which replaces the Notice attached to the Settlement Agreement. The Court finds on a  
24 preliminary basis that plan for distribution of the Notice to Class Members satisfies due  
25 process, provides the best notice practicable under the circumstances, and shall constitute due  
26 and sufficient notice to all persons entitled thereto.

27 14. The Parties are ordered to carry out the Settlement according to the terms of the  
28 Agreement.

1 15. Any class member who does not request exclusion from the settlement may  
2 object to the Settlement Agreement.

3 16. The Court orders the following Implementation Schedule:

4

5 Defendant to provide Class List to the 6 Claims Administrator	Within 14 days after the Court grants preliminary approval
7 Claims Administrator to mail the Notice 8 Packets	Within 14 days of receipt of Class List
9 Response Deadline	60 days from initial mailing of Notice 10 Packets
11 Deadline to file Motion for Final 12 Approval	June 20, 2022 (16 court days before final approval)
13 Final Approval Hearing	July 13, 2022 at 10:30 a.m.

14

15 17. The Court further ORDERS that, pending further order of this Court, all  
16 proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

17 18. The Agreement and the Settlement are preliminarily approved but are not an  
18 admission by Defendant of the validity of any claims in this class action, or of any wrongdoing  
19 by Defendant or of any violation of law. Neither the Agreement nor any related document shall  
20 be offered or received in evidence in any civil, criminal, or administrative action or proceeding  
21 other than such proceedings as may be necessary to consummate or enforce the Agreement and  
22 Settlement. The obligations set forth in the Agreement are deemed part of this Order.

23 **IT IS SO ORDERED.**

24  
25 DATE:

26 \_\_\_\_\_  
Honorable Daniel J. Buckley  
27 Judge of Los Angeles County Superior Court  
28

# EXHIBIT A

## NOTICE OF PROPOSED CLASS ACTION AND PAGA SETTLEMENT

*Pena v. Bunzl Utah, LLC*  
Los Angeles Superior Court Case No. 20STCV48809

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

**IF YOU ARE OR WERE EMPLOYED BY BUNZL UTAH, LLC IN CALIFORNIA AS A NON-EXEMPT OR HOURLY-PAID EMPLOYEE AT ANY TIME FROM DECEMBER 18, 2016, THROUGH <<the earlier of the date of preliminary approval or February 7, 2022>>, THIS PUTATIVE CLASS, COLLECTIVE, AND PRIVATE ATTORNEYS GENERAL ACT ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS. PLEASE READ THIS NOTICE CAREFULLY.**

### ***Why you are receiving this Notice?***

A proposed settlement (the “Settlement”) has been reached in a class action and PAGA lawsuit entitled *Pena v. Bunzl Utah, LLC*, Los Angeles Superior Court Case No. 20STCV48809 (the “Action”). As discussed below, the settlement will result in payments to current and former non-exempt employees who worked for Bunzl Utah, LLC (“Defendant”) in California at any time from December 18, 2016, through <<the earlier of the date of preliminary approval or February 7, 2022>>.

When used in this Notice, the following terms have the following meanings:

“Action”	<i>Pena v. Bunzl Utah, LLC</i> , Los Angeles Superior Court Case No. 20STCV48809
“Plaintiff” and “Class Representative”	Jose Pena
“Defendant”	Bunzl Utah, LLC
“Class Period”	December 18, 2016, through <<the earlier of the date of preliminary approval or February 7, 2022>>
“Class”	All non-exempt and hourly-paid employees of Defendant who worked in California during the Class Period.
“Class Member”	A non-exempt or hourly-paid employee of Defendant who worked in California at any time during the Class Period.
“Settlement Class Member”	A Class Member who does not timely requested to be excluded from the proposed Class of non-exempt employees who worked for Defendant in California at any time during the Class Period.
“Individual Class Settlement Payment”	A share of the settlement fund that will be made to a Settlement Class Member on a pro rata basis, based upon his or her workweeks during the Class Period.
“PAGA”	The Labor Code Private Attorneys General Act, California Labor Code sections 2688 <i>et seq.</i>
“PAGA Period”	December 16, 2019, through <<the earlier of the date of preliminary approval or February 7, 2022>>
“PAGA Employee”	A non-exempt or hourly-paid employee of Defendant who worked in California at any time during the PAGA Period.
“Individual PAGA Settlement Payment”	A share of the PAGA Allocation from settlement fund that will be made to a PAGA Employee on a pro rata basis, based upon his or her workweeks during the PAGA Period
“Settlement Administrator”	Phoenix Settlement Administrators <<mailing address>>

Defendant’s records indicate that you are a Class Member and/or a PAGA Employee as defined above. As a Class Member, you may be eligible to receive an Individual Class Settlement Payment based on the number of workweeks

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that you worked for Defendant in California during the Class Period and you will be bound by the release of claims described in this Notice and in the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement. A Class Member who excludes himself or herself from the Settlement will still be bound by the PAGA portion of the settlement, to the extent he or she is also a PAGA Employee, and will receive an Individual PAGA Settlement Payment based on the number of workweeks that he or she worked for Defendant in California during the PAGA Period.

A hearing concerning final approval of the proposed Settlement (“Final Approval Hearing”) will be held on <<**FA Date and Time**>> in Department 1 of the Los Angeles Superior Court, 312 North Spring Street, Los Angeles, CA 90017, to determine whether the Settlement is fair, adequate and reasonable.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>DO NOTHING – GET MONEY</b>	If you do nothing, you will be considered part of the Settlement Class and will receive settlement benefits as explained more fully below. You will also give up rights to pursue a separate legal action against Defendant for the Released Claims asserted in the Action as explained more fully below.
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS</b>  <b>DEADLINE TO EXCLUDE YOURSELF: &lt;&lt; RESPONSE DATE &gt;&gt;</b>	You have the option to exclude yourself from the Settlement Class and pursue a separate legal action against Defendant about the claims in the Action (other than the PAGA claim). If you choose to do so, you must exclude yourself, in writing, from the Settlement Class by submitting a written Request to be Excluded. If you timely submit a Request to be Excluded, you will not receive any money or benefits under the Settlement except for a pro rata allocation of the PAGA portion of the settlement (if applicable to you), and you will not be bound by the release of claims against Defendant, except for the PAGA portion of the release.
<b>OBJECT TO THE SETTLEMENT</b>  <b>DEADLINE TO SUBMIT WRITTEN OBJECTIONS: &lt;&lt; RESPONSE DATE &gt;&gt;</b>	You may also object to the terms of the Settlement. To object to the Settlement, you can mail a written explanation of why you object to the Settlement Administrator, appear at the Final Approval Hearing, or hire an attorney at your expense to object for you. You may only object, however, only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> submit a Request to be Excluded if you wish to object. <i>Written</i> objections must be submitted to the Settlement Administrator by << <b>RESPONSE DATE</b> >>.

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

The Court has certified, for settlement purposes only, the following Class:

“All non-exempt or hourly-paid employees of Defendant who worked in California during the Class Period of December 18, 2016, through <<the earlier of the date of preliminary approval or February 7, 2022>>.”

You were sent this Notice because you have a right to know about the proposed Settlement of the Action and about your options before the Court rules on whether to finally approve the Settlement. If the Court approves the settlement, and after any objections and appeals are resolved, the Settlement Administrator appointed by the Court will make payments to Settlement Class Members and PAGA Employees that the settlement allows. This Notice explains the Action, the proposed Settlement, your legal rights, what benefits are available to you, and how to receive them.

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

In the Action, Plaintiff alleges on behalf of himself, the Class, and the State of California that Defendant: (1) failed to pay minimum and straight time wages (due in part to alleged rounding violations); (2) failed to pay overtime wages; (3) failed to provide meal periods; (4) failed to authorize and permit rest periods; (5) failed to timely pay all wages to terminated employees; (6) failed to maintain payroll records and furnish accurate itemized wage statements; (7) engaged in unfair business practices, in violation of California Business and Professions Code section 17200 *et seq.*; and (8) violated provisions of the Labor Code giving rise to civil penalty liability

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under PAGA. Plaintiff seeks unpaid wages, actual damages, declaratory relief, statutory penalties, civil penalties under PAGA, restitution, interest, attorneys' fees, and costs.

Defendant denies the claims and is confident it has strong legal and factual defenses to Plaintiff's claims. Defendant contends that, at all relevant times, Defendant properly compensated all employees and fully complied with all applicable laws. Defendant also denies that the Action is appropriate to maintain as a class or PAGA representative action.

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

### ***Why is there a settlement?***

The parties disagree on the probable outcome of the case with respect to viability of the Class, liability, damages, and how much money could be recovered if Plaintiff won at trial. This Settlement is a compromise reached after good faith, arm's length negotiations between Plaintiff and Defendant (together, the "Parties"), through their attorneys, and is not an admission of liability on the part of Defendant. Both sides agree that this Settlement is fair, adequate and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members and PAGA Employees.

### ***What is a class action and PAGA settlement?***

On <<PA Date and Time>>, the Court granted preliminary approval of the proposed Settlement. However, the Court must still approve the terms of the proposed Settlement as fair and reasonable before the Settlement becomes final and payments can be made. Once approved, the settlement will affect all Class Members, except those who have submitted a timely Request to be Excluded. The settlement will affect all PAGA Employees regardless of whether they opt out of the Class. This Class Notice explains your legal rights, the terms of the settlement, what you must do to participate, and the estimated amount of money you may receive.

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

The attorneys representing the Parties in the Action are:

#### **Class Counsel**

Kane Moon  
Allen Feghali  
Enzo Nabiev  
MOON & YANG, APC  
1055 W. Seventh St., Suite 1880  
Los Angeles, California 90017  
Telephone: (213) 232-3128  
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#### **Defendant's Counsel**

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Facsimile: 858-652-3101

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

Subject to final Court approval, Defendant will pay a total of \$700,000 (the "Gross Settlement Amount") to fully and finally resolve all claims in the Action. The amount to be distributed to Settlement Class Members, i.e., Class Members who do not exclude themselves from the settlement (the "Net Settlement Amount") will be the Gross Settlement Amount, minus the following amounts, all subject to court approval: (a) payment to the Settlement Administrator for administration fees and cost (up to an estimated maximum of \$20,000); (b) payment to the Plaintiff of a Class Representative Service Payment (\$7,500 to be requested); (c) payment to Class Counsel of Plaintiff's attorneys' fees (up to \$233,333.33 to be requested) (d) payment to Class Counsel of Plaintiff's actual litigation costs (up to \$20,000 to be requested); and (d) payment of \$70,000 for resolution of all claims under

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PAGA (the “PAGA Allocation”). The Net Settlement Amount will be used to pay each Settlement Class Members a pro-rata Individual Class Settlement Payment based on the number of workweeks each Settlement Class Member worked for Defendant in California during the Class Period.

**Calculation of Individual Settlement Payments.** The Net Settlement Amount will be divided among all Settlement Class Members on a pro rata basis, based upon the total number of workweeks actually worked for Defendant, during the Class Period, taking into account leaves of absence and any gaps in employment. . Your estimated individual workweeks during the Class Period and estimated Individual Class Settlement Payment are listed below:

Defendant’s records indicate you worked a total of << **Class Workweeks**>> workweeks in California during the Class Period. Based on your workweeks during the Class Period, your estimated Individual Class Settlement Payment is approximately \$<<**Est Individual Class Settlement Payment**>>, minus any withholdings and deductions required by law.

For tax reporting purposes, each Individual Class Settlement Payment will be allocated 20% as wages and 80% as penalties and interest. The wage portion of each Individual Class Settlement Payments will be subject to withholding of applicable local, state, and federal taxes, and the Settlement Administrator will deduct applicable employee-side payroll taxes from the wage portion of each Individual Class Settlement Payment. The portion of each Individual Class Settlement Payment allocated to penalties and interest will be classified as other miscellaneous income and reported to state and federal taxing authorities by the Settlement Administrator using Form 1099-MISC without any tax withholding. All taxes owed on the other miscellaneous income portion of each Individual Class Settlement Payment will be the responsibility of the Settlement Class Member receiving the payment. The employer’s share of any payroll taxes will be separately paid by Defendant.

**Calculation of Individual PAGA Settlement Payments.** The PAGA Allocation will be distributed to the California Labor and Workforce Development Agency (“LWDA”) and to the PAGA Employees. In accordance with California law, 75 percent of the PAGA Allocation (or \$52,500) will be paid to the LWDA and the remaining 25 percent of the PAGA Allocation (or \$17,500) will paid to the PAGA Employees on a pro-rata basis (the “Individual PAGA Settlement Payments”) based on the number of workweeks each PAGA Employee actually worked for Defendant in California during the PAGA Period, taking into account leaves of absence and any gaps in employment.. Your estimated individual workweeks during the PAGA Period and estimated Individual PAGA Settlement Payment are listed below:

Defendant’s records indicate you worked a total of <<**PAGA Workweeks**>> workweeks in California during the PAGA Period. Based on your workweeks during the PAGA Period, your estimated Individual PAGA Settlement Payment is approximately \$<<**Est Individual PAGA Settlement Payment**>>.

Each Individual PAGA Settlement Payment will be allocated as 100 percent miscellaneous income and reported to state and federal taxing authorities by the Settlement Administrator using Form 1099-MISC. Any taxes owed on the PAGA Settlement Payment will be the responsibility of the PAGA Employee receiving these payments.

**Handling of Unclaimed and Uncashed Checks.** All checks for Individual Class Settlement Payments and Individual PAGA Settlement Payments will remain valid and negotiable for one hundred and eighty (180) days from the date of the checks’ issuance and shall thereafter automatically be void if not cashed by a participating Settlement Class Member or PAGA Employee within that time. Any Individual Settlement Class Payment or Individual PAGA Settlement Payment that is not cashed by a Settlement Class Member or PAGA Employee within 180 days of issuance will be transmitted by the Settlement Administrator to the California State Controller’s Office for Unclaimed Property in the name of each check recipient who failed to cash his or her check prior to the void date. The Settlement Administrator will also void any tax documents issued to the Settlement Class Members or PAGA Employees who did not cash their checks within 180 days of issuance. In such event, the Settlement Class Member and/or PAGA Employee will nevertheless remain bound by the terms of the Settlement.

Neither the Parties nor attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel, Defendant’s counsel, the Settlement Administrator, and the Court are unable to offer advice concerning the state or federal tax consequences of payments to any Settlement Class Member or PAGA Employee.

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**Class Counsel Attorneys' Fees and Costs, Class Representative Service Award, Settlement Administration Costs and Payment to the LWDA.** Class Counsel will ask the Court to award attorneys' fees up to \$233,333.33 (one-third of the Gross Settlement Amount) and reimbursement of reasonable costs incurred in the Action not to exceed \$20,000.00. In addition, Class Counsel will ask the Court to authorize a Class Representative Service Payment of \$7,500 for Plaintiff for his efforts in bringing the case on behalf of the Class. The Parties estimate the cost of the Settlement Administrator will not exceed \$10,000.00. A proposed payment in the amount of \$52,500.00 will also be made to the LWDA for PAGA penalties, which represents 75 percent of the \$70,000 PAGA Allocation from the Gross Settlement Amount.

### ***How you may dispute your workweek calculation?***

Workweeks for Class Members are calculated based on the number of workweeks each Class Member worked for Defendant in California during the Class Period, i.e., December 18, 2016 through <<the earlier of the date of preliminary approval or February 7, 2022>>. Workweeks for PAGA Employees are calculated based on the number of workweeks each PAGA Employee worked for Defendant in California during the PAGA Period, i.e., December 16, 2019 through <<the earlier of the date of preliminary approval or February 7, 2022>>.

If you dispute the number of workweeks for which you were credited during the Class Period or the PAGA Period, you must submit your dispute ("Workweek Dispute") in writing and send it to the Settlement Administrator via fax or mail, postmarked or faxed no later than <<+60 days from date of mailing>> (the "Response Deadline"). Your Workweek Dispute must be sent to:

Phoenix Settlement Administrators

<<mailing address>>

Your Workweek Dispute must be in writing and must contain: (a) your full name, signature, address, telephone number, and the last four digits of your Social Security number; (b) the number of workweeks you contend to have worked for Defendant in California during the Class Period and PAGA Period; and (c) any evidence supporting your contention. Defendant's records will be presumed correct unless you prove otherwise by credible evidence. The Settlement Administrator will resolve and decide all Workweek Disputes, and the Settlement Administrator's decision will be final and non-appealable. **REMINDER:** The deadline to submit a written Workweek Dispute to the Settlement Administrator, with any supporting evidence, is <<RESPONSE DATE>>.

### ***What claims are being released by Settlement Class Members and PAGA Employees?***

Upon the final approval by the Court of this Settlement and Defendant's payment of the Gross Settlement Amount and its employer-side payroll taxes, and except as to such rights or claims as may be created by this Settlement, each Settlement Class Member and PAGA Employee will be deemed to have released the following claims:

(a) **Identity of Released Parties.** "Released Parties" means Defendant and its past, present and/or future, direct and/or indirect, officers, directors, members, employees, agents, representatives, attorneys, insurers, investors, parent companies, subsidiaries, affiliates, and any individual or entity that could be jointly liable with Defendant, as alleged in the First Amended Complaint.

(b) **Claims Released by Settlement Class Members.** Each and every Class Member, on behalf of himself or herself and his or her heirs and assigns, unless he or she has submitted a timely and valid Request for Exclusion, will be deemed to have released the Released Parties from the Released Claims arising during the Class Period. "Released Claims" means any and all claims for wages, damages, unpaid costs, penalties, liquidated damages, benefits, fringes, interest, attorney fees, litigation costs, restitution, or equitable relief, against any of the Released Parties, that were pled or could have been pled based on the factual allegations, circumstances, and/or primary rights set forth in the First Amended Complaint and/or PAGA Letter, including all claims under the California Labor Code, Industrial Welfare Commission Wage Orders and applicable law for: failure to pay wages (including overtime wages, regular wages, minimum wages, and rounding), failure to provide compliant meal and/or rest periods or proper premiums in lieu thereof, failure to pay wages timely during employment and upon termination, failure to maintain payroll records, failure to provide legally-compliant wage statements, all claims for violation of California Business and Professions Code §§ 17200, et seq., arising from the above-referenced claims and those claims in the First Amended Complaint; and all claims for penalties under California Labor Code § 2698, et. seq.

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Class Members who submit a timely and valid Request for Exclusion will not be bound by this release and will not receive any payments under the Settlement, unless they are also a PAGA Employee in which instance they will still receive an Individual PAGA Settlement Payment and be bound by the release of PAGA Claims as set forth below.

(c) **Claims Released by PAGA Employees.** All PAGA Employees will be deemed to have released the Released Parties from the Released PAGA Claims, regardless of whether they have submitted a Request for Exclusion to opt out of the class portion of the Settlement. “Released PAGA Claims” means all Released Claims arising under PAGA during the PAGA Period that were stated in the PAGA Letter.

### ***What are your Options at this time?***

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

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

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

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

If you chose Option A, but you believe the proposed Settlement is not fair, reasonable, or adequate in any way, you have several options that you may use to object or express any concerns. To object, you may appear in person at the Final Approval Hearing, have an attorney object for you, or submit a written brief or statement of objection (“written objection”) to the Settlement Administrator at Phoenix Settlement Administrators <<address>>. If you submit a written objection to the Settlement Administrator, it should contain sufficient information to confirm your identity and the basis of the objection, including: (1) your full name; (2) the grounds for the objection; and (3) your signature. Your written objection must be postmarked on or before <<Response Deadline>> and sent to the Settlement Administrator at the address listed above to ensure that it is received in time to be considered by the Court. You can also hire an attorney at your own expense to represent you with respect to your objection. The Parties may file responses to any written objections before the Final Approval Hearing. Regardless of whether you object in writing, the Court may, in its sole discretion, permit you to state any objections you may have at the Final Approval Hearing. **Regardless of any objection, however, if you choose Option A, you will be bound by the terms of the Settlement, including the release of Released Claims as set forth above, if the Settlement is finally approved by the Court.**

An objection alone will not satisfy the legal requirements for a Settlement Class Member to appeal a Judgment entered in the Action. In order to have standing to appeal a Judgment entered following an Order finally approving this Settlement, a Settlement Class Member must formally intervene and become a party of record in the action to appeal, as is required under the California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018).

**OPTION B. Request to Be Excluded from the Class.** If you do not want to be part of the Settlement Class, you must submit a written Request to be Excluded to the Settlement Administrator at Phoenix Settlement Administrators <<address>>. In order to be valid, your written Request to be Excluded must be signed and must include your name, address, and telephone number (to confirm your identity and make certain that only persons requesting exclusion are removed from the settlement).

Your written Request to be Excluded from the Settlement must be signed and postmarked on or before <<**Response Deadline**>>. If you do not submit a written Request to be Excluded on time (as evidenced by the postmark), your written Request to be Excluded will be rejected, you will be deemed a participating Settlement Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a written Request to be Excluded by the deadline to request exclusion, you will have no further role in the Action, and **you will not be entitled to any benefit, including an Individual Class Settlement Payment**, as a result of the Action and Settlement. However, if you are also a PAGA Employee you will still be entitled to receive an Individual PAGA Settlement Payment and you will still release the Released PAGA Claims against Defendant described above. Moreover, if you submit a Request to be Excluded, you will not be able to object to the Settlement or complain to the Court about any aspect of the Settlement.

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

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel’s request for attorneys’ fees and costs, the Class Representative Service Payment to Plaintiff, the Settlement Administrator’s costs, PAGA Allocation, and payment to the LWDA for PAGA penalties on <<**FA Date and Time**>> in Department 1 of the Los Angeles Superior Court, 312 North Spring Street, Los Angeles, CA 90012. Because of healthcare guidance and Orders of the Los Angeles Superior Court related to COVID-19, the hearing may be a telephonic hearing only. If you wish to attend the Final Approval Hearing telephonically, visit <https://my.lacourt.org/laccwelcome> for instructions on how to do so. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive an Individual Class Settlement Payment or Individual PAGA Settlement Payment.

***How to get additional information?***

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Joint Stipulation of Class Action and PAGA Settlement attached to the Declaration of Kane Moon in Support of Plaintiff’s Motion for Preliminary Approval. The Joint Stipulation of Class Action and PAGA Settlement and all other records relating to the lawsuit are available for inspection and/or copying at the Civil Records Office of the Los Angeles Superior Court. Because of the Los Angeles Superior Court’s COVID-19 pandemic procedures, in order to view documents filed in the lawsuit, Class Members may be required to make an appointment with the Court. You may also request a copy of the Settlement Agreement from Class Counsel, at the address listed above. You may also review the Settlement Agreement and other documents on-line at the following website: [www.\\_\\_\\_\\_\\_](http://www._____), or you may contact the Settlement Administrator as follows:

**Phoenix Settlement Administrators**  
<<**Telephone Number**>>  
<<**Fax Number**>>  
<<**Email**>>  
<<**Website**>>

**IT IS IMPORTANT THAT YOU NOTIFY THE SETTLEMENT ADMINISTRATOR IMMEDIATELY  
IF YOU HAVE A CHANGE OF ADDRESS**

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